

# FINDLAY CITY COUNCIL MINUTES

**REGULAR SESSION**

**October 3, 2017**

**COUNCIL CHAMBERS**

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

**ABSENT:** Hellmann

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

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

- Councilman Harrington moved to accept the September 19, 2017 Regular Session City Council meeting minutes. Councilman Klein seconded the motion. All were in favor. Motion carried. Filed.
- Councilman Harrington moved to accept the September 19, 2017 Public Hearing minutes for the rezoning of CR 95 from C2 General Commercial to I1 Light Industrial (Ordinance No. 2017-079). Councilman Monday seconded the motion. All were in favor. Motion carried. Filed.
- Councilman Harrington moved to accept the September 19, 2017 Public Hearing minutes for the University of Findlay refinancing a taxable loan (Ordinance No. 2017-092). Councilman Klein seconded the motion. All were in favor. Motion carried. Filed.

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

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

### **REPLACEMENTS:**

- Ordinance No. 2017-094 AS AMENDED (**LEGISLATION** section) = U of F refunding on a taxable loan
  - 10<sup>th</sup> WHEREAS (new section)
  - SECTION 11. Further Actions. (this becomes SECTION 12).
  - ✓ SECTION 11. Qualified Tax-Exempt Obligation. (new section).
  - SECTION 12. Severability. (this becomes SECTION 13).
  - SECTION 13. Compliance with IRC Section 147(f). (this becomes SECTION 14).
  - SECTION 14. Notice of Issuance. (this becomes SECTION 15).
  - SECTION 15. Sunshine Law. (this becomes SECTION 16).
  - SECTION 16. Emergency. (this becomes SECTION 17).

### **ADD-ONS:**

- Ordinance No. 2017-100 (**LEGISLATION** section) = OPWC grant funds for Howard Street Sewer Separation Phase I (*Project No. 35577600*) and Washington Avenue/Park Street Sanitary Sewer Improvements Phase I (*Project No. 35677700*)

**PROCLAMATIONS:** - none.

**RECOGNITION/RETIREMENT RESOLUTIONS:** - none.

**PETITIONS:** - none.

**WRITTEN COMMUNICATIONS:** - none.

## **ORAL COMMUNICATIONS:**

### **Kelly Abbott – activity in her neighborhood**

Ms. Abbott is before City Council tonight to report some very suspicious activity going on in her neighborhood that is scaring her. There is a suspicious person walking down the road in the middle of the night that she can only conclude that something illegal is going on. She has contacted the Police Department numerous times, but is now at the point of frustration. She has also contacted the Mayor's Office and the Safety Director to no avail. She is asking City Council and City of Findlay Police to do something about this problem. A solution has to start somewhere.

### **Discussion:**

Councilwoman Frische asked what street she lives on. Ms. Abbott replied Prentiss Avenue. Councilwoman Frische then asked how long Ms. Abbott has been working with the City's Police Department and the Safety Director. Ms. Abbott replied that prior to February, she did not pay attention to that side of the street until she got a puppy that she began taking it out for walks. Soon after, she began to contact various individuals at the City and was told by the Police Department that there are extra Police Officers patrolling the area, but she has not seen any. So this past Saturday, she decided to watch all day, but did not see any Officers. She recalled an incident when her neighbor had barking dogs that was called in where two (2) Officers immediately showed up. Councilwoman Frische asked Safety Director Schmelzer and Mayor Mihalik if there are any other options available to help. Mayor Mihalik replied that the Police Department has received numerous phone calls resulting in numerous police reports for the property Ms. Abbott is referring to. She asked Police Chief Dunbar to attend tonight's City Council meeting to explain what is going on with this. The Police Department are utilizing directed patrol and Special Assignment Units (SAU) in that area, but so far have not been able to see any drug activity out of that home. The Police Department does get phone calls and do respond to them depending on the call volume at that time of day. Mayor Mihalik brought numerous reports with her tonight. Some of the phone calls are not necessarily related to drug activity, but are related to neighborhood disputes such as kids driving across a property owner's yard, or arguments between adults, etc. In those cases, Officers go out and try to calm down the situation and a report is generated. There was an issue a couple of weeks ago where charges were requested against an individual. There is a lot going on out in that area. It is very complex. She asked Police Chief Dunbar from the audience to come to the podium to provide additional information. The Police Department does pay attention to when the calls come in for that area and do have CAD reports for every call that has come in.

