

FINDLAY CITY COUNCIL MEETING AGENDA

REGULAR SESSION

MARCH 20, 2024

COUNCIL CHAMBERS

ROLL CALL of 2024-2025 Councilmembers

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

ACCEPTANCE/CHANGES TO PREVIOUS PUBLIC HEARING MINUTES/CITY COUNCIL MINUTES:

Acceptance or changes to the March 5, 2024 Regular Session City Council meeting minutes.

ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA: none

PROCLAMATIONS: none

RECOGNITION/RETIREMENT RESOLUTIONS: none

PETITIONS: none

ORAL COMMUNICATIONS: none

WRITTEN COMMUNICATIONS:

email from Deb Tyson – Sunny Farms Landfill aka Wind Waste Innovations

Rooney & Ranzau, Ltd. Philip Rooney – Downtown Findlay Improvement District (DFID)

Mr. Rooney represents the Downtown Findlay Improvement District, Inc. (DFID) who provided this letter and attached documentation (*copies available in the Council Office*) pursuant to Ohio Revised Code Section 1710.06 as the DFID's petition to renew the Downtown Findlay Improvement District and adopt a renewed downtown services plan for a term of five (5) years. He attached a petition for renewal, amended and renewed services plan and district map which was submitted to all property owners within the downtown improvement district. He also attached copies of the executed petition signature pages for the participating property owners within the district and a list of all property owners within the district (*copies available in the Council Office*). Pursuant to the Ohio Revised Code, the owners of at least seventy-five percent (75%) of the area within the district must execute petitions in support of the district services plan. The total area in the district has been determined to be two million two hundred forty-one thousand seven hundred thirty-five square feet (2,241,735 sq ft). To meet the requirements of ORC 1710.06, it would be necessary to have approval of owners holding one million six hundred eighty-one thousand three hundred one square feet (1,681,301). The area represented by executed petitions (*copies available in the Council Office*) totals one million eight hundred forty-five thousand three hundred forty-eight square feet (1,845,348 sq ft) which is in excess of eighty-two percent (82%) of the outstanding owners. Based on these facts, the DFID requests that Council, at its earliest date, prepare and approve a resolution adopting the amended and renewed services plan for a term of five (5) years commencing January 1, 2025, so that an assessment for services can be placed on the county real estate tax duplicates for next year. Resolution No. 012-2024 was created.

REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS:

Findlay Police Department Activities Report – February 2024.

Findlay Municipal Court Activities Report – February 2024.

City Income Tax Monthly Collection Report – February 2024.

Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control for Bakers Café LLC, located at 408 South Main Street, Suite B, Findlay, Ohio for D1 liquor permits. This requires a vote of Council.

James H. Mathias, Chief of Police – A check of the records shows no criminal record on the following:

Lisa M. Allen

City Planning Commission staff report – March 14, 2024; **agenda** – March 14, 2024; **minutes** – February 8, 2024.

Findlay Fire Department Activities Report – February 2024.

Treasurer's Reconciliation Report – February 29, 2024.

A set of summary financial reports for February 29, 2024:

- Summary of Year-To-Date Information as of February 29, 2024
- Financial Snapshot for General Fund as of February 29, 2024
- Open Projects Report as of February 29, 2024
- Cash & Investments as of February 29, 2024

Service-Safety Director Martin – insurance payment for repairs of a Police Department vehicle from an accident

The City of Findlay has received payment for the repair of a vehicle from an accident from the City’s insurance company in the amount of one thousand one hundred one dollars and twenty-four cents (\$1,101.24) that has been deposited in the General Fund. Legislation to appropriate funds is requested. Ordinance No. 2024-036 was created.

FROM:	General Fund	\$ 1,101.24
TO:	Police Department #21012000-other	\$ 1,101.24

City Engineer Kalb – 2024 Annual Street Resurfacing/Curb Repairs, Contract B (Asphalt), Project No. 32840100

By authorization of Ordinance No. 2024-009, a bid opening was held for these projects on February 22, 2024. Bids were received from three (3) potential contractor with bid amounts ranging from #355,233.00 to \$399,253.40. The lowest and best bid was received from Shelly Company-Northwest of Findlay, Ohio. This is the asphalt portion of the annual street resurfacing program that the City bids out annually. Legislation to appropriate and transfer funds for construction, inspection and contingency is needed to commence the asphalt portion of the project. Ordinance No. 2024-037 was created.

FROM:	CIT Fund – Capital Improvements Restricted Account	\$ 516,000.00
TO:	2024 Annual Street Resurfacing/Curb Repairs, Project No. 32840100	\$ 516,000.00

Mayor Muryn – District 13 Integrating Committee appointment

Mayor Muryn is appointing Jeremy D. Kalb, P.E. City Engineer for the City of Findlay, to the District 13 Ohio Public Works Commission Integrating Committee. This term will expire May 1, 2027. In the event Mr. Kalb cannot attend a scheduled meeting, Assistant City Engineer Lee Rausch, P.E. for the City of Findlay, will serve as an alternate to the District 13 Ohio Public Works Commission Integrating Committee. This appointment does not require Council’s confirmation.

President of City Council Harrington - appointment to 9-1-1 Program Review Committee

In accordance with ORC 128.06(A)(5), Mayor Muryn is appointing Dan DeArment to serve on the 9-1-1 Program Review Committee as the representative from Findlay City Council. This 9-1-1 Program Review Committee is required to meet at least once a year for the purposes of maintaining or amending a final plan. During the meeting, the previous year budget is also presented. This committee is also charged with hiring a 9-1-1 Coordinator should there be a need. The current 9-1-1- Coordinator is Brian Stozich. This appointment requires Council’s confirmation.

Hancock Regional Planning Commission (HRPC) – minutes February 21, 2024.

Human Resources Director Essex – Employee Satisfaction Survey results

In the fall of 2023, the City Administration launched an organization-wide employee satisfaction survey. As in past years, this survey provides employees the opportunity to weigh in on areas such as employee engagement, communication, leadership/management, strategic planning, work culture, benefits/compensation and information technology. Organizational responsiveness to surveys can lead to higher retention rates, lower absenteeism, improved productivity, better customer service and higher morale. The goal is to seek out feedback from employees so that we can continually grow as an organization and better serve the community. Attached to this letter are the areas receiving the highest (top) and lowest (bottom) ratings on the employee satisfaction survey. Throughout the years, employees have rated their understanding of the City’s (organization-wide) strategic plan lower than other sections of the survey. The Administration, along with Department Heads and Supervisors, will continue to provide information and education in this area. It is also introduced to new hires as part of the onboarding process. As a result of the 2022 survey results and the City’s strategic plan, an employee retention group was formed in order to discuss these items with representatives from each City department on a quarterly basis.

Board of Zoning Appeals minutes – February 8, 2024.

COMMITTEE REPORTS:

An **AD HOC COMMITTEE** met on March 13, 2024 to review the 2024-2025 Council Rules of Procedure.

We recommend continued discussion on rules of procedure changes at the next Ad-Hoc Committee meeting on 26 March 2024 at 4pm.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from Rooney & Ranzau, Ltd. Phil Rooney, agent for the petitioner, for the zoning of 77.808 acres of land located on Township Road 230 and County Road 212 known as the Sheetz/Hat Trick/Buchanan annexation, being part of the east one-half (1/2) of the southwest one-quarter (1/4) of Section thirty-two (32), Allen Township, Ohio, owned by Stella Buchanan. Said parcel is currently in the process of being annexed into the City of Findlay, Ohio limits, to be zoned as I-1 Light Industrial.

We recommend that the property located on Township Rd 230 and County Road 212, known as Sheetz/Hat Trick/Buchanan annexation be zoned as I-1 Light Industrial.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from the Women’s Resource Center of Hancock County to rezone 1600 Laquino Street from R3 Small Lot Residential to O1 Office/Institutions.

We recommend to table this agenda item.

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from Young Mens Christian Association (YMCA) to vacate the north-south alley between Lots 568 and 569 in the Carlins S&P Addition, and the east-west alley between Lots 565-568 and 587-590 in the Carlins S&P Addition.

We recommend vacation of the above referenced alleys.

LEGISLATION:

RESOLUTIONS:

RESOLUTION NO. 012-2024 (DFID) **requires one (1) reading**

first reading

A RESOLUTION APPROVING THE RENEWAL PETITION, SERVICES PLAN AND BUDGET OF THE DOWNTOWN FINDLAY IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY.

ORDINANCES:

ORDINANCE NO. 2024-027 (extend current contracts for City insurance policies) **requires three (3) readings**

third reading

AN ORDINANCE AUTHORIZING THE MAYOR AND/OR SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO TO TAKE BIDS AND ENTER INTO CONTRACTS FOR INSURANCE COVERAGE FOR AIRPORT LIABILITY, AUTOMOBILE, BOILER MACHINERY, CONTRACTOR'S EQUIPMENT, CRIME INSURANCE, POLICE PROFESSIONAL LIABILITY, PUBLIC OFFICIAL'S ERRORS AND OMISSION LIABILITY, REAL AND PERSONAL PROPERTY, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 2024-030 **requires three (3) readings**

second reading

(Strong Ave vacation - 60' unimproved ROW on the west side of Strong Ave north of Blanchard Ave)

AN ORDINANCE VACATING A CERTAIN PORTION OF A CERTAIN STREET (HEREINAFTER REFERRED TO AS THE STRONG AVENUE VACATION) IN THE CITY OF FINDLAY, OHIO.

ORDINANCE NO. 2024-031 **requires three (3) readings**

second reading

(Sixth St vacation - 15' unimproved ROW on the west side of Strong Ave)

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

ORDINANCE NO. 2024-033 (first 2024 Capital Improvement appropriation) **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 WHERE REQUIRED AND ENTER INTO A CONTRACT OR CONTRACTS FOR CONSTRUCTION OF VARIOUS PROJECTS IN ACCORDANCE WITH THE 2024 DEPARTMENT EQUIPMENT LIST, APPROPRIATING AND TRANSFERRING FUNDS FOR SAID CAPITAL EXPENDITURES, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 2024-035 (legal settlement) **requires three (3) readings**

first reading

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

ORDINANCE NO. 2024-036 **requires three (3) readings**

first reading

(insurance payment for repairs of a Police Department vehicle from an accident)

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

ORDINANCE NO. 2024-037 (2024 annual street resurfacing/curb repairs, contract B (asphalt)) **requires three (3) readings**

first reading

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

UNFINISHED BUSINESS:

OLD BUSINESS

NEW BUSIN

Denise Devore

From: Deb Tyson <tysondeb07@gmail.com>
Sent: Wednesday, March 6, 2024 4:36 PM
To: Denise Devore
Subject: Re: [EXTERNAL]Re: Would like my statement read into the minutes please
Attachments: image001.jpg

Security Checkpoint: External Email! Do not click on links or open attachments unless you trust the source and know the content is safe.

For all the information both by phone call and email and yes I would still like my letter red into the minutes because it's going to come to the town of Findlay Maybe not today or tomorrow but somebody needs to look into it it's going to take some time it didn't happen overnight so it's not going to go and show up the results overnight either

Thanks and I did get the information about the Hancock County Commissioners I appreciate that I will give them a call hope you guys read my letter in a minutes

Deb Tyson
800 Woodward Ave Lot 9
Fostoria, OH 44830
304-482-6096
tysondeb07@gmail.com

On Wed, Mar 6, 2024, 4:25 PM Denise Devore <ddevore@findlayohio.gov> wrote:

Thank you for your email and follow up phone call to me in reviewing ways of communicating with City of Findlay City Council. Please let me know if you have any further questions.

During our phone conversation, you had asked me if the County has public meetings similar to City Council since you live outside of City limits & your concern (Sunny Farms Landfill AKA wind waste Innovations) that you listed below is outside of City limits in which City of Findlay City Council would not have jurisdiction over. I called the Hancock County Commissioners Office 419-424-7045 and was informed that the Hancock County Board of Commissioners have regular open public meetings every Tuesday & Thursday at 9:30am at their office (514 South Main Street - Hancock County Commissioners Office) that is open to the public. Unlike our City of Findlay City Council meetings, no form is needed to speak during any of their open public meetings and that a portion of their meetings in which the public can speak (they will announce when the floor is open to the public to speak during the meeting). In order to find out what is on their agenda for each of their meetings, you can always call them 419-424-7045 and they will let you know what is on the agenda.

Please let me know if you would still like your email below to be on the City of Findlay City Council meeting agenda for the 3/20/24 (Wednesday because 3/19/24 is an election day) meeting. If I do not hear back from you, I will assume you do not wish to have your email on our City of Findlay City Council agenda and will instead address your concerns that are outside of City limits with the County.

Please let me know if you have any questions or if I can be of any further assistance.

Denise DeVore

City Law Director Administrative Assistant/City Council Clerk

318 Dorney Plaza

Room 310/114

Findlay, OH 45840

Phone: 419-429-7338/419-424-7113

Fax: 419-424-7245

www.findlayohio.com



From: Deb Tyson <tysondeb07@gmail.com>

Sent: Wednesday, March 6, 2024 3:41 PM

To: City Council - All <CityCouncil-All@findlayohio.gov>

Subject: [EXTERNAL]Re: Would like my statement read into the minutes please

Security Checkpoint: External Email! Do not click on links or open attachments unless you trust the source and know the content is safe.

Just adding my info i forgot to put before sending it

My apologies

Deb Tyson

800 Woodward Ave Lot 9

Fostoria, OH 44830

304-482-6096

tysondeb07@gmail.com

----- Forwarded message -----

From: **Deb Tyson** <tysondeb07@gmail.com>

Date: Wed, Mar 6, 2024, 3:39 PM

Subject: Would like my statement read into the minutes please

To: <CityCouncil-All@findlayohio.gov>

To all city council members

I Deborah Tyson of Fostoria

Would like it to be known that Sunny Farms Landfill AKA wind waste Innovations has purchased multiple properties almost the whole length of 108 or 216 I don't know the name changes on that road that runs where the county line is beside the landfill and I think it would be good idea if you could check your county records for purchases of property within the last 2 years especially this past year that they have Acquired and it may be under name of one of their employees or board members so you'd have to really work at it but you need to be see what's being done with them properties you might be interested to know it's headed your way because that's the way it looks every time I see a property looks like it's going towards Findlay yeah Hancock County is Findlay I'm just on the Fostoria part of Hancock County

Thank you for your time and I am going to leave my information at the bottom of this statement and he wanted to get in touch with me may I do have more to say but that's what mainly pertains to you and your city

Again you need to check how property is being utilized that has been acquired we'll say even in the last 3 years



Philip L. Rooney
Christie L. Ranzau

rooney & ranzau, ltd.
attorneys at law
320 s. main st.
findlay, ohio 45840
419-425-3821
flagcitylaw.com

March 5, 2024

City of Findlay, Ohio
c/o Clerk of Council
Municipal Building
318 Dorney Plaza
Findlay, Ohio 45840

Re: Downtown Findlay Improvement District

To the Clerk:

The undersigned represents the Downtown Findlay Improvement District, Inc., hereinafter the "DFID". Pursuant to Ohio Revised Code Section 1710.06, please accept this letter and the attached documentation as the DFID's petition to renew the Downtown Findlay Improvement District and adopt a renewed downtown services plan for a term of five (5) years.

Attached hereto please find the Petition for Renewal, Amended and Renewed Services Plan and District Map which was submitted to all property owners within the downtown improvement district. Also attached please find copies of the executed Petition signature pages for the participating property owners within the district and a list of all property owners within the district.

Pursuant to the Ohio Revised Code, the owners of at least seventy-five percent (75%) of the area within the district must execute petitions in support of the district services plan. The total area in the district has been determined to be Two Million Two Hundred Forty-one Thousand Seven Hundred Thirty-five (2,241,735) square feet. To meet the requirement of ORC 1710.06, it would be necessary to have approval of owners holding One Million Six Hundred Eighty-one Thousand Three Hundred One (1,681,301) square feet. The area represented by the attached executed petitions totals One Million Eight Hundred Forty-five Thousand Three Hundred Forty-eight (1,845,348) square feet, which is in excess of eighty-two percent (82%) of the outstanding owners.

Based on these facts, the DFID requests that the council, at its earliest date, prepare and approve a resolution adopting the Amended and Renewed Services Plan for a term of five (5) years commencing January 1, 2025, so that an assessment for services can be placed on the county real estate tax duplicates for next year.

If you have any questions in regard to this request after your review of the attached materials, please feel free to contact me at your convenience.

Sincerely,

ROONEY & RANZAU, LTD.

A handwritten signature in blue ink, appearing to be "P. Rooney", is written over the text "ROONEY & RANZAU, LTD.".

Philip L. Rooney

Dear Downtown Findlay Improvement District Property Owners:

It is time for DFID to do the 5-year Petition Renewal. DFID was created in 2008 during the recession. The property owners charged themselves to have income to create a clean, safe, and beautiful downtown that would bring people to the district's businesses. Below are some of the programs that DFID has provided.

DOWNTOWN FINDLAY IMPROVEMENT DISTRICT SUCCESSES

Snow Removal Program – The City clears the walks and puts down salt throughout the district.

Christmas Light Program – DFID provides all holiday lights and decorations on the poles.

Flower Program – Flower baskets are installed on the lamp posts and maintained. Plaques are mounted under baskets to advertise buildings or to be in honor or in memory of someone.

Weed Control Program – The City makes sure that the walks are free of weeds and trash.

Wayfinding Program – Kiosks and digital boards provide visitors with directions through maps and interactive QR codes for scanning with smartphones.

Parking Program – Public parking directional signs and lot signs were installed to assist visitors.

Banner Program – DFID started the banner program which the City took over.

U.S. Flag Program – The Main Street & Broadway flags were paid for through DFID funds.

Music Program – DFID started the music program that is played throughout Main Street on the speakers.

Streetscape Program – DFID contributed to the City for the plantings, irrigation, and general maintenance of the Downtown District.

Cigarette Butt Program – Cigarette butt receptacles were purchased to be placed on poles throughout the district to keep the district clean.

Safety Mirrors Program – Safety mirrors were purchased to be mounted on poles by alleys to aid in safety for pedestrians and vehicles.

Dog Waste Stations Program – Dog waste bag containers were purchased to be mounted through the district to keep the district clean.

Pages 2-3 of this packet is the petition that needs to be signed and returned by December 8, 2023 to DFID, c/o The Findlay-Hancock Co. Chamber of Commerce, 123 E. Main Cross St., Findlay, OH 45840.

For information regarding DFID, contact District Outgoing President Jill Wagner, 419-348-0404, email: jillwasbrowagner@gmail.com or Vice President Andrea Kramer, 419-957-4968, email akramer@cityapparel.net.

Downtown Findlay Improvement District Inc.

**Amended and Renewed
Downtown Services Plan and Budget**

The Downtown Findlay Improvement District Inc. (the "Corporation") intends to deliver the services described below to the area of downtown Findlay shown in the map attached hereto (the "District"). The services to be rendered pursuant to this plan shall be provided for a period of five (5) years from the date of approval of the plan. This plan has been amended from the original downtown services plan and budget for the District adopted in 2009 and renewed in 2013 and 2020.

CLEAN, SAFE & BEAUTIFUL SERVICES

Strategic Direction: Deliver high quality and cost-effective clean and safe services to maintain downtown Findlay as a visually attractive area and enhance its perception as a clean and safe regional asset that attracts people and investment.

1. Create and implement a program to clean and maintain downtown streets and alleys and to provide lighting and mirrors in the alleys to enhance safety.
2. Develop a plan to provide dumpster enclosures or similar screening devices to improve cleanliness and aesthetics.
3. Add recycling cans throughout downtown.
4. Identify and work with the City to have broken sidewalks replaced.
5. Provide plantings and flowers for beautification of the downtown lamp poles.
6. Add living walls in a few areas to enhance beauty.
7. Update and activate pedestrian alleyways, for example, add outdoor concrete games.

MARKETING AND DEVELOPMENT

Maintain effective communication with downtown property owners to identify concerns.

OTHER PROVISIONS

The plan also includes the following activities as authorized by Ohio Revised Code Section 1710.06:

1. Operation of the Corporation to govern the District, including the hiring of employees and professional services; contracting for insurance; leasing of office space; and other actions necessary to operate the Corporation.
2. Planning, designing and implementing public improvements and public services, including hiring architectural, engineering, legal, appraisal, insurance and planning services, and, for public services, managing, protecting and maintaining public and private facilities, including public improvements.
3. Conducting court proceedings to carry out Chapter 1710 of the Ohio Revised Code.
4. Paying damages resulting from the provision of public improvements or public services and implementing the plans.
5. Paying the costs of issuing, paying interest on, and redeeming notes and bonds issued for funding public improvements or public service plans.

BUDGET

The budget for the cost of the plan will be approximately Sixty Thousand Dollars (\$60,000.00) per year. The board of directors will be given discretion on how to allocate funds among the services to be provided. The Corporation will produce an annual report for the members of the District describing how funds are spent. The funds necessary to finance the plan shall be obtained through the assessment of Members of the District based on the assessed value of individual properties as determined by the Hancock County Auditor's Office, in relation to the assessed value of all Property located within the District as a whole and on the square footage of individual properties in relation to the total square footage of all Property located within the District as a whole.

Proposed DFID Budget - 2025 -2030

	2024	2025	2026	2027	2028	2029	2030
INCOME:							
Beginning Balance	23,000	21,080	19,334	17,707	16,146	14,617	12,997
Other Types of Income							
Hayrack sponsor Income							
Program Income	60,000	60,000	60,000	60,000	60,000	60,000	60,000
TOTAL INCOME:	83,000	81,080	79,334	77,707	76,146	74,617	72,997
PROJECTED SPENDING:							
Business Expenses							
Accounting Fees	3,120	3,330	3,560	3,820	4,100	4,420	4,770
Legal Fees							
Supplies	200	200	200	200	200	200	200
Insurance	1,000	1,000	1,000	1,000	1,000	1,000	1,000
City MOU for Flowers, Maint, Lights, Etc	40,000	40,000	40,000	40,000	40,000	40,000	40,000
Vitality Initiatives	16,600	16,216	15,867	15,541	15,229	15,000	15,000
Plaques & Brackets							
Misc Other Costs	1,000	1,000	1,000	1,000	1,000	1,000	1,000
TOTAL SPENDING:	61,920	61,746	61,627	61,561	61,529	61,620	61,970
PROJECTED CARRYOVER:	21,080	19,334	17,707	16,146	14,617	12,997	11,027

PETITION FOR THE ADOPTION OF A DOWNTOWN SERVICES
PLAN AND BUDGET FOR THE DOWNTOWN
FINDLAY IMPROVEMENT DISTRICT

The undersigned, being the owner of real property that abuts upon a street, alley, public road, place, boulevard, parkway, park entrance, easement or other existing public improvement within the area described herein, and collectively with other owners making up at least seventy-five percent (75%) of the square footage of real property in such area, hereby petition to Findlay City Council pursuant to Ohio Rev. Code Ch. 1710 (the "Code") for the creation and adoption of a Downtown Services Plan and Budget (the "Plan") for the benefit of the Downtown Findlay Improvement District (the "District"). In support of this petition, the petitioners approve the following:

1. Corporate Entity.

The District is managed and administered by Downtown Findlay Improvement District Inc., an Ohio not-for-profit corporation managed and formed for such purpose on April 13, 2009 and approved by the City of Findlay on February 17, 2009 by Resolution No. 010-2009.

2. Mission.

The mission of the District has been, and continues to be, to develop and implement plans for public improvements and services that benefit the District and enhance the value of downtown office, retail, residential and other diversified properties.

3. Authority.

The District has been authorized to provide downtown services and improvements pursuant to the Code that benefits property within the boundaries of the District. The City has been authorized to levy a special assessment on property within the District based on benefits conferred by the services and improvements. The cost of such services shall be paid by the assessment.

4. Services Plan.

The District shall be administered in accordance with the Plan attached hereto designating the nature of the services to be provided and the anticipated outcome. The Plan is a renewal and amendment of the initial plan submitted by the District and approved by the Findlay City Council on February 17, 2009 by Resolution No. 010-2009 and renewed by the Findlay City Council on March 19, 2013 by Resolution No. 009-2013, and again renewed on March 19, 2019 by Resolution No. 012-2019. The period of time during which the services set forth in the Plan are to remain in effect is five (5) years.

5. Assessment.

The cost of the services for each year of the Plan is included in the Plan. An annual detailed budget shall be prepared and recommended to property owners by the Board of Directors of the District each year. Assessments for the services provided by the District shall be equitably apportioned among the owners of Property within the District based on the assessed value of individual properties as determined by the Hancock County Auditor's Office, in relation to the assessed value of all Property located within the District as a whole and on the square footage of individual properties in relation to the total square footage of all Property located within the District as a whole.

6. Duration.

The proposed special assessment for implementation of the Plan shall be levied against the owners of Property within the District on an annual basis for a period of not more than five (5) years, renewable as provided by the Code.

7. Boundaries.

A map showing the boundaries of the District is included in the Plan. A definitive list of the properties included in the District is identified by tax identification number. The list of properties shall govern in case of any discrepancies between the list and the map.

8. Board of Directors.

The District is governed by a Board of Directors of ten (10) individuals that represent the interests of property owners in the District. A list of the current Board of Directors of the District is included with the Plan. The Board manages the fiscal affairs of the District on behalf of the property owners.

Findlay City Council is hereby requested to take the following action:

Approve, by Resolution, the Petition to Adopt the Downtown Services Plan and Budget for the Downtown Findlay Improvement District Inc. within sixty (60) days of said Petition being filed with the City.

By signing this Petition, the undersigned hereby represents that he/she/it is the owner of the property incorporated herein by reference, or is authorized to sign this Petition on behalf of the owner.

SIGNATURE OF OWNER
[Individual Owner(s)]

SIGNATURE OF OWNER
[Entity owner(s)]

Signature

Print Name of Owner

Print Name






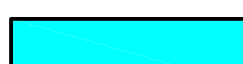






By: _____
Signature

Print Name Title

CITY OF FINDLAY, OHIO DOWNTOWN SELF IMPROVEMENT DISTRICT



MAP LEGEND

-  SELF IMPROVEMENT DISTRICT BOUNDRY
-  STREETS WITHIN DISTRICT
-  PARKING AREAS
-  BUILDINGS
-  GRASS AREAS
-  ALLEYS/DRIVES/PRIVATE WALKS
-  SIDEWALK SNOW REMOVAL BY LOCAL GOVERNMENT
-  SIDEWALK SNOW REMOVAL BY BUSINESS OWNER
-  SIDEWALK SNOW REMOVAL BY MARATHON OIL CO.
-  MULCHED AREAS
-  BRICK PAVERS
-  DOWNTOWN TREE WELLS
-  MARATHON TREE WELLS

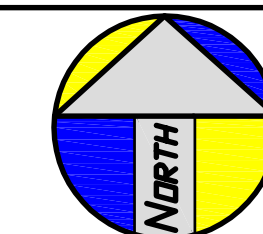
CITY OF FINDLAY ENGINEERING DEPARTMENT

BRIAN C. HURT, P.E. CITY ENGINEER

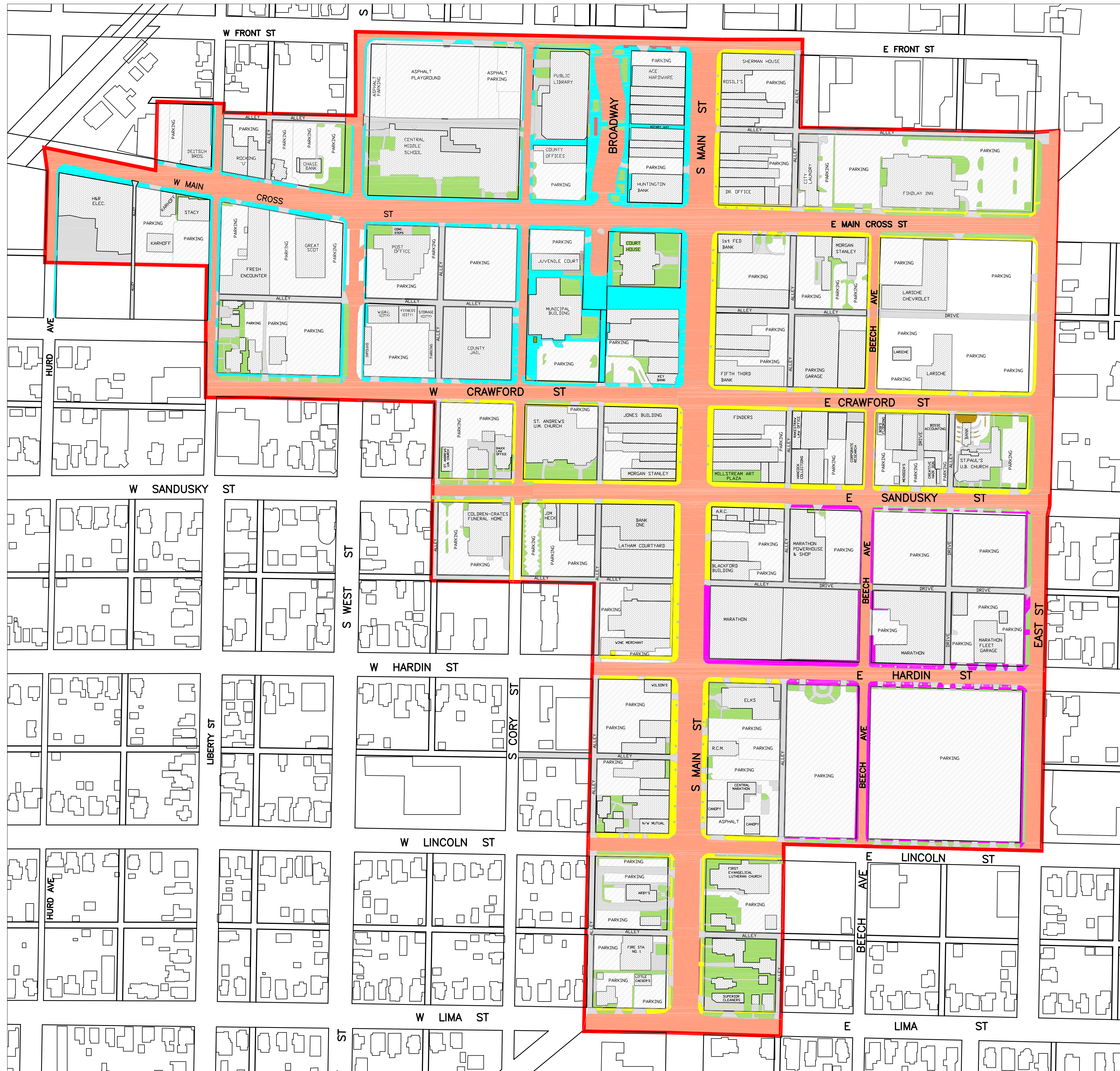
419-424-7121 318 DORNEY PLAZA RM.304

DRAWN BY: G.P.S. CHECKED BY: N.HOY

SCALE: 1"=150' DATE: 10/10/09



Underground Utilities
2 WORKING DAYS
CALL BEFORE YOU DIG
811
Ohio Utilities Protection Service

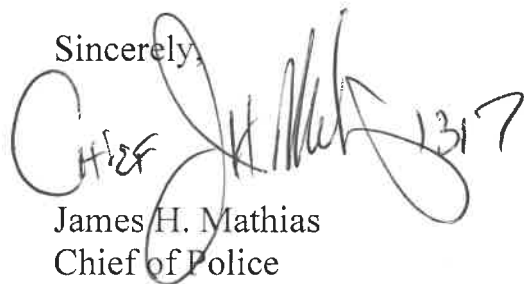


March 5, 2024

Honorable Council:

Attached are the Findlay Police Department activity stats
for February 2024.

