

## FINDLAY CITY COUNCIL MEETING MINUTES

### REGULAR SESSION

OCTOBER 18, 2022

### COUNCIL CHAMBERS

#### ROLL CALL of 2022-2023 Councilmembers:

**PRESENT:** Bauman, Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser

**ABSENT:** none

President of Council Harrington opened the meeting with the Pledge of Allegiance and a moment of silence.

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

Councilman Slough moved to accept the October 4, 2022 Regular Session City Council meeting minutes, seconded by Councilman Niemeyer. All were in favor. Filed.

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

Councilman Russel moved to add-on/replace the following to tonight's agenda, seconded by Councilman Bauman. All were in favor. Filed.

##### ADD-ONS:

- Letter from Hancock Regional Planning Director Cordonnier = moratorium request (*REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS section*)
- Letter from Hancock Regional Planning Director Cordonnier = zoning code amendment (*REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS section*)
- Ordinance No. 2022-097, AS AMENDED = Real Estate Purchase Agreement for Remington estate (*LEGISLATION section*)
- Ordinance No. 2022-109, AS AMENDED = 6 month moratorium on the establishment of any new small box discount store(s) (*LEGISLATION section*)
- Ordinance No. 2022-119 = 6 month moratorium on the establishment of any skill-based amusement businesses (*LEGISLATION section*)

#### PROCLAMATIONS:

##### Mayor Muryn – Disabilities Employment Awareness Month

WHEREAS: October 2022 marks the 77<sup>th</sup> anniversary of National Disability Employment Awareness Month; and,

WHEREAS: The purpose of National Disability Employment Awareness Month is to educate about disability employment issues and celebrate the many and varied contributions of America's workers with disabilities; and,

WHEREAS: The history of National Disability Employment Awareness Month traces back to 1945 when Congress enacted a law declaring the first week in October each year "National Employ the Physically Handicapped Week". In 1962, the word "physically" was removed to acknowledge the employment needs and contributions of individuals with all types of disabilities. In 1988, Congress expanded the week to a month and changed the name to "National Disability Employment Awareness Month"; and,

WHEREAS: Workplaces welcoming of the talents of all people, including people with disabilities, are a critical part of our efforts to build an inclusive community and strong economy; and,

WHEREAS: Activities during this month will reinforce the value and talent people with disabilities add to our workplaces and communities and affirm Findlay, Ohio's commitment to an inclusive community that increases access and opportunities to all, including individuals with disabilities.

NOW THEREFORE, I Christina M. Muryn, Mayor of the City of Findlay, Ohio, do hereby proclaim the month of October 2022 as:

##### DISABILITIES EMPLOYMENT AWARENESS MONTH

in Findlay, Ohio and hereby recognize and commemorate the 77<sup>th</sup> anniversary of National Disability Employment Awareness Month and call upon employers, schools, and other community organizations in Findlay, Ohio, to observe October with appropriate programs and activities, and to advance its important message that people with disabilities add value and talent to our workplaces and communities; and encourage employers to take steps throughout the year to recruit, hire, retain, and advance individuals with disabilities and work to pursue the goals of opportunity, full participation, economic self-sufficiency, and independent living for people with disabilities.

Filed.

**RECOGNITION/RETIREMENT RESOLUTIONS:** none

**PETITIONS:** none

#### ORAL COMMUNICATIONS:

##### Dan Romick – opposition of zoning change of McPherson Avenue rezone

Mr. Romick lives down the Street from the Municipal Building on South Main Street. He is before City Council tonight to represent the Main Street Neighborhood Association, which consists of South Main Street and Lake Cascades Parkway residents, to provide their opinion and opposition to the proposed zoning change on West McPherson Avenue and what potential businesses are looking to go into that location. There is a very high pedestrian population in not only their local neighborhood and the neighborhoods off of Main Street, but also those that come to the area to take a stroll on South Main Street and feel that the proposed change would make it a dangerous intersection, and will make the Sixth Street and McPherson Avenue intersection more dangerous.

They would anticipate seeing much more log jams that they already see with the current traffic which would affect them when taking their kids to and from school (Donnell Middle School, Jefferson Primary School, Chamberlin Hill Intermediate School) or even when Mr. Romick goes to see his grandparents on Church Hill Drive. It should also be taken into an account that it is a main thoroughfare for Hanco EMS Ambulance Inc. where he has witnessed them having to weave in and out of traffic. He spoke about this request during last Thursday's 10/13/22 CITY PLANNING COMMISSION meeting. Not long ago, he came upon an accident at the West McPherson Avenue intersection after volunteering at the Boy Scout Camp for Donnell Outdoor School which speaks to what the Association is afraid of not only for pedestrians, but also for traffic in general in that area. The Association likes to host many events such as trick-or-treat that this proposed zoning change would add to the danger of what makes Findlay truly a gem. Findlay is known for Wilson's Sandwich Shop, Dietsch Brothers, and the cool houses on South Main Street that the Association has the opportunity to protect. This is one of a few times that he has been in the Council Chambers. The first time was when he was in middle school and was working on his Citizenship in the Community Merit Badge when City Council decided to rename Romick Parkway. He asked what the next steps will be for the process of rezoning so that the Association can communicate that back to the neighbors.

**Discussion:**

Councilman Russel thanked Mr. Romick for coming before Council tonight and can see that his Boy Scout training proved successful in that he has put his Citizenship in the Community Merit Badge to use. He informed Mr. Romick on what the next steps are: the next PLANNING & ZONING COMMITTEE meeting will be on November 10, 2022 at 12:00pm in the first floor Council Chambers of the Municipal Building which will be a livestreamed meeting with an opportunity for the public to come and speak and gives the applicant the opportunity to respond. While Councilman Russel was not in attendance at the October 13, 2022 PLANNING & ZONING COMMITTEE meeting, he watched it via YouTube in Colorado. He complimented Mr. Romick and those that spoke on the respectful nature of the conversations and comments. It is the way that democracy should work. He is proud how Findlay is having these discussions. Filed.

**Jack Raymond – opposition of zoning change of McPherson Avenue rezone**

Mr. Raymond lives at 1330 South Main Street which is closer to the issue at hand. There is just one house between where he lives and where this new event would occur. There was another accident the following day from the accident Mr. Romick just mentioned, around 12:00pm at McPherson/Main Street intersection, and then that evening, there was an accident on 6<sup>th</sup> Street just beyond Kroger. He mentions these accidents because of what happens to a loaded traffic zone and the proposing to add to it. This proposal enters into a place where danger becomes the nature of those two (2) intersections. Those that are in the two hundred fifty foot (250') zone that have been notified that this was going to occur have a vested interest beyond the issue of it being South Main Street. It is difficult to sell a house next to a McDonalds. Many in that immediate area have nice homes that this proposed zoning change to allow a McDonalds would affect their financial investment. He appreciated that the CITY PLANNING COMMISSION did not approve to rezone the property. Several years ago, a property in the area was rezoned for Speedway and now have two (2) vacant houses there, one of which has sat empty for at least eight (8) years without a tenant, and the other home is now on its third year without a tenant. Utilities to the two (2) empty houses will not be shut off with a new McDonalds coming in. He asked Council to be careful with the logic of that. Eight (8) years have passed and now Marathon does not own that property. A lot of things can happen in eight (8) years. Main Street south has been in its present condition for one hundred twenty (120) years. Changing something in that area might have an eight (8) year horizon and does not fit into the time that has already occurred to create a wonderful South Main Street. He is before City Council tonight in opposition of placing a McDonalds at that location. Filed.

**Tony Coyne – in favor of zoning change of McPherson Avenue rezone**

Mr. Coyne passed out a zoning map to all Councilmembers. They appreciate the PLANNING & ZONING COMMITTEE tabling the rezone matter. The rezoning request involves a thirty-eight and a half foot (38 ½') wide parcel and is not yet to the issue of a McDonald's site development. That has not yet been brought before the CITY PLANNING COMMISSION nor before City Council. The map he just passed out shows pink areas on the southwest corner of McPherson and Main is currently zoned C1 which can accommodate banks, restaurants, retail facilities, bakeries, book stores, coffee shops, convenience stores, and dry cleaners. That zoning is already in place there, so they could shoehorn something in like a McDonalds, but do not want to do so and instead want to make the site appropriate in size which is to rezone the thirty-eight and a half foot (38 ½') wide parcel next door and vacate a fifteen foot (15') alley. That alley vacation has already been approved. He is asking Council to keep the rezoning issue on the table so that they can address some of the questions that have been raised by the community and not on the spare of the moment, particularly when talking about important issues like traffic when rezoning. There have been some questions about commercial zoning in residential areas. The properties to the west of this site are highlighted in red on the map that he handed out that are not being used per R1 zoning and are being used for commercial and possibly for light industrial uses. The parcel next to Douglas is not being used just for residential and has other activity on it. The parcel on McPherson on the south side of West Street is also not being used for residential purposes. The parcel highlighted on the map in blue is the largest acreage vacant parcel and is zoned for commercial office, and the parcel highlighted in red next to it is a large electric substation and is not used for residential. The church is conditionally permitted and not a permitted use in residential and is also in that location. The vast majority of the raw acreage/square footage from the subject property to the west is not solely used for R1 residential. Their view is to look at this parcel prudently and thoughtfully to see if the rezoning makes sense and then discuss other issues with the site plan if it make sense. They do not want to push this on the community and want to have a thoughtful discussion at the November 10, 2022 PLANNING & ZONING COMMITTEE meeting. He thanked the committee of Council for tabling the matter so there could be a thoughtful discussion of the property. He introduced Sharon Sells in the audience who is Construction Representative for McDonalds and Larry Ball, a local Operator for McDonalds. McDonalds has a national reputation and is a local operation. Findlay has a very good Operator who would also be operating this proposed restaurant. It is over a million dollar investment that will add sixty-five (65) jobs and is an organization that he is proud to have represented for forty-five (45) years. Filed.