Police Chief Dunbar explained that when the Officer told Ms. Abbott that there are Officers in the area, there are. It is a good thing she has not noticed them because marked units and marked Officers are not always sent to problem areas. That is what the Police Department's Special Assignment Unit (SAU) is for. Uniformed Officers from that group are in unmarked cars. Part of their job is intelligence gathering and information gathering. These cases are not solved in a matter of minutes or days. A lot of these cases are solved by gathering information and getting people in place to get inside the places that are a problem residences. It takes time. He reassured Ms. Abbott's that there are things in the works. The Police Department is not always one hundred percent (100%) successful. He assured Ms. Abbott that the Police Department has heard her concerns and has met with others about the same issue (he pointed out a gentleman in the audience that he has met with, along with his wife this past summer) and has taken their concerns seriously. The Police Department has given those concerns attention, but have other areas that they have to also give attention to, so they are not in that area 24/7, but do have a rotation of areas that they have received complaints on, so they are doing what they can. There are a lot of things that happen in areas that the residents do not see. For example, they receive a lot of complaints about motorists driving while under suspension. So, if an Officer is in an unmarked vehicle and sees a suspect leave their residence, they call it in to a marked unit who stops the individual sometimes up to three (3) blocks away. A resident in that neighborhood may not see an Officer in the area and think nothing is being done, which is not the case. If a uniformed Officer in a marked vehicle drives up and down the street, the suspects will see them, so they will most likely not be able to catch them. They try to approach issues by thinking outside of the box. The Police Department hears Ms. Abbott's concerns and understands her frustrations. If they did not care, they would not direct the resources that they have to it over the past several months. They are documenting all the activity and are addressing it as best they can. Once they do their part, it is up to the Court to do their part. He reassured Ms. Abbott that there is an individual in that house that they have stopped twice over the last six (6) months for driving while under suspension, but those cases are still tied up in Court. Many times, complainants see that is the case and think the Police are not doing anything. The Police Department does not have control over the Courts. He encouraged Ms. Abbott to continue to call in complaints to the Police Department. They will never tell someone not to call. Calls are one way that they know the problems are continuing. They understand the frustration of having to call, many telling them that they are tired of calling. Ms. Abbott added that it is blatant in her neighborhood. They are not afraid to do the suspicious activity during the day or night. They are not afraid at all. A gentleman from the audience mentioned that it is almost impossible to see the activity going on unless you live in the neighborhood. Chief Dunbar agreed saying that they see the hand-in-hand and all the tell-tale signs, however, what Law Enforcement can prove and what they know are two (2) different things. There are things they know, but have to be able to prove in Court. Timing is very important because they have to make sure they do their due diligence and do everything correctly in order to issue charges to the suspect. They do not want the suspect to get off because the Police Department didn't do everything correctly. It is also Law Enforcement's job to safeguard the suspect's rights. It is their job to safeguard the complainant's rights, but also the suspect's rights and not trample the Constitution in the process of bringing them to justice. They are trying to work within the system, do what they can, and will continue to do so.

Councilman Russel asked if this is an owner-occupied residence. Safety Director Schmelzer replied he does not know. He does not get involved in specific investigations, but he knows that the City's Police Department is very diligent about following through on calls and investigations and he has full confidence that if there is a crime being committed there, they will find out. Councilman Russel then asked if it is a rental unit if there is a recourse on the property owner if they knowingly allow this to happen. Law Director Rasmussen replied there could be, but in this case, they are just trying to make a case against them. If a case is brought to the City where it is proven that they are selling drugs and are selling them out of the house with the owner of the home knowing about it and is part of it, then those charges would be appropriate not in our Court, but in Common Pleas Court. Councilman Russel pointed out that it takes months to put cases together before arrests can be executed. Police Chief Dunbar mentioned earlier that those involved in the suspicious activity are intelligent, and if they are watching tonight's City Council meeting, the conversation on this tonight would be an eye opener that Findlay's Police Department is watching them. Mayor Mihalik pointed out that there are a lot of dynamics on this and are assuming that there is criminal activity there, but the Police Department has yet to witness it. All Councilmembers are welcome to review the police reports to gain a better understanding of the dynamics of what they are dealing with. Without having evidence in hand to be able to ask for charges against this particular individual, we will be walking a very slippery slope, so she cautioned Council to understand more of the story before they continue this further. Councilman Russel replied he is not assuming that there is illegal activity happening there, but if there is illegal activity happening there and those doing the activity are aware that discussions on it are taking place tonight, he would hope that they would take that into an account that what they are doing and where they are doing it, and if what they are doing is not illegal, they will have no qualms to continue to do what they are doing. It is his hopes that the residents of that house are watching this meeting.

Councilwoman Frische appreciates that citizens come to Council if they are having a problem as she knows there used to be a problem at the south end of town and what the Police Department did with that situation is what it took to resolve it. Every time they see an Officer repeatedly in the area, if there are things going on that shouldn't be, they tend to get annoyed and start to think that they need to move along. Even though it has taken Ms. Abbott more than a year on her complaints, she encouraged her to not give up if there is a problem in her area. Ms. Abbott replied that she understand the dynamics that have been talked about tonight and knows that who is being talked about should remain anonymous which is why she left their name and address out of the conversation. Mayor Mihalik replied there are some racial tensions in that neighborhood, so she encouraged Council to learn more about the situation. She is happy that Ms. Abbott is before Council tonight and knows that the Chief is well aware of what is happening, the Police Department is well aware, as well as Dispatch. They are doing everything they can within the power of what they are allowed to do to try and remedy the situation. She asked for patience while they gather the information to find out if there indeed is illegal activity going on so that they can be thorough. Ms. Abbott replied she would like that as well, but would like it to happen sooner rather than later.

#### **Jeff Seery – condition of neighboring property on Prentiss Avenue**

Mr. Seery moved to Findlay from Tiffin in May. His wife is a teacher in the area, so they decided it would be better to move to Findlay to contribute to the economy of this County. He works from home. His argument is a little different than Ms. Abbott's. His argument is more with the landowner of the property that he believes is at the root of this problem who is allowing this to go on. The tenants have lived there for nine plus (9+) years. The entire neighborhood has told him about the problems that they have been having for the past nine (9) years. He asked what the N.E.A.T. program does. Mayor Mihalik replied that there is section of the code that they deal with (i.e. junk cars, junk vehicles, trash, weeds, snow removal issues, etc.). Mr. Seery added that the property has high grass, siding has been falling off for several years, the entire property is in disrepair, they do not mow their grass, and there is constantly stuff in the front yard. He first talked with the Administration, then filed a complaint with the N.E.A.T. Department who told him to the property owner will have a grace period to fix whatever was going on with the property, but he has not heard anything for two and a half (2 ½) months, so he called the N.E.A.T. back on a Friday. He did not receive an answer, so he left a voicemail asking what was going on with the property. After he did that, the landlord show up the next day. He asked what happened in the two and a half (2 ½) months before that and asked if anything is being done now. Mayor Mihalik replied she will talk to the N.E.A.T. Department about it. That property is not current listed as an active complaint.