Sincerely,

 Chief
James H. Mathias
Chief of Police

THE SUPREME COURT OF OHIO
Individual Judge
MUNICIPAL COURT AND COUNTY COURT

Court: **FINDLAY MUNICIPAL COURT**
Report for the month of : **February 2024**

Judge: **ALAN D HACKENBERG**

Date of completion of most
recent physical inventory

06/30/2023

	B	C	D	E	F	G	H	T	V
	Misdemeanors	O.V.I.	Other Traffic	Personal Injury & Property Damage	Contracts	F.E.D.	Other Civil	TOTAL	Visiting Judge
Pending beginning of period	1	145	66	82	0	16	0	309	0
New cases filed	2	34	12	21	0	9	0	76	0
Cases transferred in, reactivated or redesignated	3	4	0	1	0	0	0	5	0
TOTAL (Add lines 1-3)	4	183	78	104	0	25	0	390	0
Jury trial	5	0	0	0	0	0	0	0	0
Court trial	6	0	0	1	0	0	0	1	0
Default	7			0	0	0	0	0	0
Guilty or no contest plea to original charge	8	13	5	12				30	1
Guilty or no contest plea to reduced charge	9	3	1	2				6	1
Dismissal for lack of speedy trial(criminal) or want of prosecution (civil)	10	0	0	0	0	0	0	0	0
Other Dismissals	11	28	2	5	0	1	0	36	1
Transfer to another judge or court	12	0	0	0	0	0	0	0	0
Referral to private judge	13			0	0	0	0	0	0
Unavailability of party for trial or sentencing	14	1	1	2	0	0	0	4	0
Bankruptcy stay or interlocutory appeal	15	0	0	0	0	0	0	0	0
Other terminations	16	6	2	3	0	6	0	17	1
TOTAL (Add lines 5-16)	17	51	11	25	0	7	0	94	0
Pending end of period (Subtract line 17 from line 4)	18	132	67	79	0	18	0	296	0
Cases pending beyond time guideline	19	0	0	0	0	0	0	0	0
Number of months oldest case is beyond time guideline	20	0	0	0	0	0	0	0	0
Cases submitted awaiting sentencing or judgment beyond time guideline	21	0	0	0	0	0	0	0	0

Fax to:
(614) 387-9419
-or-
Mail to:
Court Statistical Reporting Section
Supreme Court of Ohio
65 South Front Street, 6th Floor
Columbus, Ohio 43215-3431

Approved & FTP

ALAN D HACKENBERG 3/5/24
Date

Preparer's name and telephone number if other than judge (print or type) Date

STEPHANIE M BISHOP Date

THE SUPREME COURT OF OHIO
Administrative Judge
MUNICIPAL COURT AND COUNTY COURT

Court: **FINDLAY MUNICIPAL COURT** Judge: **STEPHANIE M BISHOP**
Report for the month of: **February 2024**

	A	B	C	D	E	F	G	H	I	T	
	Felonies	Misdemeanors	O.M.V.I.	Other Traffic	Personal Injury & Property	Contracts	F.E.D.	Other Civil	Small Claims	TOTAL	
Pending beginning of period	1	5	56	8	265	7	444	50	0	177	1012
New cases filed	2	5	85	16	838	1	197	12	0	69	1223
Cases transferred in, reactivated or redesignated	3	0	29	0	111	0	1	0	0	0	141
TOTAL (Add lines 1-3)	4	10	170	24	1214	8	642	62	0	246	2376
Trial/Hearing by judge (include bindover by preliminary hearing, guilty or no contest pleas and defaults)	5	0	13	0	36	1	54	9	0	1	114
Hearing by Magistrate (Include guilty or no contest pleas and defaults)	6	5	0	47	0	0	0	0	0	47	99
Transfer (Include waivers of preliminary hearing and individual judge assignments)	7	8	77	20	53	0	16	0	0	0	174
Dismissal for lack of speedy trial (criminal) or want of prosecution (civil)	8	0	0	0	0	0	55	0	0	0	55
Other dismissals (Include dismissals at preliminary hearing)	9	0	5	1	130	0	11	4	0	31	182
Violations Bureau	10	0	0	206							206
Unavailability of party for trial or sentencing	11	0	8	1	109	0	0	0	0	0	118
Bankruptcy stay or interlocutory appeal	12	0	0	0	0	0	1	0	0	0	1
Other terminations	13	0	6	0	213	0	3	1	0	0	223
TOTAL (Add lines 5-13)	14	8	114	22	794	1	140	14	0	79	1172
Pending end of period (Subtract line 14 from line 4)	15	2	56	2	420	7	502	48	0	167	1204
Cases pending beyond time guideline	16	0	0	0	0	0	0	0	0	0	0
Number of months oldest case is beyond time guideline	17	0	0	0	0	0	0	0	0	0	0

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Approved & FTP
STEPHANIE M BISHOP

3/5/24
Date

Preparer's name and telephone number if other than judge (print or type)

Date

THE SUPREME COURT OF OHIO
Individual Judge
MUNICIPAL COURT AND COUNTY COURT

Court: **FINDLAY MUNICIPAL COURT**
Report for the month of : **February 2024**

Judge: **STEPHANIE M BISHOP**

Date of completion of most
recent physical inventory

03/01/2024

	B	C	D	E	F	G	H	T	V
	Misdemeanors	O.V.I.	Other Traffic	Personal Injury & Property Damage	Contracts	F.E.D.	Other Civil	TOTAL	Visiting Judge
Pending beginning of period	183	74	82	1	20	1	0	361	0
New cases filed	43	8	32	0	7	0	0	90	0
Cases transferred in, reactivated or redesignated	6	0	0	0	0	0	0	6	0
TOTAL (Add lines 1-3)	232	82	114	1	27	1	0	457	0
Jury trial	0	0	0	0	0	0	0	0	0
Court trial	0	0	0	0	0	0	0	0	0
Default				0	0	0	0	0	0
Guilty or no contest plea to original charge	11	10	19					40	1
Guilty or no contest plea to reduced charge	1	0	0					1	0
Dismissal for lack of speedy trial(criminal) or want of prosecution (civil)	0	0	0	0	0	0	0	0	0
Other Dismissals	31	2	8	0	1	0	0	42	1
Transfer to another judge or court	1	0	0	0	0	0	0	1	0
Referral to private judge				0	0	0	0	0	0
Unavailability of party for trial or sentencing	8	0	0	0	1	0	0	9	0
Bankruptcy stay or interlocutory appeal	0	0	0	0	0	0	0	0	0
Other terminations	0	0	0	0	10	0	0	10	0
TOTAL (Add lines 5-16)	52	12	27	0	12	0	0	103	0
Pending end of period (Subtract line 17 from line 4)	180	70	87	1	15	1	0	354	0
Cases pending beyond time guideline	0	0	0	0	2	0	0	0	0
Number of months oldest case is beyond time guideline	0	0	0	0	1	0	0	0	0
Cases submitted awaiting sentencing or judgment beyond time guideline	0	0	0	0	2	0	0	0	0

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Approved & FTP

STEPHANIE M BISHOP
Date 3/5/24

Preparer's name and telephone number if other than judge (print or type)
Date _____

STEPHANIE M BISHOP
Date _____

MONTHLY REPORT

ALAN D. HACKENBERG, JUDGE
 STEPHANIE M. BISHOP, JUDGE
 HEATHER M EIGEL, CLERK
 CANDACE R. GRIFFITH, CHIEF PROBATION OFFICER
 BRAD J. BASH, JUDICIAL ASSISTANT SUPERVISOR

FINDLAY MUNICIPAL COURT
 318 DORNEY PLAZA RM 206
 FINDLAY, OHIO 45839
 TELEPHONE 419-424-7141
 FAX 419-424-7803

FINDLAY MUNICIPAL COURT Monthly Report for February, 2024

PAGE 1

	*****CURRENT YEAR*****		*****LAST YEAR*****	
	MTD	YTD	MTD	YTD
CASES FILED:				
TRAFFIC	854	1,473	647	1,385
TRAFFIC COMPANION	90	184	111	235
CRIMINAL	90	202	132	262
CRIMINAL COMPANION	9	19	10	23
SEARCH WARRANT	11	18	7	12
CIVIL	210	343	150	268
SMALL CLAIMS	69	158	80	178
EXTRADITION	-	2	1	4
HABITUAL TRAFFIC VIOLATOR	-	1	-	-
OTHER	13	28	14	21
TOTALS	1,346	2,428	1,152	2,388
COURT PROCEEDINGS:				
ABILITY TO PAY	3	5	4	7
Admin License Suspension	2	7	4	7
APPEAL DOG DESIGNATION	-	-	1	1
Arraignment	765	1,601	735	1,594
Attachment	12	14	22	23
BOND RETURN	3	3	1	1
BOND VIOLATION	1	3	-	-
Civil Status Conference	-	-	3	7
COMMUNITY SERVICE REVIEW	5	5	7	17
Contempt of Court	17	34	24	64
CONTESTED DUS CONTEMPT HEARING	-	1	-	-
Contested Small Claims	-	1	-	2
Continued	644	1,368	580	1,335
Damages	-	-	2	3
Debtors Examination	47	97	86	134
Default	1	1	1	3
Desk Review	117	269	86	174
DIVERSION PLEA	3	9	3	6
DUS DIVERSION REVIEW	3	4	1	5
Extradition	-	1	-	-
Forcible Detention	16	37	12	22
Garnishment	-	1	-	2
Hearing on Motion	4	4	8	15
HEARING ON MOTION TO SEAL RECORD	8	18	4	8
HEARING ON WARRANT	-	-	3	30
Jury Trial	3	3	-	-
Marriage	5	10	1	4
Mediation	1	2	-	-
Miscellaneous	-	7	1	2
Motion to Dismiss	-	-	1	2
Motion to Withdraw as Counsel	3	3	2	2
Plea	78	183	103	194
Preliminary	6	11	10	23
Pre-Trial	165	358	157	282
Pre-Trial with Judge	62	138	109	157
Revivor	7	11	4	5

	*****CURRENT YEAR*****		*****LAST YEAR*****	
	MTD	YTD	MTD	YTD
Revocation	8	15	10	16
SECOND PRETRIAL	86	210	98	228
Sentencing	6	9	1	6
Small Claims	55	113	57	123
STATUS CONFERENCE	1,250	2,644	1,458	2,903
Suppression	4	10	3	4
TELEPHONE PRETRIAL	12	34	18	34
TREATMENT REVIEW CALL	1	1	-	-
TREATMENT REVIEW REPORT	2	2	-	-
Trial	3	8	7	11
WRIT OF RESTITUTION	15	25	7	16
WRITTEN PLEA	10	17	6	21
TOTALS	3,433	7,297	3,640	7,493

	*****CURRENT YEAR*****		*****LAST YEAR*****	
	MTD	YTD	MTD	YTD
CRIMINAL VIOLATIONS:				
ASSAULT	1	7	3	10
BURGLARY	-	3	-	2
CONTEMPT	1	1	-	-
CRIMINAL DAMAGING	-	2	1	2
CRIMINAL TRESPASS	7	7	3	4
DISORDERLY CONDUCT	11	17	4	10
DOMESTIC VIOLENCE	11	29	13	27
DRUG ABUSE	2	6	38	84
OPEN CONTAINER PROHIBITED	-	1	1	3
OVI	-	1	-	-
RESISTING ARREST	1	1	3	6
TELEPHONE HARASSMENT	-	-	-	1
THEFT	19	50	22	37
UNDERAGE CONSUMPTION	-	-	1	3
OTHER CRIMINAL	47	97	53	96
TOTALS	100	222	142	285
TRAFFIC VIOLATIONS:				
ACD/SPEED	25	42	16	38
DISOBEYING TRAFFIC CONTROL DEV	9	20	14	25
DRIVING UNDER SUSPENSION	37	71	22	60
EXPIRED REGISTRATION	40	69	27	64
FAIL TO MAINTAIN CONTROL	29	76	16	72
FAILURE TO YIELD RIGHT OF WAY	6	13	8	18
LEAVING SCENE OF AN ACCIDENT	1	6	5	13
LEFT OF CENTER	-	1	-	3
OVERLOAD	28	52	52	115
OVI	21	62	61	131
PASSING A STOPPED SCHOOL BUS	3	5	3	6
RECKLESS OPERATION	2	3	-	1
SEAT BELT	58	97	40	78
SPEEDING	515	818	356	677
OTHER TRAFFIC	170	322	138	319
TOTALS	944	1,657	758	1,620

NOTE: SEARCH WARRANTS NOT INCLUDED IN VIOLATION TOTALS

ARRESTING AGENCY:	*****CURRENT YEAR*****		*****LAST YEAR*****	
	MTD	YTD	MTD	YTD
PATROL				
OVERTIME PARKING	-	-	-	-
TRAFFIC OTHER	643	1,054	429	883
OMVI	12	31	24	47
CRIMINAL FELONIES	-	-	-	3
CRIMINAL MISDEMEANORS	2	4	30	59
SEARCH WARRANTS	2	4	1	2
FINDLAY P.D. (BY ORDINANCE)				
OVERTIME PARKING	-	-	-	-
TRAFFIC OTHER	170	340	131	335
OMVI	4	14	24	54
CRIMINAL FELONIES	-	-	-	-
CRIMINAL MISDEMEANORS	66	139	68	135
SEARCH WARRANTS	-	-	-	-
FINDLAY P.D. (BY ORC)				
OVERTIME PARKING	-	-	-	-
TRAFFIC OTHER	1	1	-	1
OMVI	-	-	-	-
CRIMINAL FELONIES	5	12	7	21
CRIMINAL MISDEMEANORS	14	33	10	26
SEARCH WARRANTS	6	9	5	8
SHERIFF				
OVERTIME PARKING	-	-	-	-
TRAFFIC OTHER	109	194	137	268
OMVI	5	18	13	30
CRIMINAL FELONIES	-	-	1	1
CRIMINAL MISDEMEANORS	5	15	11	23
SEARCH WARRANTS	2	4	1	2
OTHERS				
OVERTIME PARKING	-	-	-	-
TRAFFIC OTHER	-	6	-	2
OMVI	-	-	-	-
CRIMINAL FELONIES	-	-	-	-
CRIMINAL MISDEMEANORS	7	17	15	17
SEARCH WARRANTS	1	1	-	-
TOTALS	1,054	1,896	907	1,917
PROBATION:				
ESTABLISHED	25	54	15	49
TERMINATED	30	67	22	50
CURRENT	15	15	23	23
TOTALS	70	136	60	122

ACTIVITIES ORDERED:	*****CURRENT YEAR*****		*****LAST YEAR*****	
	MTD	YTD	MTD	YTD
ALCOHOL EVALUATION	-	-	-	1
ALCOHOL/SUBSTANCE EVAL	9	17	5	17
ANGER MANAGEMENT	-	1	-	-
BENCH WARRANT TO AGENCY	157	282	185	418
COMMUNITY SERVICE	-	-	1	1
COMMUNITY SERVICE CITY	7	9	2	7
COMMUNITY SERVICE COUNTY	10	21	12	15
COMMUNITY SERVICE INDIVIDUAL	27	45	20	34
COMMUNITY SERVICE NO JAIL	1	1	-	-
DIP	9	24	17	37
DOMESTIC VIOLENCE PROGRAM	-	1	-	-
ELECTRONIC HOME MONITORING	-	-	1	2
FORM 95	1	2	-	2
JAIL	4	16	4	9
Jail Term Suspended Condition	3	6	1	2
MENTAL EVAL	1	1	1	1
NO CONTACT WITH VICTIM	-	-	1	6
Pay Restitution	2	2	1	6
Probation	5	13	10	30
SCRAM	2	6	6	14
STAR Program	6	10	4	5
TREATMENT FRC	3	9	3	10
TREATMENT MISCELLANEOUS	-	6	2	10
UCP	2	2	2	2
VIP	10	27	17	36
TOTALS	259	501	295	665

*****CURRENT YEAR*****
 MTD YTD

*****LAST YEAR*****
 MTD YTD

RECEIPTS DEPOSITED:

ALCOHOL MONITORING	\$1,739.16	\$3,725.76	\$1,970.24	\$4,299.25
BOND FEES	\$150.00	\$275.00	\$250.00	\$350.00
CIVIL DEPOSIT TENDERS	\$1,063.30	\$2,952.23	\$1,000.00	\$1,245.00
COURT COST	\$87,930.50	\$154,699.72	\$51,090.57	\$100,207.44
DUI ENFORCEMENT	\$2,965.44	\$5,560.79	\$2,369.50	\$5,082.80
ELECTRONIC IMAGING	\$4,715.75	\$8,473.78	\$3,783.78	\$7,549.25
FINES & FORFEITURES	210,789.30	\$395,201.57	164,365.33	\$333,768.88
FUND REIMBURSEMENT	\$0.00	\$0.00	\$0.00	\$0.00
INDIGENT DRIVER ALCOHOL	\$522.70	\$984.69	\$561.39	\$1,004.69
INMATE MEDICAL EXPENSE	\$0.00	\$0.00	\$0.00	\$0.00
INTEREST	\$178.70	\$350.64	\$152.42	\$297.25
JAIL HOUSING	\$31,394.11	\$49,059.68	\$14,710.36	\$29,244.14
JAIL REIMBURSEMENT	\$364.00	\$432.57	\$242.94	\$474.32
LEGAL RESEARCH	\$5.00	\$9.00	\$5.00	\$8.00
MEDIATION	\$1,451.38	\$2,628.38	\$1,206.50	\$2,388.50
MISCELLANEOUS	\$26,259.82	\$52,700.06	\$26,654.01	\$48,844.62
MUNI COURT COMPUTERIZATION	\$7,632.50	\$13,788.20	\$6,174.73	\$12,302.43
MUNI COURT IMPROVEMENT	\$19,613.76	\$35,502.97	\$15,898.80	\$31,647.27
RESTITUTION	\$223.10	\$617.86	\$220.00	\$434.50
SPECIAL PROJECTS	\$32,019.22	\$57,681.53	\$26,056.67	\$51,801.08
STATE PATROL	\$23,002.74	\$43,931.08	\$20,369.36	\$40,301.35
TRAFFIC/CRIMINAL BONDS	\$18,083.51	\$27,196.21	\$13,729.56	\$27,514.58
	<u>470,103.99</u>	<u>\$855,771.72</u>	<u>350,811.16</u>	<u>\$698,765.35</u>

DISTRIBUTIONS:

ALCOHOL MONITORING	\$1,739.16	\$3,725.76	\$1,970.24	\$4,299.25
BOND FEES	\$150.00	\$275.00	\$250.00	\$350.00
CIVIL DEPOSIT TENDERS	\$0.00	\$0.00	\$250.00	\$495.00
COURT COST	\$87,693.50	\$154,061.72	\$49,408.57	\$98,491.44
DUI ENFORCEMENT	\$2,941.71	\$5,513.33	\$2,349.16	\$5,059.07
ELECTRONIC IMAGING	\$4,694.75	\$8,431.78	\$3,765.78	\$7,528.25
FINES & FORFEITURES	204,381.47	\$386,919.68	172,385.95	\$339,383.72
FUND REIMBURSEMENT	\$0.00	\$0.00	\$0.00	\$0.00
INDIGENT DRIVER ALCOHOL	\$522.70	\$984.69	\$561.39	\$1,004.69
INMATE MEDICAL EXPENSE	\$0.00	\$0.00	\$0.00	\$0.00
INTEREST	\$178.70	\$350.64	\$152.42	\$297.25
JAIL HOUSING	\$31,394.11	\$49,059.68	\$14,710.36	\$29,244.14
JAIL REIMBURSEMENT	\$364.00	\$432.57	\$242.94	\$474.32
LEGAL RESEARCH	\$5.00	\$9.00	\$5.00	\$8.00
MEDIATION	\$1,444.38	\$2,614.38	\$1,200.50	\$2,381.50
MISCELLANEOUS	\$36,295.42	\$72,231.58	\$33,749.81	\$66,716.50
MUNI COURT COMPUTERIZATION	\$7,597.50	\$13,718.20	\$6,144.73	\$12,267.43
MUNI COURT IMPROVEMENT	\$19,522.76	\$35,320.97	\$15,820.80	\$31,556.27
RESTITUTION	\$223.10	\$584.00	\$220.00	\$1,008.41
SPECIAL PROJECTS	\$31,872.22	\$57,387.53	\$25,930.67	\$51,654.08
STATE PATROL	\$22,804.74	\$43,475.08	\$20,171.36	\$40,103.35
	<u>453,825.22</u>	<u>\$835,095.59</u>	<u>349,289.68</u>	<u>\$692,322.67</u>

DISTRIBUTED TO:

	*****CURRENT YEAR*****		*****LAST YEAR*****	
	MTD	YTD	MTD	YTD
CITY OF FINDLAY	234,403.51	\$410,613.36	153,653.97	\$305,098.99
HANCOCK COUNTY	\$24,734.17	\$43,636.58	\$19,491.32	\$37,761.23
OTHERS	162,351.78	\$331,668.29	140,140.83	\$282,222.02
STATE OF OHIO	\$58,564.89	\$110,099.32	\$49,547.81	\$99,821.08
	<u>480,054.35</u>	<u>\$896,017.55</u>	<u>362,833.93</u>	<u>\$724,903.32</u>

STEPHANIE M. BISHOP, JUDGE

ALAN D. HACKENBERG, JUDGE

DISCLAIMER: RECEIPTS COLLECTED ARE NOT TO BE CONFUSED WITH RECEIPTS DEPOSIT



Monthly Collection Report to Findlay Council

February 2024

Total collections for February 2024: \$2,621,532.30

	<u>2024</u> <u>Year-to-date</u>	<u>2023</u> <u>Year-to-date</u>	<u>Variance</u>
Withholders	4,454,743.56	3,662,909.40	791,834.16
Individuals	376,042.82	414,329.84	-38,287.02
Businesses	<u>117,558.16</u>	<u>110,716.14</u>	<u>6,842.02</u>
Totals	4,948,344.54	4,187,955.38	760,389.16
			18.16%

Actual & Estimated Past-due Taxes

Withholders	599,968.28
Individuals	3,390,239.03
Businesses	<u>256,678.24</u>
Total	4,246,885.55

Actual and Projected Revenue


	<u>2024</u> <u>Actual</u> <u>Year-to-date</u>	<u>Percentage</u> <u>of Projection</u> <u>Collected</u>	<u>Amount</u> <u>to Meet</u> <u>Projection</u>	<u>Percentage</u> <u>to Meet</u> <u>Projection</u>	<u>2024</u> <u>Projected</u> <u>Year End</u>
Withholders	4,454,743.56	20.62%	17,145,256.44	79.38%	21,600,000.00
Individuals	376,042.82	11.94%	2,773,957.18	88.06%	3,150,000.00
Businesses	<u>117,558.16</u>	2.61%	<u>4,382,441.84</u>	97.39%	<u>4,500,000.00</u>
Totals	4,948,344.54	16.92%	24,301,655.46	83.08%	29,250,000.00

Refunds Paid

	Month-to-date <u>Quantity</u>	Year-to-date <u>Quantity</u>	Month-to-date <u>Amount</u>	Year-to-date <u>Amount</u>
Withholders	8	13	2,094.07	2,350.64
Individuals	125	169	65,746.23	100,883.44
Businesses	<u>2</u>	<u>4</u>	<u>1,121.35</u>	<u>2,375.05</u>
Totals	135	186	68,961.65	105,609.13

Transfers of Overpayments

	Month-to-date <u>Quantity</u>	Year-to-date <u>Quantity</u>	Month-to-date <u>Amount</u>	Year-to-date <u>Amount</u>
Withholders	1	2	31.56	133.62
Individuals	48	63	9,225.29	16,942.32
Businesses	<u>10</u>	<u>30</u>	<u>5,218.98</u>	<u>35,208.01</u>
Totals	59	95	14,475.83	52,283.95


Income Tax Administrator

Date

3/1/2024

Receipt Summary Report

3/1/2024 8:48:26 AM

FINDLAY User: MEP

From 2/1/2024 to 2/29/2024 by Deposit Date Monthly

Date	Net Profit	Individual	Tot Returns	Withholding	Total	Year To Date Totals				
						Net Profit	Individual	Tot Returns	Withholding	Total
02/2024	FINDLAY									
	91	731	822	2100	2922	155	1446	1601	4683	6284
	40,051.46	162,721.82	202,773.28	2,418,759.02	2,621,532.30	117,722.96	375,978.25	493,701.21	4,454,643.33	4,948,344.54
02/2023	FINDLAY									
	83	817	900	3192	4092	165	1559	1724	6463	8187
	57,721.91	191,520.93	249,242.84	1,526,685.19	1,775,928.03	112,034.14	424,175.98	536,210.12	3,708,296.94	4,244,507.06
Difference	FINDLAY									
	8	-86	-78	-1092	-1170	-10	-113	-123	-1780	-1903
	-17,670.45	-28,799.11	-46,469.56	892,073.83	845,604.27	5,688.82	-48,197.73	-42,508.91	746,346.39	703,837.48
	-30.61%	-15.04%	-18.64%	58.43%	47.61%	5.08%	-11.36%	-7.93%	20.13%	16.58%

By Method

02/2024	Check	Cash	Credit Crd	Money Ord	Lockbox	OBG	Other	Total
FINDLAY								
	2,215,595.97	9,142.12	27,556.53	987.31	0.00	366,523.78	734.01	2,620,539.72
TOTALS								
	2,215,595.97	9,142.12	27,556.53	987.31	0.00	366,523.78	734.01	2,620,539.72

Findlay Income Tax Department

Monthly Collections Report

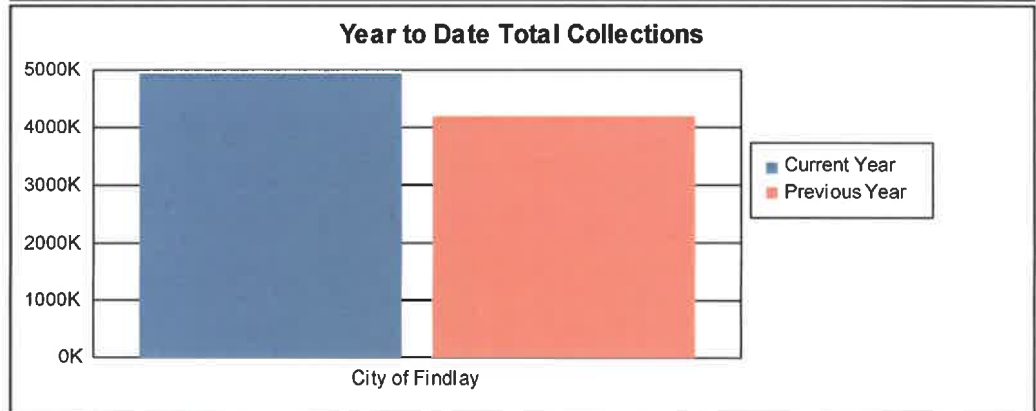
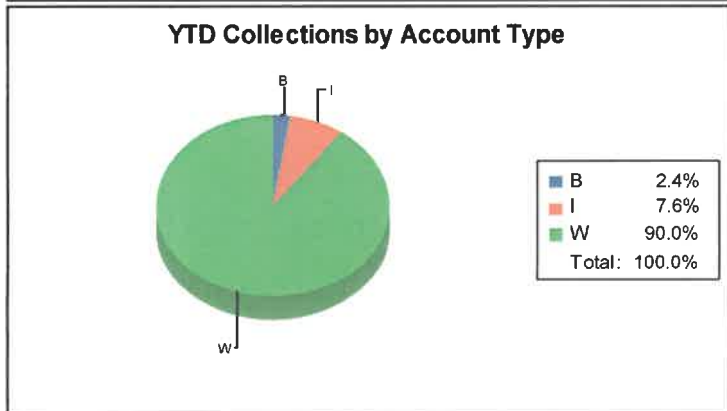
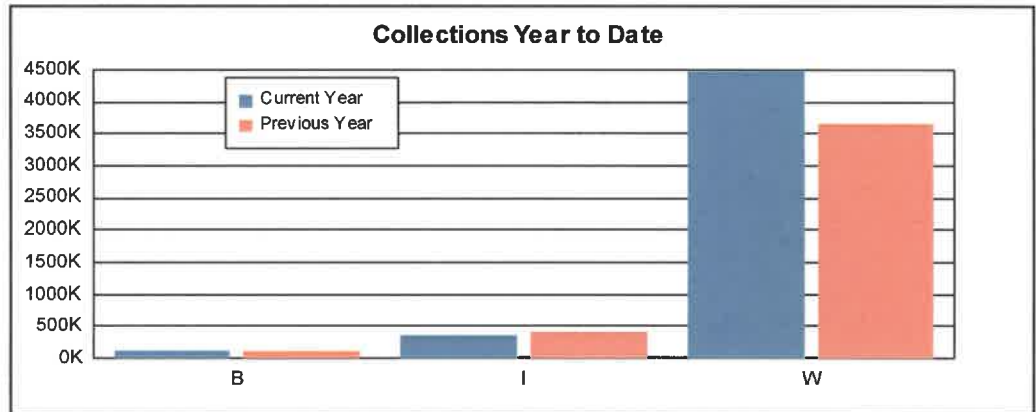
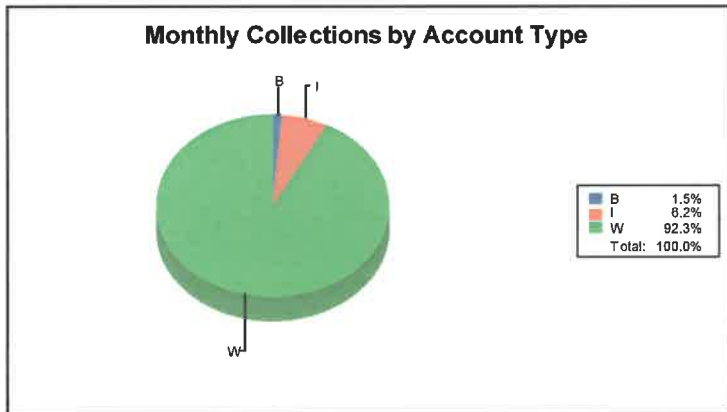
Friday, March 1, 2024

9:55:41AM

For Period February 1, 2024 through February 29, 2024

City of Findlay

Account Type	Monthly Total	2024 Year to Date	2023 Year to Date	Increase (Decrease)	% Change	2024 Month to Date	Previous Year(s) Month to Date
W	2,419,246.72	4,454,743.56	3,662,909.40	791,834.16	21.62	2,308,883.47	110,363.25
I	162,398.92	376,042.82	414,329.84	-38,287.02	-9.24	25,821.99	136,576.93
B	39,886.66	117,558.16	110,716.14	6,842.02	6.18	12,045.97	27,840.69
Totals:	2,621,532.30	4,948,344.54	4,187,955.38	760,389.16	18.16	2,346,751.43	274,780.87



March 11, 2024

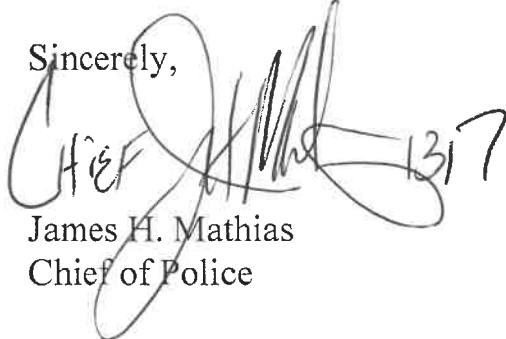
The Honorable Council:

A check of the records of this office shows no current criminal record on the following:

Lisa M. Allen

Bakers Café LLC, 408 S. Main St, Suite B, Findlay, OH 45840

Sincerely,


James H. Mathias
Chief of Police

**NOTICE TO LEGISLATIVE
AUTHORITY**

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

0396257		N		BAKERS CAFE LLC 408 S MAIN ST SUITE B FINDLAY OH 45840
PERMIT NUMBER		TYPE		
ISSUE DATE				
03 31 2021				
FILING DATE				
D1				
PERMIT CLASSES				
32	044	A	C93269	
TAX DISTRICT			RECEIPT NO.	