Discussion:

Councilman Russel noted that his sons were in Boy Scouts with Mr. Ball who is a big supporter of the Boy Scouts which is part of the reason he complimented Mr. Romick on his Citizenship in the Community Merit Badge. He is happy that the Ball family is part of the Findlay community as they are strong supporters of Findlay and have been doing McDonalds restaurants for decades and are outstanding operators. He respects the Ball family and what they have done over the years with their involvement in the community. He also appreciates the Ronald McDonald House and what they do. His son was born prematurely so they looked into the Ronald McDonald House as an option. His sister stayed in their facility in Denver. There is a lot of things the corporation does that he appreciates. Filed.

**WRITTEN COMMUNICATIONS:**

**Timothy Magee –proposed zoning variance for West McPherson Avenue/Lake Cascades Parkway area.** Filed.

**Chloe Tascoff – dangerous animals.** Filed.

**Amber Wilson – rezoning issue Thursday October 13<sup>th</sup> meeting.** Filed.

**Jessica Grosso – opposition to the rezoning of 119 W McPherson and McDonald’s Restaurant.** Filed.

*President of Council Harrington informed the audience that the subject matter that many are here for tonight is now over and that regular City Council business will be conducted from this point forward. Council took a five (5) minute adjournment to allow those that want to leave to do so.*

*Discussion:*

*President of Council Harrington noted that he grew up on South Main Street and now have two (2) sisters that still live on South Main Street, so he understands that area, but is also a businessman. We live in a country, a state, and a city that allows constructive criticism in a civil manner. He appreciates everyone that came tonight and anticipates there being some emotions that may not have been said, but will work through this issue. Although everyone may not be happy in the end, this is what City Council does. It is what Findlay citizens elect Councilmembers to do and is what they are going to do. Filed.*

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

**Findlay Municipal Court Activities Report – September 2022.** Filed.

**Findlay Police Department Activities Report –September 2022.** Filed.

**City Income Tax Monthly Collection Report – September 2022.** Filed.

**Findlay Fire Department Activities Report – September 2022.** Filed.

**Precipitation and Reservoir levels report – third (3<sup>rd</sup>) quarter July-September 2022.** Filed.

**A set of summary financial reports for September 30, 2022:**

- Summary of Year-To-Date Information as of September 30, 2022
- Financial Snapshot for General Fund as of September 30, 2022
- Open Projects Report as of September 30, 2022
- Cash & Investments as of September 30, 2022

Filed.

**City Planning Commission minutes – September 8, 2022.** Filed.

**City Engineer Kalb – Traffic/Fabrication shop, project no. 31912500**

The City of Findlay accepted Statements of Qualifications (SOQ’s) for design/build contractors to assist in the development and implementation of design and construction of the Public Works Building (Traffic/Fabrication Shop) project on July 28, 2022. From the SOQ process, three (3) teams were shortlisted for interviews. Following a Request for Proposal (RFP) that were submitted on August 29, 2022 and subsequent interviews conducted on August 31, 2022, Tuttle Construction, Inc. has been selected for the project. The first phase of the project will be to develop plans for the permitting and construction of the Public Works Building. The City of Findlay Engineering Department received a proposal from Tuttle Construction, Inc. for the design services needed for the project in the amount of fifty-seven thousand seven hundred fifty dollars (\$57,750.00). Once the design phase is complete, Tuttle Construction, Inc. will provide the City of Findlay Engineering Department with a detailed cost estimate for the construction and then a Guaranteed Maximum Price (GMP) will be established. Legislation authorizing the Mayor, Service-Safety Director and/or City Engineer to enter into contracts for the design services and to appropriate and transfer funds is requested. Ordinance No. 2022-114 was created. Legislation authorizing and/or fund appropriations will be requested later for the construction phase of the project.

FROM:	CIT Fund – Capital Improvements Restricted Account	\$ 57,750.00
TO:	Traffic/Fabrication Shop, Project No. 31912500	\$ 57,750.00

Filed.

**Police Chief Ring – seized drug trafficking funds**

On May 30, 2022, the City of Findlay Police Department seized eight thousand thirty-three dollars and forty cents (\$8,033.40) from a suspect in a drug trafficking investigation. That investigation was prosecuted and after it went through the court system, the money seized during the investigation was ordered to be forfeited to the Findlay Police Department and was taken out of the Police Property Room and was deposited with the City of Findlay Auditor’s Office. Chief Ring would like to utilize the funds to purchase various equipment for the Police Dispatch Center for needed improvements in the break room/kitchenette. Legislation to appropriate said funds is requested. Ordinance No. 2022-115 was created.

FROM: General Funds \$ 8,033.40  
TO: Dispatch #21015000-other \$ 8,033.40

Filed.

**Treasurer’s Reconciliation Report – September 30, 2022. Filed.**

**City Engineer Kalb – STRICT Center – CDBG grant funds appropriation, project no. 31994900**

As authorized by Ordinance No. 2021-088, the City of Findlay has received Community Development Block Grant (CDBG) funds for the second phase of the STRICT Center. This grant will provide seven hundred thousand fifty-five thousand four hundred dollars (\$755,400.00) for the proposed Burn Building that will be located north of the STRICT Center, as well as, a portion of the site pavement. The project is included in the 2022 Capital Improvements Plan, as well as grant funds received from the Community Development Block Grant (CDBG) for construction. This ordinance is to move grant funds received from CDBG into the project account. Legislation authorizing the Mayor, Service-Safety Director and/or City Engineer to enter into contracts, as well as, appropriate and transfer funds is requested. Ordinance No. 2022-116 was created.

FROM: Community Development Block Grant (CDBG-CV) \$ 755,400.00  
TO: STRICT Center, Project No. 31994900 \$ 755,400.00

Filed.

**City Engineer Kalb – reimbursement funds from Ovivo**

While repairing the damaged clarifier arm in 2021, the replacement clarifier arm received from the supplier Ovivo did not conform to the City’s specs and needed to be sent back to Ovivo for correction. Since the clarifier arms was originally sent to Water Pollution Control, it was assumed it was correct, but that the contractor that was on site to install it found that it would not fit the application. Due to this additional time needed to install and remove the damaged arm, the contractor sent the City a change order to cover their cost and since the arm was not correct from the supplier Ovivo, the City requested Ovivo to cover the cost of the change order that was received from the contractor. The City has received the reimbursement check from Ovivo, so now funds need to be appropriated to the Water Pollution Control Center’s Professional Services account in order to send the necessary funds to the contractor. Legislation to appropriate funds from the Sewer Fund to the Water Pollution Control Center’s budget is requested. Ordinance No. 2022-117 was created.

FROM: Sewer Fund (supplier reimbursement) \$ 5,335.00  
TO: Water Pollution Control #25061000-other \$ 5,335.00

Filed.

**Parks and Recreation Board minutes – August 15, 2022. Filed.**

**Traffic Commission minutes –August 15, 2022. Filed.**

**Findlay Municipal Court Administrative and Presiding Judge Bishop – Clerk of Court salary increase**

Director of Court Services Dave Beach will be retiring January 2023. Judge Hackenberg and Judge Bishop have decided not to replace Mr. Beach’s position at this time. They are confident that the current administrative team can take on Mr. Beach’s duties and plan to distribute his duties to the three (3) of them accordingly. Clerk of Court Heather Eigel will be taking on a significant portion of Mr. Beach’s duties, however, the permitted salary increase for her position is currently capped at eight percent (8%) pursuant to Section 5 of the salary ordinance. In order to properly compensate Mr. Eigel for the additional duties that she will be assuming, a fifteen percent (15%) salary increase is being sought. Legislation authorizing said salary increase for Ms. Eigel is requested. Ordinance No. 2022-113 was created.