Councilman Shindledecker noted that he had a similar problem in his neighborhood, which is only a few blocks away from Prentiss. He and his wife also did what Ms. Abbott and what Mr. Seery have been doing, which is writing down license plate numbers and passing them on to the Police Department which did bring results, not nearly as fast as he would have liked and probably not nearly as fast as Police Chief Dunbar would have liked or his Officers would have liked. In the long run, it did produce satisfying results. It was a very long struggle. Mr. Seery replied he does not have any complaints against the Police Department as they have been very helpful as well as the Mayor has been very helpful. His issue is with the landowner who is contributing to the problem. At one time, there were at least ten (10) individuals living in the house, but has heard that some of the tenants have moved. There are two (2) individuals in the house, both of which have gotten out of jail and now the problem has begun again. There was a cease for about three (3) months, but has picked back up again in the past two (2) weeks. The drug activity is secondary to him right now. The landowner is the biggest issue with him right now. Mayor Mihalik encouraged Mr. Seery to continue calling. The Police Department is doing directed patrols at this point and the Special Assignment Unit (SAU) has been evaluating it, so it is on the radar. Mr. Seery asked who he can follow up with. Mayor Mihalik replied she will follow up with him.

**Wendy Affholder/Daryl Rettig - Aberdeen Dr/Wesleyan Dr/Winston Dr/Penrose Ct vacation (Ordinance No. 2017-092)**

Ms. Affholder and Mr. Rettig are before Council tonight to ask that the second and third readings be given for Ordinance No. 2017-092 to vacate several unimproved roadways in the Spring Lake Subdivision. They have an offer to purchase one (1) of the four (4) lots that will be in the replat. They have been under contract since last November. They have been battling it since then, so it has been almost a year. They keep getting close, but then something happens. They are now under a time crunch. They only have a small window of time to get that property ready for spring so that they can start to build or will be in an apartment for another year. They sold their house less than a month after they had their purchase agreement. They moved into an apartment in May and will be there until everything with the City is final. They would like to get going on their build that has already been delayed. They were supposed to start this spring, but were delayed and are hoping that they can get this going so that they can get the land ready for spring so that they can commit to their builders so that they do not get pushed back again and have to wait on the builders because they accept another job.

**Discussion:**

Councilman Russel noted that the Ordinance is up for its second reading tonight. If both the second and third readings on the Ordinance are given tonight, it will speed up the process by two (2) weeks. He asked Law Director Rasmussen if this is something that can be done on an emergency basis so that they can get the deed recorded over at the County and further expedite the process. Law Director Rasmussen replied it requires the three (3) readings and also thirty (30) days after that before it is effective. Councilman Russel then asked if the thirty (30) days is mandatory regardless of what City Council does. Law Director Rasmussen replied that is correct. Councilman Russel asked if public hearing is required. Law Director Rasmussen replied it is not because all the abutting property owners signed off. Councilman Russel then asked if it is passed tonight, if the soonest the deed can be recorded is November 2<sup>nd</sup> or 3<sup>rd</sup>. Law Director Rasmussen replied it will have its next reading on October 17, 2017. Councilman Russel asked if Council can suspend readings. Law Director Rasmussen replied the Statute states Council cannot suspend readings on a vacation. It allows notice to be given and time to consider it.

Councilman Harrington explained to Ms. Affholder and Mr. Rettig that Council sympathizes with them would love to help them, but as just explained, Council cannot speed up the process. He is familiar with the area and is glad to see that area is finally going to be developed, but per the City Law Director, Council cannot suspend the rules and give it all three readings tonight. It will have to go through all three (3) readings because there is no emergency clause, so it will take effect thirty (30) days after the Mayor signs it. Ms. Affholder replied she understands, but from what she has heard, this has not always been the case in past practice. In the past, any replat covers the vacate, but now all of the sudden, they have to vacate and then replat. She noted that Councilman Harrington works for Koehler. Councilman Harrington corrected Ms. Affholder stating that he is a Relator at Century 21. Koehler is a developer and is a total different entity. He has been on Council's Planning and Zoning subcommittee for quite some time and has never suspended the rules. This is the first time there has ever been a request to do so. They want the public, including who may be the new neighbors, to have the opportunity to come in and make comments that they want to make, either for or against, so the rules cannot be suspended. Ms. Affholder replied that Councilman Harrington just stated that he did not have to because they did not have to vacate and that the plat automatically went over top. Law Director Rasmussen replied that is an issue with the County Recorder and the County Auditor's Offices and not with the City which is a new rule that they use.

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

**N.E.A.T. Departmental Activity Report – August 2017. Filed.**

**Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control for Pollyeyes Findlay dba Campus Pollyeyes, located at 339 South Blanchard Street, Findlay, Ohio for a D1 and D2 liquor permit. This requires a vote of Council.**

John E. Dunbar, Chief of Police – Pollyeyes Findlay dba Campus Pollyeyes, located at 339 South Blanchard Street, Findlay, Ohio. A check of the records shows no criminal record on the following:  
Dean M. Smith

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 631 South Main Street Development LLC, dba Hancock Hotel, located at 631 South Main Street, Findlay, Ohio for a D5A liquor permit. This requires a vote of Council.**

John E. Dunbar, Chief of Police – 631 South Main Street Development LLC, dba Hancock Hotel, located at 631 South Main Street, Findlay, Ohio. A check of the records shows no criminal record on the following:

Rodney P. Nichols  
Donald R. Malarky  
Shane T. Pfleiderer  
Kelly S. Niese

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

**Findlay Fire Department Chief Joshua Eberle – sales on GovDeals.com**

The Fire Department has been advised that several lots of Fire Department equipment have sold on GovDeals, Inc. for a total of two thousand one hundred twenty-four dollars and eighty-nine cents (\$2,124.89). Legislation to appropriation funds from the General Fund back to the Fire Department is requested. Ordinance No. 2017-095 was created.

