

## FINDLAY CITY COUNCIL MEETING MINUTES

REGULAR SESSION

NOVEMBER 15, 2022

COUNCIL CHAMBERS

### ROLL CALL OF 2022-2023 Councilmembers:

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

**ABSENT:** Greeno

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

President of Council Harrington pointed out that Councilman Greeno informed him that he would not be in attendance tonight. Councilman Bauman moved to excuse Councilman Greeno, seconded by Councilman Slough. All were in favor. Filed.

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

Councilman Slough moved to accept the November 1, 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 the following to tonight's agenda, seconded by Councilman Bauman. All were in favor. Filed.

#### ADD-ONS:

1. Letter from City Engineer Kalb – Water Distribution service truck (**REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS section**).
2. Ordinance No. 2022-131 – Water Distribution service truck (**LEGISLATION section**).

**PROCLAMATIONS:** none

**RECOGNITION/RETIREMENT RESOLUTIONS:** none

### PETITIONS:

#### Status of Mardic Investments, Inc. annexation (parcel no. 020001025344 south of CR 99)

On August 1, 2022, annexation documents for the Mardic Investments, Inc. annexation were received and have been in the office of the City Clerk the required 60 days ending September 29, 2022 and have now gone through the CITY PLANNING COMMISSION and also the PLANNING & ZONING COMMITTEE and are now reading for legislation to accept and approve the annexation, and also to provide it a zoning classification. Resolution No. 014-2022 (services the City will provide if annexed into City limits) was adopted during the June 21, 2022 City Council meeting, Ordinances No. 2022-128 (accept and approve the annexation) and 2022-129 (rezone the parcel) were created and are to receive their first reading during tonight's City Council meeting. Ordinance No. 2022-129 (rezone the parcel) was discussed during the November 10, 2022 CITY PLANNING COMMISSION and also the PLANNING & ZONING COMMITTEE. Filed.

#### Zoning amendment request – 0 Greendale Avenue (parcel no. 210001032996)

First United Church of Christ, 2100 Greendale Avenue, would like to change the zoning of 0 Greendale Avenue (parcel no. 210001032996) to O1 Offices/Institutions. It is currently zoned as R1 Residential. Referred to City Planning Commission and Planning & Zoning Committee. Filed.

### ORAL COMMUNICATIONS:

#### Jack Raymond – zoning of McPherson

Mr. Raymond asked Council if they would like to have a McDonalds next to their house. His question is a rerun of several of the issues that have been raised here. He is requesting that the City perform a traffic and safety study that would provide a real basis to talk about what happened to traffic patterns if a McDonalds was put in that space. He lives in a local neighborhood that extends up Main Street and down side streets where they see the high traffic continuation as a serious problem. He has visited other McDonalds restaurants that are well kept as a restaurant, but have the issue of trash that accumulates in the drive-thru, which is the majority of their sales, but they have no control over those who have discard trash from their cars. The request to rezone 119 W McPherson Avenue has the possibility of eroding the property value for the next thirteen (13) residences on the south side of that street. The neighborhood has also seen what happens when corporate interests get ahold of residential property as there are two (2) abandoned houses immediately across the street. The neighborhood is concerned that the value of their properties will be significantly altered. Residents of Main Street sit on their front porches and greet their neighbors, doing so generally after 5:00pm with their 5:00pm-11:00pm timeframe being disturbed. While he is generally in favor of commercial development, C1 inclusions have been put in place to service to residential areas and not to General Commerce. McDonald's restaurants are as close to General Commerce as it can possibly get and are based upon the idea that the traffic is large. Filed.

**Tony Coyne – zoning amendment**

Mr. Coyne is before City Council tonight to ask for reconsideration of the zoning amendment, and if not granted, would request that the PLANNING & ZONING COMMITTEE keep the zoning amendment request on the table and that Council not take action that would allow the petitioner at least thirty (30) days for their request. The zoning amendment would change the zoning to C1. The requested zoning change is a thirty-eight foot (38') wide parcel. Dr. Bateson bought the property and invested in the corner with her dental office, and also purchased the old Fifth Third Bank building beside it. He is asking that the zoning be consistent in that location. There is a hodgepodge of land uses on West McPherson and is not only a pristine single family zoning. There is multi-family zoning, several commercial parcels, several non-conforming commercial parcels, an AT&T service facility, a substation, and a large church property. He is asking that this request stay on the table to allow for further dialogue and transparency. As a representative for the applicants who owns the property, this request has been railroaded from the start. There has been a lot of prejudgment without facts, which is not fair. The rezoning makes a lot of sense whether or not McDonalds is even considered. The rezoning makes a ton of sense for this community as it will create jobs, economic development, and will improve that part of the neighborhood. Nothing has been filed yet for a McDonalds and they have not received any kind of feedback professionally with any kind of due diligence on elevations, landscaping, or any kind of formal plans other than concept plans that they were asked to submit, which is not fair to prejudice something before it's even seen and has gone through due diligence. Good zoning should follow a land use plan. The current land use plan for this part of Findlay is outdated and he is asking Council to give serious consideration of continuing to table the matter to allow for further due diligence. C1 zoning provides for other uses and not just restaurants. It provides for other retail uses that are not insignificant. It allows for retail bakeries, bookstores, coffee shops, convenience stores, dry cleaners, etc. This request is somehow being penalized because of the speedway across the street, which is unfair. The City should want real investment within the city. There have been a couple of rumors about wanting to rezone it as office which is the deadest use across this country right now. There are deed restrictions on the property (cannot have insurance offices, finance offices, or banks). If the City wants to keep the Bateson's from reinvesting, then it would be a good move to rezone it to office. He is asking for dialog, be transparent, discuss what is in the C1 zoning, and then take an appropriate vote at the appropriate time. McDonald's is a separate issue down the road and has somehow taken over the discussion, but is important that not be the case. He is requesting to either reconsider the action on the rezoning or at least keep it on the table to allow for further discussion and dialog on the uses. He is stating this on behalf of Dr. Angie Bateson, EPIC, and also McDonalds who are interested in investing in this City. It is an opportunity to put in a special restaurant there by a local operator that is well respected in this community.