**Discussion:**

Councilman Wobser congratulated Mr. Beach on his upcoming retirement and asked if this request to increase Ms. Eigel’s pay saves the City money. Mr. Beach (in the audience) shook his head. Councilman Wobser pointed out that this request is to raise a salary to take over some of Mr. Beach’s duties that he will be vacating and asked what happens with Ms. Eigel if the Judges later decide to reinstate Mr. Beach’s position. Mr. Beach replied if that were to happen, the Judges would discuss it at great length. His duties will be disseminated amongst the Administrative team that is in place right now (Heather Eigel, Candace Griffith, and Brad Bash) who have strong leadership capabilities, along with the Administrative Judges, will pick up some extra functionality that they are not used to. They are keeping the Director of Court Services job description active in the handbook, should it need to be reinstated for a leave or unfortunate circumstance, it could be reinstated. Clerk Eigel’s compensation package would have to be addressed at the time. If any of her duties were to be removed, her compensation would be reduced at some level, but realistically, he would not want someone to take something that was given to him away, so her compensation would be “to be determined”. Councilman Wobser replied that is his concern. While he would not like to see anything taken away from anyone’s salary, it is a question he has and will have to be dealt with when/if it happens. Director Beach noted that Ms. Eigel has been recruited by various Court Case Management Computer firms trying to lure her away from Findlay Municipal Court being that her degree is in Computer Science.

She integrates with their case management software provider in a way that none of the rest of the team could, so she is currently fulfilling more than one function seamlessly. City Auditor Staschiak added that this request is not a change to the salary ordinance. The way this ordinance is structured is that it is mandated that this position be in there in a certain way and is just a raise and is not a shift or change to the salary ordinance and are not actually moving those funds within the language of the ordinance and is discretionary to the Judges, but that the City Auditor's Office cannot pay more than eight percent (8%) in one year. It is not compromising or changing the salary ordinance in any way. Filed.

#### **Assistant City Engineer Rausch – STRICT Center GMP3**

On August 17, 2022, the City of Findlay entered into an agreement with Clouse Construction for design/build services for the STRICT Center Project (AGREEMENT). Clouse Construction has submitted an acceptable Guaranteed Maximum Price Proposal for the site design and procurement and erection of the building. To proceed with the scope of work, the parties will need to enter into a Guaranteed Maximum Price Phase Amendment No. 3 (GMP3) for the project. Legislation authorizing the Mayor, Service-Safety Director, and/or City Engineer to enter into GMP3 to the design/build agreement for the partial construction package of the building in the amount of three hundred sixty-five thousand seven hundred sixty-eight dollars and no cents (\$365,768.00). This package includes interior/building foundation concrete, masonry, mezzanine and overhead doors. Request for authorizations and/or appropriations will follow for additional Guaranteed Maximum Price Amendments for the site utility/concrete and final buildout, including finishes and MEP phases of the project. This allows the project to proceed and meet the original construction schedule submitted with the proposal date of June 23<sup>rd</sup>. Ordinance No. 2022-120 was created.

#### **Discussion:**

Councilman Wobser asked if a guaranteed price has been obtained for this phase. City Engineer Kalb explained that this project is split up into phases for scheduling purposes and to obtain needed materials. With the current price of steel, he would like to secure it. There will be two (2) more phases: GMP4 (phase IV) which are the interior fixtures; GMP5 (phase V) is exterior pavement which coincides with the CDBG Project for the burn building for the STRICT Center. The burn building is all outside which includes a lot of pavement. The exterior pavement has been pulled aside so that what is for the CDBG project and what is for the STRICT Center can be separated. The concrete can be paid or funded through funds that were originally planned for. He is working through the final GMP4 which is the HVAC and interior fixtures that should be ready within a week or so and will be the total build. He is cautious of what the budget is and is making sure it stays within that amount. Councilman Wobser asked what the legislation is asking Council to do. City Engineer Kalb replied that it will allow the City to enter into the GMP3 phase with the design/build contractor. Approval for the GMP1 phase has already been received for the site work and getting the site ready, GMP2 phase is to erect the steel building to get it under shell, and the GMP3 phase is for the interior concrete, mezzanine, and masonry work for a full building, but that it will not have the full HVAC in place as it will not be a full warming/cooling system, and the small fixtures will be installed. He does not have a good idea yet of what the price of that phase will be and is working through it. He is aware of what the budget for it is and will come back to Council if anything outside the budget is needed. Councilman Wobser asked if Clouse Construction has provided that number yet. City Engineer Kalb replied no, not yet. Councilman Wobser asked if they are required to provide that prior to signing the agreement. City Engineer Kalb replied no because the phases are split out as partial GMPs. Councilman Wobser asked if they have to provide costs for the GMP2 phase. City Engineer Kalb replied they have. Councilman Wobser noted that the request to Council is to allow the City Engineer to sign an agreement to move forward. He wants to make sure that the City knows what they are signing. City Engineer Kalb replied that he does know what he is signing. The amounts are in the contracts. The GMP2 Phase is approximately two hundred eighty-five thousand dollars (\$285,000.00+) and the GMP3 Phase is approximately three hundred sixty-five thousand dollars (\$365,000.00+). Councilman Wobser asked if this is required to be bid out competitively and if so, if they were bid out. City Engineer Kalb replied it was done as a design/build RFQ. A design/build contractor is obtained through a RFQ process and then a proposal process interview is conducted. It does not have to be put out as a public bid. There are records for those that have to go out for bid. The City cannot seek out bids for design build and instead, the general contractor (in this case is Clouse Construction) obtains at least three (3) competitive bids. If the general contractor wants to self-bid, they also have to include a price. Councilman Wobser asked if that was done in this case. City Engineer Kalb replied that is correct. Councilman Wobser asked if three (3) bids were obtained for this. City Engineer Kalb replied that right now, the site contractor is performing a demolition and then are self-performing the GMP2 phase and will also self-perform the GMP3 phase. Councilman Wobser asked if Clouse Construction bid this out to three (3) other contractors and themselves, submitted their own bid and won. City Engineer Kalb replied that is correct. They were the lowest, but the City does not have to select the lowest one in competitive bids which was why they went to Bricker and Eckler to make sure they were following the rules. It is not a new process, but is a newer process for Findlay and wanted to make sure there is a base line to go off of and have vetted everything through them. They have looked at what is required through the ORC and will follow it. Councilman Wobser asked if the general contractor can choose whatever contractors they want to bid. City Engineer Kalb replied yes they can choose whomever they want and does not have to be made a public bid. Councilman Wobser asked if that process ensures that the City is getting the best price. City Engineer Kalb replied that if it were to go out for a public bid, it would be a public bid for each phase. There are a lot of things out there that contractors can see that he does not see every day. They know what the environment is out there and what is available. For instance, the City could spec it out as an eighteen foot (18') building and then could come back and tell the City that they could provide a twenty foot (20') building for only five thousand dollars (\$5,000.000) more or five thousand dollars (\$5,000.00) less depending on what is readily available. He wanted to have a contractor work with an Architect to obtain their ideas and insights on this project to work together to fully utilize donated funds as much as possible and get the best price. Councilman Wobser asked if this is still on budget for the overall project and also however many phases that the project has been broken down into. City Engineer Kalb replied that they are cautious of the budget and will come back to Council if anything needs to be changed.

Councilwoman Frische noted that she has never seen a process like this and asked what the benefits are to doing it this way versus the way projects are usually done. A lot of legal fees have been paid out and a lot of phases have been developed. City Engineer Kalb replied that with design/build projects, everyone has a piece of the pie (contractor, architect, and City). Public buildings are not part of his specialization which is why this project went out as a design/build RFQ. Roadways, pipes, etc. can be bid out as a public bid because they are something he can take care of with the City taking the liability on it. The contractor who won the bid for this project (Clouse Construction) provides the City with specs on how they want to build something and can send the City a change order for any changes to the specs they provided for anything outside the work of what was in their bid. In a design/build process, everyone has a piece of the pie and has their own liability with the project, but cannot have change orders. It is understood going into a project how the project is going to be built and already obtained the best possible product out there because it was known what the City's needs were and what is available and possibly provide some cost savings. Councilwoman Frische asked if the Street Department project will be similar to this. City Engineer Kalb replied yes. It will be another situation where the City will know what they want to fit in there, but will need to find out what will be needed to build it by looking at the footer design, weld design, permitting, ADA requirements, and building codes. The City Street Department could do most of the work, but would not know what the Ohio Building Codes are and that the contractors take that responsibility in a design/build process. If it were through a bid process, the City would have to ensure all the codes are being met. With design/build, it is put on the contractors shoulders to ensure a turn-key operation in the end.