FROM 03/07/2024

PERMIT NUMBER		TYPE	
ISSUE DATE			
FILING DATE			
PERMIT CLASSES			
TAX DISTRICT			RECEIPT NO.



MAILED 03/07/2024

RESPONSES MUST BE POSTMARKED NO LATER THAN. 04/08/2024

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.
REFER TO THIS NUMBER IN ALL INQUIRIES **A N 0396257**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT
THE HEARING BE HELD IN OUR COUNTY SEAT. IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

**CLERK OF FINDLAY CITY COUNCIL
MUNICIPAL BLDG RM 114
318 DORNEY PLAZA
FINDLAY OHIO 45840-3346**

FINDLAY CITY PLANNING COMMISSION



STAFF REPORT March 14, 2024

CITY PLANNING COMMISSION MEMBERS

Mayor Christina Muryn, Chairman
Rob Martin, Service-Safety Director
Jackie Schroeder
Kerry Trombley
Dan Clinger

Matt Cordonnier, HRPC Director
Jacob Mercer, HRPC Staff
Kevin Shenise, Fire Inspector
Jeremy Kalb, P.E., City Engineer
Don Rasmussen, Law Director
Erik Adkins, Flood Plain/Zoning Supervisor

City of Findlay
City Planning Commission
City Council Chambers, 1st floor of Municipal Building
March 14, 2024 – 9:00 AM

AGENDA

CALL TO ORDER

ROLL CALL

SWEARING IN

APPROVAL OF MINUTES

TABLED ITEMS

NEW ITEMS

1. **APPLICATION FOR ALLEY VACATION #AV-03-2024** filed by Stephanie Parsons on behalf of the YMCA to vacate the north-south alley between lots 568-569 of the S&P Carlins Addition and the east-west alley between lots 565-568 & 587-590 of the S&P Carlins Addition.
2. **APPLICATION FOR ZONING AMENDMENT #ZA-01-2024** filed by the Women's Resource Center of Hancock County, to rezone 116 Laquineo Street from R-3 Small Lot Residential to O-1 Office & Institution.
3. **APPLICATION FOR ZONING AMENDMENT #ZA-02-2024** filed by Sheetz Distribution Services for an initial zoning request of I-1 Light Industrial for their property to be located at the northwest corner of the intersection of County Road 212 and Township Road 230.
4. **APPLICATION FOR CONDITIONAL USE #CU-01-2024** filed by ProTech Rental Properties to establish a triplex at 321 W. Front Street.
5. **APPLICATION FOR FINAL PLAT #FP-03-2024** filed by Rusk OP to replat Lots 25-27 of the Deer Meadows Subdivision.
6. **APPLICATION FOR FINAL PLAT #FP-04-2024** filed by Mardic Investments, Inc. for a final plat for a commercial subdivision and creation of public roadway. This would create a 9.713 acre lot with a roadway connection from County Road 99 south to Midwest Court.
7. **APPLICATION FOR SITE PLAN REVIEW #SP-05-2024** filed by CJ's K9 Properties LLC to establish an animal daycare facility at 900 E. Bigelow Avenue.
8. **APPLICATION FOR SITE PLAN REVIEW #SP-06-2024** filed by Ron Siferd/Siferd Farms for a 94-unit condo development at the east end of Silver Creek Drive in Allen Township.

ADMINISTRATIVE APPROVALS

ADJOURNMENT

City of Findlay
City Planning Commission
City Council Chambers, 1st floor of Municipal Building
Thursday, March 14, 2024– 9:00 a.m.

COMMENTS

NEW ITEMS

- 1. APPLICATION FOR ALLEY VACATION #AV-03-2024 filed by Stephanie Parsons on behalf of the YMCA to vacate the north-south alley between lots 568-569 of the S&P Carlins Addition and the east-west alley between lots 565-568 & 587-590 of the S&P Carlins Addition.**

CPC STAFF

General Information

This request is located on the south side of E. Hardin Street, west of Grand Avenue. It is a sixteen-foot (16') wide right-of-way that measures 216 feet south from E. Hardin Street, and 216 west from Grand Avenue. It is not located within the 100-year flood plain.

Staff Analysis

The YMCA has indicated that they would like to vacate this alley. They are the only abutting property owner along both alleyways. Every alleyway in this block has already been vacated previously in 2014. Staff had no concerns about the request.

Staff Recommendation

CPC Staff recommends **approval of APPLICATION FOR ALLEY VACATION #AV-03-2024 filed by Stephanie Parsons on behalf of the YMCA to vacate the north-south alley between lots 568-569 of the S&P Carlins Addition and the east-west alley between lots 565-568 & 587-590 of the S&P Carlins Addition.**

ENGINEERING

No Comment

FIRE PREVENTION

No Comment




RECOMMENDATION

Staff recommends CPC recommend **approval of APPLICATION FOR ALLEY VACATION #AV-03-2024 filed by Stephanie Parsons on behalf of the YMCA to vacate the north-south alley between lots 568-569 of the S&P Carlins Addition and the east-west alley between lots 565-568 & 587-590 of the S&P Carlins Addition.**

AV-03-2024

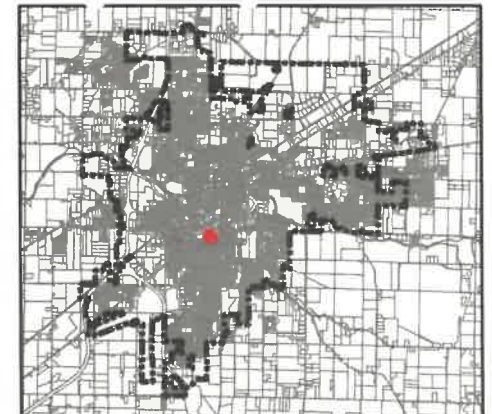
APPLICATION FOR
ALLEY VACATION
filed by Stephanie Parsons
on behalf of the YMCA to
vacate the north-south alley
between lots 568-569 of the
S&P Carlins Addition and the
east-west alley between lots
565-568 & 587-590 of the
S&P Carlins Addition.

Legend

-  YMCAvacation
-  Parcels
-  Road Centerline



Findlay Locator Map



0 50 100 200 300 400 Feet



2. APPLICATION FOR ZONING AMENDMENT #ZA-01-2024 filed by the Women’s Resource Center of Hancock County, to rezone 116 Laquineo Street from R-3 Small Lot Residential to O-1 Office & Institution.

CPC STAFF

General Information

This request is located on the north side of Laquineo Street, just east of the intersection with N. Main Street. It is zoned R-3 Small Lot Residential, but is also within the University Overlay District. To the north and west, it is zoned Office. To the south and east, it is zoned R-3 Small Lot Residential. It is not located within the 100-year flood plain. The City of Findlay Land Use Plan designates the area as Single Family-Small Lot.

Parcel History

The site was previously a residential dwelling. The Women’s Resource Center purchased the building in August 2021 and got a conditional use to operate an office within the University Overlay District.

Staff Analysis

The applicant has indicated they would like to add signage to the building. As part of the Women’s Resource Center request back in 2021, they were granted a conditional use with the conditions of vacating the north/south alleyway between 116 Laquineo Street and 1011 N. Main Street and combining the parcels containing 116 Laquineo Street and 1011 N. Main Street. They are working on the lot combination; however, the parcel would remain multi-zoned. 116 Laquineo Street would remain R-3 Small Lot Residential, while 1011 N. Main Street would remain O-1 Office/Institution. This request will make it so the entire parcel is zoned O-1 Office/Institution. Staff had no concerns about the request.

Staff Recommendation

CPC Staff recommends **approval of FOR ZONING AMENDMENT #ZA-01-2024 filed by the Women’s Resource Center of Hancock County, to rezone 116 Laquineo Street from R-3 Small Lot Residential to O-1 Office & Institution.**

ENGINEERING

No Comment

FIRE PREVENTION

No Comment

RECOMMENDATION

Staff recommends **CPC recommend approval of APPLICATION FOR ZONING AMENDMENT #ZA-01-2024 filed by the Women’s Resource Center of Hancock County, to rezone 116 Laquineo Street from R-3 Small Lot Residential to O-1 Office & Institution.**

3. APPLICATION FOR ZONING AMENDMENT #ZA-02-2024 filed by Sheetz Distribution Services for an initial zoning request of I-1 Light Industrial for their property to be located at the northwest corner of the intersection of County Road 212 and Township Road 230.

CPC STAFF

General Information

This request is located at the northwest corner of the intersection of County Road 212 and Township Road 230 in Allen Township. This site is currently vacant. Inside the city limit on the south side of CR 212, it is zoned I-1 Light Industrial and O-1 Office Institution. The City of Findlay Land Use Plan designates the property as Industrial.

Parcel History

This is currently vacant. It previously was heard as a Final Plat in August 2022, and had Site Plan review in February 2024.

Staff Analysis

During the Site Plan review process, staff understood that the applicant was working through the annexation process. Knowing that, staff reviewed the proposed site plan against the Findlay I-1 Light Industrial District standards. Given that the proposed use for the site, and the applicant's request, staff did not have concerns recommending I-1 Light Industrial for the zoning upon annexation into the City of Findlay.

Staff Recommendation

CPC Staff recommends **approval of APPLICATION FOR ZONING AMENDMENT #ZA-02-2024 filed by Sheetz Distribution Services for an initial zoning request of I-1 Light Industrial for their property to be located at the northwest corner of the intersection of County Road 212 and Township Road 230.**

ENGINEERING

No Comment

FIRE PREVENTION

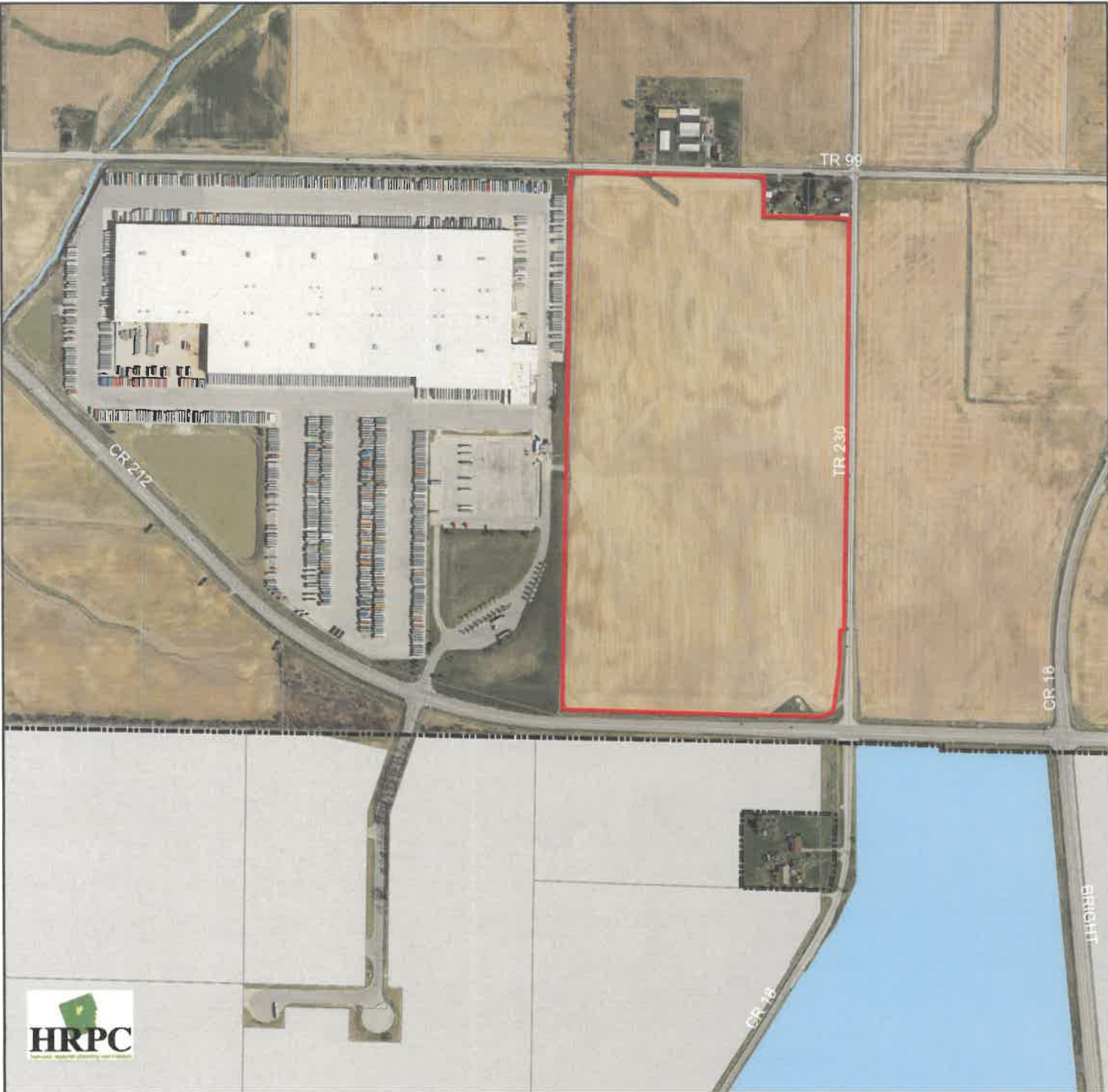
No Comment

RECOMMENDATION

Staff recommends **approval of APPLICATION FOR ZONING AMENDMENT #ZA-02-2024 filed by Sheetz Distribution Services for an initial zoning request of I-1 Light Industrial for their property to be located at the northwest corner of the intersection of County Road 212 and Township Road 230.**

ZA-02-2024

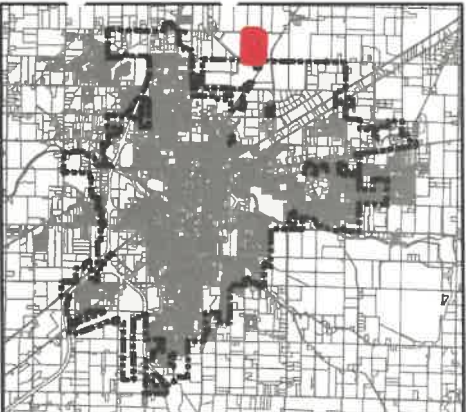
APPLICATION FOR
ZONING AMENDMENT
filed by Sheetz Distribution
Services for an initial zoning
request of I-1 Light Industrial
for their property to be located
at the northwest corner of the
intersection of
County Road 212 and
Township Road 230.



Legend

- ZA-02-2024
- Parcels
- Road Centerline
- Large Lot Residential, R-1
- Medium Lot Residential, R-2
- Small Lot Residential, R-3
- Duplex/Triplex, R-4
- Local Commercial, C-1
- General Commercial, C-2
- Downtown Commercial, C-3
- Office/Institution, O-1
- Light Industrial, I-1
- Heavy Industrial, I-2
- Condominium, CD
- Multi-Family, Low Density, M-1
- Multi-Family, High Density, M-2
- Parks and Open Space, PO
- Mobile Home, MH
- Multizoned Parcels
- <all other values>
- ZONING_NEW
- M2
- R3
- R4

Findlay Locator Map



4. APPLICATION FOR CONDITIONAL USE #CU-01-2024 filed by ProTech Rental Properties to establish a triplex at 321 W. Front Street.

CPC STAFF

General Information

This request is located on the south side of W. Front Street between Liberty Street and S. West Street. The south side of W. Front Street in this block is zoned C-3 Downtown Commercial. On the north side of the street, it is zoned R-3 Small Lot Residential. This location is located within the 100-year floodplain. The City of Findlay Land Use Plan designates the area as Downtown.

Parcel History

This parcel has a single-family home on site, which ProTech Rental Properties acquired in December 2023.

Staff Analysis

The applicant has requested to convert the property into a triplex. This area of downtown, does have an abundance of residential and multi-family properties, so staff does not have concerns about fit with the surrounding area.

In the rear of the site is a large established parking area, that measures roughly 38'x 90'. This would easily accommodate enough parking for six tenant vehicles.

Staff Recommendation

CPC Staff recommends approval of **APPLICATION FOR CONDITIONAL USE #CU-01-2024 filed by ProTech Rental Properties to establish a triplex at 321 W. Front Street.**

ENGINEERING

No Comment

FIRE PREVENTION

No Comment

RECOMMENDATION

Staff recommends **approval of APPLICATION FOR CONDITIONAL USE #CU-01-2024 filed by ProTech Rental Properties to establish a triplex at 321 W. Front Street.**

CU-01-2024

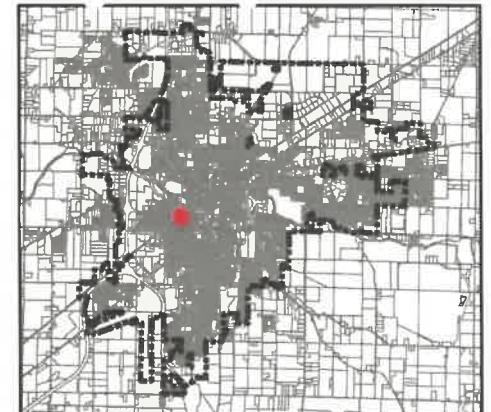
APPLICATION FOR
CONDITIONAL USE
filed by ProTech Rental
Properties to establish a
triplex at 321 W. Front Street.

Legend

-  321 W. Front Street
-  Parcels
-  Road Centerline



Findlay Locator Map



CU-01-2024

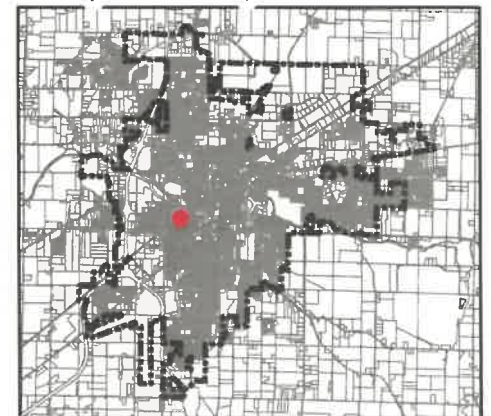
APPLICATION FOR
CONDITIONAL USE
filed by ProTech Rental
Properties to establish a
triplex at 321 W. Front Street.



Legend

- 321 W. Front Street
- Parcels
- Road Centerline
- Large Lot Residential, R-1
- Medium Lot Residential, R-2
- Small Lot Residential, R-3
- Duplex/Triplex, R-4
- Local Commercial, C-1
- General Commercial, C-2
- Downtown Commercial, C-3
- Office/Institution, O-1
- Light Industrial, I-1
- Heavy Industrial, I-2
- Condominium, CD
- Multi-Family, Low Density, M-1
- Multi-Family, High Density, M-2
- Parks and Open Space, PO
- Mobile Home, MH
- Multizoned Parcels
- <all other values>
- ZONING_NEW
- M2
- R3
- R4

Findlay Locator Map



5. APPLICATION FOR FINAL PLAT #FP-03-2024 filed by Rusk OP to replat Lots 25-27 of the Deer Meadows Subdivision.

CPC STAFF

General Information

This request is located at the southwest corner of the intersection of Romick Parkway and Keith Parkway. The City of Findlay Land Use Plan designates the property as Industrial.

Parcel History

The site is currently a parking lot, which was approved by City Planning Commission in November 2019. Rusk OP also received CPC approval for a building expansion for Everdry Findlay in May 2020.

Staff Analysis

One of the conditions for approval of the site plan in 2020 was to redraw the lot lines to get the parking lot onto the same parcel as the Rusk OP site. This final plat allows for that to be accomplished. The remainder of the lots will be combined into one lot to allow for future development. Staff did not have any concerns with the request.

Staff Recommendation

CPC Staff recommends **approval of APPLICATION FOR FINAL PLAT #FP-03-2024 filed by Rusk OP to replat Lots 25-27 of the Deer Meadows Subdivision.**

ENGINEERING

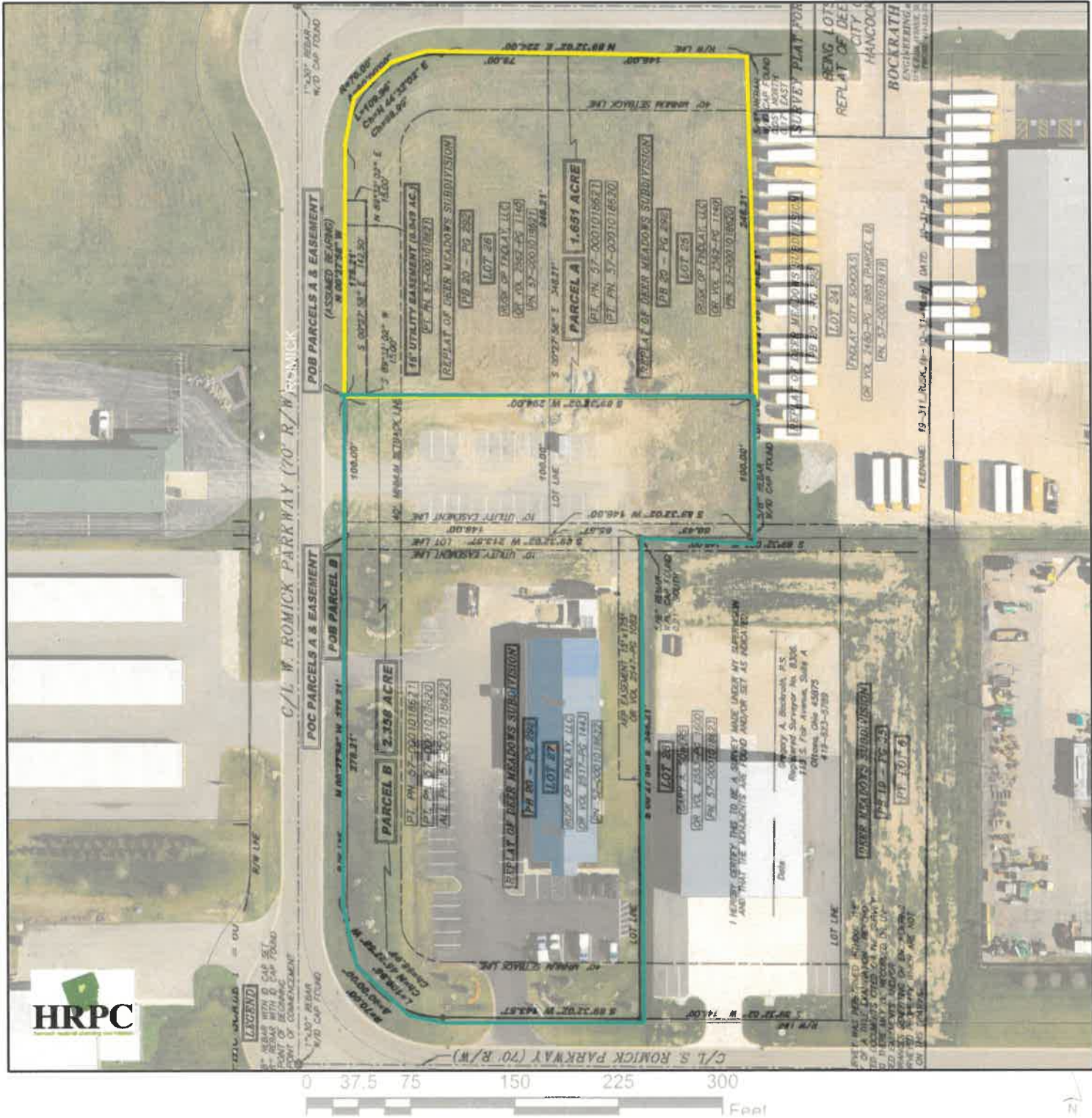
No Comment

FIRE PREVENTION

No Comment

RECOMMENDATION

Staff recommends **approval of APPLICATION FOR FINAL PLAT #FP-03-2024 filed by Rusk OP to replat Lots 25-27 of the Deer Meadows Subdivision.**



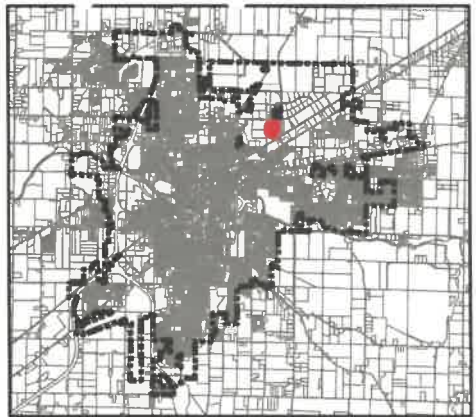
FP-03-2024

APPLICATION FOR
FINAL PLAT
filed by Rusk OP to
replat Lots 25-27 of
the Deer Meadows Subdivision.

Legend

- New Parcel A
- New Parcel B
- Parcels
- Road Centerline

Findlay Locator Map



- 6. APPLICATION FOR FINAL PLAT #FP-04-2024 filed by Mardic Investments, Inc. for a final plat for a commercial subdivision and creation of public roadway. This would create a 9.713-acre lot with a roadway connection from County Road 99 south to Midwest Court.**

CPC STAFF

General Information

This request is located on the south side of County Road 99, east of Technology Drive. The area is a mix of C-2 General Commercial and M-2 Multi-Family, High Density. It is not located within the 100-year flood plain. The City of Findlay Land Use Plan designated the parcel as Regional Commercial.

Parcel History

The site is currently vacant land. The Preliminary Plat for this proposal went to CPC on September 14, 2023 (PP-02-2023).

Staff Analysis

At the September 2023 CPC meeting, the applicant indicated that the 9.713-acre parcel was intended to be sold for development as either a hotel or retail development. The road dedication is shown only to the southern edge of the proposed parcel. From the southern edge of the parcel to the future extension of Midwest Court, it only shows a roadway and utility easement. Staff has concerns that the entire roadway needs to be dedicated from Mardic Drive to Midwest Court to allow for future development.

Staff Recommendation

CPC Staff recommends **approval of APPLICATION FOR FINAL PLAT #FP-04-2024 filed by Mardic Investments, Inc. for a final plat for a commercial subdivision and creation of public roadway. This would create a 9.713-acre lot with a roadway connection from County Road 99 south to Midwest Court**

- **Dedicate the entire roadway from Mardic Drive to Midwest Court.**

ENGINEERING

- As part of this plat, I would like to see the public roadway wrapped around to Midwest Court. If the whole roadway is not construction all at once, who will be responsible for the remaining sections. This would potential would have the roadway pieced together before it is finished.

FIRE PREVENTION

No Comment

RECOMMENDATION


Staff recommends **approval of APPLICATION FOR FINAL PLAT #FP-04-2024 filed by Mardic Investments, Inc. for a final plat for a commercial subdivision and creation of public roadway. This would create a 9.713-acre lot with a roadway connection from County Road 99 south to Midwest Court with the following condition:**

- **Dedicate the entire roadway from Mardic Drive to Midwest Court**

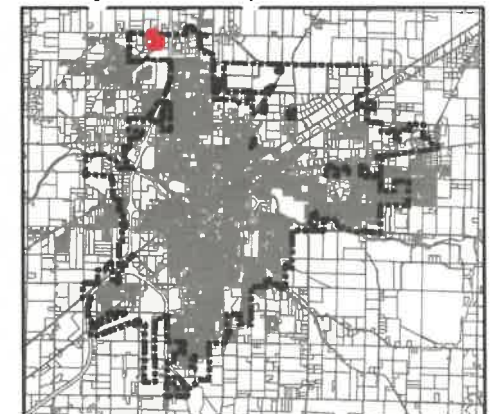
FP-04-2024

APPLICATION FOR
FINAL PLAT
filed by Mardic Investments, Inc.
for a final plat for a commercial
subdivision and creation of
public roadway.
This would create a 9.713 acre
lot with a roadway
connection from
County Road 99 south to
Midwest Court.