**Discussion:**

Councilman Bauman noted that he will not be in favor of tabling this committee report and suggested Council let it die tonight. He asked Mr. Coyne if his intent is for Council to take pity because he showed his hand and included the McDonalds site plan with the request, and that once it becomes submitted, it becomes a public record. Mr. Coyne replied yes. Councilman Bauman reiterated that Mr. Coyne showed his hand. Mr. Coyne replied that he was being transparent and did not show his hand. They were being transparent and there has never been a response from any professional from the City about it. Councilman Bauman replied that does not matter as it is up to Findlay citizens. Mr. Coyne replied that it is up to this body as Councilmember are elected. Councilman Bauman replied that is true but that he is elected to represent the citizens. Mr. Coyne agreed. Councilman Bauman replied that he just does not buy it. Mr. Coyne asked Councilman Bauman to separate the two (2) because C1 does not mean that McDonalds will be there for sure. Councilman Bauman replied that is exactly what it means. Mr. Coyne represents McDonalds. Mr. Coyne replied that they also have an interest with Dr. Bateson's investment on that corner and their attorney whom Mr. Coyne is working with on this matter is in the same position in that they would request that it be tabled because the zoning change to C1 would serve this community well. Councilman Bauman replied that he does not buy it, his constituents do not buy it

**Sharon Sills – elected not to speak.**

**Cathy Weygandt – McPherson**

Ms. Weygandt emphasized that there was a tabled motion from the first meeting, by the committee per Mr. Coyne, to allow time for Mr. Coyne to come up with a traffic study. There were tons of petitions signed and numerous citizens in attendance ready to hear Mr. Coyne speak, but that Mr. Coyne did not show up at the last meeting. To emphasize what Mr. Coyne says and does, the community is seeing the true light of what is happening here. During the CITY PLANNING COMMISSION meeting last week, the ordinance was adopted for the purpose of promoting and protecting the public health, safety, peace, comfort, convenience and general welfare by protecting and conserving the character social and economic stability of the residential, commercial and industrial and other areas by securing the most appropriate use of land by preventing overcrowding of the land and undue congestion of population by providing adequate light, air and reasonable access, and by facilitating adequate and economical provision of transportation, water, sewer, schools, recreation and other public requirements and are in accordance with the City of Findlay Land Use Plan. The Findlay Land Use Plan is hereby law for Councilmembers, as elected officials, to adhere to, and to protect what is here for the citizens. She urged Council to listen to what the CITY PLANNING COMMISSION has unanimously said, also what the PLANNING & ZONING COMMITTEE has unanimously said, and what Councilman Russel has lead forward to emphasize what Findlay citizens are saying about the lovely neighborhood. It is her hopes that City Council will deny this effort.

**Discussion:**

Councilman Niemeyer noted that something will go in there. It is just a matter of time. Ms. Weygandt replied that the general opinion is that the citizens want to maintain that corner as a C1 and that commercial creep will happen to the neighborhood. Mr. Coyne can show red colored zoning maps as much as he wants, but it is residential. It is true that there is an AT&T facility in the area, but that they come during the day and leave during the night with no one hearing them. They are quiet. A church is on the edge of the neighborhood which I also okay. Everyone knows what the substation means and that there isn't anything going on there. It is a quiet residential area.

Mr. Coyne is forgetting the whole entire neighborhood on the north side of McPherson. Whenever someone googles Findlay, one of the very first things they will see is South Main Street and all the tours, and maps of how to walk the neighborhood which is what Strategic Planning is doing with Findlay Ford to emphasize what creates the charm of this town. Her letter to Council in tonight's packet is about that. She urged Council to think about what the citizens really want for this. Filed.