Councilman Russel asked if the CDBG grant will be used for the burn building. City Engineer Kalb replied yes. Councilman Russel asked that since the burn building was separated out if it will be a separate GMP phase. City Engineer Kalb replied yes because it would be a separate part of the project. Went it went through the RFQ process, a contractor was selected when it was noted that there could be an add-on for a burn building. Since it is a CDBG project, everything has to follow a process. The contractor, Clouse Construction, will obtain three (3) vendor bids for it and will be an add-on as a GMP phase under the STRICT Center, but as a separate funding source under the same contract. Councilman Russel asked if Clouse Construction will obtain the three (3) bids. City Engineer Kalb replied that is correct. Councilman Russel replied that in this case, bid results will not be coming back and instead will utilize CDBG funds that have been obtained for this. City Engineer Kalb replied that is correct. Site work has already been completed for this. It is one big site with separate projects within themselves.

Councilman Hellmann asked if the maintenance and operations of the STRICT Center has been built into a budget for five (5) years out. He asked how the maintenance and operations of the facility will be taken care of. Mayor Murny replied that the initial funding from Council came about after the maintenance plan and funding was presented as a performer that showed the operations and maintenance plan, as well as, some of the revenue opportunities would be minimal but would help cover costs. Some of the programs that would be brought in such as training or anyone that would be utilizing the facility outside of City employees would be responsible for covering their costs (bringing in a trainer, wear and tear on the building and facilities when they are utilizing it, etc.). The maintenance and operations of this has been built in with the understanding that there will be some costs in the budget, but will be absorbed long-term and is still believed to be appropriate. Filed.

#### **Hancock Regional Planning Commission Director Cordonnier – moratorium request**

The Hancock Regional Planning Commission (HRPC) requested a six (6) month moratorium on the creation of new games of skill and small box retail stores. Per City Council's request, the moratorium was considered by the City of Findlay Planning Commission and Planning and Zoning Committee at their October 13, 2022 meetings.

- The City Planning Commission recommended approval of the moratorium and requested it be split into two (2) separate ordinances. The moratorium has been split into two (2) separate moratorium requests, 2022-109 (Small Box Retail), and 2022-119 (Skill Based Gaming).
- The Planning & Zoning Committee recommended approval of each separate ordinance.

Having received feedback from the Planning Commission and the Planning and Zoning Committee, it is now being requested to waive the remaining readings and pass the moratorium on an emergency basis. Ordinance No. 2022-109 received its first reading during the October 4, 2022 City Council meeting and has been requested to be split into two (2) Ordinances: 2022-109 AS AMENDED. If accepted by Council, Ordinance No. 2022-109, AS AMENDED will receive its second reading during the October 18, 2022 City Council meeting, and Ordinance no. 2022-119 will receive its first reading during the October 18, 2022 City Council meeting.

#### **Hancock Regional Planning Commission Director Cordonnier – zoning code amendment**

The HRPC has requested a zoning code amendment that address small box retail stores and games of skill businesses via Ordinance No. 2022-110.

- The City Planning Commission and the Planning and Zoning Committee's both recommended approval of the proposed amendment.
- The committees recommended that a definition for thrift stores be added to the amendment. Additionally, wording has been added to the definition of small box discount store. The additional wording narrow's the definition.

The proposed zoning code amendment is attached with updated wording. Ordinance No. 2022-110 received its first reading during the October 4, 2022 City Council meeting. If Council approves updated wording, than an amendment to Ordinance No. 2022-110 to include attached wording will become Ordinance No. 2022-110, AS AMENDED and will receive its third reading during the November 1, 2022 City Council meeting.

**COMMITTEE REPORTS:**

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from Anthony J. Coyne/Diane A. Calta, attorneys for the applicant EPIC Collaborations, LLC to rezone 119 West McPherson Avenue from R2 Medium Lot Residential to C1 Local Commercial.

*We recommend to table the request.*

*Committee report was not signed by committee members. Once all signatures are obtained, it will be posted on the City's website. All signatures were obtained on 10/18/22 and is now on the City's website.*

Discussion:

President of Council Harrington asked if all the committee member signatures were obtained. Council Clerk DeVore replied yes all signatures have been obtained on the committee reports and are now on the City's website. President of Council Harrington asked what the committee vote was. Councilman Bauman replied it was 3-1 with him being the only nay vote.

Councilman Wobser asked what the reasoning was for those that voted in favor of tabling this. Councilman Hellmann replied that the committee seemed to have gotten bogged down with the fact that this was going to be a McDonalds in which he is not in favor of for many reasons, however this request has to do with zoning. He is unsure if the approval to vacate the alley should correlate with denying the zoning change request based on what the use was going to be, or wants it to be, and thought it was best that the committee not make the decision on a McDonalds, in that if the applicant were to change their mind and place something else there that is not desired by the community, it could be an acceptable change. That is the reason the committee wanted to prolong this out a little bit more.

Councilman Wobser moved to adopt the committee report, seconded by Councilman Hellmann. All were in favor. Filed.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from Anthony J. Coyne/Diane A. Calta, attorneys for applicant Mansour Gavin LPA to vacate a fifteen foot (15') alley between West McPherson Avenue and Lake Cascades Parkway, formerly Vance Avenue, east of Douglas Parkway abutting Sherman Addition, Block G and inlots number 16815 through 16822.

*We recommend to approve as presented. Ordinance No. 2022-118 was created.*

*Committee report was not signed by committee members. Once all signatures are obtained, it will be posted on the City's website. All signatures were obtained on 10/18/22 and is now on the City's website.*

Discussion:

President of Council Harrington asked what the vote was for this. Councilman Bauman replied it was 3-1 with him being the only nay vote.

Councilman Hellmann moved to adopt the committee report, seconded by Councilman Slough. All were in favor. Filed.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request to discuss a 6-month moratorium on the establishment of any new small box retail stores and skill-based amusement businesses via Ordinance No. 2022-109.

*We recommend that the moratorium be split with a separate ordinance for each small box retail and games of skill establishment.*

*We recommend approval of the moratorium for games of skill establishment. Motion made by Councilman Hellmann, seconded by Councilman Slough. All were in favor.*

*We recommend approval for the small box retail moratorium. Motion made by Councilman Hellmann, seconded by Councilman Slough. Ayes = Bauman, Hellmann, Slough. Nay = Frische.*

*Committee report was not signed by committee members. Once all signatures are obtained, it will be posted on the City's website. All signatures were obtained on 10/18/22 and is now on the City's website.*

Ordinance No. 2022-109 received its first reading during the October 4, 2022 City Council meeting. It has been requested to amend Ordinance No. 2022-109 to make it two (2) separate ordinances for the October 18, 2022 City Council. The two (2) ordinances would be: 2022-109, AS AMENDED (small box retail stores) as its second reading during the October 18, 2022 City Council meeting; 2022-119 (skill-based amusement businesses) as its first reading during the October 18, 2022 City Council meeting.

Councilman Hellmann moved to adopt the committee report, seconded by Councilman Bauman. All were in favor. Filed.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request to discuss amendments to the Findlay Zoning Code (dollar/thrift stores, skill-based gaming) via Ordinance No. 2022-110.

*We recommend to approve as presented. Ordinance No. 2022-110 received its first reading during the October 4, 2022 City Council meeting.*

*Committee report was not signed by committee members. Once all signatures are obtained, it will be posted on the City's website. All signatures were obtained on 10/18/22 and is now on the City's website.*

Discussion:

President of Council Harrington asked what the vote was for this. Councilman Bauman replied it was 3-1 with Councilwoman Frische being the only nay vote.

Councilman Wobser moved to adopt the committee report, seconded by Councilman Bauman. All were in favor. Filed.

**LEGISLATION:**

**RESOLUTIONS:**

**RESOLUTION NO. 029-2022** (over PO amount) requires one (1) reading

*first reading - adopted*

A RESOLUTION APPROVING THE EXPENDITURES MADE BY THE AUDITORS OFFICE ON THE ATTACHED LIST OF VOUCHERS WHICH EITHER EXCEED THE PURCHASE ORDER OR WERE INCURRED WITHOUT A PURCHASE ORDER EXCEEDING THE STATUTORY LIMIT OF THREE THOUSAND DOLLARS (\$3000.00) ALL IN ACCORDANCE WITH OHIO REVISED CODE 5705.41(D).

Councilman Slough moved to adopt the Resolution, seconded by Councilman Greeno.

Discussion:

Councilwoman Frische asked what WEX Inc. is and what City department this is for. Councilman Wobser replied it is a fuel company.

Ayes: Bauman, Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser. The Resolution was declared adopted and is recorded in Resolution Volume XXXV, and is hereby made a part of the record.