Legend

-  New Dale Park Lot
-  Parcels
-  Road Centerline

Findlay Locator Map



Final Subdivision Plat of
DALE PARK SUBDIVISION
BEING A PART OF THE SW 1/4 SECTION 36, T2N, R10W,
CITY OF FINDLAY, COUNTY OF HANCOCK, STATE OF OHIO.
11.267 ACRES



7. APPLICATION FOR SITE PLAN REVIEW #SP-05-2024 filed by CJ's K9 Properties LLC to establish an animal daycare facility at 900 E. Bigelow Avenue.

CPC STAFF

General Information

This request is located along the north side of E. Bigelow Avenue. It is in an area zoned I-1 Light Industrial. The north side of the street is zoned I-1 Light Industrial. Across the street to the south in Marion Township, it is zoned B-3 General Commercial, M-1 Restricted Industrial, and R-2 Two Family Residential. It is not located within the 100-year floodplain. The City of Findlay Land Use Plan designates the property as Industrial.

Parcel History

The site is previously Jaqua's Fine Guns.

Staff Analysis

The applicant is requesting to operate a dog kennel at the location. Kennels are a permitted use in the I-1 Light Industrial District. The operation of the site would include a new building being constructed with a connection between the two existing buildings on site. The proposed building will measure 50'x120' and have multiple enclosed outdoor areas for kennels and kennel runs. The total capacity for the kennel was listed at 35 dogs.

The proposed additions meet the setbacks of the I-1 Light Industrial District. No changes are being made to the landscaping or parking areas, other than restriping. Does the applicant have a plan in place if the nine parking spots are not adequate during peak hours? The fencing for the proposed building was shown as chain link. Is a chain link adequate or should a solid fence be considered?

A signage plan was not submitted with the original packet. Staff would remind the applicant that they need to comply with the low-profile standards and to follow up with Erik Adkins in the Zoning Department regarding any permits.

Staff Recommendation

CPC Staff recommends approval of APPLICATION FOR SITE PLAN REVIEW #SP-05-2024 filed by CJ's K9 Properties LLC to establish an animal daycare facility at 900 E. Bigelow Avenue.

ENGINEERING

Access –

Will be from the existing driveway off of Bigelow Avenue.

Water Service –

Will be extended from the existing building

Sanitary Service –

A new sanitary sewer service will be extended to the proposed building, utilizing the existing sanitary lateral. Only concern is for the sanitary is how the dog waste will be handled.

Stormwater Management –

The plans are proposing a detention pond to be placed on the west side of the site.

MS4 Requirements –

The site will disturb less than one (1) acre so the applicant will not need to comply with the City of Findlay's Erosion & Sediment Control Ordinance. As part of the plans the developer has submitted a SWPPP plan.

Recommendations:

Approval of the Site

The following permits may be required prior to construction:

- Sanitary Sewer Tap Permit x1

FIRE PREVENTION

- Obtain all need permits for the project
- Call for all needed inspections
- Add access road for emergency services to the new building

RECOMMENDATION




Staff recommends approval of **APPLICATION FOR SITE PLAN REVIEW #SP-05-2024** filed by **CJ's K9 Properties LLC** to establish an animal daycare facility at **900 E. Bigelow Avenue** with the following condition:

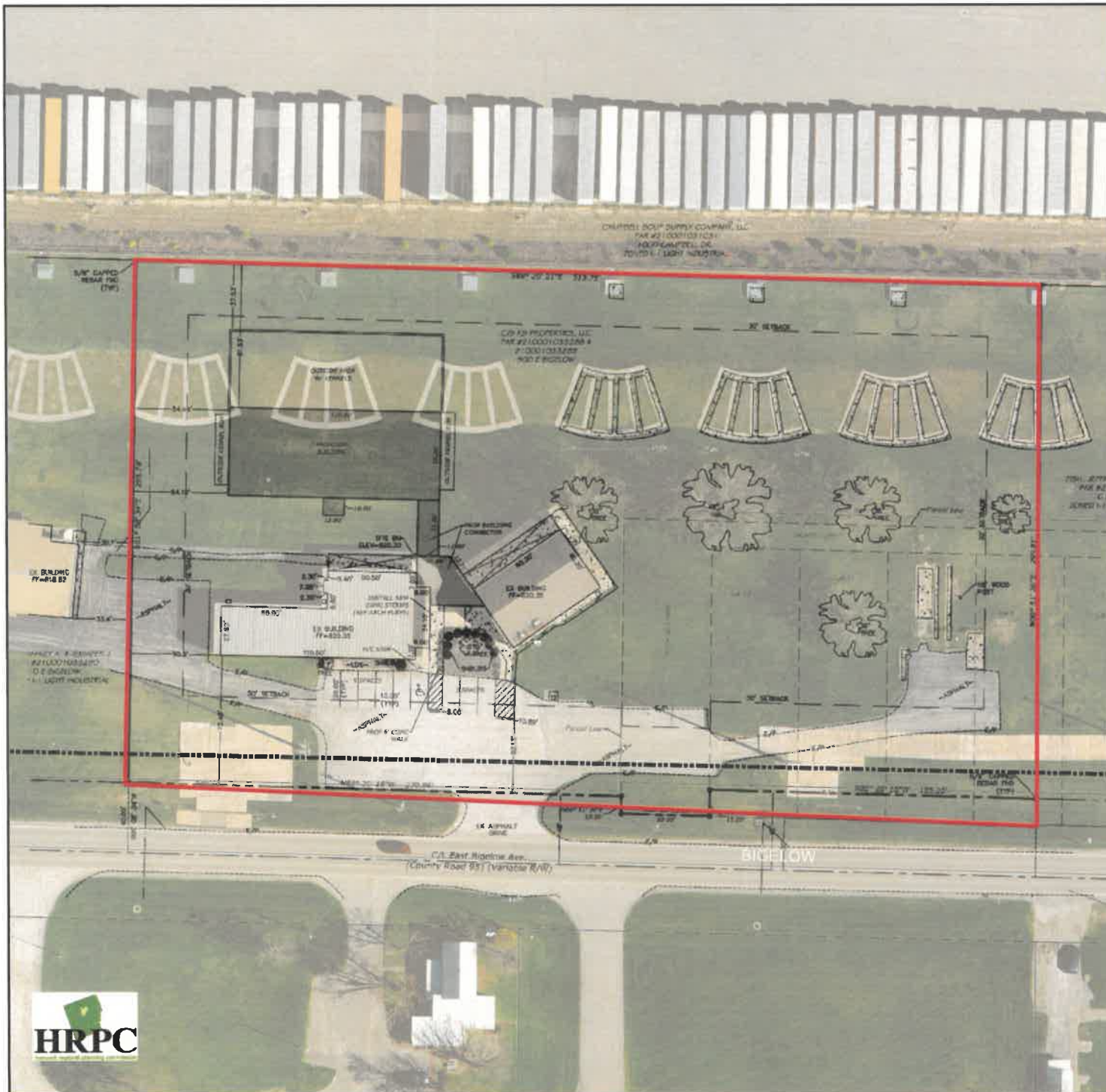
- **Add access road for emergency services to the new building (FIRE)**

SP-05-2024

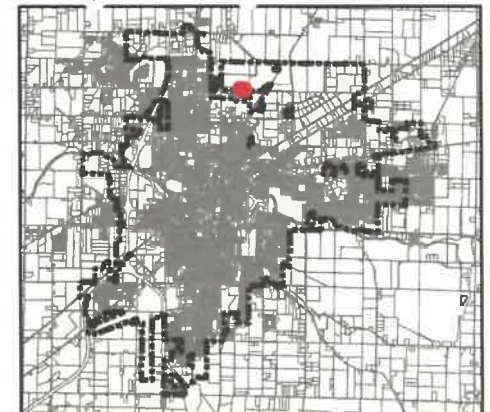
APPLICATION FOR
SITE PLAN REVIEW
filed by CJ's K9
Properties LLC to
establish an animal
daycare facility at
900 E. Bigelow Avenue.

Legend

-  900 E Bigelow Ave
-  Parcels
-  Road Centerline

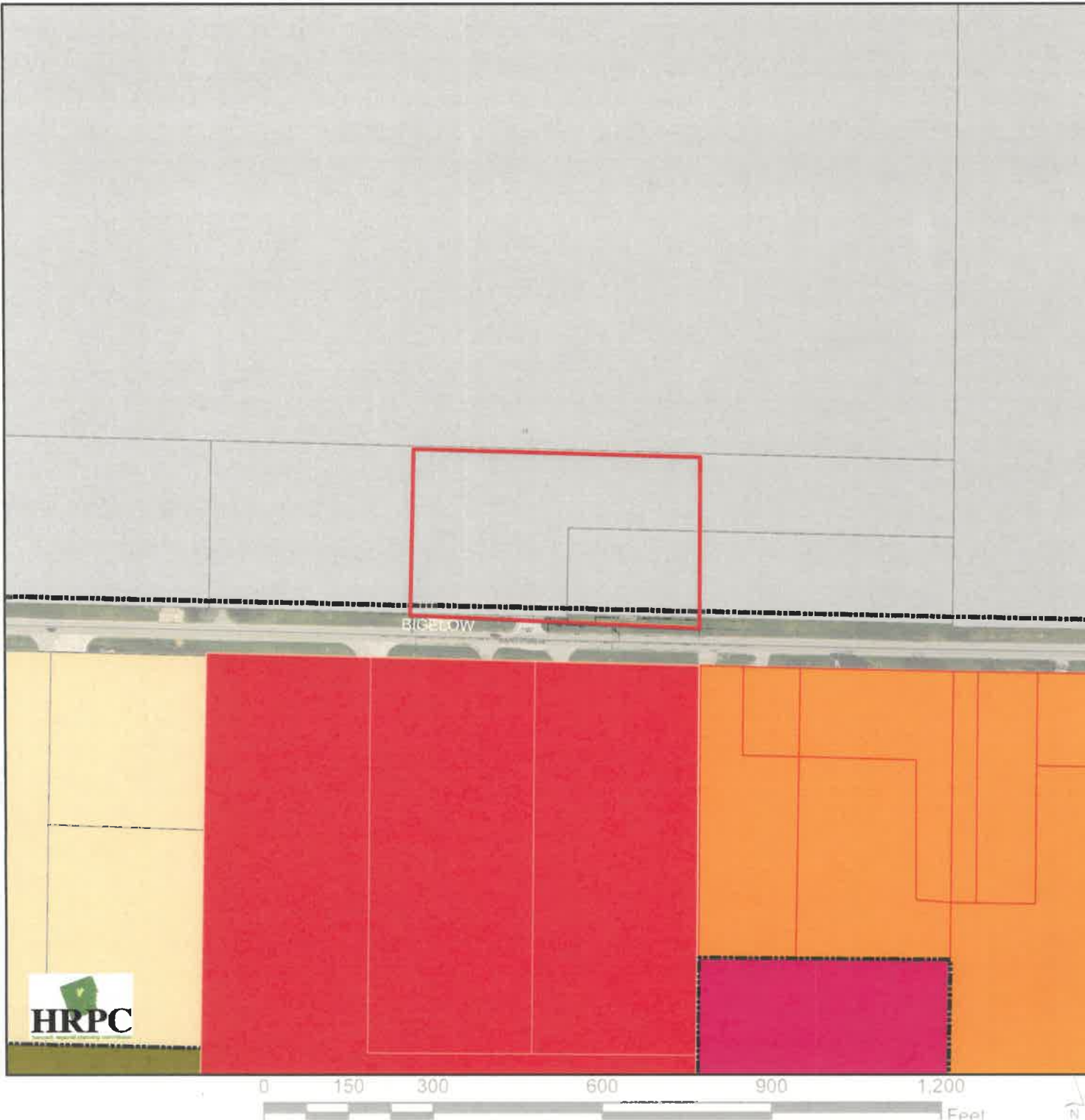


Findlay Locator Map



SP-05-2024

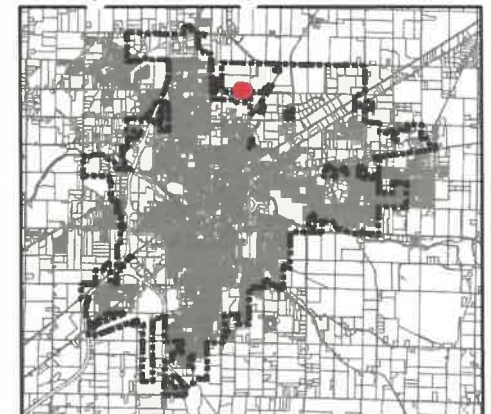
APPLICATION FOR
SITE PLAN REVIEW
filed by CJ's K9
Properties LLC to
establish an animal
daycare facility at
900 E. Bigelow Avenue.



Legend

- 900 E Bigelow Ave
- Road Centerline
- Large Lot Residential, R-1
- Medium Lot Residential, R-2
- Small Lot Residential, R-3
- Duplex/Triplex, R-4
- Local Commercial, C-1
- General Commercial, C-2
- Downtown Commercial, C-3
- Office/Institution, O-1
- Light Industrial, I-1
- Heavy Industrial, I-2
- Condominium, CD
- Multi-Family, Low Density, M-1
- Multi-Family, High Density, M-2
- Parks and Open Space, PO
- Mobile Home, MH
- MultizonedParcels
- <all other values>
- ZONING_NEW
- M2
- R3
- R4
- Parcels selection
- Marion R-2 Two Family Residential
- Marion M-1 Restricted Industrial
- Marion B-3 General Business
- Parcels

Findlay Locator Map



8. APPLICATION FOR SITE PLAN REVIEW #SP-06-2024 filed by Ron Siferd/Siferd Farms for a 94-unit condo development at the east end of Silver Creek Drive in Allen Township.

CPC STAFF

General Information

This site is located within Allen Township, but abuts the Findlay corporate boundary to the east. The parcel is not located within the 100-year floodplain. The City of Findlay Land Use Plan designates the area as Single-Family Large Lot.

Parcel History

The site is currently vacant land. This lot went through a similar site plan review back in July 2021 (SP-16-2021). Since this project was reviewed last, it has been determined that the CPC may not put any conditions on properties outside city limits. The CPC may only review and consider items directly related to the water and sanitary sewer connections. The CPC may not apply their standards to any other portion of the project. This includes zoning and drainage standards. If the CPC wishes to apply their standards to properties using their water and sewer, the properties must be annexed into the City of Findlay.

Staff Analysis

The applicant has submitted a site plan that would have a 47 building, 94-unit condo development off a single access on Silver Creek Drive. When they originally went through site plan approval in 2021, they received approval with the following conditions:

- A second point of access into the site is created from CR 99 (HRPC)
- Receive approval from the County Engineer for the access off Silver Creek Drive (HRPC)
- Begin the annexation process with the City of Findlay (HRPC)
- Construction Plans approved by City Engineer's Office (Engineering)
- Allow the northern boundary have a 10-foot setback to allow for the creation of a riparian easement along the south and west boundary, the size of which can be addressed administratively with CPC staff
- Phasing the development from east to west, with access from CR 99 first

Since the original submission in 2021, they have shifted the plans north to avoid the tree line on the south side of the site. They also established a clearing setback on the west and south side.

Regarding access and site plan details, the City Planning Commission has two options:

1. CPC can review the site plan and only comment on the water/sewer connections and give a determination based on that alone.
2. CPC can deny the request until annexation is completed. Upon annexation, the applicant can resubmit and the CPC can review the site based on the City of Findlay Condominium District Standards.

ENGINEERING

Access –

The development will be accessed from a new roadway that will be extended to the east from the existing stub on Silver Creek Drive. Silver Creek Drive will be extended to the east side of the power lines and will then split into Loop Drive. For safety personnel, Engineering would like to see a second drive access to the site.

Water Service –

The proposed plans show an 8” waterline being extended with Silver Creek Drive and Loop Drive. The waterline will be placed on the north side of Silver Creek and on the outside of Loop Drive. With the configuration of the buildings there will be a two water meters installed at each building (one for each condo). The installation will be a TBR through the City of Findlay Engineering Office. There are a couple of comments on the construction plans that Engineering will work out with the Developer/ Engineer before construction starts.

Sanitary Service –

The proposed plans show two separate runs for the sanitary sewer. On Silver Creek Drive there will be an 8-inch sanitary sewer installed on the south side of the roadway, and a separate 8-inch sanitary sewer will run on the inside of Loop Drive. Each of the sanitary sewer mainlines will tap into existing manholes that are within the sanitary easement. Due to the drop distance that are shown in the profile, each of the tie-ins at the existing manholes will require an outside drop. The installation of the sanitary sewer will be a TBR through the City of Findlay Engineering office.

Stormwater Management –

The site is not located within the City of Findlay so any approval for stormwater and detention would need to come from Hancock County Engineers.

MS4 Requirements –

The site is outside of City Limits so the applicant will not need to comply with the City of Findlay’s Erosion & Sediment Control Ordinance. Applicant should contact the Hancock County Engineer’s office for their requirements.

Recommendations:

Conditional Approval of the Site Plan:

- Construction plans are approved by the Engineering Office.
- Second Roadway access for the development

The following permits may be required prior to construction:

- Water Tap Permit x 1
- Water Service Connections x 94
- Sanitary Mainline Tap Permit x 2
- Sewer Service Connections x 47

FIRE PREVENTION

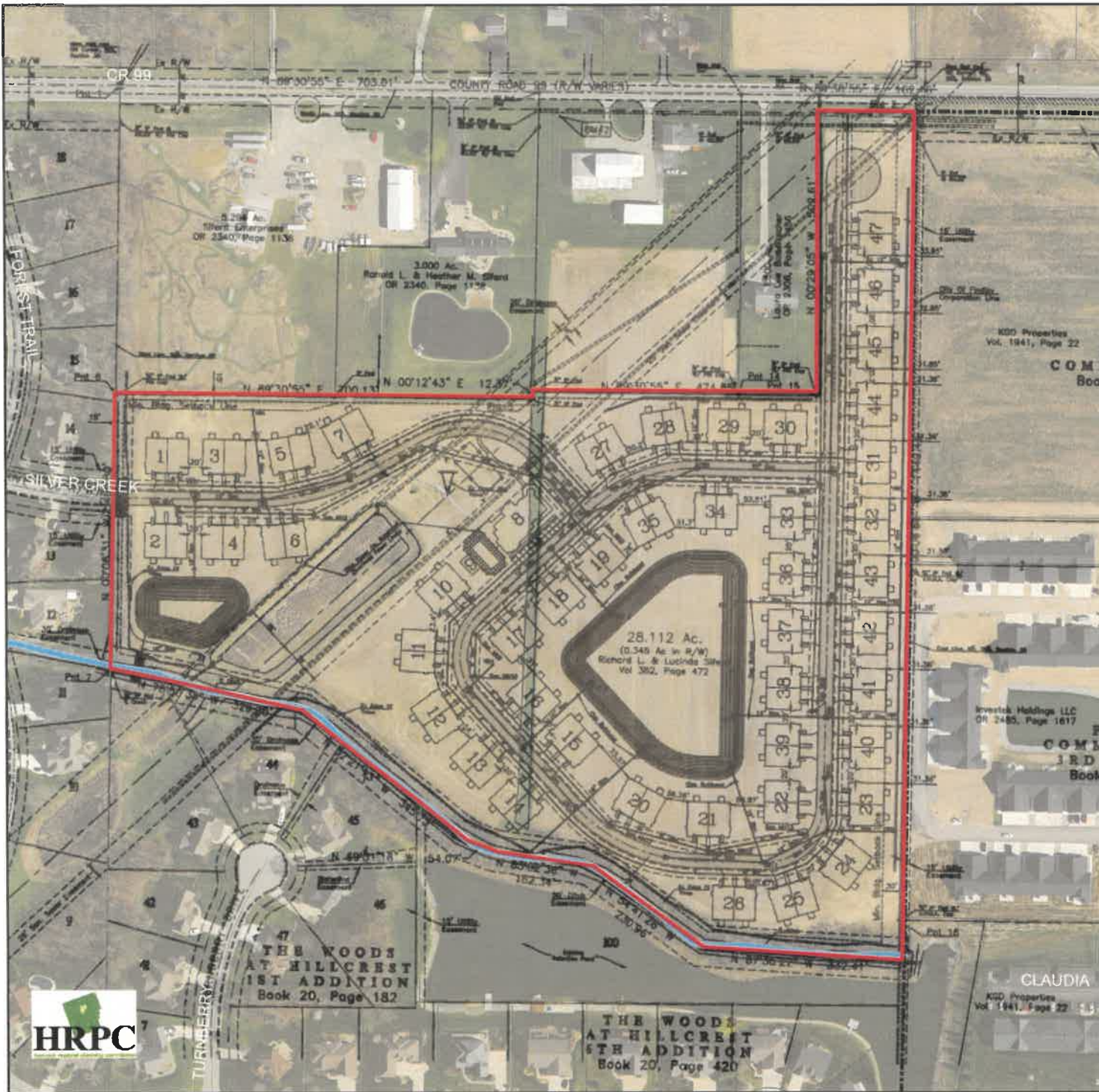
- Concern with the removal of the CR99 access road for emergency services

SP-06-2024

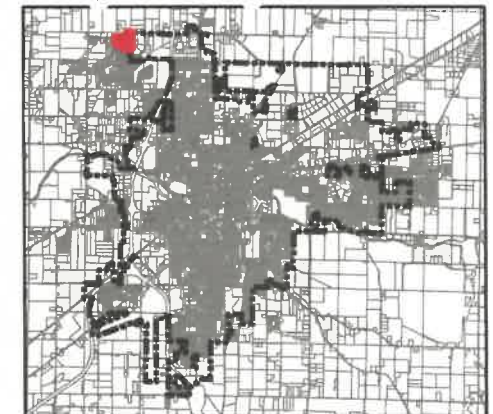
APPLICATION FOR
SITE PLAN REVIEW
filed by Ron Siferd/Siferd Farms
for a 94-unit condo development
at the east end of Silver Creek Drive
in Allen Township.

Legend

-  Villas at the 9's
-  Parcels
-  Road Centerline



Findlay Locator Map



City of Findlay
City Planning Commission
City Council Chambers, 1st floor of Municipal Building
March 14, 2024 – 9:00 AM

AGENDA

CALL TO ORDER

ROLL CALL

SWEARING IN

APPROVAL OF MINUTES

TABLED ITEMS

NEW ITEMS

1. **APPLICATION FOR ALLEY VACATION #AV-03-2024** filed by Stephanie Parsons on behalf of the YMCA to vacate the north-south alley between lots 568-569 of the S&P Carlins Addition and the east-west alley between lots 565-568 & 587-590 of the S&P Carlins Addition.
2. **APPLICATION FOR ZONING AMENDMENT #ZA-01-2024** filed by the Women's Resource Center of Hancock County, to rezone 116 Laquino Street from R-3 Small Lot Residential to O-1 Office & Institution.
3. **APPLICATION FOR ZONING AMENDMENT #ZA-02-2024** filed by Sheetz Distribution Services for an initial zoning request of I-1 Light Industrial for their property to be located at the northwest corner of the intersection of County Road 212 and Township Road 230.
4. **APPLICATION FOR CONDITIONAL USE #CU-01-2024** filed by ProTech Rental Properties to establish a triplex at 321 W. Front Street.
5. **APPLICATION FOR FINAL PLAT #FP-03-2024** filed by Rusk OP to replat Lots 25-27 of the Deer Meadows Subdivision.
6. **APPLICATION FOR FINAL PLAT #FP-04-2024** filed by Mardic Investments, Inc. for a final plat for a commercial subdivision and creation of public roadway. This would create a 9.713 acre lot with a roadway connection from County Road 99 south to Midwest Court.
7. **APPLICATION FOR SITE PLAN REVIEW #SP-05-2024** filed by CJ's K9 Properties LLC to establish an animal daycare facility at 900 E. Bigelow Avenue.
8. **APPLICATION FOR SITE PLAN REVIEW #SP-06-2024** filed by Ron Siferd/Siferd Farms for a 94-unit condo development at the east end of Silver Creek Drive in Allen Township.

ADMINISTRATIVE APPROVALS

ADJOURNMENT

City of Findlay
City Planning Commission
City Council Chambers, 1st floor of Municipal Building
Thursday February 8, 2024 – 9:00 a.m.

Minutes

MEMBERS:

Mayor Muryn
Rob Martin
Kerry Trombley
Jackie Schroeder
Dan Clinger

STAFF ATTENDING:

Matt Cordonnier, HRPC Director
Jacob Mercer, HRPC Staff
Jeremy Kalb, City Engineer
Kevin Shenise, Fire Prevention
Erik Adkins, Zoning Administrator & Flood Administrator

GUESTS:

John Crates, Dan Stone, Todd Jenkins, James Walton

CALL TO ORDER

ROLL CALL

The following members were present:

Mayor Muryn
Rob Martin
Kerry Trombley
Jackie Schroeder
Dan Clinger

SWEARING IN

All those planning to give testimony were sworn in by Jacob Mercer.

APPROVAL OF MINUTES

Dan Clinger motioned to approve the minutes for the December 14, 2023 meeting with an amendment to fix a description on page 12. Rob Martin seconded. Motion approved 5-0-0.

NEW ITEMS

- 1. APPLICATION FOR ALLEY VACATION #AV-01-2024 filed by John Crates to vacate a fifteen foot (15') unimproved right-of-way on the west side of Strong Avenue. This right-of-way is located between lots 10, 11, 12, and 13 of the Whiteley**

M C Addition Block 17.

CPC STAFF

General Information

This request is located on the west side of Strong Avenue, north of Blanchard Avenue. It is a fifteen-foot (15') wide right-of-way that measures 135 feet long. It is not located within the 100-year flood plain.

Staff Analysis

The applicant has indicated they would like to vacate this right-of-way to help clean up the right-of-way in the area. The right-of-way on the east side of Strong Avenue, were previously vacated in 1996. The applicant also plans to realign lots 11, 12, and 13 of the Whiteley MC Addition, Block 17. Currently the lots are north/south oriented, but they would like to turn them east/west to face Strong Avenue. All the abutting property owners have signed the petition for the vacation request.

Staff had no concerns about the request.

Staff Recommendation

CPC Staff recommends approval of APPLICATION FOR ALLEY VACATION #AV-01-2024 filed by John Crates to vacate a fifteen foot (15') unimproved right-of-way on the west side of Strong Avenue. This right-of-way is located between lots 10, 11, 12, and 13 of the Whiteley M C Addition Block 17.

ENGINEERING

No Comment

FIRE PREVENTION

No Comment

RECOMMENDATION

Staff recommends CPC recommend approval of APPLICATION FOR ALLEY VACATION #AV-01-2024 filed by John Crates to vacate a fifteen foot (15') unimproved right-of-way on the west side of Strong Avenue. This right-of-way is located between lots 10, 11, 12, and 13 of the Whiteley M C Addition Block 17.

DISCUSSION

Mr. Clinger started by asking Jeremy Kalb if they would require an easement for the utility line. Jeremy said it is an AEP transmission line and they will have that to do any work in the area. Mr. Clinger just stated he wanted the applicant to be aware of that.

MOTION

Mayor Muryrn made motion for **CPC to recommend approval of APPLICATION FOR ALLEY**

VACATION #AV-01-2024 filed by John Crates to vacate a fifteen foot (15') unimproved right-of-way on the west side of Strong Avenue. This right-of-way is located between lots 10, 11, 12, and 13 of the Whiteley M C Addition Block 17.

2nd: Rob Martin

VOTE: Yay (5) Nay (0) Abstain (0)

- 2. APPLICATION FOR ALLEY VACATION #AV-02-2024 filed by John Crates to vacate a sixty foot (60') unimproved right-of-way on the west side of Strong Avenue, north of Blanchard Avenue. This right-of-way is located between lot 1 of the Whiteley M C Addition Block 18, and lots 11, 12, and 13 of the Whiteley M C Addition Block 17.**

CPC STAFF

General Information

This request is located on the west side of Strong Avenue, north of Blanchard Avenue. It is a fifteen-foot (60') wide right-of-way. It is not located within the 100-year flood plain.

Staff Analysis

The applicant has indicated they would like to vacate this right-of-way to help clean up the right-of-way in the area. This right-of-way would have stretched east from Strong Avenue to a platted street; however, that portion was vacated in 2018. The applicant also plans to realign lots 11, 12, and 13 of the Whiteley MC Addition, Block 17. Currently the lots are north/south oriented, but they would like to turn them east/west to face Strong Avenue. All the abutting property owners have signed the petition for the vacation request.

Staff had no concerns about the request.

Staff Recommendation

CPC Staff recommends approval of APPLICATION FOR ALLEY VACATION #AV-02-2024 filed by John Crates to vacate a sixty foot (60') unimproved right-of-way on the west side of Strong Avenue, north of Blanchard Avenue. This right-of-way is located between lot 1 of the Whiteley M C Addition Block 18, and lots 11, 12, and 13 of the Whiteley M C Addition Block 17.

ENGINEERING

No Comment

FIRE PREVENTION

No Comment

RECOMMENDATION

Staff recommends CPC recommend approval of **APPLICATION FOR ALLEY VACATION #AV-02-2024** filed by John Crates to vacate a sixty foot (60') unimproved right-of-way on the west side of Strong Avenue, north of Blanchard Avenue. This right-of-way is located between lot 1 of the Whiteley M C Addition Block 18, and lots 11, 12, and 13 of the Whiteley M C Addition Block 17.

DISCUSSION

Mr. Clinger immediately made a motion for approval.

MOTION

Dan Clinger made motion to recommend approval of **APPLICATION FOR ALLEY VACATION #AV-02-2024** filed by John Crates to vacate a sixty foot (60') unimproved right-of-way on the west side of Strong Avenue, north of Blanchard Avenue. This right-of-way is located between lot 1 of the Whiteley M C Addition Block 18, and lots 11, 12, and 13 of the Whiteley M C Addition Block 17.

2nd: Rob Martin

VOTE: Yay (5) Nay (0) Abstain (0)

- 3. APPLICATION FOR FINAL PLAT #FP-01-2024** filed by Reingard Enterprises LLC to replat lot 3 of the Tall Timbers 3rd Addition to create an additional lot.

CPC STAFF

General Information

This request is in the Tall Timbers 3rd Addition just south of County Road 212. This location is not located within the 100-year floodplain. The City of Findlay Land Use Plan designates the area as Industrial.

Parcel History

This is currently vacant. It previously was heard as a Final Plat in August 2022.