**WRITTEN COMMUNICATIONS:**

**Email from Cathy Weygandt – rezoning of McPherson home.** Filed.

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

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

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

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

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

**Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control** for Prayag Carryout LLC dba Eagle Creek Drive Thru, located at 902 Blanchard Avenue, Findlay, Ohio for a C1 and C2 liquor permit. This requires a vote of Council.

James H. Mathias, Police Captain – Prayag Carryout LLC dba Eagle Creek Drive Thru, located at 902 Blanchard Avenue, Findlay, Ohio. A check of the records shows no current criminal record on the following:

Brijesh Kanubhai Brahmhatt

Unmeshkumar Brahmhatt

Councilwoman Frische moved for no objections be filed, seconded by Councilman Slough. All were in favor. Filed.

**Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control** for Shiv Baba Incorporated dba 5K Carryout, located at 1790 East Melrose Avenue, Findlay, Ohio for a C1 and C2 liquor permit. This requires a vote of Council.

James H. Mathias, Police Captain – Shiv Baba Incorporated dba 5K Carryout, located at 1790 East Melrose Avenue, Findlay, Ohio. A check of the records shows no current criminal record on the following:

Swetaben A. Patel

Councilwoman Frische moved for no objections be filed, seconded by Councilman Palmer. All were in favor. Filed.

**A set of summary financial reports for October 31, 2022:**

- Summary of Year-To-Date Information as of October 31, 2022
- Financial Snapshot for General Fund as of October 31, 2022
- Open Projects Report as of October 31, 2022
- Cash & Investments as of October 31, 2022

Filed.

**Income Tax Board minutes – August 3, 2022; October 10, 2022.** Filed.

**City Engineer Kalb – Reservoir Transfer Line Rehab, Project No. 35782800, Water & Wastewater Infrastructure Grant**

The City of Findlay was notified earlier this year that grant funds were received from the Department of Development earlier this year through the Water & Wastewater Infrastructure Program for the rehabilitation of the reservoir transfer lines and valves. As part of the match money for the grant, the City purchased the necessary valves for the project in the beginning of the year, but are still awaiting a delivery date from the vendor. To ensure that the funds are ready for use once the valves are delivered, it will be beneficial to appropriate the grant funds at this time. Legislation to appropriate the Water and Wastewater Infrastructure Program grant funds to the project for use of the rehabilitation of the reservoir transfer lines and valves is requested. Ordinance No. 2022-127 was created.

FROM:	Water and Wastewater Infrastructure Program	\$ 1,800,000.00
TO:	Reservoir Transfer Line Rehab, Project No. 35782800	\$ 1,800,000.00

**Discussion:**

Councilwoman Frische asked if legislation to apply for the grant has already been passed. City Engineer Kalb replied yes it has. The grant was applied for and awarded last year, but the funds were never appropriated. He would now like to appropriate the grant money into the project. This is ready to bid, but are waiting on the valves to come in. Councilwoman Frische replied legislation usually also appropriates to the project, so this feels like it is backwards. Filed.

**Traffic Commission minutes –October 17, 2022.** Filed.

**Parks and Recreation Board minutes – October 17, 2022.** Filed.

**Treasurer's Reconciliation Report – October 31, 2022.** Filed.

**City Planning Commission Staff Report – November 10, 2022.** Filed.

### **City Engineer Kalb – Water Distribution Service Truck**

Funds were appropriated to Water Distribution as part of Ordinance No. 2022-017 for the purchase of a new service truck. Due to the limited availability of heavy duty trucks, Water Distribution was unable to secure a truck as part of Ford's 2022 allotment. Recently, Reineke Ford has reached out to the City regarding an allotment for 2023 heavy duty trucks to open on November 21, 2022, but that the City will be unable to place an order for the 2023 model. Being that the trucks are in high demand and with low supply, Ford is only accepting order for fleet vehicles in this model until the middle of December, but that the closing of orders could come earlier if the allotment is fulfilled. The model of Ford truck that the City of Findlay Water Distribution desires to purchase was not awarded through a state bid contract and the formal bidding process will need to be waived because it is over the fifty thousand dollar (\$50,000) threshold. State bid price for a Ford truck that is similar to the desired model is sixty-six thousand one hundred thirty-one dollars (66,131). Reineke Ford provided a quote of fifty-two thousand seven hundred ninety dollars (\$52,790) for the desired model. Legislation authorizing the Mayor, Service-Safety Director, and/or City Engineer to waive formal advertising and bidding requirements and enter into an agreement with Reineke Ford Lincoln, Inc. for the purchase of a new service truck is requested. Ordinance No. 2022-131 was created.