**ORDINANCES:**

**ORDINANCE NO. 2022-097, AS AMENDED** requires three (3) readings

*third reading – adopted*

(Real Estate Purchase Agreement (Remington Arms) Bank St & E Hobart St)

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF FINDLAY, OHIO TO ENTER INTO A REAL ESTATE PURCHASE AGREEMENT WITH REMINGTON ARMS FOR THE PURCHASE OF PROPERTIES LOCATED ON BANK STREET AND EAST HOBART STREET, APPROPRIATING FUNDS THERETO AND DECLARING AN EMERGENCY.

Councilman Slough moved to adopt the Ordinance, seconded by Councilman Palmer.

Discussion:

Councilwoman Frische asked what was amended. Mayor Muryn replied that the seller came back to the City stating that they would not cover closing costs which are not expected to be very much. There are two (2) changes that were made to this Ordinance are: an increase to the dollar amount to ninety-one thousand dollars (\$91,000.00) to cover closing costs and also added the appropriation into the Ordinance per the recommendation of the Deputy Auditor for ease of paperwork.

Ayes: Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-097 and is hereby made a part of the record.

**ORDINANCE NO. 2022-098** (City Restroom Accessibility) requires three (3) readings

*third reading - adopted*

AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

Councilman Wobser moved to adopt the Ordinance, seconded by Councilman Greeno, Ayes: Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman, Frische. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-098 and is hereby made a part of the record.

**ORDINANCE NO. 2022-103** (STRICT Center GMP2) requires three (3) readings

*second reading - adopted*

AN ORDINANCE AUTHORIZING THE MAYOR, SERVICE-SAFETY DIRECTOR, AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO TO ENTER INTO A GUARANTEED MAXIMUM PRICE PHASE AMENDMENT NO. 2 (GMP2) WITH CLOUSE CONSTRUCTION CORPORATION FOR THE PROCUREMENT AND ERECTION OF THE BUILDING FOR THE STRICT CENTER PROJECT, APPROPRIATING FUNDS THERETO, AND DECLARING AN EMERGENCY.

Discussion:

Councilman Russel asked what the urgency to pass this tonight is and how it affects the overall project. City Engineer Kalb replied that this ordinance is for the building so it is time sensitive. If this phase waits, the price of the building could go up for either the contractor (Clouse Construction) or the City. It needs to be secured and scheduled. Councilman Russel noted that they provide a maximum price and asked if they then try to do it for less. City Engineer Kalb replied that the City has partial GMPs for the project for each component. GMP2 is for the building itself and the erection of it. The sooner supplies can be ordered for it, they better they can stay on the schedule that the contractor has discussed with their supplier to ensure the price that was given. In order to keep with the timeline of an early summer completion date, the project was broken down into phases so that supplies can be ordered to secure current pricing. The site work was a timely issue because of what it came down to. The City does not want to do design/builds for every project, but was necessary for this project in order to stay on schedule.

Councilman Wobser asked if the price on this could go up. City Engineer Kalb replied that if the price were to go up, it would be on Clouse Construction because they are the contractor and are contracted by a secured price. The City wants to be a good steward and do what they can to help ensure that the contractor does not have to endure any unexpected price increases just because of scheduling. Timing goes along with pricing. If the City misses a window of when the contractor is to work on the project, it will push the project out further. Councilman Wobser asked what happens if material prices change during the duration of the project. For example, steel prices have been dropping over the last sixty (60) days. He asked if the City will get a price decrease if the price of materials go down during the project. City Engineer Kalb replied that regardless if prices go up or down, the City needs to be good stewards to the contractor if their supplier has agreed to provide materials to them at a guaranteed price. If prices of materials would go up, it would be out of the contractor's pocket.

Councilwoman Frische asked if prices are locked for a specific period of time and what the urgency is to pass this Ordinance tonight. City Engineer Kalb replied that costs need to be taken out of why this needs to be passed tonight because it is a scheduled project. His main concern is scheduling so that the building can be erected during the winter as that can be done when it is cold out. Councilwoman Frische asked if it is for convenience and will not effect pricing. City Engineer Kalb replied it is not about changing pricing and is about convenience to get the project completed. If the project stays on schedule, it will be completed mid-summer. If there are delays, it may end up being in the fall.

Councilman Russel noted that with inflation raging, the City has worked with contractors to get Capital Plan projects going in order to take advantage of good pricing that has been done out of respect and the nurturing of good working relationship with vendors. Prices are guaranteed when staying on schedule and when working collaboratively with vendors (in this case Clouse Construction). This project has received county-wide praise.

Councilman Russel moved to suspend the statutory rules of Council and give the Ordinance its third reading, seconded by Councilman Bauman. Ayes: Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Bauman, Frische, Greeno. Nays: Wobser. The Ordinance received its third reading. Councilman Russel moved to adopt the Ordinance, seconded by Councilman Palmer. Ayes: Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman, Frische, Greeno, Hellmann. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-103 and is hereby made a part of the record.

**ORDINANCE NO. 2022-104** (*Parker Training Room/restroom remodel*) **requires three (3) readings** **second reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.  
*Second reading of the Ordinance.*

**ORDINANCE NO. 2022-105** (*pre-budget appropriations*) **requires three (3) readings** **second reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.  
*Second reading of the Ordinance.*

**ORDINANCE NO. 2022-106** (*STRICT Center; water service extension invoices from Bricker & Eckler LLP*) **requires three (3) readings** **second reading**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.  
*Second reading of the Ordinance.*

**ORDINANCE NO. 2022-108** (*ARPA Funds*) **requires three (3) readings** **second reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.  
*Second reading of the Ordinance.*

**ORDINANCE NO. 2022-109, AS AMENDED** **requires three (3) readings** **second reading**  
(*6-month moratorium for new small box discount stores*)  
AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF A SIX (6) MONTH MORATORIUM ON THE ESTABLISHMENT OF ANY NEW SMALL BOX DISCOUNT STORE(S) IN ORDER FOR THE CITY OF FINDLAY, OHIO TO CONSIDER INCORPORATING THE PROPOSED ADDITIONS INTO THE CURRENT ZONING CODE AS OUTLINED BELOW BEFORE ENACTING THEM AS PART OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, AND DECLARING AN EMERGENCY.

Discussion:

Councilman Bauman noted that he and Director Cordonnier have talked about this at length when he asked for an explanation on why the Ordinance is being split. Director Cordonnier replied that he requested the moratorium at the last City Council meeting on October 4, 2022 in which Council debated whether or not to pass it by waiving the three (3) readings, and pass it on an emergency basis. Ultimately, City Council requested it go to the CITY PLANNING COMMISSION and the PLANNING & ZONING COMMITTEE in which both entities considered it on October 13, 2022 and provided feedback to split Ordinance No. 2022-109 into two different ordinances because some saw more of an urgency with games of skill versus small box retail stores. By splitting it in two (2), Council now has the option to vote on each moratorium separately. There was also some concerns about the permanent change to the ordinance, so he sharpened the definition of what a small box retail is. He looked up what other communities define it as. In tonight's Council packets, he provided amendments for proposed changes. The first reading of Ordinance No. 2022-109 referred to it as small box retail. He would like to change it to be small box discount stores. Also, he would like to add that language to the zoning amendment via Ordinance No. 2022-110. The definition has changed to add to the end of it: small box discount stores do not include retail stores that: contain a prescription pharmacy, sell gasoline or diesel fuel; primarily sell specialty items or a specific type of product. He is asking the full zoning amendment ordinance go through its full normal process and is asking the Council consider waiving the remaining readings for Ordinance Nos. 2022-109, AS AMENDED and 2022-119 and pass them on an emergency basis.

Councilman Wobser has some issues with the small box retail moratorium. He asked what the issues are with small box retail and what kind of problem they present to the community. Director Cordonnier replied that they are welcome in the community and there is a disconnect within the industry, communities, density and the amount of stores/frequency of stores that want to be in a community. The words "dollar store" appears in about twenty-five percent (25%) of comments posted on Facebook about the proposed McDonalds. It is an item that is on the community's mind. If McDonalds' withdraws their application or the project doesn't go through, the concern is that a dollar store or a game of skill will move into Findlay's premier south end. The abandoned 5<sup>th</sup>/3<sup>rd</sup> Bank on the north side of Findlay is now a game of skill parlor. There are six (6) game of skill parlors in Findlay. Different communities have different issues with dollar stores. In some communities dollar stores are driving out grocery stores in that grocery stores cannot compete with them.