FROM: General Fund (auction proceeds) \$ 2,124.89  
TO: Fire Department #21014000-other \$ 2,124.89

Filed.

**Board of Zoning Appeals minutes – August 10, 2017. Filed.**

**Parks and Recreation Board minutes September 18, 2017. Filed.**

**Traffic Commission minutes – September 18, 2017. Filed.**

**Director of Public Service/Acting City Engineer Brian Thomas – WPC Tandem Axle dump truck replacement**

The Water Pollution Control Center (WPCC) needs to have a minimum of two (2) dump trucks in service to allow for proper removal of solids to the landfill. WPCC operates with three (3) trucks to account for breakdowns or servicing while still maintaining two (2) trucks in the service at all times. The oldest truck was purchased in 1997 and during the last service, it was discovered that the frame has corroded to a point that it is no longer safe to drive.

The quote to repair the frame is just over sixty thousand dollars (\$60,000) and the quote to replace the truck is one hundred twenty-eight thousand five hundred dollars (\$128,500). WPCC would like to replace the truck instead of putting over sixty thousand dollars (\$60,000) in a vehicle that is twenty (20) years old. The replacement truck could be included in the 2018 Capital Plan, but the cost will increase after the first of the year, and with the truck out of service, if anything happens to one of the remaining trucks, a truck will need to be taken away from a field crew which would not allow them to work efficiently. Referred to the Appropriations Committee.

Discussion:

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

**Service Director/Acting City Engineer Brian Thomas – Annual Sewer and Manhole Lining Program, Project No. 35674400**

By authorization of Ordinance No. 2017-006, a bid opening was held for this project on September 13, 2017. Bids were received from four (4) potential contractors with bid amounts ranging from two hundred sixty-eight thousand dollars nine hundred eighty-six dollars (\$268,986) to two hundred ninety-three thousand four hundred fifteen dollars and fifteen cents (\$293,415.50). In addition, three (3) alternate bids were solicited for consideration based upon available funding. Totals for the alternates ranged from eight thousand seven hundred ninety-five dollar to eighty-eight thousand three hundred thirty dollars (\$80,795-\$88,330). The lowest and best bid was received from Liquid-Force Services (USA), Inc. of Romulus, MI 48174. The total for the base bid and all three (3) alternates was three hundred forty-nine thousand seven hundred eighty-one dollars (\$349,781). A five percent (5%) contingency for any unforeseen items that may come up during installation is included bringing the total amount requested to three hundred sixty-eight thousand dollars (\$368,000). This project is included in the 2017 Capital Improvements Plan. The total project estimate is within the budgeted amount. Seventy-four thousand dollars (\$74,000) was previously appropriated to the project for start up and repair of a collapsed sewer on Park Street. An appropriation to complete the planned portion of the project is needed at this time. Ordinance No. 2017-096 was created.

FROM: Sewer Fund \$368,000.00  
TO: Annual Sewer & Manhole Lining Program, Project No. 35674400 \$ 368,000.00

Filed.

**Service Director/Acting City Engineer Brian Thomas –Dalzell Ditch Cleaning, Project No. 3542200**

The County is ready to move forward with bidding this project. Per the County Ditch Petition, the City will pay fifty percent (50%) of the construction costs to be assessed to properties located within the City of Findlay Corporation limits up to three hundred thousand dollars (\$300,000). A previous appropriation of twenty thousand dollars (\$20,000) was made to the project, but am now asking for the remaining two hundred eighty thousand dollars (\$280,000) to be appropriated to this project. Legislation to appropriation funds is requested. Ordinance No. 2017-097 was created. Referred to the Appropriations Committee.

FROM: CIT Fund – Capital Improvements Restricted Account \$ 280,000.00  
TO: Dalzell Ditch Cleaning Project No. 32542200 \$ 280,000.00

Discussion:

City Auditor Staschiak noted that the City Auditor’s Office cannot find any enabling legislation authorizing the Mayor to enter the City into this obligation, but is possible they overlooked it. They searched the tables and went through their files and did not find anything. He requested that if it does not exist, that something be prepared and passed at the next City Council meeting. He received some correspondence and has had conversations with a member of the County Prosecutor’s Office, who are reaching out as they should, to make sure everyone is working together and collaborating to make this happen because it is an important project. The County Auditor will advertise this over the next three (3) weeks, but does not want the contract signed until she can certify the funds. As City Auditor, he can respect that and understand that the funds have to be in place. They either have to get a note to finance so that they can enter into an agreement or ask if the City will be willing to consider advancing those funds as part of an agreement by the end of the month so that they can move forward and enter into the agreement with the funds in hand. If that happens, everything will square up after the project is complete. He will double check with the Law Director if any unused funds would be returned. The City has worked with them in the past. He suggested this be a topic for an Appropriations Committee meeting. Council is in a position to do this, but wants to know how everyone feels about it and what the agreement would say. He sees this as a good opportunity to keep this moving forward.

Councilman Wobser asked if this can be added to the agenda for the Appropriations Committee. Councilman Monday replied he will do so. Filed.