#### **Discussion:**

Councilman Russel asked if the truck that originally intended to be purchased via 2022-017 was under the fifty thousand (\$50,000) threshold. City Engineer Kalb replied that the original truck was on a State contract for 2022, but were not able to obtain it through 2022 allocations, so it is now going into the 2023 phase. The money was already appropriated, but the desired truck was not part of the State bid. The City was given a State bid price of sixty-six thousand dollars (\$66,000) for a comparable truck, so Reineke Ford is honoring a price of fifty-two thousand (\$52,000). Because it is a State bid, the bidding process is being waived.

Councilman Wobser asked what the specialty truck is that is needed for the Water Department. City Engineer Kalb replied it is a F-350, 4-door, long bed with a utility bed. It will be one of their service trucks. A standardized truck was what was bid for the State bid. Councilman Wobser asked if this was included in the Capital Planning this year. City Engineer Kalb replied yes it was. The money was appropriated via Ordinance No. 2022-017. Filed.

### **COMMITTEE REPORTS:**

The **WATER AND SEWER COMMITTEE** met on November 9, 2022 to discuss restricted funds for both the Water and Sewer Departments.

*City Auditor Staschiak presented to the committee concerning existing WPC and Water Restricted Funds, and also presented new language for proposed new restricted funds for Water and WPC. The committee will have further meetings concerning this subject.*

Councilwoman Frische moved to adopt the committee report, seconded by Councilman Palmer. All were in favor. The committee report is adopted. Filed.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from Philip L. Rooney, Rooney & Ranzau, Ltd. on behalf of Mardic Investments, Inc. to rezone the property to be annexed to the City of Findlay, Ohio as M2 Multi-Family, High Density. The property is located in the southwest quarter of Section 36, Township 2, North, Range 10 east currently in Allen Township.

*We recommend approval as requested. Ordinance No. 2022-129 was created.*

Councilwoman Frische moved to adopt the committee report, seconded by Councilman Palmer. All were in favor. The committee report is adopted. Filed.

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. This request was tabled during the October 13, 2022 PLANNING & ZONING COMMITTEE meeting.

*We recommend to deny in light of strong public opposition, because the proposed expands commercial creep into residential and because changing zoning to commercial from residential further threatens the intended use of this area as laid out in the land use plan.*

Councilman Bauman moved to adopt the committee report, seconded by Councilman Slough.

#### **Discussion:**

Councilwoman Frische recalled seeing information about when a Councilmember should abstain from voting if there is a direct interest in the subject matter and asked what the reasons to abstain from a vote would be. Law Director Rasmussen replied there would have to be a direct correlation to abstain from voting. Councilwoman Frische reiterated that it would have to be a direct correlation or interest in the matter and asked if those that lived on South Main Street or within the South Main Street corridor should not vote on this committee report because it would be a conflict of interest because it will have a direct impact to those Councilmembers. Law Director Rasmussen asked Councilwoman Frische if she is referring to the intended property. Councilwoman Frische replied that she is referring to this PLANNING & ZONING COMMITTEE REPORT to deny the rezone. She asked if Councilman Russel living on South Main Street, and Councilman Slough living in that vicinity is a conflict of interest because it affects their properties and that they have a direct impact. Law Director Rasmussen replied that it is not a direct enough impact to their properties. If they owned it, it would be different. Councilwoman Frische replied that she feels it is a conflict because they are voting on a neighborhood issue that will have an impact on their property values. It is a gray area. She was surprised that Council untabled this because she thought it was tabled to allow time to have the petitioners rebut the concerns of the citizens in the neighborhood. She was in attendance for the majority of the PLANNING & ZONING COMMITTEE meeting, but was unable to be there for the vote as she had to be someplace else and was not planning on that long of a meeting.

As Councilman Niemeyer stated, it is zoned R1 on that corner and everything is getting mixed up when discussion the McPherson side and the thirty-seven foot (37') wide parcel. She wanted to find out what Findlay citizens would accept in that neighborhood for C1 and found that their biggest concern was the amount of traffic a potential drive-thru could bring and the aesthetics. She does not think Council should accept this committee report at this time and that it should be tabled because if it is accepted, it ends all the discussion on it and need to look at the fact that a property owner invested in the community for a piece of property that is zoned C1. Traffic counts would be important for anything going in there and she would like to see the facts. She appreciated that one of the ORAL COMMUNICATIONS tonight brought some studies from ODOT and some place else in other areas to provide a comparison, but does not feel this should be untabled without giving the applicant time to rebut the community's concerns of having a McDonalds there, plus the mudding of the water with the property owner. She will not support accepting the committee report because of the gray area with Councilman Russel and Councilman Slough's conflict of interest, and need to give abutting property owners the opportunity to rebut, and if they do not want to rebut, it would die at the end of the year as being a tabled piece of committee report.

Councilman Wobser spoke to Councilwoman Frische's thought that a Councilmember could not vote on something that is in their ward. If that were the case, it would completely eliminate every ward Councilman voting on anything that is happening in their ward. If it is thought that a Councilmember has a specific interest in their neighborhood, that is why he/she got elected.