Staff Analysis

The proposed plat would subdivide this area into two parcels. The dividing line of the parcels goes diagonally from the northwest corner of the lot to the southeast corner. This would create Lot 5 on the southwest side of the site, measuring 10.206 acres, and Lot 6 on the northeast side of the site, measuring 11.152. With the split they will have the required frontage of 100 feet for the I-1 Light Industrial district.

There will be two access easement areas as part of the plat. They will allow Lot 6 to have access to the main driveway on Lot 5 and get to the curb cut on the cul-de-sac. The second will allow Lot 5 truck traffic to access a driveway to the south end of their site, which goes onto Lot 6. Staff would just recommend that the easements get recorded with the Final Plat.

Staff Recommendation

CPC Staff recommends approval of APPLICATION FOR FINAL PLAT #FP-01-2024 filed by Reingard Enterprises LLC to replat lot 3 of the Tall Timbers 3rd Addition to create an additional lot.

ENGINEERING

Access –

The proposed building will have access from the new cul-de-sac that will be coming off of CR212. The cul-de-sac has not been constructed yet, but it is assumed that it will be built as part of this site plan.

Water Service –

If desired the site can run one 10-inch or 8-inch mainline over to the building that will service the hydrant and the domestic line. Engineering will work with the Site Designer to come up with the final location and sizing.

Sanitary Service –

The proposed sanitary service will connect to the existing sanitary sewer located on the SE site of the cul-de-sac

Stormwater Management –

Engineering will work with the Site Consultant for SP-02 and SP-04 to ensure that drainage calculations and requirements work for both properties. With both of these properties being in the same drainage area, Engineering wants to ensure that both sites work with the current pond design.

MS4 Requirements –

The site will disturb more than one (1) acre so the applicant will need to comply with the City of Findlay's Erosion & Sediment Control Ordinance. As part of the plans the developer has submitted a SWPPP plan.

Recommendations:

Approval of the Site

The following permits may be required prior to construction:

- Sanitary Sewer Tap Permit x1
- Waterline Service Tap Permit x 2
- Drive/Curb Cut x1
- Storm Tap Permit x1

FIRE PREVENTION

No Comment

RECOMMENDATION

Staff recommends approval of **APPLICATION FOR FINAL PLAT #FP-01-2024** filed by Reingard Enterprises LLC to replat lot 3 of the Tall Timbers 3rd Addition to create an additional lot.

DISCUSSION

Dan Stone was present on behalf of the application. Mayor Muryn agreed with the staff, and reiterated we wanted to document the easements for future use. She thought this was a good use of the property and is consistent with the other phases that we've seen before. Dan Stone reiterated they would have those easements recorded and would stay with the plat.

Mr. Clinger asked if the frontage would measure greater than 100 feet. Dan Stone said they do meet the requirements for the industrial zoning district. He noted that the frontage does jogs down, but that it does meet the 100 feet requirement. Mr. Clinger asked if the easement was completely on lot 5. Dan Stone confirmed it was.

MOTION

Rob Martin made a motion for **APPLICATION FOR FINAL PLAT #FP-01-2024** filed by Reingard Enterprises LLC to replat lot 3 of the Tall Timbers 3rd Addition to create an additional lot.

2nd: Kerry Trombley

VOTE: Yay (5) Nay (0) Abstain (0)

- 4. **APPLICATION FOR SITE PLAN REVIEW #SP-02-2024** filed by Reingard Enterprises LLC to construct a new 187,500 sf industrial building with associated parking and utilities on the newly created lot 5 of the Tall Timbers 3rd Addition.

CPC STAFF

General Information

This request is in the Tall Timbers 3rd Addition just south of County Road 212. This location is not located within the 100-year floodplain. It is in an area zoned I-1 Light Industrial. The City of Findlay Land Use Plan designates the area as Industrial.

Parcel History

This is currently vacant. There was a site plan that received approval for a 100,000 square foot warehouse in June 2022. One of the conditions for approval was recording the final plat.

Staff Analysis

The applicant has expanded the original proposal from a 100,00 square foot warehouse to a 187,500 square foot warehouse. It will occupy the same spot on the site, but now extend further eastward to accommodate the expansion. They have increased the parking from 21 spots to 31 spots. This would accommodate 28 employees at peak shift.

The building height was not included on the plans, but staff would remind the applicant the maximum height in the I-1 district is sixty feet.

As previously mentioned, the driveway will have 2 access easements. One will allow the Lot 6 to have access to the curb cut onto the cul-de-sac. The second will allow the truck traffic for the Lot 5 to have access to an access to a driveway that goes onto Lot 6. Staff would like to make sure that easements are recorded with the plat.

Staff Recommendation

CPC Staff recommends approval of APPLICATION FOR SITE PLAN REVIEW #SP-02-2024 filed by Reingard Enterprises LLC to construct a new 187,500 sf industrial building with associated parking and utilities on the newly created lot 5 of the Tall Timbers 3rd Addition with the following condition:

- Record the Final Plat

ENGINEERING

Access –

The proposed building will have access from the new cul-de-sac that will be coming off of CR212. The cul-de-sac has not been constructed yet, but it is assumed that it will be built as part of this site plan.

Water Service –

If desired the site can run one 10-inch or 8-inch mainline over to the building that will service the hydrant and the domestic line. Engineering will work with the Site Designer to come up with the final location and sizing.

Sanitary Service –

The proposed sanitary service will connect to the existing sanitary sewer located on the SE site of the cul-de-sac

Stormwater Management –

Engineering will work with the Site Consultant for SP-02 and SP-04 to ensure that drainage calculations and requirements work for both properties. With both of these properties being in the same drainage area, Engineering wants to ensure that both sites work with the current pond design.

MS4 Requirements –

The site will disturb more than one (1) acre so the applicant will need to comply with the City of Findlay's Erosion & Sediment Control Ordinance. As part of the plans the developer has submitted a SWPPP plan.

Recommendations:

Approval of the Site

The following permits may be required prior to construction:

- Sanitary Sewer Tap Permit x1
- Waterline Service Tap Permit x 2
- Drive/Curb Cut x1
- Storm Tap Permit x1

FIRE PREVENTION

- Obtain all of the permits need for construction
- Schedule all needed inspections required during construction

RECOMMENDATION

Staff recommends approval of APPLICATION FOR SITE PLAN REVIEW #SP-02-2024 filed by Reingard Enterprises LLC to construct a new 187,500 sf industrial building with associated parking and utilities on the newly created lot 5 of the Tall Timbers 3rd Addition with the following condition:

- Record the Final Plat

DISCUSSION

Dan Stone started by stating that they had discussions with Jeremy Kalb about the water and storm. He's talked with the developers and landowners and they don't have any issues with what Mr. Kalb proposed. The water line connection makes sense since they are both industrial uses. He didn't see any issues with the drainage either. It's all a part of the same drainage region and thought it was good that Mr. Kalb brought the idea forward.

Rob Martin asked if it made sense to have a second access off the cul-de-sac. Mr. Stone said that they would request an access for the second lot, but it's hard to anticipate what the end use will be in the future for that site though. The driveway that extends onto the northern parcel from the proposed driveway was to allow for trucks to have a proper turn radius when backing out of the truck dock. It was not intended to necessarily be the access point for the second site. He noted that that would be the last access for that cul-de-sac because the remaining parcels off the cul-de-sac would not be developed in the future.

Mr. Clinger asked if the cul-de-sac was going to be constructed as part of this project or if it was developed by a different entity. Mr. Stone confirmed it was the same entity doing the development and the cul-de-sac. They started clearing and the owner knew that he needed more warehousing. Given the area is bisected by the gas line, they worked on getting everything set up. The bond has been posted and Mr. Kalb has the construction plans. He added it will be a public roadway.

Mr. Trombley asked where the regional detention for the site would be located. Mr. Stone showed that there was a triangular detention pond just to the northwest of this area. He noted that there was conduit in place already to accept the drainage and the pond was designed to handle the drainage for future phases of development in this area. Mr. Clinger asked if the drainage ditch would be cleaned, level, or regraded. Mr. Stone said they were not planning on touching it because their site was going to provide drainage through the existing storm sewer in the area.

Mr. Clinger asked Kevin Shenise if they did not need 30 feet of clearance around the entirety of the building. Mr. Shenise said that they are providing additional suppression inside to address issues. Mr. Stone said he did meet with Mr. Shenise and he wanted a fire hydrant at the cul-de-sac, so that was included in the plans as well.

MOTION

Mayor Muryn made a motion to **approve APPLICATION FOR SITE PLAN REVIEW #SP-02-2024 filed by Reingard Enterprises LLC to construct a new 187,500 sf industrial building with associated parking and utilities on the newly created lot 5 of the Tall Timbers 3rd Addition with the following condition:**

- **Record the Final Plat**

2nd: Dan Clinger

VOTE: Yay (5) Nay (0) Abstain (0)

Given the proximity of SP-02-2024 and SP-04-2024, the CPC decided to address SP-04-2024 before SP-03-2024.

- 5. APPLICATION FOR SITE PLAN REVIEW #SP-04-2024 filed by the JDP Ventures LLC for two spec buildings, measuring 28,500 sf and 20,000 sf, on parcel number 630001022615 along County Road 236.**

CPC STAFF

General Information

This request is located along the west side of County Road 236, south of County Road 212. It is in an area zoned I-1 Light Industrial. Across the street to the east, is zoned Agriculture in Marion Township. The City of Findlay Land Use Plan designates the property as Industrial.

Parcel History

The site is currently vacant land.

Staff Analysis

The applicant would like to construct two spec buildings on the site, along with a private drive. There would be a parking lot located on the east side of the site that could accommodate 135 cars with 7 being handicap accessible. The elevations submitted show that the height of the buildings would be nineteen and a half feet tall (19 ½'), which is below the maximum sixty feet.

The driveway was shown as being a private drive that would be a sixty-foot (60') ingress/egress and utility easement. Staff would like to see the driveway dedicated as a public street to allow for orderly future development on the site.

Staff Recommendation

CPC Staff recommends **approval of APPLICATION FOR SITE PLAN REVIEW #SP-04-2024 filed by the JDP Ventures LLC for two spec buildings, measuring 28,500 sf and 20,000 sf, on parcel number 630001022615 along County Road 236 with the following condition:**

- **Dedicate the public right-of-way for the road and cul-de-sac.**

ENGINEERING

Access –

The site will be accessed by a new Ingress/Egress cul-de-sac that is coming off of CR236. It is assumed that the cul-de-sac is a private driveway. In an effort to clean up some of the City Limits throughout the City, Engineering desires that the remaining portion of the property to be annexed into the City. Per County Regulations the City Corp Limit should be taken to the center line of the road. To clean up these areas as much as possible it is desired to annex the remaining strip of land from the ROW to the centerline of road. Once that portion is annexed the site contractor or owner can obtain a drive/ curb cut permit from the City of Findlay.

Water Service –

The current design is showing a new service line to feed the north building and a new watermain that will run down the middle of the cul-de-sac. This new design will be creating a dead end waterline that the City would like to have eventually looped with the dead end line on the cul-de-sac of Industrial Drive. If the water line is going to be public, Engineering is requesting an easement to extend to the west property line. The line will not need to be extended at this time, but with future development the line will need to be extended at that time. Engineering will work with the Consultant to finalize the waterline location and fittings.

Sanitary Service –

The proposed site will be extending the existing sanitary to the site to service the buildings. The sanitary is shown in an easement so it is assumed that the sanitary line will be a public sewer.

Storm Water Management –

Engineering will work with the Site Consultant for SP-02 and SP-04 to ensure that drainage calculations and requirements work for both properties. With both of these properties being in the same drainage area, Engineering wants to ensure that both sites work with the current pond design.

MS4 Requirements –

The site will disturb more than one (1) acre so the applicant will need to comply with the City of Findlay's Erosion & Sediment Control Ordinance. As part of the plans the developer has submitted a SWPPP plan.

Recommendations:

Condition: Property Owner to Annex the remaining portion of the property. Per County Regulations the City Corp Limit should be taken to the center line of the road. To clean up these areas as much as possible it is desired to annex the remaining strip of land from the ROW to the centerline of road.

The following permits may be required prior to construction:

- Sanitary Sewer Tap Permit x1
- Waterline Tap Permit x 1
- Waterline Service Tap Permit x2
- Curb Cut Permit x1

FIRE PREVENTION

- Obtain all of the permits need for construction
- Schedule all needed inspections required during construction

RECOMMENDATION

Staff recommends approval of APPLICATION FOR SITE PLAN REVIEW #SP-04-2024 filed by the JDP Ventures LLC for two spec buildings, measuring 28,500 sf and 20,000 sf, on parcel number 630001022615 along County Road 236 with the following condition:

- Dedicate the public right-of-way for the road and cul-de-sac (HRPC)
- Annex the remaining right-of-way to the centerline of CR 236 (Engineer)

DISCUSSION

Todd Jenkins was present on behalf of the application. He said they had no concerns about the driveway needing to be dedicated. It was always their intention to build that to city standards anyways, so he will work on a dedication plat for that. For the waterline, he can work with Mr. Kalb and Mr. Stone to address that. They don't have any issues with that request. He asked Mr. Kalb about the annexation of the right-of-way. Mr. Kalb asked if it was county owned right-of-way. Mr. Jenkins said he believed so. Mr. Kalb said that they would do some research and work with them on it.

Mr. Trombley asked what the proposed use would be for the buildings. Mr. Jenkins said they would be spec use, but he anticipated it would more than likely be warehousing. If it is warehousing, he could see a reduction in parking, due to the parking standards. The proposal was to provide enough in case manufacturing did go in there. He believed they intended to start construction sooner than later, so as soon as these details get worked out, he believed they'd look to start in sometime around the end of March, early April. Mr. Trombley asked if they planned on constructing the cul-de-sac at this point. Mr. Jenkins said they would work with Mr. Kalb on what needs to be built.

Mr. Clinger asked if they were okay shifting the site 20 feet to the north to accommodate the setback change with the dedication of the road. Mr. Jenkins said that would not be a problem.

Mr. Clinger asked about the drainage for the site. Mr. Jenkins said it would all be splash blocked. They do have storm sewers that are within the parking lots which will be graded to drain and discharge up to the swale along the north end. They intend to widen and clean that swale as part of the construction. Mr. Clinger asked if they would just clean the portion of the swale on their property. Mr. Jenkins confirmed that, since Mr. Rinehart owns the property to the west. They would widen it to handle the additional volume created. To do this, they would strip the vegetation, and widen it out. It would then taper back down to the property to the west. Mr. Clinger asked if the swale would pick up drainage from CR 236 and the surrounding farm fields. Mr. Jenkins said he didn't believe those fields drained to the site, but the road does. Mr. Clinger asked if they added a truck dock, how would that change the plan. Mr. Jenkins said that they would have to add storm sewers in that scenario.

MOTION

Dan Clinger made motion for CPC to recommend approval of **Staff recommends approval of APPLICATION FOR SITE PLAN REVIEW #SP-04-2024 filed by the JDP Ventures LLC for two spec buildings, measuring 28,500 sf and 20,000 sf, on parcel number 630001022615 along County Road 236 with the following condition:**

- **Dedicate the public right-of-way for the road and cul-de-sac (HRPC)**
- **Shift the site north to accommodate a front yard setback off the newly dedicated road.**
- **Annex the remaining right-of-way to the centerline of CR 236 (Engineer)**

2nd: **Rob Martin**

VOTE: Yay (5) Nay (0) Abstain (0)

6. **APPLICATION FOR SITE PLAN REVIEW #SP-03-2024 filed by Sheetz Distribution Services for a new 511,704 sf building encompassing warehouse production facility, administrative offices, and wellness center, to be located at the northwest corner of the intersection of County Road 212 and Township Road 230.**

CPC STAFF

General Information

This request is located at the northwest corner of the intersection of County Road 212 and Township Road 230 in Allen Township. This site is currently vacant. Inside the city limit on the south side of CR 212, it is zoned I-1 Light Industrial and O-1 Office Institution. The City of Findlay Land Use Plan designates the property as Industrial.

Parcel History

The site is currently vacant land.

Staff Analysis

Staff reviewed the following application using the City of Findlay's I-1 Light Industrial district. The recommendations and conditions would only be applicable after the annexation of the site is completed.

Sheetz Distribution Services has proposed a 511,704 square building which will encompass warehousing, a production facility, administrative offices, and a wellness center. There will be 554 parking spots in the employee parking lot, located on the south side of the building. 12 of those spots are designated handicap accessible. This can accommodate 503 employees at peak shift in the I-1 Light Industrial District. There is also a 1,488 square foot concrete pad south of the parking lot that is designated for motorcycle parking. The truck parking lot on the north of the building has parking stalls for 128 trucks and 24 vehicles. This parking area also includes a canopy fueling station with 6 pumps.

They have submitted a landscaping packet for review. Along the north side of the site, rather than providing 20 shrubs, they have substituted ornamental trees at a 1 tree for 5 shrub ratio. Staff was okay with the substitution given the size of the site, and the visual barrier it would help create for the neighboring residential. They have also provided a 6-foot mound along their driveway to help screen the facility.

A photometric sheet was submitted and they have a zero-foot candle at their property line adjacent to residential. They have also submitted elevations and are within the sixty-foot height maximum for the site. On the elevations, they do show mechanicals on the roof. Staff would like to see a vinyl fence included to shield that from view.

They have requested two driveways to help with traffic flow on the site. One driveway on the north is for the truck traffic, and a south entrance for employee parking. The County has access management regulations which do not allow for multiple driveways on a single parcel. The site will need to be annexed into the City to allow for the multiple driveways.

Staff Recommendation

CPC Staff recommends **approval of APPLICATION FOR SITE PLAN REVIEW #SP-03-2024 filed by Sheetz Distribution Services for a new 511,704 sf building encompassing warehouse production facility, administrative offices, and wellness center, to be located at the northwest corner of the intersection of County Road 212 and Township Road 230**

ENGINEERING

Access –

The proposed plans are showing two new drives to come off of TR230. The Engineering Department has been working with Sheetz over the past couple of months to widen TR230 for this new development. As part of the process, Sheetz is completing a traffic impact study for the area to ensure no additional improvements will be needed.

Water Service –

The proposed site will be pulling two waterlines off of the existing 20-inch water main on CR212. The fire and domestic lines will be running to a pump house that will then distribute the water to the private water lines within the site. To ease of access the City prefers to have the

master meter for the domestic line to be installed in the pump house, and install a backflow preventor and tattle tale on the fire line. Looking throughout the plans the City suggest to place backflow preventors on all connections going into the buildings (domestic and fire). This will help isolate areas in the event of a line break or line contamination.

Sanitary Service –

The proposed sanitary service will connect to a new sanitary sewer line that is located on the north side of the site.

Storm Water Management –

The site will be utilizing the new detention ponds for storm water management. The consultant has provided detention calculations for the site and the calculations comply with City Standards.

MS4 Requirements –

The site will disturb more than one (1) acre so the applicant will need to comply with the City of Findlay’s Erosion & Sediment Control Ordinance. As part of the plans the developer has submitted a SWPPP plan.

Recommendations:

The following permits may be required prior to construction:

- Sanitary Sewer Tap Permit x1
- Storm Tap Permit x1
- Waterline Tap Permit x 2
- Curb Cut Permit x2

FIRE PREVENTION

- Obtain all of the permits need for construction
- Schedule all needed inspections required during construction

RECOMMENDATION

Staff recommends **approval of APPLICATION FOR SITE PLAN REVIEW #SP-03-2024 filed by Sheetz Distribution Services for a new 511,704 sf building encompassing warehouse production facility, administrative offices, and wellness center, to be located at the northwest corner of the intersection of County Road 212 and Township Road 230**

DISCUSSION

James Walton from the Dennis Group was present on behalf of Sheetz. He added that Sheetz is excited about becoming a community partner, working with the community. Certainly, we've had a pleasant experience working with Mr. Mercer and Mr. Kalb. There are some things, as Mr. Kalb mentioned, just to final coordination on those tie ins, some flow rates and different information. This is a large facility that is mainly warehouse. There's a portion that's kitchen, and there's a pretty significant employee base. They’ve tried to encompass and really provide a good campus on this lot. Being right next to the Lowe's distribution center made it an ideal site.

Mayor Muryn said she appreciated those comments and she liked the change in the landscaping that was provided.

Mr. Trombley asked about the whether the fueling station was diesel fueling and if it had 2 underground storage tanks. Mr. Walton confirmed that the fueling would be for their tractors and vehicles bringing product to the stores. He added that they will have some yard jockeys which just move trailers around the facility. Regarding the underground storage tanks, he confirmed it would be 2 underground tanks and 6 fueling pumps in the dedicated fueling canopy. Mr. Trombley asked if it was all unattended. Mr. Walton confirmed that and added that there is fire suppression for the fueling station.

Mr. Clinger asked if all the sanitary lines for personal hygiene in the building were going to connect to the City sanitary. Mr. Kalb confirmed they have some pre-treatment on site, but that it would all go into a new sanitary main on TR 99. Mr. Walton said only the effluent that needs to be pre-treated would be done on site, but the normal office sanitary would go into the main sanitary system as normal.

Mr. Clinger asked what their future expansion plans would look like. Mr. Walton said there is room on the north side for additional warehouse. On the east side, it would be the kitchen space.

Mr. Clinger asked about the dock sizes since he thought it looked like it varied. Mr. Walton pointed out there is an area with the standard tractor trailer docks, but that they do have some smaller, shorter height docks for other smaller vehicles.

Mr. Clinger asked where the pump house was located and for further details. Mr. Walton pointed it out on the southwest corner of the site. He called it the wastewater building. Inside, it would have a separate room to house all the water treatment and have a backflow preventer.

Mr. Clinger asked if Mr. Walton could explain the water quality ponds. Mr. Walton said the main intent of these is to provide a forebay. They have a smaller section of the basin that is dedicated for all of your incoming flow. Ideally, you're separating out larger particles, sediment. Everything's being trapped in that area. Then, once it gets built up, it actually spills over into the main compartment, and then there's a micro pool, which is kind of on the downstream end, right at the outlet. That provides another measure for settling and additional treatment. It extends the residence time of water in the basin, provides the settling and accommodates the cleanest stormwater that we can possibly manage. Mr. Clinger asked if it retains water at all times or if it was a dry basin. Mr. Walton confirmed it would be wet and that they would be permanent structures, not just for construction.

Mr. Trombley asked the staff if there were any recommendations from the Traffic Impact Study that was submitted. Mr. Walton believed everything was in line with what has been planned and coordinated as far as the traffic in the means of egress and access to the site. Sheetz still has the two driveways in the recommendations supported really that the number of drive lanes that we have and the turning lanes that will be provided out here on the main road. Mr. Kalb said that the main thing was identifying the stacking at TR 230 and CR 212. He thought it would be 120

feet of stacking, so they are finalizing plans for TR 230 to incorporate that. Mr. Clinger asked how much of the area is set to be improved. Mr. Kalb said all of TR 230 from TR 99 to CR 212.

Mr. Clinger asked how much truck traffic they anticipated daily. Mr. Walton said about 100 trucks/day. Mr. Clinger asked if they would be utilizing TR 99 instead of CR 212. Mr. Walton said none of them would. Mr. Kalb said that was the point of the improvements, so that traffic would utilize CR 212.

MOTION

Rob Martin made motion for CPC to recommend approval of **APPLICATION FOR SITE PLAN REVIEW #SP-03-2024 filed by Sheetz Distribution Services for a new 511,704 sf building encompassing warehouse production facility, administrative offices, and wellness center, to be located at the northwest corner of the intersection of County Road 212 and Township Road 230**

2nd: Kerry Trombley

VOTE: Yay (5) Nay (0) Abstain (0)

With there being no further business, Mayor Muryn adjourned the meeting.



TREASURER'S OFFICE

318 Dorney Plaza, Room 313
Findlay, OH 45840-3346
Telephone: 419-424-7107 • Fax: 419-424-7866

Treasurer's Reconciliation for February 28, 2024

TREASURER

Fifth Third Initial Balance	4,416,145.43
- Withdrawals ()	(5,274,392.11)
+ Deposits	6,505,353.38
	<u>5,647,106.70</u>
(-Outstanding Checks)	(91,762.85)
Deposit in Transit	78.00
Deposit in Transit	555.00
Deposit in Transit	1,128,842.92
Pending Correction	(19.47)
Pending Correction	(70.00)
Pending Correction	(98.00)
Treasurer's Checking Bal	6,684,632.30
Investment Principal	94,629,170.08
Accrued Interest	
Treasurer's Total Cash and Investments	101,313,802.38

AUDITOR

Auditor's Checking Bal	6,684,632.30
Auditor's Total Cash and Investments	101,313,802.38

Respectfully submitted,

Susan Jo Hite
Treasurer



AUDITOR'S OFFICE

318 Dorney Plaza, Room 313
Findlay, OH 45840-3346
Telephone: 419-424-7101 • Fax: 419-424-7866
www.findlayohio.com

JIM STASCHIAK II
CITY AUDITOR

Tuesday, March 12, 2024

The Honorable Council
Findlay, Ohio

Council Members,

A set of summary financial reports for the prior month include:

Summary of Year-To-Date Information as of February 29th, 2024
Financial Snapshot for General Fund as of February 29th, 2024
Open Projects Report as of February 29th, 2024
Cash & Investments as of February 29th, 2024

Respectfully Submitted,



Jim Staschiak II
City Auditor

CITY OF FINDLAY
SUMMARY OF YEAR-TO-DATE INFORMATION AS OF FEBRUARY 29, 2024

	EXPENDITURE BUDGET	Y-T-D EXPENSED	Y-T-D %	ANNUAL REVENUE BUDGET	Y-T-D RECEIVED	Y-T-D %
COUNCIL	271,553	33,185	12.2%	2,500	475	19.0%
MAYOR'S OFFICE	447,083	56,489	12.6%	2,900	1,495	51.6%
AUDITOR'S OFFICE	985,566	92,967	9.4%	553,298	62	0.0%
TREASURER'S OFFICE	34,363	6,010	17.5%	-	-	0.0%
LAW DIRECTOR	937,606	116,961	12.5%	140,900	33,806	24.0%
MUNICIPAL COURT	2,958,774	378,796	12.8%	1,411,800	293,319	20.8%
CIVIL SERVICE OFFICE	147,711	7,504	5.1%	30,000	1,342	100.0%
PLANNING & ZONING	158,262	69,253	43.8%	-	-	0.0%
COMPUTER SERVICES	725,536	131,320	18.1%	715,718	72	0.0%
GENERAL EXPENSE	4,124,244	614,510	14.9%	-	-	0.0%
GENERAL REVENUE	-	-	0.0%	29,036,633	2,826,133	9.7%
POLICE DEPARTMENT	10,005,786	1,228,474	12.3%	465,873	56,428	12.1%
DISASTER SERVICES	63,844	44,627	69.9%	-	-	0.0%
FIRE DEPARTMENT	9,326,812	1,133,659	12.2%	337,000	567	0.2%
DISPATCH CENTER	1,394,988	235,697	16.9%	-	-	0.0%
HUMAN RESOURCES	221,526	18,283	8.3%	-	-	0.0%
SERVICE DIRECTOR	375,250	24,792	6.6%	-	-	0.0%
ENGINEERING OFFICE	972,128	90,611	9.3%	244,500	30,588	12.5%
PUBLIC BUILDING	821,817	47,216	5.7%	-	54	0.0%
ZONING	411,867	30,380	7.4%	70,000	9,190	13.1%
PARK MAINTENANCE	1,660,856	180,566	10.9%	144,638	920	0.6%
RESERVOIR RECREATION	20,311	520	2.6%	-	-	0.0%
RECREATION FUNCTIONS	1,186,060	118,725	10.0%	936,388	160,693	17.2%
CEMETERY DEPARTMENT	646,528	58,483	9.0%	184,600	16,453	8.9%
TOTAL GENERAL FUND	37,898,471	4,719,028	12.5%	34,276,748	3,431,596	10.0%

CONTINUED ON REVERSE

	EXPENDITURE BUDGET	Y-T-D EXPENSED	Y-T-D %	ANNUAL REVENUE BUDGET	Y-T-D RECEIVED	Y-T-D %
SCM&R STREETS	3,784,432	360,798	9.5%	3,336,701	433,453	13.0%
TRAFFIC-SIGNALS	549,778	76,424	13.9%	-	809	0.0%
TOTAL SCM&R FUND	4,334,210	437,222	10.1%	3,336,701	434,263	13.0%
SCM&R HIWAYS	196,095	6,022	3.1%	206,020	34,920	16.9%
TOTAL SCM&R HIWAYS FUND	196,095	6,022	3.1%	206,020	34,920	16.9%
AIRPORT OPERATIONS	1,470,456	147,288	10.0%	1,342,062	180,546	13.5%
TOTAL AIRPORT FUND	1,470,456	147,288	10.0%	1,342,062	180,546	13.5%
WATER TREATMENT	4,953,264	452,071	9.1%	44,258	28,123	63.5%
WATER DISTRIBUTION	2,926,787	216,164	7.4%	79,200	2,410	3.0%
UTILITY BILLING	1,961,183	309,103	15.8%	12,331,546	1,403,936	11.4%
SUPPLY RESERVOIR	1,520,179	59,937	3.9%	23,126	1,412	6.1%
TOTAL WATER FUND	11,361,413	1,037,275	9.1%	12,478,130	1,435,881	11.5%
SANITARY SEWER MAINT	1,302,970	141,601	10.9%	1,000	10	1.0%
STORMWATER MAINT	320,506	23,722	7.4%	800,800	132,744	16.6%
WATER POLLUTION CONTROL	3,840,393	298,519	7.8%	9,545,983	1,621,449	17.0%
TOTAL SEWER FUND	5,463,869	463,842	8.5%	10,347,783	1,754,203	17.0%
PARKING	120,589	19,102	15.8%	95,781	19,249	20.1%
TOTAL PARKING FUND	120,589	19,102	15.8%	95,781	19,249	20.1%
SWIMMING POOL	185,265	1,443	0.8%	170,097	97	0.1%
TOTAL SWIMMING POOL FUND	185,265	1,443	0.8%	170,097	97	0.1%
CIT ADMINISTRATION	24,772,646	2,014,269	8.1%	29,381,000	4,956,241	16.9%
TOTAL CIT FUND	24,772,646	2,014,269	8.1%	29,381,000	4,956,241	16.9%

SNAPSHOT Revenues/Expenditures & Key Balances Snapshot PROJECTED:

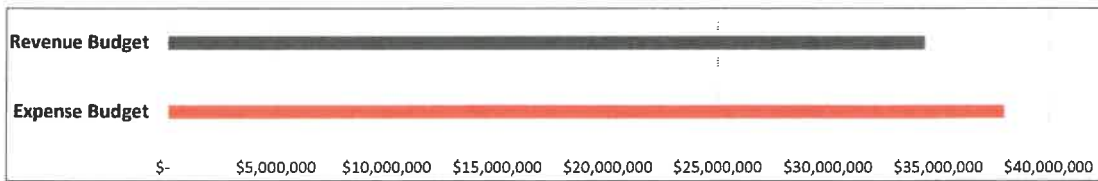
2/29/2024

GENERAL FUND REVENUES & EXPENSES

Prior Year Ending Cash Balance – Unappropriated		\$	30,547,996
Revenue and Receipts Projection General Fund	\$	34,388,057	
Expenses Appropriated General Fund <i>(assumes \$0.00 returned by departments)</i>	\$	<u>38,012,455</u>	

BUDGETED OPERATIONAL SURPLUS/(DEFICIT) (3,624,397)

BUDGETED UNENCUMBERED YEAR END GENERAL FUND BALANCE \$ 26,923,599



MONITORING INTANGIBLE / ANTICIPATED ITEMS

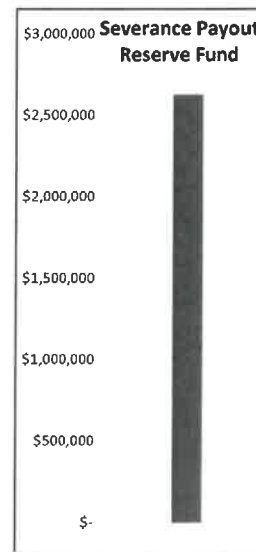
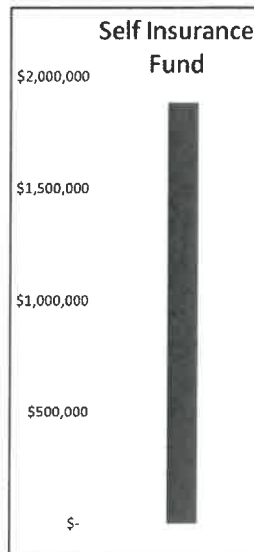
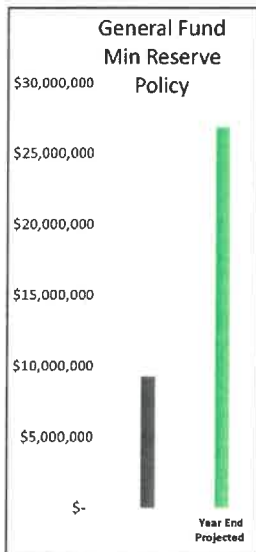
POSSIBLE

LIKELY

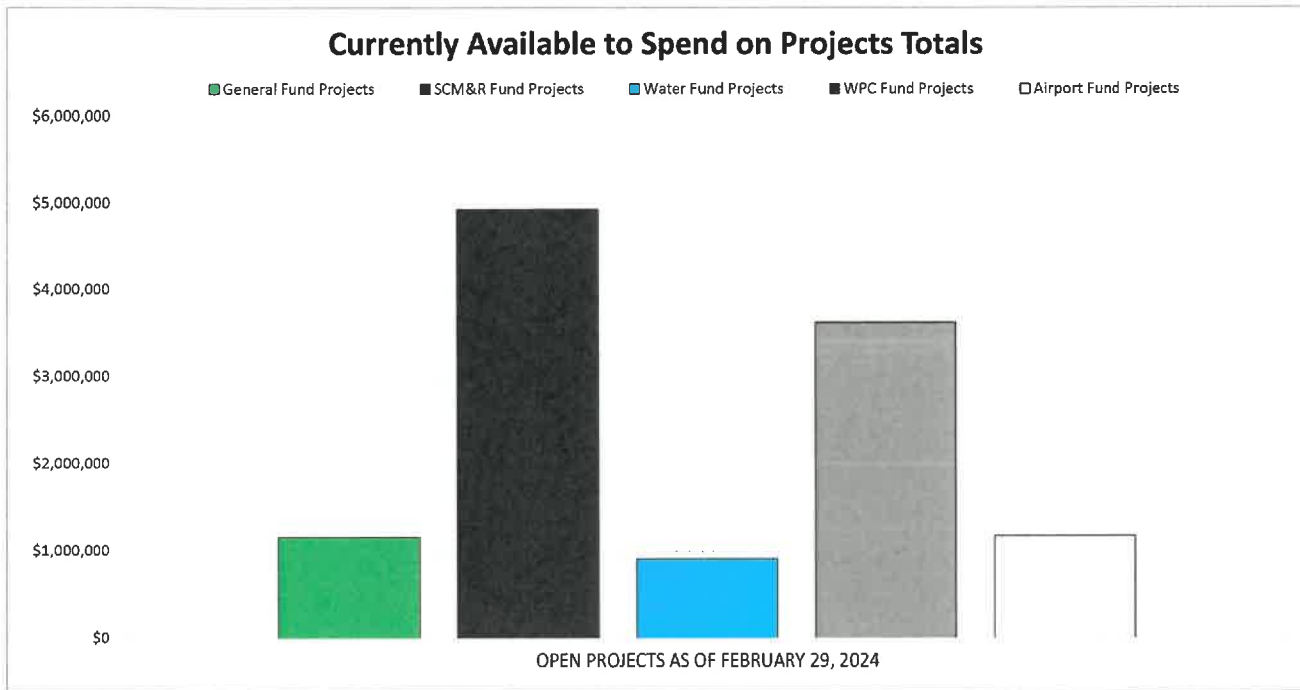
- Revenue Differential + / (-)
- Expense Differential + / (-)
- Additional Capital Improvements Plan General Fund Dollars
- Fund Subsidies + / (-)

FINANCIAL POLICY AMOUNTS

		Year End Projected	Over/(Short)
Minimum Reserve Balance General Fund	\$ 9,311,758	\$ 26,923,599	\$17,611,841
General Fund Rainy Day Reserve Account <i>(to be adjusted in February)</i>		\$ 2,096,404	
Self Insurance Fund		\$ 1,887,429	
Severance Payout Reserve Fund & Potential Retirements		\$ 2,629,098	



**CITY OF FINDLAY
OPEN PROJECTS AS OF FEBRUARY 29, 2024**



PROJECT NUMBER	PROJECT NAME	TOTAL APPROPRIATED	TOTAL EXPENSED	TOTAL PENDING PURCHASE ORDERS	CURRENTLY AVAILABLE TO SPEND
		INCEPTION TO DATE	INCEPTION TO DATE		
31912000	PARKER TRAINING/RESTROOM REMODEL	322,559	68,257	220,722	33,580
31912500	TRAFFIC/FABRICATION SHOP	97,750	97,134	360	256
31912800	TYLER EXECUTIME IMPLEMENTATION	150,000	134,464	15,537	-
31913700	DOWNTOWN RECREATION AREA	1,605,775	100,775	1,240,000	265,000
31920700	22 ORC REQUIRED PD TRAINING	24,203	23,226	-	977
31920800	ENG/ZONING FILE SCANNING	92,000	72,414	9,544	10,042
31920900	MUNI BLDG ELEVATOR REPLACEMENT	382,200	381,319	-	881
31921900	SECURITY CAMERAS	91,130	88,370	1,171	1,589
31922200	2022 GIS FUNCTIONALITY GROWTH	80,000	47,912	30,046	2,042
31922400	MUNI BLDG BATHROOM UPGRADES	50,000	17,662	-	32,338
31923000	CUBE BLDG GENERATOR	165,000	-	127,837	37,163
31924300	RIVERSIDE DAM MODIFICATIONS	80,000	79,671	329	(0)
31924500	PARK/AIR RESTROOM CDBG	222,000	22,054	127,000	72,946
31924800	MLK MURAL	15,000	-	-	15,000
31925000	CITY ADA TRANSITIONAL PLAN	300,000	19,050	279,750	1,200
31925100	CITY RESTROOM ACCESSIBILITY	45,000	15,060	2,740	27,200
31925400	TECHNOLOGY IMPROVMENTS	70,000	69,279	-	721
31925600	TREE PLANTING	100,000	-	-	100,000
31925800	DEMOLITION PROGRAM	400,000	120,000	-	280,000
31931200	EMORY FT FINDLAY PLAY UPGRADE	620,000	60,550	9,081	550,369
31931300	2023 ENGINEERING REMODEL	68,000	67,724	270	6

PROJECT NUMBER	PROJECT NAME	TOTAL	TOTAL	TOTAL	CURRENTLY
		APPROPRIATED INCEPTION TO DATE	EXPENSED INCEPTION TO DATE	PENDING PURCHASE ORDERS	AVAILABLE TO SPEND
31931800	RESERVOIR DOCKS	70,000	-	67,887	2,113
31931900	GREENWAY TRAIL P3	285,000	166,296	104,554	14,150
31932100	DARK DISPATCH UPGRADES	20,000	9,618	2,805	7,577
31932200	REMOTE OFFICES DOOR LOCKS	75,000	-	-	75,000
31932400	REPLACE BACKUP SERVER/NETWORK	45,000	16,972	17,412	10,616
31932600	2024 ARPA POLICE VEHICLES	322,500	-	284,194	38,306
31932700	2023 SIDEWALK IMPROVEMENTS	40,000	-	-	40,000
31933000	PHASE 2 BENCHING ENVIRONMENTAL	105,000	96,873	2,627	5,500
31933200	PD QUICK RSPONSE GRANT FY2022	62,500	23,989	38,511	-
31933300	RAWSON/SWALE RESTROOM RECON	996,400	80,182	47,790	868,428
31933400	RAWSON PARK TENNIS COURTS	45,000	14,703	-	30,297
31933900	FFD PUCO HAZMAT TRAINING GRANT	23,500	11,750	11,750	-
31934000	SOLAR ECLIPSE 2024	20,000	5,770	1,900	12,330
31934300	BULK TRASH & TIRE DROPOFF (ARPA)	20,000	10,421	-	9,579
31934600	BROAD AVENUE BIKE PATH	150,000	-	-	150,000
31934700	HPD GRANT 2024	22,000	-	-	22,000
31948200	OHIO 629 - MARATHON	250,000	24,026	10,000	215,974
31955300	ROWMARK 629 ROADWORK	100,000	1,516	-	98,484
31966800	2017 ORC PD REQUIRED TRAINING	39,556	4,000	7,081	28,474
31977900	PUBLIC SAFETY SOFTWARE SYSTEM	731,770	729,301	2,086	383
31993600	KEEP ACTIVE KEEP HEALTHY PROG	101,000	100,990	10	0
31993800	RVR GREENTRAIL TO RIVERBEND	3,224,509	3,149,224	18	75,267
31994900	FIRE STRICT FACILITY	2,440,500	2,256,320	180,037	4,144
GENERAL FUND PROJECTS		14,169,852	8,186,870	2,843,048	3,139,934
32542300	OIL DITCH CLEANING	170,000	-	-	170,000
32549500	HOWARD RUN DITCH CLEANING	6,000	-	-	6,000
32811100	I75/CR99 INTERCHANGE PID10237	420,000	420,000	-	-
32821400	HAN-INTERSTATE & FHS TRAILS	201,000	159,146	29,755	12,100
32823100	S MAIN/HARDIN INTERSECTION	160,000	109,700	32,885	17,415
32823200	S MAIN/CRAWFORD INTERSECTION	140,000	87,951	31,707	20,342
32823400	W MAIN CROSS/CORY INTERSECTION	143,000	95,232	36,413	11,356
32830300	2023 STREET PREV MAINT	625,000	611,037	2,087	11,876
32830400	23 ANNUAL RESURFACING/CURB	1,427,000	1,359,125	-	67,875
32831600	S WEST/MAIN CROSS INTERSECTION	175,000	53,039	97,400	24,562
32833800	ODOT FY24 BIGELOW RESURFACING	876,288	305	684,743	191,240
32840100	24 STREET RESURFACING/CURB	2,000	286	-	1,714
32840200	HAN US68/SR15 INTERCHANGE	575,000	529,500	-	45,500
32852700	W SANDUSKY/WESTERN AVENUE	190,000	113,433	3,642	72,925
32864600	CR212/CR236 WIDENING	3,667,500	228,249	23,252	3,415,999
32876000	BLANCHARD/LINCOLN BIKE LANE	3,471,500	2,596,731	11,375	863,394
SCM&R FUND PROJECTS		12,249,288	6,363,732	953,260	4,932,296

PROJECT NUMBER	PROJECT NAME	TOTAL	TOTAL	TOTAL	CURRENTLY
		APPROPRIATED INCEPTION TO DATE	EXPENSED INCEPTION TO DATE	PENDING PURCHASE ORDERS	AVAILABLE TO SPEND
35222100	TERMINAL BLDG MOVE/REHAB	126,000	119,807	3,260	2,933
35224000	AIP-33 NORTH APRON REHAB CONS	2,283,995	2,016,267	213,386	54,342
35225200	AIP-35	495,162	233,219	103,674	158,269
35231700	AIRPORT FUEL FARM REPAIRS	100,000	-	56,500	43,500
35232300	AIRPORT SNOW REMOVAL EQUIP BLDG	250,000	-	-	250,000
35234200	AIP-34	323,000	141,580	-	181,420
35234500	RUNWAY 7/25 NAV-AID REHAB	490,400	-	500	489,900
AIRPORT FUND PROJECTS		4,068,557	2,510,874	377,320	1,180,363
35512100	WASHINGTON AVE STORM UPGRADE	40,000	18,381	9,900	11,719
35601300	WPC CLARIFIER 3&4 REHAB	1,080,845	951,937	61,200	67,708
35611600	SPRINGLAKE SANITARY UPGRADE	625,000	542,430	32,250	50,320
35626200	CSO LTC PLAN AMENDMENT 22	390,000	302,637	62,410	24,953
35630100	WPC AUTOMATIC TRANSFER SWITCH	300,000	1,141	254,000	44,859
35631500	PROJECT HAT TRICK	3,000,000	41,492	230,472	2,728,036
35633600	2023 ANNUAL SEWER & MANHOLE	702,000	1,012	-	700,988
35633700	2023 LARGE DIAMETER SWR CLEAN	2,000	-	-	2,000
SEWER FUND PROJECTS		6,139,845	1,859,030	650,232	3,630,583
35710100	RECTOR AVE WATERLINE REPLACE	444,147	196,388	182,992	64,767
35723800	SMALL WATERLINE UPGRADES	505,000	20,660	15,500	468,840
35725300	WTP GENERATOR	1,685,000	6,628	1,676,419	1,953
35730800	LAUREL LANE W/L REPLACEMENT	130,000	1,779	100,527	27,694
35732500	23 BILLING/DIST ROOF REPLACE	155,000	69,292	85,677	31
35732900	EAST ST W/L REPAIR	2,000	-	-	2,000
35740300	HEMPHILL W/L REPLACEMENT	2,000	69	500	1,431
35740400	S WEST ST W/L REPLACEMENT	2,000	-	500	1,500
35781800	WTP SCADA SYSTEM UPGRADES	585,600	540,850	26,865	17,885
35782800	RESERVOIR TRANSFER LINE REHAB	1,957,881	144,669	1,719,043	94,169
35783300	WATER METER SYSTEM REPLACE	4,723,622	1,267,622	3,267,147	188,853
35790800	WTP CO2 TANKS REPLACEMENT	1,250,000	52,701	1,149,464	47,835
WATER FUND PROJECTS		11,442,250	2,300,658	8,224,634	916,958

<u>PROJECT</u> <u>NUMBER</u>	<u>PROJECT NAME</u>	<u>TOTAL</u> <u>APPROPRIATED</u> <u>INCEPTION TO DATE</u>	<u>TOTAL</u> <u>EXPENSED</u> <u>INCEPTION TO DATE</u>	<u>TOTAL</u> <u>PENDING</u> <u>PURCHASE ORDERS</u>	<u>CURRENTLY</u> <u>AVAILABLE</u> <u>TO SPEND</u>
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CITY OF FINDLAY
CASH & INVESTMENTS AS OF FEBRUARY 29, 2024

<u>AMOUNT</u>	<u>DESCRIPTION AND COUPON RATE</u>	<u>BANK/FIRM</u>
\$ 1,964,000.00	STAR OHIO @ 5.490%	
134,104.26	STAR OHIO @ 5.490%	
51,003,500.00	STAR OHIO @ 5.490%	
1,675,651.75	STAR OHIO @ 5.490%	
34,505,000.00	SAVINGS ACCOUNT	FIFTH THIRD BANK
946,835.94	US TREASURY @ 0.250% COUPON	HUNTINGTON BANK
982,460.94	US TREASURY @ 2.500% COUPON	HUNTINGTON BANK
995,234.38	US TREASURY @ 4.250% COUPON	HUNTINGTON BANK
962,539.06	US TREASURY @ 2.375% COUPON	HUNTINGTON BANK
969,843.75	US TREASURY @ 2.500% COUPON	PNC BANK
245,000.00	CERTIFICATE OF DEPOSIT @ 4.290%	PREMIER BANK
245,000.00	CERTIFICATE OF DEPOSIT @ 5.000%	WATERFORD BANK
<hr/>		
\$ 94,629,170.08	INVESTMENT TOTAL	
6,684,632.30	5/3 BANK ACCOUNT BALANCE	
-	ACCRUED INVESTMENT INTEREST	
<hr/>		
<u>\$ 101,313,802.38</u>	TOTAL CASH & INVESTMENTS	

UNAPPROPRIATED FUND BALANCES (CURRENT CASH BALANCES ON REVERSE)

GENERAL	\$ 26,960,483
SCM&R	1,177,981
SCM&R HIWAY	411,509
SEVERANCE PAYOUT RESERVE	2,629,098
ARPA	63,402
AIRPORT	288,239
WATER	6,205,516
SEWER	16,356,662
STORMWATER	2,465,534
PARKING	37,019
CIT ADMINISTRATION	1,837,507
CIT CAPITAL IMPROVEMENT	9,892,207
CIT FLOOD MITIGATION	2,500,000

CITY OF FINDLAY

BREAKDOWN OF TOTAL CASH & INVESTMENTS BY FUND AS OF FEBRUARY 29, 2024

\$ 30,646,308.00	General Fund
2,096,403.85	General Fund Restricted Rainy Day
4,519,702.40	General Fund Projects
1,716,457.40	SCM&R Fund
3,524,541.72	SCM&R Fund Projects
-	County Permissive License Fund
428,203.36	State Highway Fund
934.39	Law Enforcement Trust Fund
3,044.03	Drug Law Enforcement Trust Fund
357,269.20	ID Alcohol Treatment Fund
56,798.22	Opioid Abatement Fund
75,803.06	Enforcement & Education Fund
1,086,331.50	Court Special Projects Fund
177,160.63	Court Computerization Fund
2,109.56	METRICH Drug Law Enforcement Trust Fund
180,364.86	Alcohol Monitoring Fund
193,940.38	Mediation Fund
92,486.35	Electronic Imaging Fund
9,585.63	Legal Research Fund
2,638,049.71	Severance Payout Fund
63,402.31	ARPA Fund
552,895.24	Debt Service Fund
-	CR 236 TIF Fund
1,108,998.15	Municipal Court Improvement Fund
473,315.59	Airport Fund
553,653.38	Airport Fund Projects
6,274,965.96	Water Fund
938,167.97	Water Fund Restricted
6,615,636.48	Water Fund Projects
12,797,659.60	Sewer Fund
5,265,474.14	Sewer Fund Restricted
4,298,227.89	Sewer Fund Projects
63,993.55	Parking Fund
-	Parking Fund Projects
13,907.04	Swimming Pool Fund
28,877.81	Internal Service Central Stores Fund
-	Internal Service Workers Comp Fund
2,015,729.37	Internal Service Self Insurance Fund
4,208,238.74	CIT Fund
3,512,492.87	CIT Fund- Restricted Capital Improvements
2,500,000.00	CIT Fund - Restricted Flood Mitigation
-	Police Pension Fund
-	Fire Pension Fund
69,250.00	Unclaimed Monies Fund
224,209.37	Tax Collection Agency Fund
1,682,101.75	Cemetery Trust Fund
172,576.95	Private Trust Fund
74,533.97	Guaranteed Deposits
-	Special Assessments Pavements Fund
-	Special Assessments Sidewalks Fund
-	Special Assessments Sidewalks Fund Projects
-	Special Assessments Storm Fund
<u>\$ 101,313,802.38</u>	TOTAL CASH & INVESTMENTS



**OFFICE OF
THE MAYOR
CHRISTINA M. MURYN**

Rob Martin BSN, MBA
Service-Safety Director

March 11, 2024

Honorable City Council
City of Findlay, Ohio

Dear Council Members:

The City has received additional payment for the repair of a vehicle from an accident from the City's insurance company in the amount of \$1,101.24. It has been deposited in the General Fund.

An appropriation is respectfully requested as follows for the repair of the vehicle:

FROM:	General Fund (insurance proceeds)	\$1,101.24
TO:	Police Department 21012000-other	\$1,101.24

By copy of this letter, I am requesting the Director of Law prepare the necessary legislation.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rob Martin'.

Rob Martin
Service-Safety Director

cc: Donald J. Rasmussen, Director of Law
Jim Staschiak II, City Auditor
Police Chief James Mathias



CHRISTINA M. MURYN, MAYOR

ENGINEERING DEPARTMENT

JEREMY D. KALB, PE
City Engineer

Honorable City Council
Findlay, OH 45840

March 14, 2024

RE: 2024 Annual Street Resurfacing/Curb Repairs, Contract B (Asphalt)
Project No. 32840100

Dear Council Members:

By authorization of Ordinance No. 2024-009, a bid opening was held for the above-referenced projects on February 22, 2024. Bids were received from three (3) potential contractors with bid amounts ranging from \$335,223 to \$399,253.40. The lowest and best bid was received from Shelly Company-Northwest of Findlay, Ohio.

This is the asphalt portion of the annual street resurfacing program that the City bids out annually. At this time, an appropriation for construction, inspection and contingency is needed to commence the asphalt portion of the project.

By copy of this letter, the Law Director is requested to prepare the necessary legislation to appropriate and transfer funds as follows:

FROM: CIT Fund – Capital Improvements Restricted Account	\$ 516,000
TO: 2024 Annual Street Resurfacing/Curb Repairs Project No. 32840100	\$ 516,000

If you have any questions, please feel free to contact me.

Sincerely,

Jeremy Kalb, PE
City Engineer

pc: Don Rasmussen, Law Director
Jim Staschiak II, Auditor



**OFFICE OF
THE MAYOR
CHRISTINA M. MURYN**

Rob Martin BSN, MBA
Service-Safety Director

March 13, 2024

Honorable City Council
Findlay, OH 45840

RE: District 13 Integrating Committee Appointment

Dear Council Members:

This letter is to inform you that I am appointing Jeremy D. Kalb, P.E., City Engineer for the City of Findlay, to the District 13 Ohio Public Works Commission Integrating Committee. This term will expire May 1, 2027. In the event that Mr. Kalb cannot attend a scheduled meeting, I am appointing Lee Rausch, P.E., Assistant City Engineer for the City of Findlay, as alternate to the District 13 Ohio Public Works Commission Integrating Committee.

This appointment does not require confirmation of City Council, however, I trust that you will concur with my selections.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Christina M. Muryn'.

Christina M. Muryn
Mayor

pc: District 13 Integrating Committee Chairman
Jeremy Kalb, P.E., City Engineer
Lee Rausch, P.E., Assistant City Engineer
Don Rasmussen, Law Director



CITY COUNCIL

John Harrington
Council President

March 11, 2024

Honorable City Council
City of Findlay, Ohio

RE: Appointment to 9-1-1 Program Review Committee

Dear Council Members:

In accordance with ORC 128.06(A)(5), this letter serves as my request for your confirmation of Dan DeArment to serve on the 9-1-1 Program Review Committee as the representative from Findlay City Council.

This 9-1-1 Program Review Committee is required to meet at least once a year for the purposes of maintaining or amending a final plan. During the meeting, the previous year budget is also presented. This Committee is also charged with hiring a 9-1-1 coordinator should there be a need. The current 9-1-1 Coordinator is Brian Stozich.

I trust that you will concur with my choice and confirm Dan DeArment to the 9-1-1 Program Review Committee.

Sincerely,



John Harrington
City Council President

MINUTES

MEMBERS PRESENT: Brett Gies, Jody O'Brien, Stephanie Phillips, Thom Bissell, Polly Sandhu, Judy Scrimshaw, Dan Seman, Jeff Hunker, Luke Siefring, Tim Bechtol, Jerry Wolford, Christina Muryn, Dave Murphy, Christie Ranzau, Duane Boes

MEMBERS ABSENT: Ed May, Matthew Leddy, Lauren Sandhu, Jim Ferguson, Don Bledsoe, Brian Bauman

STAFF PRESENT: Matt Cordonnier

GUESTS: Brittany(?) from One Energy

CALL TO ORDER

Brett Gies called the meeting to order at 7:00 p.m.

APPROVAL OF MINUTES

Jerry Wolford made a motion to approve the January 17, 2024 minutes. Thom Bissell Seconded. Motion passed 15-0.

COMMITTEE REPORTS

Executive Committee

Matt Cordonnier reported that the Committee met last Wednesday. The main discussion was about local items. The only formal action taken was deciding to move \$50,000 to the Star Investment Account.

EXPENDITURES

Jody O'Brien directed the members to page 7 for the Huntington account. Mr. Cordonnier stated that DiSalvo Development Advisors was hired in 2019 to do a Market Analysis for the county. With new census data that was released in May, 2023 it was decided to update the study. The Community Foundation has paid for that study and it was put in our account to pay the invoices. That is why it is listed as pass through on our report. We have received the final draft and will be putting it out soon.

Ms. O'Brien then directed the board to page 12 for the county account. Mr. Cordonnier pointed out the report on the Star Account at the bottom of that page. Christie Ranzau made a motion to approve the expenses for January. Christina Muryn seconded. Motion passed 15-0-0.

Jody O'Brien then directed members to page 14 for the Budget numbers. Matt explained that this is the Expense and Revenue Report and obviously it is the beginning of the year. Our finances are in very good shape. We anticipate grant dollars to decrease greatly and

and thus our administrative revenue will decrease and our current large carryovers will sustain us through a few years.

OLD BUSINESS

None

NEW BUSINESS

COUNTY ZONING ADVISORY COMMITTEE

Washington Township Zoning Amendment regarding ponds and borrow pits.

Mr. Cordonnier explained that per ORC if a Township wishes to amend its zoning resolution, and there is a Regional Planning Commission in their jurisdiction it must be sent to that body for a review and recommendation. Our Committee met yesterday and reviewed the item and made a couple of recommended edits. The Committee voted to recommend approval. Our approval has no real bearing on their decision. They can take it or leave it.

This amendment is a result of the landfill in Seneca County that came in for a permit recently. It was for a 120 acre “pond”. The Township denied the permit on the basis that the landfill was going to construct this over an 8 year period. The Township stated that this is not a pond, but more of a quarrying situation. They would remove the dirt through the year, drive it down the road and use it in their landfill. The landfill has filed an appeal with the Township Board of Zoning Appeals.

This resulted in the Township taking a look at the language in their code which does not adequately cover such a situation and had Jacob Mercer come up with some new language to avoid such an issue in the future. The proposed language is attached to the packet. The part on a definition of a borrow pit seems to be missing and Mr. Cordonnier explained how that read. The borrow pits would be a Conditional Use in Industrial zoning.

The question was asked what zoning was on the golf course in the area. Mr. Cordonnier replied that it is agriculture. There was concern expressed that maybe the landfill could purchase that it do it’s digging there, but the zoning should preclude it there as well. Mr. Cordonnier stated that they would have to rezone it and a property owner is no “entitled” to the zoning change of their choice, so the Township would most likely deny the application.

Judy Scrimshaw made a motion to recommend approval to Washington Township of the Amendment for ponds and borrow pits. Polly Sandhu seconded. Motion passed with one abstention. 14-0-1

CITY REPORT

Mayor Christina Muryn stated that the City Capital Budget is up on their website. Strategic Planning is moving along. The I-75/ CR 99 utility work has commenced but full construction won’t start until after the eclipse in April. The City has been gearing up for that for months now. We will have a great influx of people here and are praying for good weather.

Ms. Muryn state she should have some good announcements coming soon regarding the future of the mall. Should see progress on the Lincoln School and Argyle Property soon. We hope to see some movement on the Jones Building, the Commerce building. We are moving forward with flood mitigation. We'll have a better indication in June on our FEMA Grants. If we don't get them we plan to move forward on the railroad bridge. Will definitely be looking for more grant opportunities for Phase II benching. Flood mitigation is a top priority for both the City and County. We certainly want to move forward but with cost escalations in the last couple years, we are looking for FEMA to provide some support for that. We have also been working with the OEMA .

The Mayor provided some clarification in regard to the Downtown Recreation Area. There is great range in cost of 10- 40 Million. She would equate that to building a new house. You want 1800 square feet, 5000 square feet, granite counters, laminate counters? All those things play into the final cost. The \$10 Million gets the elements in the concept drawing on the low end including construction contingencies, etc. The high dollar end is all of those elements including replacing the existing pedestrian bridge with a more iconic bridge. It can be the \$1-2 Million bridge which is more basic or the Iconic bridge at a much higher dollar amount. We have currently been working through that process. We rate certain elements, work through the dirt removal process. Ms. Muryn stated that is not her intention to build a \$40 Million park. She feels we can get something really nice and have all the elements for less than \$20 Million. We already have local donors ready to support specific elements.

Ms. Muryn stated that there has been a lot of conversation about hazardous materials in the area. She stated that we plan for this to be a key element in our community for many, many years. She made it clear that the hazardous materials that are there are not something that you are in danger is you walk out there today. There are higher levels of arsenic, mercury and a number of others that will be remediated to the highest level required for it to be a park environment. In essence you need to be able to let children go out and eat the dirt. She promises there will be a safe environment. The majority of the areas where the contaminates were found were areas where the dirt was already going to be removed. We can potentially open up some additional pots of money due to the contaminates found for Brownfield funds.

Jeff Hunker asked where the City is with the residential annexations. The Mayor stated that the surveying is being done and updating the documents to start the formal process. She thinks there were about 25 parcels and maybe 11 are City owned. She expects the annexations to get done this year.

COMMISSIONER REPORT

Tim Bechtol said the County is gearing up for the eclipse as well. The EMA and Sheriff's office would encourage you to watch from your back yard if possible because the problem won't be getting to where you want to watch, but getting back home after.