**Service Director/Acting City Engineer Brian Thomas – Deer Landing Waterline Oversizing**

Earlier this year, a request was made for the City to pay for the oversizing of the waterline along Williams Road and Olive Street. The Water and Sewer Committee recommended paying the difference up to one hundred thirty-two thousand four hundred seventy-five dollars (\$132,475.00) at its April 12<sup>th</sup> meeting and the committee report was approved by Council at its April 18<sup>th</sup> Council meeting.

The developer is ready to get started on the project and due to the recent hurricanes in Florida and Texas, the price of all plastic pipe has increased with another anticipated jump in prices in the early part of October. The developer requests the City pay an additional twenty-six thousand eight hundred eighty dollars (\$26,880.00) due to the increase in material cost for the pipe. If approved, this would bring the City's portion up to one hundred fifty-nine thousand three hundred fifty-five dollars (\$159,335.00). Legislation to appropriate funds is requested, or to be referred back to the Water and Sewer Committee for further discussion. Ordinance No. 2017-098 was created. Referred to the Water and Sewer Committee.

FROM: Water Fund \$ 159,355.00  
TO: Deer Landing Waterline Oversizing Project No. 35777500 \$ 159,355.00

**Discussion:**

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

Councilwoman Frische referred this to the WATER AND SEWER COMMITTEE. Filed.

City Planning Commission agenda – October 12, 2017; minutes – September 14, 2017. Filed.

**Service Director Brian Thomas – City Insurance payment on City vehicle**

The City has received payment for the repair of a pickup truck that was damaged in an accident from the City's insurance company in the amount of one thousand eight hundred seventy-four dollars and eighty-one cents (\$1,874.81) that has been deposited in the Water Fund. Legislation to appropriate funds is requested. Ordinance No. 2017-099 was created.

FROM: Water Fund (insurance proceeds) \$ 1,874.81  
TO: Water Treatment Plant #25050000-other \$ 1,874.81

Filed.

**COMMITTEE REPORTS:** - none.

**LEGISLATION:**

**RESOLUTIONS**

**RESOLUTION NO. 012-2017** (*opposition of State Governor's proposed 2017-2018 budget*) **tabled after 1<sup>st</sup> reading on 4/18/17**  
A RESOLUTION STRONGLY OPPOSING THE STATE OF OHIO GOVERNOR'S PROPOSED 2017-2018 BUDGET, WHICH PROPOSES CENTRALIZED COLLECTION OF NET PROFIT TAX RETURNS AND OTHER PROVISIONS RELATED TO THE MUNICIPAL INCOME TAX WHICH WILL CAUSE A SUBSTANTIAL LOSS OF REVENUE NEEDED TO SUPPORT THE HEALTH, SAFETY, WELFARE AND ECONOMIC DEVELOPMENT EFFORTS OF OHIO MUNICIPALITIES, AND DECLARING AN EMERGENCY.

**ORDINANCES**

**ORDINANCE NO. 2017-021 AS AMENDED** (*bicycle riding in downtown business district*) **tabled after 3<sup>rd</sup> reading on 4/18/17 and during 9/19/17 meeting**  
AN ORDINANCE AMENDING SECTION 373.11(a)(2) AND REPEALING SECTION 373.13 OF CHAPTER 373 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO.

*During NEW BUSINESS portion of the May 2, 2017 City Council meeting, a motion was made and seconded to accept the proposed amendments (second amendment to the Ordinance), which was approved. A motion was then made to lift it from the table, but no second to that motion was given, so it was not lifted from the table and remains tabled.*

*During OLD BUSINESS portion of the September 19, 2017 City Council meeting, a motion was made and seconded to lift it from the table. All were in favor. Then a motion was made and seconded to adopt it, but after discussion, a motion was made and seconded to retable it. The Ordinance remains tabled.*

**ORDINANCE NO. 2017-073** (*HWE Franchise Agreement*) requires three (3) readings **tabled after 3<sup>rd</sup> reading on 8/15/17**  
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).

**ORDINANCE NO. 2017-087** (*mid-year review – retirement severance payout*) requires three (3) readings  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

**third reading      adopted**

Councilwoman Frische moved to adopt the Ordinance, seconded by Councilman Harrington. Ayes: Frische, Harrington, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser. The Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2017-087 and is hereby made a part of the record.

**ORDINANCE NO. 2017-088** (*flood appropriation*) requires three (3) readings  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

**third reading      adopted**

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

Discussion:

Councilwoman Frische asked for a refresher on what this Ordinance is about and what dollar amount the appropriation is. Safety Director Schmelzer replied it is an appropriation for flood related items at a cost of approximately seventy-seven thousand dollars (\$77,000). City Auditor Staschiak noted that this has changed from seventy thousand dollars (\$70,000) to seventy-four thousand dollars (\$74,000), and now up to seventy-six thousand dollars (\$76,000), which he is comfortable with that appropriation amount which is strictly materials. They are hard costs, not people costs. It is considered to be "other" in budget terminology.

Ayes: Harrington, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische. The Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2017-088 and is hereby made a part of the record.

**ORDINANCE NO. 2017-089** (*waterline extension to County Landfill*) requires three (3) readings  
AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF FINDLAY, OHIO, TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE BOARD OF HANCOCK COUNTY COMMISSIONERS FOR THE WATERLINE EXTENSION TO THE COUNTY LANDFILL PROJECT NO. 35710800, AND DECLARING AN EMERGENCY.

**third reading      adopted**

Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Niemeyer. Ayes: Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington. The Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2017-089 and is hereby made a part of the record.