Councilman Bauman asked if President of Council Harrington would be interested in calling the question.

Councilwoman Frische clarified that when a Councilmember has property in their ward and lives in that area, they are in a gray area because it is benefiting him/her personally. The biggest concerns brought up were property value, trash, etc. which is why she feels it should be an abstaining vote.

Councilman Bauman echoed Councilman Wobser that it is exactly why Council Representatives are on Council – to represent their neighbors. Councilwoman Frische replied that Councilman Bauman should not on Council for his own benefit.

Ayes: Bauman, Hellmann, Palmer, Russel, Slough, Warnecke, Wobser. Nays: Frische, Niemeyer. The committee report is adopted. Filed.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from James Bowser, Owner of Performance R&D LLC, to vacate Bolton Street from Barnett Street south to the dead end.

*We recommend approval of the vacation request and to put in a utility easement for the City of Findlay. Ordinance No. 2022-130 was created.*

Discussion:

Councilman Russel pointed out that there is an error on the committee report. The vote was 3-2 in favor of the request. The two (2) nay votes were Councilman Bauman and Councilman Russel. The three (3) votes in the affirmative were: Frische, Slough, Hellmann. It was Councilman Russel's error when he marked each committee member's vote on the committee report where he incorrectly marked Councilman Slough and Councilman Bauman's votes. He would like the committee report to be modified to reflect the error and change it to reflect that Councilman Bauman voted nay, and that Councilman Slough in favor.

Councilman Russel moved to amend the committee report to reflect these changes, seconded by Councilman Bauman. All were in favor. The committee report was amended. Councilwoman Frische moved to adopt the committee report as amended, seconded by Councilman Slough.

Discussion:

Councilman Russel pointed out that he voted in opposition to this request for a few reasons. The CITY PLANNING COMMISSION voted 5-0 to deny the request and the PLANNING & ZONING COMMITTEE went against the CITY PLANNING COMMISSION's recommendation and should have some strong reasons to do so, and did not see any at this time. The increased use of Bolton Street was because of the applicant's own hand. The multi-use trail that dead ends that is mentioned that brings people to the area that dead ends at his property which is why he is currently in a court case with the county to allow the trail to traverse property. When someone is on the trail, their path to exit the trail is to go up a section of Bolton Street that is being requested to be vacated. That section of Bolton provides access to the west side of Swale Park into the trail. It provides access to a major park in the center of town and is one that the City expressed a desire to maintain that access. Hancock Regional Planning recommended maintaining that access, so he voted in opposition of this request to vacate it. He asked the rest of City Council to vote against this committee report.

Councilman Bauman echoed Councilman Russel's comments as there are utilities that go down the middle of that street that the City has an interest in having access to because City personnel utilizes it to access the park there. He is unsure why the City would give a public street away.

Councilwoman Frische noted that she voted in favor of this request because the applicant followed the process and all abutting property owners were in agreeance with it. She asked Hancock Regional Planning Director Cordonnier if the City of Findlay is considered an abutting property because the City would be in a gray area in making the decision and would only have one (1) vote of the five (5) abutting property owners. Councilman Russel mentioned the bike path ending and the property owner mentioned homeless individuals living in that area and having problems with arson and motorists driving to the dead end of it and then driving their vehicles on the bike path (4-wheelers, golf carts, motorcycles, etc.), trash, etc. The City did go out after that committee meeting and mowed the ditch and cleaned it up which was helpful. Councilman Russel mentioned having access to the park. There are multiple access locations to the park. There is a catalytic plan that shows that area is being looked at to be redeveloped for housing. It is not about a future park, but about future housing. There is a waterline that runs under there, so it would require putting an easement in place in which the applicant does not had a problem with doing and just wants to stop the traffic and secure the property. She sees no reason to eliminate their safety and not address their concerns.

Mayor Muryn clarified that the City is an abutting property owner and did not sign off on the petition. In the conversations with the applicant during the CITY PLANNING COMMISSION meeting, each of the issues brought up had not been brought up to the appropriate parties. One of the applicant's issues was individuals getting onto his property in which the City discussed the applicant putting up a fence to address the issue which would be able to be done without vacating because of the width of the road and how that would have to occur because a forty foot (40') easement would be needed.

Many of the issues the applicant is bringing up would not be able to be addressed by that and would not be able to block it off entirely and will not be able to put a fence in that roadway. While she feels for the applicant, and going out and cleaning the ditch, helping with no trespassing signs and putting up a fence which all will better address the issues than simply giving away this public roadway that is utilized for a purpose. At least one of the parcels the applicant owns that is currently not developed along that area would not have any frontage for future development. While it is not a problem now because the property owners own their properties and are maintaining them, if at any point in the future the property owners wanted to sell their properties, they are not developable because they would not have a roadway. From a planning perspective, it is bad practice to vacate the roadway.