The sheer number of dollar stores that want to come to Findlay is his concern. There currently are eight (8) within city limits. He receives many calls for dollar stores wanting to come in. There is a potential for a couple of sites that are being looked at for dollar stores. He moved forward on this based on feedback and what other communities have done. Councilman Wobser asked if legislation limiting small box discount stores in other communities have been successful by denying businesses to come into their community and if this will achieve what Director Cordonnier is trying to do. Director Cordonnier replied that he did not follow up with them, but does know that the method works. Councilman Wobser still has some serious issues with this in that it does not feel right that the City wants to deny businesses to come in. There are areas of town that are not very accessible to grocery stores, such as mobility problems, that stores like these might suit them better. He asked if the population basis is still considered with the zoning amendments. Director Cordonnier replied that it is still in it. Councilman Wobser asked what those numbers are. Director Cordonnier replied it is one (1) store for every ten thousand (10,000) population. Councilman Wobser asked if Findlay should only have four (4) stores based on the last Census. Director Cordonnier replied that is correct. Councilman Wobser asked how many dollar stores Findlay has now. Director Cordonnier replied eight (8). Councilman Wobser noted that Findlay is already double their allotted amount. Director Cordonnier replied that is correct. Councilman Wobser asked what is the next steps. Director Cordonnier replied that current dollar stores in Findlay would have to go out of business before another one can be established. He is least concerned with population/density and is most adamant about not allowing dollar stores to be permitted in the downtown C-1 area and be restricted to only be in C-2 districts. The most important part of this piece of legislation is the limiting factor. The one (1) store per ten thousand (10,000) population is what is used by other communities. He expected feedback wanting to change it to be one (1) per eight thousand (8,000) population, but that those discussions never came about.

Councilman Russel pointed out that the moratorium and the zoning amendments are two (2) separate issues. The moratorium gives the City an opportunity to evaluate and redesign the zoning amendments with a lot of input. If Council passes the moratorium, he would want to table the zoning amendment changes so that the PLANNING & ZONING COMMITTEE could have further discussions about how to go about it regardless if it is one (1) store for every eight thousand (8,000) population or one (1) store for every ten thousand (10,000) population, or if it will be restricted by zoning classification. He met with Director Cordonnier and Jacob Mercer (HRPC) when the McDonalds proposal first came about and discussed if C-1 is an appropriate area for fast food establishments and if not, why the code states restaurants and where the holes are in C-1 reflective of what is being heard by the community. The moratorium would allow time to look at that in detail and determine the answers to that. HRPC received subsequent calls following the last City Council meeting wanting to bring more games of skill to Findlay. He would like more time to research this and possibly make changes to the zoning code, so he will make a motion to waive the statutory rules on this and give it all its readings tonight and pass it.

President of Council Harrington noted that the rules of Council dictate that Council is to follow Robert's Rules of Council which states that since this is on its second reading, it can be discussed tonight. Discussion is normally done after a motion is made and seconded, and then discussion can take place. While he has no problem allowing discussion before a motion is made, Council tends to wait for discussion until after three (3) readings have been given.

Councilwoman Frische believes Councilman Wobser hit the nail on the head when he asked how many small box dollar stores Findlay currently has in that the economy in the community dictates that and is obviously successful in both C-1 or C-2 districts. When the City is trying to control something, it should allow for community input based off of where they shop and what they do. It was stated that small box dollar stores drive other businesses out which is just the way the cookie crumbles. Councilman Russel thinks Council should pass this so the issue can be discussed during the moratorium, but it can be discussed at any time. Councilwoman Frische pointed out that a moratorium is put in place in the sense of an emergency, but that there does appear to be an emergency for small box stores. She would prefer to have a discussion and figure it out instead of stopping businesses from doing their process while Council and committees are having a discussion on small box stores. It is not Council's job to dictate where small box businesses should go as there is a need for them in C-1 areas as they are for those who have mobility issues who might not be able to drive or be able to get out of their neighborhood and go somewhere else to obtain their needs from.

City Auditor Staschiak asked for a point of order in that he and Law Director Rasmussen were discussing Council's rules that state that legislation regarding zoning issues shall not be presented to Council unless it has gone through the CITY PLANNING COMMISSION and the PLANNING & ZONING COMMITTEE first. He asked if they went through them before the legislation was presented to Council. He asked that it be put on the record from a liability standpoint since talking about corporations that may not be happy when being stopped from doing something that currently is legal and falls under current rules. Councilwoman Frische replied that they did go through those committees as there are committee reports for them. City Auditor Staschiak asked if those committees met before legislation was presented to Council.

President of Council Harrington pointed out that there are a couple of issues based on tonight's discussion. He asked if Councilman Russel made a motion to suspend rules to give the Ordinance its readings for this tonight. Councilman Russel replied that he had not yet made a motion and only made a recommendation.

Councilman Russel moved to suspend the statutory rules of Council and give the Ordinance its third reading, seconded by Councilman Bauman. Ayes: Russel, Slough, Warnecke, Wobser, Bauman, Greeno, Hellmann. Nays: Palmer, Frische, Niemeyer. Motion fails.

*Second reading of the Ordinance.*

**ORDINANCE NO. 2022-110 requires three (3) readings**

**tabled after during the October 18, 2022 City Council meeting**

*(amendments to Findlay Zoning Code (dollar/thrift stores, skill-based gaming)*

AN ORDINANCE REPEALING SECTIONS 1135.03, 1137.071, 1143.03, AND 1174 OF THE CURRENT ZONING CODE AND IN ITS PLACE, ENACTING THE SAME AMENDED SECTIONS OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO.

Councilman Russel moved to table the Ordinance, seconded by Councilman Wobser. Ayes: Russel, Slough, Warnecke, Wobser, Bauman, Greeno, Hellmann. Nays: Frische, Niemeyer, Palmer. ~~Motion fails.~~

Discussion:

Councilman Russel asked for a point of order. I motion to table is just a simple majority. President of Council Harrington clarified that the simple majority vote is present, therefore the Ordinance is tabled.

**ORDINANCE NO. 2022-111 (ee payroll deductions for HSA) requires three (3) readings**

**first reading**

AN ORDINANCE AUTHORIZING THE AUDITOR TO MAKE PAYROLL DEDUCTIONS FOR THOSE EMPLOYEES WHO HAVE ELECTED TO ENROLL IN THE HEALTH SAVINGS ACCOUNT (HSA) PLAN AND DECLARING AN EMERGENCY.

*First reading of the Ordinance.*

**ORDINANCE NO. 2022-112 (amendment to the salary ordinance 2022-081 AS AMENDED) requires three (3) readings**

**first reading**

AN ORDINANCE AMENDING TWO SECTIONS OF CODIFIED ORDINANCE NO. 2022-081, AS AMENDED, KNOWN AS THE SALARY ORDINANCE OF THE CITY OF FINDLAY, OHIO AND REPEALING ALL OTHER PARTS OF ORDINANCES IN CONFLICT HERewith, AND DECLARING AN EMERGENCY.

*First reading of the Ordinance.*

**ORDINANCE NO. 2022-113 (Clerk of Municipal Court pay increase) requires three (3) readings**

**first reading**

AN ORDINANCE APPROVING THE REQUEST OF THE ADMINISTRATIVE JUDGE OF THE MUNICIPAL COURT OF THE CITY OF FINDLAY, OHIO TO GRANT AN ADDITIONAL FIFTEEN PERCENT (15%) SALARY INCREASE FOR THE CLERK OF MUNICIPAL COURT POSITION, WHICH WOULD EXCEED THE ALLOTTED EIGHT PERCENT (8%) OF CURRENT CODIFIED ORDINANCE NO. 2022-081 AS AMENDED OF THE CITY OF FINDLAY, OHIO, KNOWN AS THE SALARY ORDINANCE, AND DECLARING AN EMERGENCY.

*First reading of the Ordinance.*

**ORDINANCE NO. 2022-114 (Traffic/Fabrication shop Phase I) requires three (3) readings**

**first reading**

AN ORDINANCE AUTHORIZING THE MAYOR, SERVICE-SAFETY DIRECTOR, AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO TO ENTER INTO A CONTRACT(S) WITH TUTTLE CONSTRUCTION, INC. FOR THE DESIGN SERVICES PHASE OF THE CITY OF FINDLAY, OHIO PUBLIC WORKS DEPARTMENT BUILDING (AKA TRAFFIC/FABRICATION SHOP) PROJECT NO. 31912500 LOCATED ON CORY STREET, APPROPRIATING AND TRANSFERRING FUNDS THERETO, AND DECLARING AN EMERGENCY.

*First reading of the Ordinance.*

**ORDINANCE NO. 2022-115 (seized drug trafficking funds) requires three (3) readings**

**first reading - adopted**

AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

Discussion:

Councilman Russel noted that this is just transferring funds from one account to another.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Hellmann. Ayes: Slough, Warnecke, Wobser, Bauman, Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel. The Ordinance received its second and third readings. Councilman Hellmann moved to adopt the Ordinance, seconded by Councilman Palmer. Ayes: Warnecke, Wobser, Bauman, Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-115 and is hereby made a part of the record.