**ORDINANCE NO. 2017-091** (*salary ordinance for City Council members, President of Council, Treasurer*)  
AN ORDINANCE ESTABLISHING THE SALARIES FOR CITY COUNCIL MEMBERS, PRESIDENT OF COUNCIL, AND TREASURER OF THE CITY OF FINDLAY, OHIO, AND REPEALING ALL OTHER ORDINANCES AND/OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

**second reading**

Second reading of the Ordinance.

**ORDINANCE NO. 2017-092** (*Aberdeen Dr/Wesleyan Dr/Winston Dr/Penrose Ct vacation*) requires three (3) readings  
AN ORDINANCE VACATING CERTAIN STREETS (HEREINAFTER REFERED TO AS ABERDEEN DRIVE, WESLEYAN DRIVE, WINSTON DRIVE, PENROSE COURT, AND PENROSE DRIVE VACATION) IN THE CITY OF FINDLAY, OHIO.

**second reading**

Second reading of the Ordinance.

**ORDINANCE NO. 2017-093** (*RLF Administration*) requires three (3) readings  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

**second reading**

Second reading of the Ordinance.

**ORDINANCE NO. 2017-094** (*U of F refunding on a taxable loan*) requires three (3) readings. Public Hearing on 10/3/17  
AN ORDINANCE AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF LEASE REVENUE BONDS PURSUANT TO A MASTER LEASE-PURCHASE AND SUBLEASE-PURCHASE AGREEMENT WITH FIFTH THIRD BANK AND UNIVERSITY OF FINDLAY, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,000,000, THE PROCEEDS OF WHICH WOULD BE USED FOR THE PURPOSE OF FINANCING THE ACQUISITION BY THE CITY OF FINDLAY, OHIO OF AN INTEREST IN THE PROJECT (AS DEFINED BELOW), FOR THE BENEFIT OF UNIVERSITY OF FINDLAY, WHICH OWNS AND OPERATES THE PROJECT, LOCATED WITHIN THE CITY OF FINDLAY, OHIO; AUTHORIZING A TAX EXEMPTION CERTIFICATE AND AGREEMENT; AND AUTHORIZING OTHER DOCUMENTS AND RELATED ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH LEASE REVENUE BONDS.

**second reading**

Second reading of the Ordinance.

**ORDINANCE NO. 2017-095** (*FFD GovDeals.com*) requires three (3) readings  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

**first reading      adopted**

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Klein. Ayes: Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Klein. The Ordinance received its second and third readings. Councilman Klein moved to adopt the Ordinance, seconded by Councilman Wobser. Ayes: Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Klein, Monday. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2017-095 and is hereby made a part of the record.

**ORDINANCE NO. 2017-096** (*annual sewer & manhole lining program*) requires three (3) readings  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

first reading

First reading of the Ordinance.

**ORDINANCE NO. 2017-097** (*Daizell Ditch Cleaning, Project No. 3542200*) requires three (3) readings  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

first reading

First reading of the Ordinance.

**ORDINANCE NO. 2017-098** (*Deer Landing Waterline Oversizing*) requires three (3) readings  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

first reading

First reading of the Ordinance.

**ORDINANCE NO. 2017-099** (*City insurance payment on City vehicle from an accident*) requires three (3) readings  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

first reading

adopted

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Shindledecker. Ayes: Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Klein, Monday, Niemeyer. The Ordinance received its second and third readings. Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Klein. Ayes: Shindledecker, Watson, Wobser, Frische, Harrington, Klein, Monday, Niemeyer, Russel. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2017-099 and is hereby made a part of the record.

**ORDINANCE NO. 2017-100**

first reading

adopted

(*OPWC grants: Howard St sewer separation Phase I/Washington Ave & Park St sanitary sewer improvements Phase I*)

during OLD BUSINESS

AN ORDINANCE AUTHORIZING THE MAYOR AND/OR SERVICE 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 HOWARD STREET SEWER SEPARATION PHASE I PROJECT NO. 35577600, AS WELL AS THE WASHINGTON AVENUE/PARK STREET SANITARY SEWER IMPROVEMENTS PHASE I PROJECT NO. 35677700, AND DECLARING AN EMERGENCY.

**UNFINISHED BUSINESS:**

**OLD BUSINESS**

City Auditor Staschak noted that many discussions about the State Centralization income tax issue have taken place. An individual from Dublin reached out to him at the Government Ohio Finance Officer Association meeting who is getting the information out to communities that are interested in joining a lawsuit against the State on the rules that have been implemented. He asked if Council is interested in sending this to any subcommittee. The information sent to the Auditor's Office pointed out that this is a highly-charged political agenda for those interested in participating at the State level. They also recognize that it is a serious issue about the potential loss of revenue for the City's number one (#1) revenue source. The package he received included a letter from Attorneys Frost Brown Todd with a summary of potential Constitutional challenges. It also included a breakdown of a potential cost of six thousand dollars (\$6,000) for a community of our size (25,000-50,000). He is unsure where Council wants to take this. It is a serious issue that the State of Ohio's Municipality recognizes as such. There is an Ordinance that has been tabled for some time now, and now this group is reaching out to the City of Findlay asking us to consider joining. He is not suggesting that we do or don't, but is suggesting that it is a serious issue worth consideration. He would not want to lead a meeting, but can present information and/or participate in a meeting if Council has one.

Council President Slough asked Council what they want to do.