Councilman Niemeyer noted that at 4:00pm today, there was a road closed sign up out there. Mayor Muryn replied that the applicant placed it there as part of his issues trying to eliminate traffic. Putting some sort of barrier and signage can be looked at to help with some of the traffic going onto the pathways, but it is still a public road.

Councilwoman Frische noted that the City being an abutting property owner was addressed in committee. The standard practice is that if all abutting property owners are not one hundred percent (100%) in support of the request, the petitioner has the option of advertising six (6) times and going that route, but that they are five (5) abutting property owners and the City is one (1) property owner. She asked Mayor Muryn to provide what is being discussed on the catalytic plan and the County lawsuit about the bike path. Mayor Muryn replied that the petitioner would be responsible for advertising it. When looking at properties similar to an annexation, it is based off the number of owners and not the number of parcels. In this case, there are two (2) impacted property owners, so the City did not approve it and there are no catalytic plans in that area as this has flood mitigation with the goal to keep it as flood mitigation with no other plans for it as this time. Councilwoman Frische asked what the need for the road is. Mayor Muryn replied because it provides public access to a public park and is good planning. If the current property owner wants to sell their property and wants to build on it, it can still be utilized. The issues the current property owner has brought up are not solved by vacating the roadway.

Councilman Hellmann initially voted in favor of this vacation, but after going out and visiting the site twice since then and after listening to some of the comments and arguments, and the fact that there are some legal issues going on with that area and the property owner, he has changed his opinion on this and is no longer in favor of it and will disapprove the vacation.

Councilman Wobser asked if the committee report is approved tonight, what happens with Ordinance No. 2022-130 as it is on the agenda for a first reading tonight for this vacation. He asked if the committee report gets voted down if that automatically takes out the Ordinance. President of Council Harrington replied that the Ordinance would stand regardless of the outcome of the committee report. Law Director Rasmussen confirmed President of Council Harrington's reply. Councilman Russel asked for clarity of why there is legislation on the agenda until the committee report has been accepted by Council that would indicate a need for legislation. He asked if the legislation for this is premature. President of Council Harrington replied that the PLANNING & ZONING COMMITTEE's report's recommendation is to approve the request and asked that if it is not accepted by Council tonight if the Ordinance dies or remains. Law Director Rasmussen replied the Ordinance would die.

Councilwoman Frische's understanding on vacations is that all abutting property owners get a vote, but Mayor Muryn is stating it is 1 to 1. She asked if Council denies the committee report if it also denies the action to advertise six (6) times to move this legislation forward. If Council accepts the committee report, it starts the legislation. President of Council Harrington replied the petitioner's options are separate and not equal to Council's decision of acceptance or denial of the committee report. Councilwoman Frische asked where it leaves the citizen if the committee report is denied. If they could have advertised six (6) times, paid the fee and was able to see where it came out at to get it passed, where that should have happened at. President of Council Harrington replied Councilwoman Frische's question is moot because the committee report is not legislation and is just a committee report. If the committee report is denied/not accepted by Council, it would not eliminate any of the applicant's options including the advertising. It only states that Council does not accept it. If it was legislation and then it went down and was not approved, other than being passed on the majority, it would give the applicant the option of petition if it wasn't a super majority. Councilwoman Frische replied that usually happens with the CITY PLANNING COMMISSION telling the applicant that they can advertise for bid, but that this was denied at that point, but the PLANNING & ZONING COMMITTEE approved it. If the committee report is denied by Council, everything is done for the applicant. President of Council Harrington replied it is not done for the applicant.

Mayor Muryn asked the Council Clerk to clarify when advertising is necessary. If it is before it goes to the CITY PLANNING COMMISSION as part of the public notice or if it is during the legislation process. Council Clerk DeVore replied that vacations do not require a public hearing unless all abutting property owners have not signed the petition in agreement with the request. After the first reading of the legislation is when the public notice is mailed to abutting property owners and advertised in the newspaper. In this case, if the legislation for it that is already on tonight's agenda is given its first reading tonight, the public notice would be mailed to abutting property owners by the Council Clerk. Mayor Muryn added that based off of her consultation tonight with Law Director Rasmussen and the Council Clerk's statement, the advertising would have been done in conjunction with the legislation. If Council denies the committee report tonight, the legislation would be pulled because it should not have been on the agenda until the committee report was adopted. In this case, there would be no need for the advertising because it is not moving forward in the process. Councilwoman Frische asked if it eliminates their option to advertise because they were not notified that they had to advertise before it went to the CITY PLANNING COMMISSION. Mayor Muryn replied that they do not need to at that point in the process. The applicant only needs to notify if its moving forward in the legislative process.

Councilwoman Frische asked that if all abutting property owners are not in agreeance if they can advertise for bid. Mayor Muryn replied if the legislation moves forward, which in this case, it appears that it may not. Councilwoman Frische replied that if the legislation moved forward, it would not be needed.