**ORDINANCE NO. 2022-116 (STRICT Center – CDBG grant funds appropriation) requires three (3) readings**

**first reading - adopted**

AN ORDINANCE AUTHORIZING THE MAYOR, SERVICE-SAFETY DIRECTOR, AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACTS FOR CONSTRUCTION OF A BURN BUILDING TO BE LOCATED NORTH OF THE STRICT CENTER, AS WELL AS, THE INSTALLATION OF A PORTION OF THE SITE PAVEMENT, PROJECT NO. 31994900, APPROPRIATING FUNDS THERETO, AND DECLARING AN EMERGENCY.

Discussion:

Councilman Russel noted that this is just transferring funds from one account to another.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Bauman. Ayes: Wobser, Bauman, Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke. The Ordinance received its second and third readings. Councilman Palmer moved to adopt the Ordinance, seconded by Councilman Slough. Ayes: Bauman, Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-116 and is hereby made a part of the record.

**ORDINANCE NO. 2022-117** (*reimbursement funds from Ovivo*) **requires three (3) readings**

***first reading - adopted***

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Discussion:

Councilman Russel noted that this is just transferring funds from one account to another.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Greeno.

Ayes: Frische, Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman. The Ordinance received its second and third readings. Councilman Greeno moved to adopt the Ordinance, seconded by Councilman Wobser.

Discussion:

Councilwoman Frische asked what this ordinance is about. City Engineer Kalb replied that last year, a clarifier arm had twisted up because the motor did not shut off, so it had to be replaced. Ovivo sent a new clarifier arm and hired Peterson Construction to install it. The part was ordered per the specs, but when Peterson Construction went to put it in, it did not fit and told the supplier that they would have to cover the extra costs for Peterson Construction. This ordinance is just to move money so they can be paid.

Ayes: Greeno, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman, Frische. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-117 and is hereby made a part of the record.

**ORDINANCE NO. 2022-118** (*119 W McPherson Ave vacation*) **requires three (3) readings**

***first reading***

AN ORDINANCE VACATING A PORTION OF ALLEY BETWEEN WEST MCPHERSON AVENUE AND LAKE CASCADES PARKWAY, FORMERLY VANCE AVENUE, EAST OF DOUGLAS PARKWAY ABUTTING THE SHERMAN ADDITION BLOCK G AND INLOTS NUMBER 16815 THROUGH 16822 (HEREINAFTER REFERED TO AS THE 119 WEST MCPHERSON AVENUE VACATION) IN THE CITY OF FINDLAY, OHIO.

*First reading of the Ordinance.*

**ORDINANCE NO. 2022-119** (*6-month moratorium for skill-based amusement businesses*) **requires three (3) readings**

***first reading - adopted***

AN ORDINANCE AUTHORIZING THE ESTABLISHMENT OF A SIX (6) MONTH MORATORIUM ON THE ESTABLISHMENT OF ANY SKILL-BASED AMUSEMENT BUSINESSES IN ORDER FOR THE CITY OF FINDLAY, OHIO TO CONSIDER INCORPORATING THE PROPOSED ADDITIONS INTO THE CURRENT ZONING CODE AS OUTLINED BELOW BEFORE ENACTING THEM AS PART OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilwoman Warnecke. Ayes: Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman, Frische, Greeno. The Ordinance received its second and third readings. Councilman Russel moved to adopt the Ordinance, seconded by Councilwoman Warnecke.

Discussion:

Councilwoman Frische asked for clarification on what City Auditor Staschiak had stated about this having to go to committee before it could be passed after Ordinance No. 2022-109 was split, thus creating this Ordinance. Law Director Rasmussen replied it can be passed tonight. Councilman Bauman added that this is a new piece of legislation that received its first reading tonight that was created from the PLANNING & ZONING COMMITTEE's recommendation from the October 13, 2022 committee meeting and that the CITY PLANNING COMMISSION was also in agreeance to it.

Ayes: Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman, Frische, Greeno, Hellmann. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-119 and is hereby made a part of the record.

**ORDINANCE NO. 2022-120** (*STRICT CENTER GMP3*) **requires three (3) readings**

***first reading***

AN ORDINANCE AUTHORIZING THE MAYOR, SERVICE-SAFETY DIRECTOR, AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO TO ENTER INTO A GUARANTEED MAXIMUM PRICE PHASE AMENDMENT NO. 3 (GMP3) WITH CLOUSE CONSTRUCTION CORPORATION FOR SITE UTILITY/CONCRETE AND FINAL BUILDOUT, INCLUDING FINISHES AND MEP PHASES OF THE STRICT CENTER PROJECT, AND DECLARING AN EMERGENCY.

*First reading of the Ordinance.*

**UNFINISHED BUSINESS:**

**OLD BUSINESS:**

Councilwoman Frische asked if the maximum price for the GMP3 phase is known and if it should be listed within Ordinance No. 2022-120. City Engineer Kalb replied yes it can be included. Councilwoman Frische asked if she can make a motion to amend the ordinance to add the price or if the City Engineer is going to take care of that. City Engineer Kalb replied he can revise it, but that it will need to be done through the Law Director's Office.

Councilman Wobser asked if the concern on the moratorium for small box discount stores is that a small box discount store could be placed on the proposed South Main Street McDonalds site. Councilman Bauman asked yes that is the fear in that if the City turns down a McDonalds there, it could end up being something else that the community equally does not want. Director Cordonnier added that it is one of the items that started the ball rolling. He requested the moratorium to allow time to craft an ordinance. His goal was to have a discussion and then have requests come in. He wanted to have the discussion and come up with an ordinance that the City likes and then pass the ordinance without the pressure of feeling rushed. The McPherson site is a small part of the moratorium. Councilman Wobser replied that he feels this is a valid reason for the moratorium for that specific piece of property, not the McPherson parcel, but where the 5<sup>th</sup>/3<sup>rd</sup> Bank currently resides. He would like to hear from Councilmembers who voted against the suspension of the ordinance readings tonight if they would be willing to change their vote so that there would be six (6) months to look at redoing it. He is not in favor of the zoning change at this point, but given that specific piece of property and the public outcry about the property, warrants this moratorium. He asked if any councilmember that voted against the suspension of the readings is willing to change their mind.

Councilman Niemeyer replied he is not willing to change his mind.

Councilman Wobser moved to reconsider Ordinance No. 2022-109 AS AMENDED, seconded by Councilman Russel. Ayes: Russel, Warnecke, Wobser, Bauman, Greeno. Nays: Palmer, Sough, Frische, Hellmann, Niemeyer. President of Council Harrington broke the tie vote by voting in favor (aye).

**Discussion:**

Councilman Russel pointed out that the vote was for a motion to reconsider and should be based on the majority vote. Law Director Rasmussen replied that the President of Council breaks a tie vote when it is a motion to reconsider and has to be a 6-5 vote in order to reconsider it. President of Council Harrington clarified that a vote of 6 ayes/5 nays (President of Council breaking the tie) allows for the ordinance to be reconsidered.

Councilman Russel noted that Law Director Rasmussen had stated that Ordinance No. 2022-119 was a valid piece of legislation because it was given its first reading and asked if Ordinance No. 2022-109 AS AMENDED is also a valid ordinance because it is not amending the Zoning Code, but is simply enacting a moratorium and is regular legislation that was introduced and then sent to both the CITY PLANNING COMMISSION and the PLANNING COMMITTEE for their opinion, and is not amending the City's Zoning Code. It simply states that there is a moratorium on this particular type of business. It was introduced and is now tabled and asked if the validity applies to Ordinance No. 2022-109 AS AMENDED. Law Director Rasmussen replied Ordinance No. 2022-109 AS AMENDED is a 6-month moratorium for small box discount businesses and asked the Council Clerk what the vote on it was. Council Clerk DeVore replied that the motion to suspend Council's rules and give the ordinance all its readings was Ayes – 7, Nays – 3. President of Council Harrington noted that the vote was 7-3 which means it's not a ¾ majority vote which means the rules to suspend failed. Councilman Russel noted that the question that was raised by the City Auditor was that since this is a zoning amendment, it must start in committee. It is not a zoning amendment. It is a regular ordinance. The ordinance does not state it is to amend the Zoning Code. He asked if it were passed if it would be valid. If the Law Director says it is a zoning code amendment, then there does not need to be a conversation about its suspension. Law Director Rasmussen replied that it is a zoning issue. Councilwoman Frische asked if it is changing the Zoning Code during the six (6) months of the moratorium because it would be stopping it and would be what is wanting to be passed eventually. President of Council Harrington clarified that the question now is if this is a zoning amendment or not a zoning amendment. Councilman Russel replied that is his question because it does not state in the amendment that it is changing the City's Zoning Code. It does not refer to the City's Zoning Code. It is not germane to the reason why Council tabled the actual zoning amendment. Councilwoman Frische replied that Council just passed Ordinance No. 2022-119 for the moratorium on skill-based amusement businesses. Ordinance No. 2022-109 AS AMENDED is different because the legislation was separated because it affects businesses.