Councilman Russel asked City Auditor Staschiak if it is something he can email to Council. City Auditor Staschiak replied he will email what was sent to him. Councilman Russel asked if the Law Director has seen this. Law Director Rasmussen replied he has and there is a meeting scheduled this week to discuss it. The issue is whether or not the City wants to join a lawsuit or pay the money. He feels the City should try to defeat the issue. Councilman Russel asked if the Ohio Municipal League can be a party on this or if it has to be the City. Law Director Rasmussen replied if the City is going to join the lawsuit, we have to be added into the lawsuit. The Municipal League is in favor of it and will be presenting the Court with amicus briefs in support. The issue is whether or not the City wants to join the lawsuit or make the payment. He is unsure of the final number of cities that have already joined the lawsuit. It is not an issue if the City does not join the lawsuit if we would get a beneficial ruling. Councilman Russel asked if this would be a topic for a COMMITTEE OF THE WHOLE meeting. Council President Slough replied it would be a good idea.

Safety Director Schmelzer requested Council consider Ordinance No. 2017-100. He noted the timeliness of the application process. The two (2) projects on that Ordinance are OPWC grant funds. While there is no guarantee the City will get them, the City typically gets about a fifty percent (50%) match from these dollars. If the City has an opportunity to pursue additional funding, it would be prudent to do so, so it would be beneficial for the Ordinance to be approved this evening.

Councilman Harrington moved to reconsider the Ordinance, seconded by Councilman Monday.

**Discussion:**

Councilman Monday asked for a point of order. The motion was to reconsider it under NEW BUSINESS and then it is reconsidered, then the motion to suspend is needed.

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

**Discussion:**

Councilman Wobser noted that Council just received this Ordinance today and asked if is asking for permission to apply for a couple of grants. Safety Director Schmelzer replied that is correct. The City has received approximately two hundred fifty thousand dollars (\$250,000) from OPWC in the last few years. There are projects slated to be done that Service Director/Acting City Engineer Brian Thomas is involved with some of the aggregation of the projects that he saw what was being applied for and thought it would be worthwhile going after another one, which is why there are two (2) projects listed. Typically, there has only been one (1). In the past, the City has used this money in conjunction with CDBG money for West Park and also other water sanitary sewer and storm water separation projects. There are some general details on the two (2) projects that are listed and subsequent to the application, the Service Director/Acting City Engineer can forward that to Council so they have a map of where the projects are and more details associated with the application.

Ayes: Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2017-100 and is hereby made a part of the record.

City Auditor Staschiak brought up at the last City Council meeting that the Administration was working on changing the Travel Policy. He received an updated policy that went into effect the first of this month. This policy makes some changes that are of concern to him because it will burden some City employees due to changing a process that is simple, works well, and prevents employees from being reimbursed for expenses they shouldn't be reimbursed for and knowing that upfront. The new policy states that the City will do non-taxable reimbursements for meals when travel is incurred in less than twelve (12) hours from place of work. In the private sector, if an employee travels, they do not normally cover their meals. The law states that the City is not permitted to change salaries during their term, so anything that the IRS considers a taxable fringe benefit that would go on a W-2 should not be reimbursed and he has no intention of reimbursing that to an elected official. It is his hopes to work with the Administration to work this out because he will need proper paperwork, but until then, the Administration has requested the City Auditor's Office issue purchase orders very quickly, but cannot do so as they are qualifying all travel purchase orders with the statement that until proper documentation is submitted verifying proper use of public funds, there will be no reimbursements given. The City Auditor's Office will do their due diligence, act accordingly, and will do everything they can to smooth this out. If money is not reimbursed, there will be a good reason for it. Either the Auditor's Office did not receive the documentation, the reimbursement does not appear or seem appropriate according to the IRS rules and regulations or the State Auditor or State Attorney General's findings that have been given to him. Safety Director Schmelzer clarified that the cut off is twelve (12) hours, not less than. He confirmed that all applicable laws, regulations, and proper paperwork are going to be filed with the Auditor's Office. This is a reflection of the same policy that the Court just put in place. In fact, it is more restrictive.

Councilman Wobser noted that issues like this make it difficult for Council to understand what is going on because they have not seen the document and do not understand the nature of what the changes were. He struggles with this issue, especially with it going back and forth and believes it is negligible, but Council does not have any information on this, and may not need any. If that is the case, then they would like to know. Safety Director Schmelzer replied he can put a summary together of the differences. There were some procedural issues that were brought to the Administration's attention in a joint meeting with the Court. The Court modified the policy in conjunction with the Auditor, so the Administration did the same. He can provide Council with a document that illustrates the old policy and the changes that are reflected in the new policy. It is a perfectly legal travel policy. There is no skirting of any law. City Auditor Staschiak added that Council is the body that authorizes expenditures. Expenditures that are put in a budget are to be put in as a lump sum with no itemized review. He attends two (2) major Finance Office sessions a year, along with a few minor ones where he has a travel budget. It varies from Administration to Administration, elected official to elected official. The Auditor's Office is being requested to issue purchase order without all the information they need which is relevant to the finances of the City. It is also relevant and appropriate because he does not want employees to end up in a situation where they are at a meeting, and in good faith buy a lunch, regardless if the meeting is multiple days or just one day, and the Auditor's Office does not reimburse him/her because he/she unknowingly thought they would be getting reimbursed. It causes bad faith between the City and the employee. The process they had in place worked wonderfully. The Court is a different situation. They have the power of the pen. The Auditor's Office has had good conversations with the Court, but has not have any conversations with the Administration on this and they did not consult with the expert that the Auditor's Office has on staff who is a licensed CPA. He is very disappointed how this has moved forward and agrees with Councilman Wobser's perception. He would not be doing his due diligence as the City's Finance Officer and City Auditor, if he did not inform Council prior to going into the 2018 budget season that a policy has been changed, money is being spent, and transparency has been lost. Those three (3) things are prudent to the budget process and the finance process for the City. Where it goes from there is anybody's choice but feels that he has brought up what he needs to bring up.