Mayor Muryn replied that it would notify the property owners that it is moving forward even if any abutting property owner does not want it to move forward so that they can come and speak their peace (questions, concern, support, opposition). In this case, that would not be an opportunity for abutting property owners as Council is addressing it.

Councilman Bauman asked if Councilman Wobser's comments were in the form of a motion. Councilman Wobser replied that if this is voted down, the legislation goes away, so it is not a motion with a vote of Councilmembers on the committee report which will determine the fate of the legislation.

Motion to approve the committee report as amended:

Ayes: Frische, Niemeyer, Palmer. Nays: Bauman, Hellmann, Russel, Slough, Warnecke, Wobser. The committee report is not adopted. Filed.

**LEGISLATION:**

**RESOLUTIONS:**

**RESOLUTION NO. 031-2022** (AIP-34 project) **requires three (3) readings**

**second reading**

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

*Second reading of the Resolution.*

**ORDINANCES:**

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

**tabled after 2<sup>nd</sup> reading during the October 18, 2022 City Council meeting**

(amendments to Findlay Zoning Code (dollar/thrift stores)

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.

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

**third reading - adopted**

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.

Councilman Slough moved to adopt the Ordinance, seconded by Councilwoman Frische. Ayes: Bauman, Frische, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-111 and is hereby made a part of the record.

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

**third reading - adopted**

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.

Councilman Hellmann moved to adopt the Ordinance, seconded by Councilman Slough. Ayes: Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman. Nays: Frische. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-112 and is hereby made a part of the record.

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

**third reading - adopted**

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.

Councilman Slough moved to adopt the Ordinance, seconded by Councilwoman Warnecke.

Discussion:

Councilwoman Frische asked if the breakdown of this is available as there were three (3) positions with two (2) of them under the eight percent (8%), but this position is at fifteen percent (15%) without eliminating a position when Councilman Wobser asked about it during the first reading of the Ordinance. She asked what the other two (2) percentages were. Mayor Muryn replied that she does not have the breakdown, but reiterated what Director of Court Services Dave Beach shared during the first reading of the Ordinance which is that it is within the bounds of the position and within the salary ordinance. Although it is above the allowed eight percent (8%) by Ordinance, it is still within the bounds of the position.

Ayes: Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman. Nays: Frische. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-113 and is hereby made a part of the record.

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

Councilwoman Frische moved to adopt the Ordinance, seconded by Councilman Niemeyer. Ayes: Niemeyer, Palmer, Russel, Slough, Warnecke, Wobser, Bauman, Frische, Hellmann. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-118 and is hereby made a part of the record.

**ORDINANCE NO. 2022-120, AS AMENDED** (STRICT Center GMP3) **requires three (3) readings** **third 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. 3 (GMP3) WITH CLOUSE CONSTRUCTION CORPORATION FOR INTERIOR/BUILDING FOUNDATION CONCRETE, MASONRY, MEZZANINE AND OVERHEAD DOORS FOR THE STRICT CENTER PROJECT, AND DECLARING AN EMERGENCY.

Councilman Palmer moved to adopt the Ordinance, seconded by Councilman Bauman. Ayes: Palmer, Russel, Slough, Warnecke, Wobser, Bauman, Frische, Hellmann, Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-120 and is hereby made a part of the record.

**ORDINANCE NO. 2022-121** (ARPA funds – demolition project) **requires three (3) readings** **second reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2022-123** (ODOT FY23 Resurfacing – Bright Rd Phase III) **requires three (3) readings** **second reading**  
AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACTS FOR THE RESURFACING OF BRIGHT ROAD FROM FOSTORIA AVENUE TO PRODUCTION DRIVE, PROJECT NO. 32822000, APPROPRIATING AND TRANSFERRING FUNDS THERETO, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2022-124** (FFD pickup trucks – additional accessories) **requires three (3) readings** **second reading – adopted during OLD BUSINESS**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Discussion:

Councilman Russel asked if there is a need to expedite this request for lead times. He asked what the timeline on it is. Fire Chief Eberle replied that while it is not necessary to adopt this tonight, it would be helpful in that part of this appropriation is for a snow plow for the utility truck, so the sooner the utility trucks are serviced, the better so that one of the outdated trucks can be transferred to another City department once the new pickup trucks are serviced and ready to utilize when snow falls.