Councilman Wobser pointed out that the both the CITY PLANNING COMMISSION and the PLANNING & ZONING COMMITTEE approved both moratoriums per their committee reports which meets the standard that Council was just discussing. Since they were approved by those committees, Council should be able to vote on them.

Councilwoman Warnecke asked if there could be some discussion from the three (3) Councilmembers who voted nay because if they are not inclined to change their vote, Council is wasting a lot of time answering any other questions.

Councilman Palmer informed Council that he will not be changing his vote. Councilman Wobser asked if Councilman Palmer could elaborate on why he will not be changing his vote and if there is a period of time that would be acceptable to him versus the six (6) months. Councilman Palmer replied that he does not agree to do a moratorium for small box retail stores. He is on board with games of chance, but does not see what the big deal is on small box stores and would like to let them be where they are. Councilman Wobser asked Councilman Palmer if he would approve for a small box retail store to go the 5<sup>th</sup>/3<sup>rd</sup> property on South Main Street. Councilman Palmer replied that scenario is only a speculation and is not currently in front of Council.

Councilman Bauman added that Councilmembers have received phone calls about placing a small box store there and also for games of skill establishments, so there is interest in that property. That point was made in committee. Requests for construction of a dollar store there would have already heard about the proposed moratorium by now. Since this proposed moratorium has already been heard of, it will not be impeding businesses in any way and is just to allow a pause so that the City can have conversations about it.

Councilwoman Frische informed Council that she will not be changing her vote. She finds it interesting that the question of McDonalds came up which is part of the reason it is being discussed which is the first time she has heard it. Whether it is McDonalds, a dollar store or another restaurant, each request will have to go to the CITY PLANNING COMMISSION for site plan review where they will look into how traffic will be affected and all the other pieces that Council would be informed about. If it doesn't fit for any reason, it will not get approved. She is glad Council voted to not allow games of skill to be on the corner of South Main Street like it is on the corner of North Main Street because they are transient businesses that are not an asset to the community. It is not Council's job to dictate what businesses for C-1 retail meet the definition to go in there nor to change the zoning code just because of that corner. There are other areas of town that a C-1 district is appropriate and that people want that and appreciate it for the reasons earlier stated, some because of disabilities that cannot travel as easily to a C-2 area (Tiffin Avenue and Trenton Avenue). If the focus is just on South Main, that is not being very open minded of the entire city as a whole when looking at C-1 versus C-2 districts. The community dictates what they want in the community by shopping there and keeping it in business. If they put the bigger retail businesses out of business because customers utilize them, then there is a need for it in C-1 districts. While it might not work on the proposed corner location because traffic doesn't allow for it or is a fire safety concern or an EMS concern, those types of issues would be addressed in committee for each proposed location. She is glad the proposed location will not be a game of skill. Councilman Bauman replied that is false because Dr. Bateson could put the facility up for sale and then anyone could buy the property and put anything they want there. An example of that scenario would be the 5<sup>th</sup>/3<sup>rd</sup> Bank property on North Main Street. Yes, Council is focusing on South Main Street because that is what is available and would be just kicking the can down the road for something even less desirable.

Councilman Niemeyer informed Council that he was the third nay vote and will stay a nay vote. He thinks this is too much government that is picking on certain businesses. He asked if Council will say no to someone wanting to sell liquor or a tobacco that wants to come to Findlay. Speedway and Kroger across the street from this proposed McDonalds site, as well as the Southside Six down the road already sells it. He asked if Findlay is going to limit the sale of liquor and/or tobacco products to one (1) per every ten thousand (10,000) people. He asked what happened to a free enterprise system and asked if everyone lives in America until they come to Hancock County.

President of Council Harrington asked Law Director Rasmussen if he has come up with a legal opinion. Law Director Rasmussen replied he has.

Councilman Wobser appreciates what Councilwoman Frische and Councilman Niemeyer have stated, but that Councilman Bauman is correct in that a small box store could go in there tomorrow and Council could not stop it because it would meet C-1 zoning requirements. Currently, the language does not state that they cannot go in there just because someone doesn't like that business even though it meets all the other criteria. He would like to have six (6) months to make sure that Council is doing the right thing with zoning new types of retail stores and be located in the right places in town. Council would not be telling them that they cannot build them, but should be able to tell them where they can build them in an area of town that would be more accessible.

Councilman Russel clarified that the reason he asked Law Director Rasmussen about Ordinance No. 2022-109 is because before Ordinance No. 2022-119 was created and voted on, the question was asked if it was legal. Ordinance No. 2022-119 restricts a certain type of business. It was passed with suspended readings on an unanimous 10-0 vote. It has been stated that Council is not here to pick winners, but Ordinance No. 2022-119 picks winners by not allowing games of skill for six (6) months in the City, but that philosophy was not followed for small box retail via Ordinance No. 2022-109. Councilman Palmer had stated that a six (6) month moratorium would not be appropriate for small box retail, but was appropriate for games of skill. He appreciates that Councilman Palmer differentiates between the two by voting his conscience when he stated that Council should not restrict businesses, but that it is what zoning is and why there is a zoning amendment (i.e. adult bookstores and where they can be located). Zoning is available so that a gas station cannot be placed next to a house which is something that protects neighborhood values. The argument of business restrictions teeters on shaky legs when talking about zoning. Since the three (3) nay votes on the suspension of readings for the ordinance remain firm, he is not going to make a motion for reconsideration as it would not change the outcome.

President of Council Harrington asked Council if there is a motion to bring this off the table to reconsider it. Councilman Wobser replied yes there was a motion and was voted on to reconsider it. President of Council Harrington noted that the motion to reconsider was defeated. Councilman Russel corrected President of Council Harrington stating that the motion passed due to President of Council's affirm vote that broke Councilmembers' tie vote and it was just discussed. President of Council Harrington asked Councilman Russel to explain what happened. Councilman Russel replied that he will do so under NEW BUSINESS.

#### **NEW BUSINESS:**

President of Council Harrington explained that when legislation is given a reading and then a motion of some kind is given and seconded, discussion can then take place. It is his belief, in which he will research Robert's Rules of Order to confirm and will bring his findings back to Council, that any discussion on any matter can be brought up in either OLD or NEW BUSINESS based on Robert's Rules of Order, and per Council's Rules, it is what Council follows. Councilman Wobser noted that while he agrees that is what is stated in Robert's Rules of Order, City Council meetings are just that - Council's meetings that can be formatted however Councilmembers so choose and just need to be stated in Council's rules. The reason discussions like this happens without a motion on the table, is because once there is a motion to suspend, which is generally the case, no discussion can take place after that which at times concerns him when trying to straighten things out. He suggested potentially adding that to Council's rules. President of Council Harrington replied that he understands, but that Council's current rules do not state that. Council meetings are for Councilmembers and that they can change the rules and then he will follow it.

Councilman Russel: **PLANNING & ZONING COMMITTEE** meeting on Thursday, November 10, 2022 at 12:00pm in the first floor Council Chambers of the Municipal Building (CC). The meeting will be livestreamed on YouTube as it gives the public the option to watch and listen and provides a record for what was discussed.

- agenda: 1. 119 W McPherson Ave rezone  
2. Mardic Investments, Inc. annexation rezone  
3. Bolton St vacation

Councilman Greeno: **WATER & SEWER COMMITTEE** meeting on Thursday, October 27, 2022 at 5:00pm in the third floor conference room beside the Mayor's Office of the Municipal Building (CR1).

agenda: CSO long-term control plan

Councilman Palmer: **STREETS, SIDEWALKS & PARKING COMMITTEE** meeting on Monday, October 24, 2022 at 5:00 pm in the third floor conference room beside the Mayor's Office of the Municipal Building (CR1).

agenda: carriage walks

Mayor Muryn noted that AEP will be changing the traffic flow this Friday morning. They are making progress and are on schedule with that intersection being reconfigured slightly.

Mayor Muryn thanked Council for continuing to work with the Administration on the STRICT Center project. It is a large project that is different than normal City projects that is exciting to see it moving along as it had been delayed during COVID.

Mayor Muryn noted that as it was seen in the press and communicated to City Council via email, the City received an ISO classification rating improvement from an ISO Class III to an ISO Class II effective January 1, 2023. She thanked the City's Dispatch team, Water Distribution, and Findlay Fire Department who have been working over the last couple of years to identify what needed to be done to improve, putting those operations into place, and making the necessary system improvements that paid off. They will continue to work towards an ISO Class I rating. She thanked Council's support to the Administration and City Departments in being able to implement those changes to achieve it.

Councilman Bauman moved to adjourn City Council at 9:02pm, seconded by Councilman Russel. All were in favor.

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CLERK OF COUNCIL

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COUNCIL PRESIDENT