Mr. Bechtol stated that they only received one recycling bid from Rumpke. They are reviewing that through the Prosecutor's office. This would have an outside vendor gather the materials and take to an off site location. Rumpke would initially take to Lima right now

and he believes then to Columbus. They are further investigating to see if this is the best option rather than running Litter Landing.

They are anxious to spend down the remainder of their flood mitigation balance. There is enough for the benching project but they understand how the benching, the bridge and the basin are all working together as a master plan. They understand that the FEMA grant cannot be used for the bridge project and they have to shuffle the money around to the best location. The money is banked for the benching project and they would love to complete that.

Mr. Bechtol reported that the roundabout on 68/15 at the south end will be starting after the eclipse also. Mayor Muryn stated that there may be a maximum 90-day shutdown. Tim Bechtol stated that it is in the location of the historic, first of its kind, rest area that is gone, but there is a historic marker there.

Due to the good weather, the Justice Center construction is moving along. Brick has started on the west side and the interior is underway.

The State of the County address will be the first week of April on Thursday.

Christie Ranzau asked if the commissioners are doing anything about parking downtown. She said that ever since the parking lot has gone away there have been major issues for businesses, etc. All of the people that are supposed to be parking other places are not and are taking other public parking. They don't want to walk. She asked if there is actually something being planned. She has seen the blueprints and knows there are very few parking spots on site for the Probate building. They won't even handle the visitors coming there. Mr. Bechtol replied that they are working on a plan, but nothing is finalized yet.

Jeff Hunker stated that when there is limited space you can only go up. He asked if they have funding for a private parking garage. Mayor Muryn replied that in 2022 before the construction started, they had some plans for a 3 story garage on the Municipal building parking lot area. She proposed either jointly funding that with the County or the alternative that the City did it with the County leasing spots and some paid parking for over 2 hours. There were a few options. It is an important topic to address.

Jeff Hunker asked about the condition of the parking garage on Crawford Street. The Mayor replied that it is privately owned and not in the best condition. It is all leased out however. If the Argyle property goes forward it will have limited parking space. The Lincoln property will have more. There are going to be renovations to the Commerce Building and there is talk about the Jones Building having some revitalization. She said we can't count on the Performing Arts Center forever. Mr. Bechtol stated that the MCPA lot is another area that could be a potential site for a parking garage. It all takes money.

LIBERTY TOWNSHIP

Jeff Hunker stated that the Trustees are grateful for the mild winter. They didn't have to use much salt or listen to people complain about hitting their mailboxes. They are working with the City on the sewer system in Springlake area.

CASS TOWNSHIP

Jerry Wolford stated that he hasn't heard anything about the solar panels lately.

LIBERTY BENTON SCHOOLS

Luke Siefring reported that the demolition of the old school has started. They think the building will be down by the end of March. There will be sitework to do and return it to grass. They are exploring their options as far as selling, etc. They do need the site for the busses until the new garage goes up south of the school. The Junior High football will still be played here next fall. He projects that they will be using the site at least till about this time next year.

Jeff Hunker asked if they are getting much salvage out of there. Luke replied that yes they are picking through for reclaimable items. Once they get to the original 1921 portion they will separate out bricks. Many people are interested in having those.

DIRECTOR REPORT

Matt Cordonnier reported that we submitted a Transportation Alternative Plan (TAP) application for sidewalks in Van Buren. It is throughout the Village, but mostly with getting kids to and from school and residents around town. They are also submitting a Safe Routes to Schools grant. Ed May has harassed enough elected State officials to the point that they will give the Village the money and move on.

Construction has started on the McComb Day Care that we got a grant for. Our office helps submit the FEMA application that the Mayor and Commissioner talked about. Steve Wilson provided a lot of the information for that.

We are getting geared up to apply for the next CHIP program. That is a housing improvement that goes through the County. We administer that in coordination with Great Lakes CAC.

Brownfield applications will be due in April. We're anticipating that the benching area clean up will probably take up most of the \$1 Million allocated to the County.

The City Revolving Loan Fund has an application for Beckett's Burger Bar out of Bowling Green. They will be moving into the Fin's restaurant building on Broad Avenue. This is the first loan they have had since Covid. There were a lot of small loans through Covid Relief funds, but nothing from this pot in a long time. It is the first true gap financing loan we have had since Covid.

Nothing too exciting for next City Planning Commission meeting other than a condominium plan that came back. It will be somewhat tricky since it is an unzoned township and they will have 100 units only having one way in an out through the subdivision to the west. The decision will be whether to give them city utilities or not. Mayor Muryn replied that when they came in the first time they were denied because the City wanted them to have another access. The City was told that since the road is in the county they cannot make such a requirement. They could either tell them to annex to hold them accountable on the

HRPC Minutes
3rd Floor Conference Rm
February 21, 2024

design or if they won't do that, deny utilities.

ADJOURNMENT

There being no further business, the meeting was adjourned.



**OFFICE OF
THE MAYOR**
CHRISTINA M. MURYN

Rob Martin, BSN, MBA
Service-Safety Director

March 14, 2024

Honorable City Council
City of Findlay, Ohio

Dear Honorable Council Members:

In the Fall of 2023 the City Administration launched an organization-wide Employee Satisfaction Survey. As in years past, this survey provides employees the opportunity to weigh in on areas such as employee engagement, communication, leadership/management, strategic planning, work culture, benefits/compensation and information technology.

Organizational Responsiveness to surveys can lead to higher retention rates, lower absenteeism, improved productivity, better customer service and higher morale. The goal is to seek out feedback from employees so that we can continually grow as an organization and better serve the community.

Attached to this letter are the areas receiving the highest (top) and lowest (bottom) ratings on the Employee Satisfaction Survey. Throughout the years, employees have rated their understanding of the City's (organization-wide) strategic plan lower than other sections of the survey. The administration, along with department heads and supervisors, will continue to provide information and education in this area. It is also introduced to new hires as part of the onboarding process.

As a result of the 2022 survey results and the City's Strategic Plan, an Employee Retention Group was formed in order to discuss these items with representatives from each City department on a quarterly basis.

Please feel free to reach out to the administration if you have any questions.

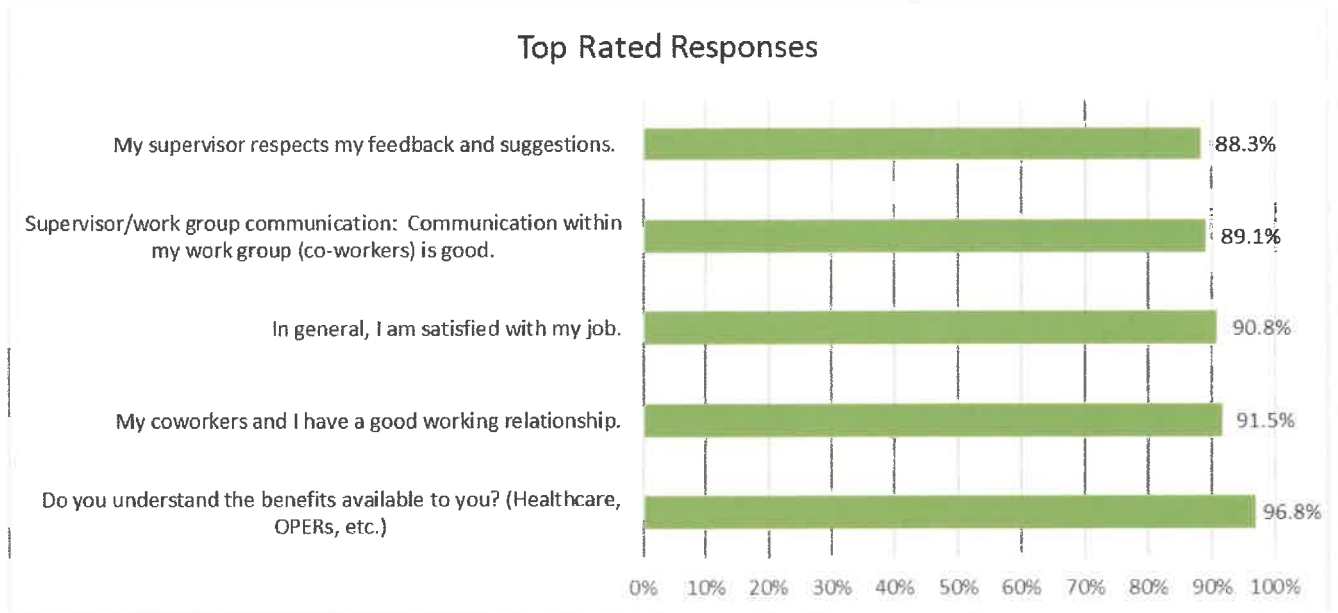
Sincerely,

A handwritten signature in black ink that reads 'Donald E.' followed by a long horizontal flourish.

Don Essex
Human Resources Director

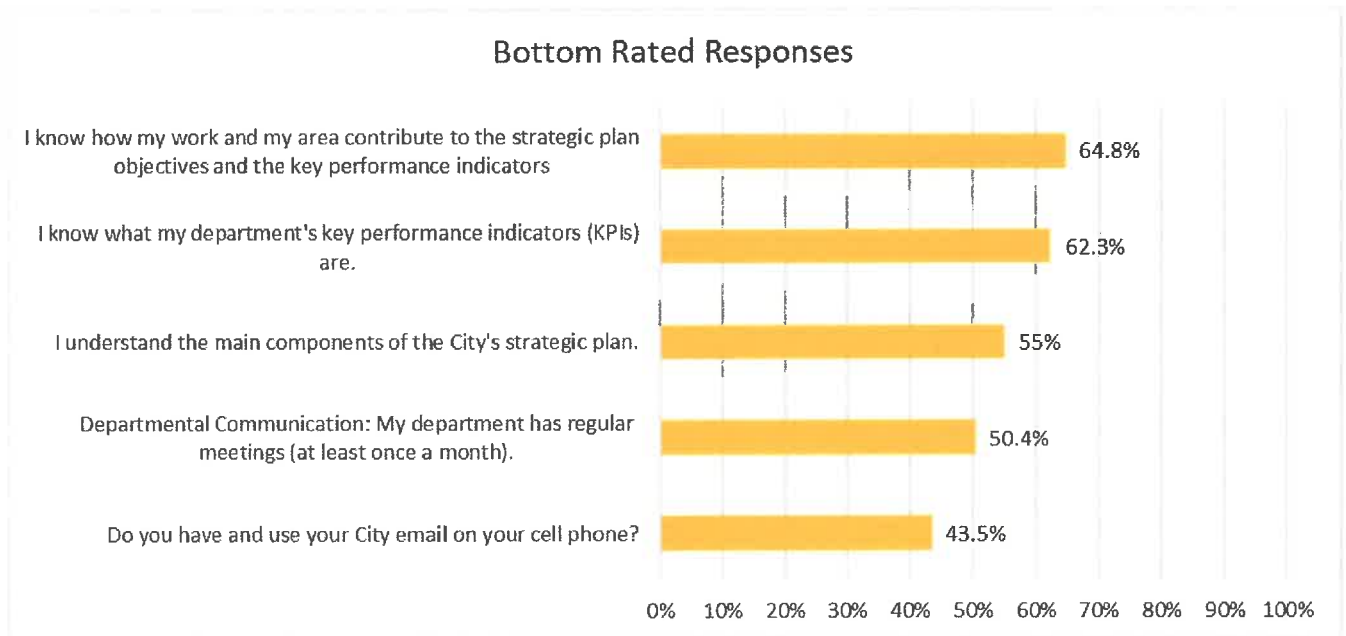
Top Rated Responses

Percentages are based on Yes/No question responses.



Bottom Rated Responses

Percentages are based on Yes/No question responses.



Board of Zoning Appeals

February 08, 2024

Members present: Phil Rooney, Chairman; Blaine Wells; Scott Brecheisen; and Brody Yingling.

Mr. Rooney called the meeting to order at 6:00 p.m. and the general rules were reviewed.

The following was introduced by Mr. Erik Adkins:

Case Number: BZA-01-2024-64559

Address: 2311 Bank Street

Zone: I-1 Light Industrial

Filed by Mark Bassitt, regarding a variance from section 1141.04(A) of the City of Findlay Zoning Ordinance for a new building at 2311 Bank Street. The applicant is proposing to build a new building 25-feet from the front yard property line. This section requires a 50-foot setback from the front property line.

The applicant is looking to construct a new building on his lot in the near future. The request is to allow for relief of a paved driveway to the Bank Street right-of-way. The existing building on the site does sit close to the required setback of 50-feet, so the proposed building will have a building line in front of the existing building and behind the building to the neighboring property to the north.

This proposal will still need to go through the City Planning Commission for approvals.

The city will not oppose the board's decision.

Mr. Adkins stated he believed, per past conversations, the idea is to split the lot off once the building is completed.

Mr. Rooney asked if the existing building already has a variance, because it looks to close already?

Mr. Adkins stated when that addition was built, in 2017 or 2018, City Planning was able to extend a non-conformity.

Mr. Mark Bassitt, 2311 Bank Street, was sworn in. He stated they previously added an addition to the existing building that City Planning Committee approved, as it was in line with the existing building. The proposed building will be for storage and they do not need a long driveway. The house to the North of their property is approximately 20-feet closer to the road than their building is; and the right-of-way makes a big jog when it gets to his property. He stated there is not a lot in that neighborhood. They want to have the new building closer to the road than the existing building is.

Mr. Denny Laube, 2311 Bank Street, was sworn in. He stated the setback would not be an issue if the right-of-way did not take a jog back.

Mr. Wells asked for confirmation that they don't need to worry about the 30-foot setback on the South side because they are purchasing the property to the South and combining them?

Mr. Bassitt stated they are purchasing 60-feet of the property to the South (from Hancor) and are combining that with their parcel, so the South setback will not be an issue.

Mr. Laube stated they will not have to build in the wooded area. He stated, down the road, if they want to split that building off, they can.

Mr. Rooney asked if there are any communications on this case.

Mr. Adkins stated there are no communications on this case.

Mr. Wells made a motion to approve the requested variance contingent on City Planning Commission approval and the required permits be obtained within 60 days after City Planning Commission approval.

Mr. Yingling seconded the motion.

Motion to approve the requested variance contingent on City Planning Commission approval and the required permits be obtained within 60 days after City Planning Commission approval, 4-0.

The December 14, 2023 meeting minutes were approved.

Mr. Adkins stated that some terms were up, and Mr. Kerry Trombley left, so the Vice-Chairman and secretary positions need filled.

Nominations were held resulting in:

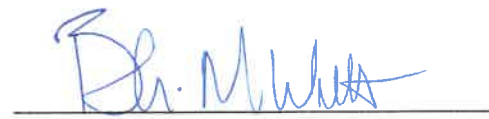
Mr. Blaine Wells is Secretary; and

Mr. Scott Brecheisen is Vice-Chairman.

The meeting was adjourned.



Chairman



Secretary

Committee Members:

- Josh Palmer, 7th Ward, Chair
- Dan DeArment, Ward 4
- Dennis Hellmann, Ward 2
-
-

Meeting Start Time: 4:08Meeting End Time: 4:45**Staff:**

- Don Rasmussen
- Rob Feighner
-
-

Guests: Many citizens**Agenda:****Call to Order****Roll Call****New Items**

Review 2024-2025 Council Rules of Procedure

Adjournment

Ad Hoc Committee Chair

COMMITTEE REPORT

THE CITY COUNCIL OF THE CITY OF FINDLAY, OHIO

An **AD HOC COMMITTEE** met on March 13, 2024 to review the 2024-2025 Council Rules of Procedure.

We recommend

Continued discussion on Rules of Procedure changes at the next Ad-Hoc Committee meeting on 26 March 2024 @ 4 pm.

Aye Nay Josh Palmer
Josh Palmer, Chair

Aye Nay Dan DeArment
Dan DeArment

Aye Nay Dennis Hellmann
Dennis Hellmann

AD-HOC COMMITTEE

LEGISLATION: _____

DATED: March 13, 2024

**COUNCIL OF THE CITY OF FINDLAY, OHIO
RULES OF PROCEDURE 2024-2025**

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COUNCIL OF THE CITY OF FINDLAY, OHIO

RULES OF PROCEDURE 2020-2021

The following rules and regulations are hereby adopted by the Council of the City of Findlay, Ohio, as the rules and procedure governing the conduct and business of said legislative body. They shall be in full force and effect from and after February 21, 2023, subject, however, to amendment or repeal in whole or in part, at any time, by the Council of the City of Findlay, in accordance with the rules and regulations hereinafter set forth governing the amendment or repeal of these rules and procedure.

SECTION I. GENERAL PROVISIONS

A. DEFINITIONS

The following definitions are relevant throughout this document:

1. Majority – six or more members of council
2. Presiding Officer – the President of Council or the person filling that role at meetings where the President of Council is unable to preside
3. Quorum – six or more members of council
4. Speaker – any elected official, member of the administration or staff member who, upon recognition by the Presiding Officer, shall be entitled to participate in a discussion of an issue before council
5. Three-fourths Majority – eight or more members of council
6. Two-thirds Majority – seven or more members of council

B. LEGISLATION

Legislation from council must be requested by at least two councilmembers. Requests for appropriations that require legislation for money already budgeted may be requested by the administration.

All routine requests for legislation proposed for the consideration of council shall be in the hands of the Director of Law by noon on the Wednesday preceding the meeting at which it is to be considered. Proposed legislation must accompany the agenda of legislation.

No proposed legislation regarding zoning issues shall be presented to council unless they have gone through City Planning Commission and the Planning and Zoning Committee.

C. REPORTS

All reports and written communications from the public, Administration officials, department heads and employees shall be delivered to the Council Office by noon on the ~~Friday~~ Wednesday (Denise request) preceding each regular meeting.

D. REPRESENTING FINDLAY CITY COUNCIL

1. An Official City Council Position Requires a Public Vote

Council does not have an official position on any issue, whether the issue is political or non-political in nature, unless council has taken a public vote and a Majority votes to adopt the position. Failure of a Majority of council to vote in favor of a position shall not constitute adoption of a contrary position; in such cases council shall continue to have no official position on the issue.

2. Speaking On Behalf of the Council

If a councilmember appears on behalf of the whole Council for the purpose of commenting on an issue, the councilmember must state the official position of the council on such issue.

3. Personal Opinions Must Be Distinguished from Council Positions

Whenever a councilmember is speaking to a person or group of persons and expresses an opinion on an issue, whether the issue is political or non-political, the councilmember must clearly state whether the opinion represents the official position of the City of Findlay and/or its City Council, or whether it is only the councilmember's personal opinion.

E. GOVERNING LAWS

Should any of these Rules of Procedure or portions thereof conflict with the law of the State of Ohio or of the United States of America, such law shall govern the conduct of council.

F. DISCIPLINARY ACTION

Council may punish or expel any member from committee assignment, without chair approval, or from current proceedings for disorderly conduct or for violation of its rules. A vote of Two-thirds Majority of council will expel a member from current proceedings, but only after notice of the charge on which the motion for expulsion is based and an opportunity for the member to be heard.

G. SALARY ORDINANCE

Salary consideration for elected officials must be passed and approved by December 31 of the year prior to commencement of the elected officials' term.

SECTION II. COUNCIL MEETINGS

A. REGULAR MEETINGS

1. Schedule

Regular meetings will be held on the first and third Tuesday of each month beginning at 6 p.m.

2. Holidays & Election Days

Should a Regular meeting fall on a legal holiday or the day of an election, the meeting shall be rescheduled to the next business day that is not a legal holiday or an election day.

3. Cancellation

In case of inclement weather or other emergency, the President of Council, or in absence of the President of Council any two members of council, may cancel a Regular meeting. The meeting shall be rescheduled to the next business day after the inclement weather or emergency has passed.

Notice of the cancellation shall be given immediately to each councilmember by email and to the public.

4. Location

Regular meetings shall be held in the Chambers of the Council of the City of Findlay (hereinafter referred to as "Council Chambers") located in the Municipal Building, 318 Dorney Plaza, Findlay, Ohio.

Regular meetings may be held in any other public place within the confines of the City of Findlay, provided that 24-hour public notice be given prior to meeting.

B. SPECIAL MEETINGS

A Special Meeting may be called at any time by the Mayor or any three members of council.

Special Meetings shall be held in Council Chambers or in any other public place within the confines of the City of Findlay.

Notice shall be given to each councilmember, served personally; left at the member's residence or usual place of business; or by email with receipt verification received by the sender at least 24-hours prior to the time of such meeting.

24-hour public notice shall be given prior to the time of such meeting.

C. EXECUTIVE SESSIONS

Executive sessions may only be called when confidential matters need to be considered in accordance with Ohio Revised Code 121.22.

D. QUORUM

No business shall be conducted at any meeting of council unless a Majority of the councilmembers shall be present.

E. ATTENDANCE

Councilmembers shall inform the President of Council in advance if the councilmember will be unable to attend, or will be late to attend, any council meeting. The President of Council shall then announce, during roll call, that the councilmember will be absent or late and shall be noted in the minutes as such. Absence at a scheduled council meeting due to sudden illness or emergency shall be noted in the minutes as such. Any absence requires a majority vote of council members present to be considered an excused absence.

The Mayor, Director of Law, City Auditor, City Treasurer, Safety Director, Service Director and City Engineer are requested to attend the regular meetings of council and to answer questions relating to the affairs of the city under their respective supervision and control.

In the event of a public health emergency declared by either the State or County Health Department, all who attend a Findlay City Council meeting or committee meeting are required to adhere to all guidelines prescribed by the State or County Health Departments upon a majority vote of Council.

F. ADJOURNMENT OF MEETING

Councilmembers may adjourn a meeting to another designated time and/or public place.

G. AGENDA OF LEGISLATION

The Director of Law shall prepare a detailed agenda of legislation to be considered by council at each meeting. Such agenda shall be available to each councilmember and available to the public by 5 p.m. on the Friday preceding each Regular meeting.

Such agenda shall be available to each councilmember and the public at least 24-hours prior to a Special meeting.

No legislation, reports, or other communications shall be added to the Agenda unless council, upon majority vote of councilmembers present, determines that it is immediately necessary to insure the continued operation of essential City services.

H. ORDER OF BUSINESS

The order of business at all regular council meetings is:

1. Call to Order
2. Roll Call
 - a. Acceptance of excused absences

3. Pledge to the Flag and moments of meditation

The Presiding Officer shall be authorized to invite members of the Clergy and the community to open the meeting with a prayer, not to exceed two minutes in length.

4. Approval of Minutes

5. Additions to the Agenda

6. Resolutions of Commendation

Retirement or special recognition resolutions may be voted on by Council and presented if the recipient is present.

7. Public Communications

a. Written communications

b. ~~Oral communications~~

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8. Reports of Municipal Officers and Departments

9. Committee Reports

10. Agenda of Legislation

a. Resolutions

b. Ordinances

11. Unfinished Business

12. New Business

12-13. ~~Public oral communications non-specific to an agenda item~~

13-14. Adjournment

I. PUBLIC COMMUNICATIONS

1. Written Communications

All letters addressed to and received by Findlay City Council will be on display to the public during regular council office hours. In all cases, letters that do not have a proper name, address, and signature of the sender will not be considered as sent to council.

Incorrect, incomplete or unsigned petitions and other communications to council shall be returned by the Clerk of Council to the petitioner or communicator, accompanied by an explanation as to why they are found to be improper and will not be presented to council until in proper order.

Only those letters making a specific request for service or letter that should be referred to a committee of council will be placed on the agenda.

2. Oral Communications

Speakers from the gallery can speak to a specific item on the agenda or a non-agenda item. Speakers addressing a specific item will be called upon by the presiding officer during the discussion of that agenda item. Speakers addressing non-agenda items will be called upon by the presiding officer to speak after new business.

Speakers from the gallery shall be required to fill out a form giving the speaker's name, address and the ~~subject~~ specific agenda item addressed by his or her presentation. The speaker can specify on the form that they will be presenting on a non-agenda item. The form must be presented to the Presiding Officer prior to the start of the meeting. The form becomes part of the official record of the meeting. Council will not entertain incomplete speaker forms.

Oral comment from the gallery shall be limited to four minutes per person. No more than three speakers shall speak to each side of a specific question or issue before council. Time shall not be transferred from one speaker to another. When speaking on a specific agenda item, the speaker shall stay on topic without straying to other subjects. Each speaker can only present once per meeting.

3. Promoting Political Candidates is Prohibited

No person may address the council for the purpose of assisting a campaign for election of a person to any office.

4. Advertising is Prohibited

No person may address the council for the purpose of advertising any item, service, or product for profit or otherwise.

5. Other Prohibited Remarks

Any person who causes actual disruption by making personal attacks, slanderous remarks or other disruptive conduct while addressing the council shall be barred from further participation in the meeting by the Presiding Officer, unless permission to continue is granted by a majority vote of councilmembers present.

6. Signs and Banners Prohibited

Signs and banners are not permitted in Council Chambers. This prohibition does not apply to charts, diagrams, enlarged photographs or other demonstrative exhibits or visual media utilized by a speaker in presenting testimony to Council.

7. No citizen or interested party will be refused the right to address council, within the limits described above.

8. Any variance or waiver of these rules shall be by a majority vote of councilmembers present.

J. DEBATE

1. Right to Participate

All elected officials, the President of Council excepted, members of the administration and staff members shall be entitled to take part in the discussion of all issues before the council.

2. Right to Question

All elected officials, the President of Council excepted, shall have the right to question any individual, including any elected official, administration or staff member present, or public persons in attendance, on matters as long as the questioning adheres to the rules and procedures hereto and are germane to the issue before the Council for discussion.

3. Request to Speak

A Speaker must request the right to speak by addressing the Presiding Officer. Upon being recognized, the Speaker may proceed. A Speaker may request the right to speak a subsequent time only after all others present, with a right to participate, have been given the opportunity to speak.

4. Limitations of Speakers

Speakers shall confine their remarks to matters currently under discussion.

No Speaker may filibuster. No Speaker shall speak for more than five minutes on any question, except by leave of the Presiding Officer or by a majority vote of councilmembers present.

Under no circumstances shall a Speaker's questioning be conducted in a manner that would constitute a cross-examination of or an attempt to ridicule or degrade the individual being questioned.

No one shall interrupt or argue with any Speaker who has the floor, other than the Presiding Officer in order to preserve order during meetings.

5. Courtesy

In the discussion, comments, or debate of any matter or issue, all Speakers shall be courteous in their language and deportment, and shall not discuss or comment on personalities, or indulge in derogatory remarks or make insinuations about any other elected official, or any member of the staff or the public.

6. Violations

If a Speaker violates these rules on debates, the Presiding Officer shall call such Speaker to order, and the offending Speaker shall be silent except to explain or continue in order. If the Presiding Officer violates these rules on debate or fails to call a Speaker to order, any other councilmember may, under a point of order, call the Presiding Officer or such other offending Speaker to order, and the person being called to order shall be silent except to explain or continue in order.

7. Any councilmember shall have the right to challenge any action or ruling of the Presiding Officer or another councilmember, as the case may be, in which case the decision of the majority of the councilmembers present shall govern.

K. LIMITATIONS ON POLITICAL SPEECH

Except where the Council is properly considering a motion regarding whether the City shall take an official position on a political issue, no Speaker shall use a Council meeting as an occasion to express an opinion in support of or in opposition to a candidate for public office or a ballot measure.

L. MAJORITY REQUIREMENTS FOR COUNCIL ACTION

All actions of council shall be by a Majority vote of those elected or appointed thereto, except emergency legislation, which shall require Three-fourths Majority vote of council to suspend the Statutory Rules and Two-thirds Majority vote of council to enact said emergency legislation. Also, any other affirmative requirement dictated by the laws of Ohio, or by financial procedure, or in order to secure public funding shall be adhered to, even though in conflict with these requirements for council action.

M. VOTING

1. Vote by Rotation

Every vote will be by rotation so that one councilmember will not always vote first.

2. Motion to Suspend Reading

A motion to suspend the Statutory Rules in order to give legislation its second and/or third reading shall require Three-fourths Majority vote in order to prevail.

3. Motion for Reconsideration

Any member who was absent or voted with the prevailing side may move a reconsideration of any action of council, excepting measures which shall be in immediate effect.

Such a Motion for Reconsideration shall be made not later than the next regular meeting after the action to which it relates was taken.

No Motion for Reconsideration shall be made more than once on any measure.

A Motion for Reconsideration shall require a Majority vote of council in order to prevail.

4. Breaking Tie Votes

The President of Council shall break a tie vote of all council members. A tie vote by less than all council members shall not be broken.

5. Abstentions

A councilmember may abstain from discussion and voting on a question because of a stated conflict of interest. Notice of intent to abstain shall be given prior to any discussion or participation on the subject matter or as soon thereafter as the councilmember perceives a need to abstain, after which the affected councilmember shall remove himself or herself from the council's deliberations

and considerations of the matter and shall have no further participation in the matter.

Prior to the time that a council member gives notice of intent to abstain, the affected councilmember may confer with the Director of Law to determine if abstention is truly required. If the intended abstention can be anticipated in advance, the conference with the Director of Law should occur prior to the meeting at which the subject matter is scheduled to come before the council. If that cannot be done, the affected councilmember should advise the Presiding Officer that he or she has an "abstention question" that he or she wants to review with the Director of Law. A brief recess should then be taken for that purpose.

N. WRITTEN CORRESPONDENCE

For all written correspondence the Clerk of Council will read the author(s) name and title, date of the correspondence, and a summary of its content aloud during the appropriate portion of the council meeting. A specific correspondence shall be read aloud in its entirety upon request of a councilmember, member of the administration, Director of Law, City Auditor or City Treasurer and upon approval of a majority of councilmembers present.

O. MINUTES

The Clerk of Council shall deliver by email, or otherwise make available minutes of each Regular and Special meeting to or for each elected official as soon as approved by the President of Council, or in the absence of the President of Council, President Pro-Tem not more than seven days after such meeting. (Denise request)

Consider alternative language:

The Clerk of Council shall make best effort to deliver by email, or otherwise make minutes of each Regular and Special Meeting to or for each elected official by the next regularly scheduled Council Meeting.

P. RULES OF ORDER

Council hereby adopts Robert's Rules of Order, the latest edition, to govern the conduct of business at all meetings of council insofar as said rules are not in conflict with these Rules of Procedure and Ohio statutes.