**ORDINANCE NO. 2022-125** (CSO Long Term Control Plan (LTCP) Amendment) **requires three (3) readings** **second reading**  
AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO TO ENTER INTO A CONTRACT WITH STRAND ASSOCIATES, INC. FOR THE FLOW MONITORING AND DATA COLLECTION PORTION OF THE WATER POLLUTION CONTROL CENTER LONG TERM CONTROL PLAN AMENDMENT, PROJECT NO. 35626200, APPROPRIATING AND TRANSFERRING FUNDS THERETO, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2022-126** (HAN-Interstate and FHS Trails PID115232 (32821400)) **requires three (3) readings** **second reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2022-127** **requires three (3) readings** **first reading**  
(Reservoir Transfer Line Rehab Water & Wastewater Infrastructure Grant)  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

**ORDINANCE NO. 2022-128** **requires three (3) readings** **first reading**  
Mardic Investments, Inc. annexation (020001025344 south of CR 99) – accept & approve the annexation **requires three (3) readings**

AN ORDINANCE ACCEPTING AND APPROVING AN APPLICATION FOR ANNEXATION OF TERRITORY SITUATED IN THE TOWNSHIP OF ALLEN, COUNTY OF HANCOCK, STATE OF OHIO, AND BEING A PART OF SECTION 36, T2N, R10E, A TRACT OF LAND CONSISTING OF 3.978 ACRES OF LAND, MORE OR LESS (HEREINAFTER REFERED TO AS THE MARDIC INVESTMENTS, INC. ANNEXATION).

First reading of the Ordinance.



**ORDINANCE NO. 2022-129 requires three (3) readings**

*first reading*

*(Mardic Investments, Inc. annexation (parcel no. 020001025344 south of CR 99) - rezone*

AN ORDINANCE AMENDING CHAPTER 1100 ET SEQ OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, KNOWN AS THE ZONING CODE BY ZONING THE FOLLOWING DESCRIBED PROPERTY AS M-2 MULTI-FAMILY HIGH DENSITY (HEREINAFTER REFERRED TO AS THE MARDIC INVESTMENTS, INC. ANNEXATION).

First reading of the Ordinance.

**ORDINANCE NO. 2022-130 (Bolton St vacation) requires three (3) readings**

*removed from the agenda*

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

President of Council Harrington explained that the ordinance is removed from the agenda. It is not under consideration due to the fact that the committee report for this was not accepted.

**ORDINANCE NO. 2022-131 (Water Distribution Service Truck) 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 WAIVE THE FORMAL ADVERTISING AND BIDDING REQUIREMENTS AND ENTER INTO A CONTRACT WITH REINEKE FORD LINCOLN, INC. FOR THE PURCHASE OF A NEW SERVICE TRUCK, AND DECLARING AN EMERGENCY.

Discussion:

Councilman Russel asked if the adoption of this Ordinance should be expedited to ensure that the City will get on the list for it. City Engineer Kalb replied that is correct. The ordering will start November 21, 2022 and is to stopping mid-December, but that it could stop at any time and would then not be taking any orders, so he would like to secure a service truck before the opportunity is gone. Councilman Russel noted that money was allocated for a truck via Ordinance No. 2022-017, and while he does not like to suspend rules for add-on legislation, this is a unique situation with a unique timeframe.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilwoman Warnecke. Ayes: Russel, Slough, Warnecke, Wobser, Bauman, Frische, Hellmann, Niemeyer, Palmer. The Ordinance received its second and third readings. Councilman Russel moved to adopt the Ordinance, seconded by Councilman Hellmann. Ayes: Slough, Warnecke, Wobser, Bauman, Frische, Hellmann, Niemeyer, Palmer, Russel. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-131 and is hereby made a part of the record.

**UNFINISHED BUSINESS:**

**OLD BUSINESS:**

Councilman Russel moved to reconsider Ordinance No. 2022-124 (*FFD pickup trucks – additional accessories*), seconded by Councilman Wobser. All were in favor.

Discussion:

Councilman Russel noted that the Findlay Fire Department has an asset that is not being utilized because of the lack of accessories. This Ordinance appears to be a minor request that Fire Chief Eberle is in favor of.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its third reading, seconded by Councilman Bauman. Ayes: Warnecke, Wobser, Bauman, Frische, Hellmann, Niemeyer, Palmer, Russel, Slough. The Ordinance received its third reading. Councilman Wobser moved to adopt the Ordinance, seconded by Councilman Hellmann. Ayes: Wobser, Bauman, Frische, Hellmann, Niemeyer, Palmer, Russel, Slough, Warnecke. The Ordinance was declared adopted and is recorded in Ordinance Volume XXIII, Page 2022-124 and is hereby made a part of the record.

President of Council Harrington reminded Council that there are United Way pledge cards on the Council Office table for anyone wanting to contribute.

City Auditor Staschiak reminded Council that there is a state mandated training that is audited every year for ethics open meetings and public records. Certificates of completion need to be turned into the City Auditor’s Office. He has not received any so far.

**NEW BUSINESS:**

Mayor Muryn requests an executive session after unfinished business to discuss a real estate sale/acquisition. No City Council business will follow. Councilman Russel moved to adjourn into executive session at 8:08pm, seconded by Councilman Slough. All were in favor. Councilman Bauman moved to adjourn back into regular session at 8:27am, seconded by Councilman Palmer. All were in favor. Councilman Palmer moved to adjourn City Council at 8:28pm, seconded by Councilman Niemeyer. All were in favor.

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CLERK OF COUNCIL

\_\_\_\_\_  
COUNCIL PRESIDENT