Councilwoman Frische asked if there was an Ordinance passed for this or if an Ordinance is even needed. Mayor Mihalik replied there is a policy in place. This is part of one of the suggestions out of the management letter. In that letter, it stated that the City should regularly review its policies. There have been some employees and the Court has had some employees that feel as though travel is punitive to them. The Administration looked at what those issues were. They were not wholesale changes. They were minor modifications. The Administration worked with the Court. The Court had theirs approved. The Administration's version is a little stricter than the Court's version. The Administration submitted it to the City Auditor for his review. She is unclear how transparency is being lost. They are still stewards of the taxpayers dollar. The Administration tried to come up with a policy, as suggested in the management letter, to better serve the employee. Councilwoman Frische then asked if this has to come to Council via legislation. Mayor Mihalik replied it is an Administrative responsibility like what would be done for any other personnel policy. Councilwoman Frische asked what the changes were and if employees get reimbursed if they travel on a regular day. Law Director Rasmussen replied they get reimbursed if they are out for twelve (12) hours or more which is also in the Ohio Supreme Court's policy. The Administration looked at a lot of policies. He was disappointed because he asked for information on IRS publications, but did not receive anything, so he contacted Marathon and received it within three (3) minutes via email. The policy is exactly the same as the Court's policy, so it does not matter if it is the Court, his office, or the Mayor's Office. The policy might require some payments that are taxable. He never asks for reimbursement of meals, but other employees do ask for them. It is rare that they have anybody out for twelve (12) hours and not overnight. It is usually a one (1) day eight (8) hour seminar or a two (2) or three (3) day seminar. Before any reimbursement is made, documentation for all meals, hotel and lodging, and all other travel is provided. The new policy simply speeds up the process. Reimbursement comes later.

Councilman Harrington asked that the new policy be sent to Council so that they can look at it, and if the changes can be listed out so that this conversation can take place at a different time once they have the information. Mayor Mihalik replied it may be something Council will want to adopt if they are traveling to seminars so that they are covered in a similar fashion.



Councilwoman Frische pointed out that medical Marijuana has brought a lot of discussion in the news about what other communities are doing. She asked the status of getting something on it to Council. Mayor Mihalik replied the Administration is trying to get some sample Ordinances together and are coordinating schedules so that meaningful conversations can take place before this goes any further. Council President Slough asked if it includes any members of Council. Mayor Mihalik replied it does.

### **NEW BUSINESS**

Councilman Harrington asked what the status is of the Halloween Parade with the downtown construction. The Veteran's Day Parade went well without any problems. Mayor Mihalik replied the Welcome Home Parade worked out fairly well. All of the concrete is to be done by October 30<sup>th</sup>. The Halloween Parade is before that, so the City is making accommodations so that spectators can be downtown in a safe way. Service Director/Acting City Engineer Brian Thomas is not at Council tonight because he and the Water Treatment Plant Superintendent Jason Phillips went to Chicago to receive the City's 2<sup>nd</sup> place award in the Impact Award category at the Weftec ceremony. Downtown is moving along a lot quicker than it had previously. Councilman Harrington noted that there are still some predominate trip hazards on the east side of Main Street. With the number of children downtown at the upcoming Halloween Parade, he fears someone may trip and fall and possibly cause the City a lawsuit. Service Director/Acting City Engineer Thomas has notified him that they will not be able to do the paving until after the Halloween Parade. Mayor Mihalik replied that paving will not happen until the 1<sup>st</sup> of November. Councilman Harrington asked if this will be addressed prior to that as he does not want to put anyone in harm's way. Safety Director Schmelzer replied they did discuss trying to get some early paving done along the curb which would take place in a couple of weeks, but it is what it is. He still wants to have the Halloween Parade downtown as it still is the best place for it. There will have to be some special accommodations made in some areas. Council President Slough asked if liability is a big issue. Law Director Rasmussen replied it can be an issue. It is driven by the facts and circumstances. Whatever can be done to cone or tape off those areas when construction workers leave the project will need to be done.

Councilwoman Frische: **WATER AND SEWER COMMITTEE** meeting on October 17, 2017 at 6:30pm in the first floor council office of the Municipal Building (CO).

Agenda: Deer Landing Waterline Oversizing (Ordinance No. 2017-098)

Councilman Monday: **APPROPRIATIONS COMMITTEE** meeting on October 10, 2017 at 4:15pm in the third floor conference room of the Municipal Building (CR1).

Agenda: WPC Tandem Axle dump truck replacement

Councilman Wobser noted that one of the things that taxpayer monies support is the Raise the Bar Committee. This is their first full year of it and they have already spent monies for next year. The Director for that is Laurie Zydonik. She has been asked give Council an update to see where the City's money is being spent. It has been suggested to do so at a Committee of the Whole meeting so that the County Commissioners, who are also a financial supporter of it, can also be invited. He suggested addressing this request, Councilman Russel's request, and Dalzell Ditch cleaning project together at one meeting.

Councilman Russel: **COMMITTEE OF THE WHOLE** meeting on October 12, 2017 at 4:00pm in the third floor conference room of the Municipal Building (CR1).

Agenda: 1. Blanchard River Greenway  
2. Raise the Bar Committee  
3. Dalzell Ditch cleaning project no. 3542200 (Ordinance No. 2017-097)

Councilman Klein made a motion to excuse the absence of Councilman Hellmann. Seconded by Councilman Harrington. All were in favor. Filed.

President J. Slough adjourned Council at 8:43 pm.

  
CLERK OF COUNCIL

  
PRESIDENT OF COUNCIL