SECTION III. PRESIDENT OF COUNCIL

- A. The President of Council shall preside at all regular and special meetings of council but shall have no vote therein except in the case of a tie.
- B. The President of Council shall be the Acting Mayor when the Mayor is absent or unable to perform his or her duties but shall not serve as President while acting as Mayor. While acting as Mayor, the President of Council shall retain the right to vote on matters before the council as the person would otherwise have as President of Council.
- C. The President of Council shall refer matters requiring study by committee to the proper committee(s). Council, by a majority vote of members present, can refer matters to a standing committee.
- D. The President of Council is separately elected official and being part of the Executive Branch of City Government shall not enter into debate on any question before council, in accordance with Robert's Rule of Order.
- E. The President of Council shall appoint one councilmember to the Tax Incentive Review Council per ORC 5709.85.

SECTION IV. OFFICERS OF COUNCIL

A. PRESIDENT PRO TEMPORE

A councilmember shall be elected President Pro Tempore within the first ten (10) days of the term of council. The President Pro Tempore shall:

1. Preside at all regular and special meetings where the President of Council is unable to preside. While acting as the Presiding Officer, the President Pro Tempore shall retain the right to debate and vote on matters before the council as the person would otherwise have as a councilmember.
2. The President Pro Tempore shall appoint members to all ad hoc committees as may be created.
 - a. Confirmation for the creation of an ad hoc committee, and membership thereof, is required by a Majority of council.
3. The President Pro Tempore will appoint a representative for contract negotiations for police and fire as needed.

B. CLERK OF COUNCIL

Within 10 days from the commencement of their term, the members of council shall elect a Clerk of Council who shall serve for two years unless sooner removed.

In the absence of the President and the President Pro Tempore, the Clerk shall call the meeting of council to order and call the roll. If a Quorum is present, the council shall appoint one of its members President Pro Tempore, who shall act as the Presiding Officer for the meeting proceed with the Order of Business.

C. PARLIAMENTARIAN

The Director of Law shall act as the Parliamentarian of Council. In absence of the Director of Law, an Assistant Director of Law shall act as the Parliamentarian of Council.

SECTION V. COMMITTEES

A. RULES/ORGANIZATION

A committee comprised of at least three members of council appointed by the President Pro Tempore, shall submit proposed committee assignments and committee chairs to council before the start of each two-year term. Confirmation of these recommendations is required by a Majority of council during the first meeting of its two-year term.

B. STANDING COMMITTEES

The following committees shall be standing committees:

1. Appropriations
 - a. The Appropriations Committee shall have five members.
2. Planning and Zoning
 - a. The Planning & Zoning Committee shall have five members.
3. Strategic Planning Committee
 - a. Council shall have five representatives on this committee selected as follows:
 - i. One Council representative from each of the following Standing Committees:
 1. Appropriations
 2. Planning and Zoning
 3. Streets, Sidewalks and Parking
 4. Water and Sewer
 - ii. One representative, appointed as chair of the Strategic Planning Committee
4. Streets, Sidewalks and Parking
 - a. The Streets, Sidewalks and Parking Committee shall have three members.
5. Water and Sewer
 - a. The Water and Sewer Committee shall have five members.

All committee meetings shall be open to the public.

The committees of council shall expeditiously investigate and dispose of all matters coming within the area of their committee responsibility and all matters referred to the committee. A written report of their dispositions shall be submitted. All committee recommendations should be written during the meeting when possible. Voting to accept the committee report is a vote accepting the recommendation as written.

C. COUNCIL REPRESENTATIVES

Council shall have a representative or representatives appointed to each of the following boards/commissions/committees:

1. Airport Advisory Board
2. The Alliance Board
3. Blanchard River Watershed Partnership
4. Downtown Findlay Improvements District
5. Energy Special Improvement District Board of Directors
6. Hancock Regional Planning Commission
 - a. The Chair of the Planning & Zoning Committee should be appointed as council's representative to this commission.
7. Income Tax Board
 - a. The Chair of the Appropriations Committee shall be appointed as council's representative on this board.
8. Parks and Recreation Board
 - a. Council shall have two representatives on this board.
9. Re-investment Area Housing Council & Revolving Loan Fund
10. Shade Tree Commission
11. Street Designation Committee
 - a. The Chair of the Streets & Sidewalks Committee shall be appointed as one member of the Street Designation Committee per Codified Ordinances of the City of Findlay, Ohio 509.01(d).
12. Tax Incentive Review Council
 - a. The President of Council shall appoint the council's representative on this council per ORC 5709.85.
 - b. The Chair of the Appropriations Committee is recommended to be appointed as council's representative on this board.
13. Traffic Commission
14. Utility Termination Board of Appeals

D. COMMITTEES OF THE WHOLE

A Committee of the Whole may be called by a Majority of councilmembers to discuss an issue(s) which is deemed to be of such importance so as to involve the entire council.

All Committee of the Whole meetings shall be open to the public.

E. AD HOC COMMITTEES

Ad Hoc Committees may be created at the request of a Majority of councilmembers.

1. No ad hoc committee shall have a number of members equal to or greater than the Majority of councilmembers.
2. The President Pro Tempore shall appoint members to all ad hoc committees.
 - a. Confirmation for the creation of an ad hoc committee, and membership thereof, is required by a Majority of council.
3. All ad hoc committee meetings shall be open to the public.
4. An ad hoc committee shall expire with the council that created it.

SECTION VI. ADOPTION

The above Rules of Procedure are hereby adopted and shall be in full force and effect as of the time of their adoption.

Adopted by Council January 2, 2024

Drake v. Stenehjem

United States District Court for the District of North Dakota

September 15, 2023, Decided; September 15, 2023, Filed

Case No.: 1:20-cv-00231

Reporter

2023 U.S. Dist. LEXIS 164701 *; 2023 WL 6049251

Robert Drake, Plaintiff, vs. Wayne Stenehjem, Attorney General of the State of North Dakota, in his official capacity, City of Valley City, North Dakota; Dave Carlsrud, President, in his official capacity; Duane Magnuson, Michael Bishop, Jeffery Erickson, and Dick Gulmon, Commissioners, in their official capacities, Defendants.

Prior History: *Drake v. Stenehjem*, 2021 U.S. Dist. LEXIS 242616 (D.N.D., July 30, 2021)

Core Terms

city commission, rights, official capacity, meetings, summary judgment, agenda, custom, open meeting, city employee, public forum, alleges, manner restriction, public meeting, restrictions, limitations, council meeting, indifference, deliberate, speaking, asserts, member of the public, individual capacity, due process right, content neutral, personal attack, reasonable time, agenda item, non-movant, regulation, regular

Counsel: [*1] For Robert Drake, Plaintiff: Lynn M. Boughey, LEAD ATTORNEY, Boughey Law Firm, Mandan, ND.

For City of Valley City, North Dakota, Dave Carlsrud, President, in his official capacity, Duane Magnuson, Commissioner, in his official capacity, Michael Bishop, Commissioner, in his official capacity, Jeffery Erickson, Commissioner, in his official capacity, Dick Gulmon, Commissioner, in his official capacity, Defendants: Daniel L. Gaustad, Joseph E. Quinn, Pearson Christensen, PLLP, Grand Forks, ND; Ella Braaten, Pearson Christensen, PLLP, North Dakota, Grand Forks, ND.

Judges: Daniel M. Traynor, United States District Judge.

Opinion by: Daniel M. Traynor

Opinion

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT

[¶ 1] THIS MATTER comes before this Court upon Defendants City of Valley City, North Dakota ("City"); Dave Carlsrud, President, in his official capacity; Duane Magnuson, Michael Bishop, Jeffery Erickson, and Dick Gulmon, in their official capacities (collectively with the City, "City Defendants") Motion for Summary Judgment filed on July 12, 2022. Doc. No. 31. Plaintiff Robert Drake ("Drake") filed a Response on September 8, 2022. Doc. No. 43. The City [*2] Defendants filed a Reply on September 29, 2022. Doc. No. 47.

[¶ 2] Also before the Court is Drake's Cross Motion for Summary Judgment filed on October 28, 2022. Doc. No. 48. The City Defendants filed a Response on November 18, 2022. Doc. No. 50. Drake declined to submit a Reply.

[¶ 3] For the reasons set forth below, the City Defendants' Motion for Summary Judgment is **GRANTED** and Drake's Cross-Motion for Summary Judgment is **DENIED**.

BACKGROUND

[¶ 4] This is the case of a disgruntled man who was frustrated he was not permitted to make every single point he wanted to the Valley City Commission. Drake alleges the City violated his and Lloyd Nelson's ("Nelson") First Amendment rights to speak at City Commission meetings. See Doc. No. 1. For years, Drake attended City Commission meetings on several occasions to ask questions, make statements

concerning the City's budget, employees, projects, and legislative items. Id. at ¶ 24. On occasion, Drake and Nelson were asked not to speak, not to question the committee, or asked to leave the podium at City Commission meetings. See id.

¶ 5] The City implemented a policy to regulate the public's participation in City Commission meetings, which was based on the North Dakota [*3] Attorney General's Open Meeting Manual ("OMM"). Doc. Nos. 33, ¶ 6, 33-1, p. 67. This Court has already concluded the OMM is an "interpretation of case law, state statutes, past Attorney General opinions, and administrative rules regarding open records and meetings." Doc. No. 23, ¶ 6. The Attorney General's OMM indicates, "[t]he purpose of the open meetings law is to give members of the public access to the meetings of a governing board of a public entity but that access does not give members of the public the right to participate or speak at the public meeting." North Dakota Office of Attorney General, Open Meetings Manual, p. 12, found at <https://attorneygeneral.nd.gov/sites/ag/files/documents/OpenMeetingsManual.pdf>; see also Doc. No. 33, p. 2 (noting the OMM is available for review at the web address); Doc. No. 33-1, p. 67 (memo from City Attorney Marl Martineck to Mayor Dave Carlrud explaining the OMM and quoting the same); Doc. No. 34.

¶ 6] The Public Comment section of the City Commission agenda provides guidance based upon the OMM:

Attorney General's "A Citizen's Guide to North Dakota Open Records & Open Meetings Laws" "A member of the public does not have the right to speak [*4] to the governing body at an open meeting. The public is only entitled to see and hear what happens at a meeting, and to record or broadcast those observations.

- No personal attacks to persons present or not
- No inflammatory language used during time that you have the platform
- 5 minute maximum or as directed by the chair
- Thank you for participating in City Government.

Doc. No. 33, p. 2. On May 19, 2008, the City adopted the Attorney General's OMM in their Rules of Order and Decorum Applicable to Speaking at Regular Open Meetings of the Valley City Commission, adopting the following policy:

1. No longer than five minutes will be allowed for the presentation of any agenda item to the Commission by an individual other than a City official or employee, unless additional time is given by the presiding officer or by a majority vote of the City Commission. The comments will be relevant to and focused upon the agenda item.

2. General public participation and comment apart from agenda items will be scheduled for all regular open meetings. A five minute time limit will also apply to such participation and comment. Those wishing to speak must place their name and the subject to be addressed on [*5] a sign in sheet prior to the meeting. The presiding officer will allow comment if the subject matter is considered relevant to current city business.

Doc. No. 33, pp. 2-3 (this policy can be viewed at <https://www.valleycity.us/commission>).

¶ 7] Disruptive individuals or those who violate the City Commission's policies, rules, or procedures will be informed they may be subject to removal from the meeting if they continue to be disruptive or violate the rules. Id. at p. 3. The City commission has taken certain actions to enforce its authority under its policies:

- The City Commission sets the agenda for the City Commission Meeting. All Agenda items to be discussed at a regular City Commission Meeting shall be submitted to the office of the City Auditor of the City of Valley City by 5:00 PM on the Wednesday prior to that City Commission meeting.
- Informed the general public that open meetings law do not give members of the public the right to participate or speak at the public meeting but the individual could speak with Commissioners or City staff following the meeting.
- The City Commission, to assess whether proffered questions are relevant to the agenda, may require preapproval of questions [*6] or for questions to be submitted in writing prior to a City Commission meeting.
- When the City Commission permits the general public to speak, the City Commission limits the comments to items and topics relevant to the items on the agenda.

Id.

¶ 8] On June 21, 2019, the City Attorney issued a letter

to City officials explaining the City's purpose behind its open meeting policy allowing public access to City commission meetings. Id. at pp. 3-4. He indicated existing law does not give citizens a right to speak at a public meeting. Doc. No. 33-1, p. 67. In his letter, the City Attorney stated it is City policy to provide time for public comment subject to the limitations adopted in the Rules of Order and Decorum Applicable to Speaking at Regular Open Meetings of the Valley City Commission. Id.

[¶ 9] Drake took numerous actions to participate in the City Commission meetings, including the following relevant actions:

1. On April 21, 2015, Drake submitted an agenda request asking to discuss prices associated with two properties bought by the City as well as garbage collection rates. Id. at p. 2

2. Around October 27, 2015, Drake submitted an agenda request asking to publicly demand Valley City [*7] Chief of Police, Fred Thompson, be fired at the November 9, 2015, City Commission meeting. Id. at p. 3. The next day, Drake withdrew his request. Id.

3. Around November 3, 2015, Drake asked to place on the agenda his request to demand the Valley City Commission terminate the Chief of Police's employment. Id. at p. 4. He withdrew his request on November 5, 2015, and asked that it be placed on the November 17, 2015, agenda. Id. at p. 5. Ultimately, after discussing the matter with the City Attorney, this item was removed from the agenda. Id. at pp. 15-19. The City Attorney noted the need to properly investigate complaints against City employees. Id.

4. Around May 5, 2016, Drake submitted an agenda request for the May 17, 2016, Commission meeting to discuss Officer Swenson's regular and overtime pay, claiming the officer may have committed a class B felony. Doc. No. 33-1, p. 51. This item was removed from the agenda. Id. at p. 60.

5. On February 11, 2016, the City Commission held a special meeting. The purpose was to discuss how to handle employee grievances filed against the Mayor. There was a discussion of hiring an outside neutral attorney to handle the grievance process. Drake spoke at this [*8] special meeting. He argued the grievances were not valid and failed to follow the proper procedure. The Commissioners

discussed the issue he raised and Drake threatened a recall election if outside counsel was hired. Despite this threat, the Commission decided to hire an outside attorney to investigate the validity of the grievances based on Drake's request. If they were valid, an attorney would be hired to initiate the grievance process. Doc. No. 33-2 (conventionally filed audio recording of this special meeting). See also Doc. No. 33-1, p. 48 (letter from Drake to Commissioner Pederson thanking him for giving him the chance to speak at the February 11, 2016 meeting); Id. at p. 49-50 (letters from Drake to Commissioners Magnuson and Luke apologizing for some of the things he said at the February 11, 2016 meeting).

6. Drake submitted another agenda request around January 5, 2018. This time, Drake wanted to have a public discussion of why the Commission agreed to pay former Police Chief Thompson \$100,000 in severance pay, knowing of alleged sexual harassment claims against him. Id. at p. 61. There were no public comments taken at the January 16, 2018, meeting Doc. No. 33, p. 4.

7. At [*9] the December 18, 2018, meeting, the Commission met to discuss, among other things, the "Valley City-Barnes County Development Corporation request for \$250,000 for a Two Year Workforce Development Program, funded through City Sales Tax Dedicated to Economic Development." Doc. No. 33-1, p. 65. Drake asked about the availability of this program for high school students. See id. Jennifer Feist informed him it was. Id. At this meeting, the City Commission also approved an engineering agreement regarding the 5th Avenue NW reconstruction in an amount not to exceed \$118,500. Drake was allowed to ask "if property owners will be able to protest out the special assessments." Id. The City Auditor confirmed protest was an option. Id. Drake then asked if he could "protest out the widening of the street only." Id. Commission "President Carlsrud stated the wider street without parking is a reason to hold another public meeting." Id.

[¶ 10] In response to Drake's request to discuss certain allegations against Chief of Police, the City Attorney and City Administrator came up with a proposed policy to create a process for citizens to lodge complaints against city employees and personnel. Id. at pp. 6-8. [*10] This process was intended to protect the due process rights of the city employees and personnel. Id. at p. 6 ("[I]n the

event that a citizen complaint would eventually lead to a court action involving that City employee, there is a very real possibility that a Court could find the City denied the City employee or City Department head of his/her constitutional Due Process rights."). According to the City Attorney, prior to terminating an employee, due process requires notice of the intent to fire the employee and an opportunity for that employee to be heard. Id. at p. 8. According to the City Attorney, if Drake were permitted to lodge a complaint against the Chief of Police without a formal written complaint and the Chief of Police being given an opportunity to respond, permitting Drake to lodge the complaint at an open Commission meeting "would violate the Due Process rights of the Police Chief." Id.

[¶ 11] Drake submitted an affidavit in opposition to the City's Motion for Summary Judgment. Doc. No. 45-1. Drake repeatedly alleged the City denied him the opportunity to raise his concerns and to discuss issues at public meetings. Id. at 1, 4. He asserts in his affidavit that the City [*11] improperly applied state statutes, commission policy and legal opinions from the City Attorney in violation of his First Amendment rights "to be heard at a public city commission meeting." Id. at 1. Importantly, little of these allegations are substantiated with a documentary record.¹

[¶ 12] Drake's Complaint alleges four claims. Doc. No. 1. Drake brought four claims pursuant 42 U.S.C. § 1983: (1) a violation of his First Amendment rights; (2) a request for declaratory relief; (3) a request for injunctive relief; (4) and a request for attorney's fees. Doc. No. 1.

¹ The City Defendants object to portions paragraphs 2, 3, 6, 7, 9, 9, 16, 17, and 18-21 of the affidavit because it violates Rule 56(c)(4) of the Federal Rules of Civil Procedure because (1) it largely fails to provide facts based on personal knowledge; (2) sets out inadmissible facts; and (3) contains numerous legal conclusions and opinions guised as facts. Doc. No. 47, pp. 1-2. The City Defendants also argue the affidavit contains a number of conclusory facts but fail to reference anything other than this "self-serving affidavit." Id. at p. 3. The Court agrees with the City Defendants. Plaintiff was required to submit more than a self-serving affidavit to avoid summary judgment because he is not permitted "to replace conclusory allegations of a complaint or answer with conclusory allegations of an affidavit." Lujan v. Nat'l Wildlife Fed'n, 497 U.S. 871, 888, 110 S. Ct. 3177, 111 L. Ed. 2d 695 (1990); see also Gander Mountain Co. v. Cabela's, Inc., 540 F.3d 827, 831 (8th Cir. 2008) (quoting Conolly v. Clark, 457 F.3d 872, 876 (8th Cir. 2006)) ("[A] properly supported motion summary judgment is not defeated by self-serving affidavits.").

Claims two, three, and four are contingent on whether there has been a violation of his First Amendment rights and are more properly considered relief rather than causes of action. Drake alleges the City violated his and Nelson's First Amendment rights by (1) refusing to allow them to speak at council meetings; (2) imposing time restrictions on their speech; (3) threatening their removal from council meetings; (4) preventing display of a placard on live broadcast; and (5) maintaining a file regarding their interactions with the city council. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1343(a)(3).

DISCUSSION

I. Summary Judgment Standard

[¶ 13] Summary judgment is appropriate when the evidence, viewed in the [*12] light most favorable to the non-movant, indicates there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). A fact is material if it may affect the outcome of the case. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). A factual dispute is genuine if the evidence is such that a reasonable jury could return a verdict for the non-movant. Id. "[W]e give the nonmoving party the benefit of all reasonable inferences which may be drawn without resorting to speculation." TCF Nat'l Bank v. Mkt. Intelligence, Inc., 812 F.3d 701, 707 (8th Cir. 2016) (internal quotations omitted).

[¶ 14] The purpose of summary judgment is to determine whether the evidence presents sufficient disagreement as to warrant submission of the case to a jury or whether the evidence is so one-sided that one party must prevail as a matter of law. Diesel Mach., Inc. v. B.R. Lee Indus., Inc., 418 F.3d 820, 832 (8th Cir. 2005). The movant bears the burden of informing the Court of the basis for its motion and must identify portions of the record which demonstrate the absence of a genuine issue of material fact. Torgerson v. City of Rochester, 643 F.3d 1031, 1042 (8th Cir. 2011). The non-movant may not rely on allegations or denials made in its pleading, rather its response must set out specific facts showing a genuine issue for trial. Id.; Fed. R. Civ. P. 56(c)(1)(A). There is no genuine issue for trial and summary judgment is proper when the record, taken as [*13] a whole and viewed in the light most favorable to the non-movant, could not lead a rational trier of fact

to find in favor of the non-movant. Diesel Mach., Inc., 418 F.3d at 832.

II. Drake Lacks Standing to Pursue Nelson's Claims

[¶ 15] Throughout the Complaint, Drake references Nelson's interactions with the City commission and seeks relief for the City Defendant's alleged violations of Nelson's First Amendment rights. Doc. No. 1. Drake alleges that Nelson's rights were violated when the City Commission asked Nelson to leave the lectern, required preapproval of his questions to the commission, and by cutting his personal attacks against City employees short. Doc. No. 45-1 at 6-9. The City Defendants argue Drake lacks standing to assert claims on behalf of Nelson. The Court Agrees with the City Defendants.

[¶ 16] Standing "limits the category of litigants empowered to maintain a lawsuit in federal court to seek redress for a legal wrong." Spokeo, Inc. v. Robins, 578 U.S. 330, 338, 136 S. Ct. 1540, 194 L. Ed. 2d 635 (2016). The principle of standing is to determine whether a party is sufficiently affected in order to present a justiciable controversy before the court. United Fin. Cas. Co. v. Penrod, 2014 U.S. Dist. LEXIS 188410, 2014 WL 11531336, at *4 (D.N.D. 2014). The Court does not have jurisdiction to enforce private rights unless one has a real interest in the cause of action. 2014 U.S. Dist. LEXIS 188410, [WL] at *5. Standing ensures a litigant has [*14] a personal stake in the outcome of the matter. See Potter v. Norwest Mortg., Inc., 329 F.3d 608, 611 (8th Cir. 2003). The United States Supreme Court held that federal courts should hesitate to resolve controversies based on the rights of third parties not privy to the litigation. Singleton v. Wulff, 428 U.S. 106, 113, 96 S. Ct. 2868, 49 L. Ed. 2d 826 (1976).

[¶ 17] The parties do not dispute that Nelson "passed away before this lawsuit was filed." Doc. No. 1 at 2-3. However, Drake's Complaint contains several references to Nelson's interactions with the City commission, seeks this Court's declaration that Nelson's rights have been violated and requests attorney's fees for time "expended" on the deceased's claims. Id. at 10, 42. Drake cannot invoke this Court's jurisdiction to enforce the rights of the deceased because he has no legal interest in Nelson's claims. See Warth v. Seldin, 422 U.S. 490, 499, 95 S. Ct. 2197, 45 L. Ed. 2d 343 (1975) ("[T]his Court has held that the plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or

interests of third parties."). Nelson is not named a party to this action because he was deceased before Drake filed the Complaint. Doc. No. 1 at 1. This Court cannot resolve controversies based on the rights of Nelson as he was deceased prior to this action's commencement. See Singleton, 428 U.S. at 114 ("[O]ne may not claim standing [*15] . . . to vindicate the constitutional rights of some third party."). Therefore, the claims asserted by Drake regarding the rights of Nelson are hereby **DISMISSED**.

III. Drake's First Amendment Claim

[¶ 18] The Complaint alleges the City Defendants violated Drake's right to speak before the City Commission and to voice his concerns regarding City funds, taxation and conduct of City employees. Doc. No. 1. The City asserts that it is not subject to civil liability under 42 U.S.C. § 1983 due to qualified immunity. Doc. No. 32 at 11. The City also asserts Drake cannot establish a violation of his First Amendment rights because the City has a legitimate government interest in conducting orderly government meetings. Id. at 13, 16-24. In response to Drake's Cross-Motion for Summary Judgment, the City argues it is entitled to summary judgment over Drake's official capacity claims. Doc. No. 50, pp. 13-15. The Court agrees the Complaint must be dismissed because the claims are against the City Defendants in their official capacity and no reasonable fact-finder could conclude a constitutional violation occurred.²

[¶ 19] The first question the Court must resolve is whether this is a case against the City Defendants in their official capacity, individual [*16] capacity, or both. See Johnson v. Outboard Marine Corp., 172 F.3d 531, 535 (8th Cir. 1999) ("Public servants may be sued under section 1983 in either their official capacity, their individual capacity, or both."). The principal question governing claims under 42 U.S.C. § 1983 is whether a violation of a right secured by the United States Constitution occurred under the color of state law. Albright v. Oliver, 510 U.S. 266, 271, 114 S. Ct. 807, 127 L. Ed. 2d 114 (1994). A party alleging a constitutional injury under 42 U.S.C. § 1983 must prove

²Although this issue was first raised in the City's Response brief to Drake's cross-motion for summary judgment and the Court would not ordinarily consider summary judgment arguments raised for the first time in similar circumstances, this issue is ultimately dispositive of this case and must be resolved.

(1) a violation of a constitutional right, (2) by a state actor, (3) who acted with the requisite culpability and causation to violate a right secured by the Constitution. Hart v. City of Little Rock, 432 F.3d 801, 804 (8th Cir. 2005). Section 1983 does not create any rights; rather, it is a method for asserting constitutional rights. Albright, 510 U.S. at 271. Section 1983 claims do not provide a remedy unless a constitutional violation has occurred. See Doe v. Gooden, 214 F.3d 952, 955 (8th Cir. 2000).

[¶ 20] "A plaintiff may assert § 1983 claims against a public official acting in his individual capacity and in his official capacity." Baker v. Chisom, 501 F.3d 920, 923 (8th Cir. 2007). When a complaint is silent as to what capacity it sues the defendant under, the Eighth Circuit has established a clear presumption the claim is against the defendants in their official capacities only. Id. (quoting Egardahl v. Hibbing Cmty. Coll., 72 F.3d 615, 619 (8th Cir. 1995)). In other words, unless the complaint specifically names a defendant in his or her individual capacity, courts presume it is an official capacity [*17] claim only. Id. Indeed, the Eighth Circuit has been clear its caselaw "require[s] more than ambiguous pleading" and that "a 'cryptic hint' in plaintiffs complaint is not sufficient." Id. at 924. "[S]pecific pleading of individual capacity is required." Andrus ex rel. Andrus v. Arkansas, 197 F.3d 953, 955 (8th Cir. 1999). "Because section 1983 liability exposes public servants to civil liability and damages, [the Eighth Circuit has] held that only an express statement that they are being sued in their individual capacity will suffice to give proper notice to the defendants." Johnson, 172 F.3d at 535.

[¶ 21] Here, there is no question Drakes claims against the City Defendants are in their official capacities.³ The Complaint's caption indicates the suit is against them in their official capacities and the redress sought does not include money damages against them individually. See

³The Parties spend a vast majority of their time arguing qualified immunity against the named defendants. The Court does not reach this issue because it is inappropriate when the claims are clearly against each Defendant in their official capacity. See Bankhead v. Knickrehm, 360 F.3d 839, 844 (8th Cir. 2004) ("Qualified immunity is a defense only against a claim in one's individual capacity."); Johnson 172 F.3d at 535 ("Qualified immunity is not a defense available to governmental entities, but only government employees sued in their individual capacity. And because the pleadings are construed as a suit against the county, the only issue raised on appeal, qualified immunity, is irrelevant.").

Doc. No. 1, pp. 1, 38-43. There is nothing—not even a "cryptic hint"—in the Complaint to suggest a suit against the Defendants in anything other than their official capacities. See Baker, 501 F.3d at 925. As such, this suit is against the City Defendants in their official capacities only.

[¶ 22] In the Eighth Circuit, "[a] suit against a government official in his or her official capacity is 'another way of pleading an action against an entity [*18] of which an officer is an agent.'" Baker, 501 F.3d at 925 (quoting Monell v. Dep't of Social Services, 436 U.S. 658, 690 n.55, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978)); see also Veatch v. Bartels Lutheran Home, 627 F.3d 1254, 1257 (8th Cir. 2010) ("A suit against a government officer in his official capacity is functionally equivalent to a suit against the employing governmental agency."). To sustain an official capacity claim, Drake "must prove that the [City] 'itself caused the constitutional violation at issue.'" Parrish v. Ball, 594 F.3d 993, 997 (8th Cir. 2010) (quoting Elder-Keep v. Aksamit, 460 F.3d 979, 986 (8th Cir. 2006)). It is well-established "[a] political subdivision may not generally be held vicariously liable under section 1983 for the unconstitutional acts of its employees." Johnson, 172 F.3d at 536 (citing Monell, 436 U.S. at 694). Indeed, "Section 1983 liability for a constitutional violation may attach to a municipality if the violation resulted from (1) an 'official municipal policy,' Monell, 436 U.S. at 691, (2) an unofficial 'custom' id. at 690-91; or (3) a deliberately indifferent failure to train or supervise, see City of Canton, Ohio v. Harris, 489 U.S. 378, 388, 109 S. Ct. 1197, 103 L. Ed. 2d 412 (1989)." Atkinson v. City of Mt. View Mo., 709 F.3d 1201, 1214 (8th Cir. 2013). The Complaint only asserts claims of an unconstitutional official policy or custom. See Doc. No. 1, [¶¶ 24-26. The Court will address those two issues below.

[¶ 23] As an initial matter, the Court will dismiss the claims against the named Defendants—Dave Carlsrud, Duane Magnuson, Michael Bishop, Jeffrey Erickson, and Dick Gulmon—in their official capacities as redundant of those against the City itself. See Veatch, 627 F.3d at 1257 ("A suit against a government [*19] officer in his official capacity is functionally equivalent to a suit against the employing governmental entity. Thus, the court properly dismissed the claim against Leonard as redundant of the claim against the City." (internal citation omitted)). Accordingly, each claim as alleged against Dave Carlsrud, Duane Magnuson, Michael Bishop, Jeffrey Erickson, and Dick Gulmon in their official capacities are **DISMISSED with prejudice** as redundant of those against the City of Valley City.

1. City Policy

[¶ 24] Drake argues the Commission's use of the policy to justify denying him the opportunity to address the commission shows the policy itself is unconstitutional. The City argues the policy is constitutional on its face as a content neutral time, place, and manner restriction on speech at City Council meetings because the City Council meetings are limited public forums. The Court agrees with the City.

[¶ 25] The Court has already alluded the City Council meetings are limited public forums. See Doc. No. 23, ¶ 15 ("When a State, like North Dakota, opens certain meetings of its political subdivisions to the public, those meetings are typically designated 'limited public forums,' and, therefore, [*20] 'subject to reasonable limitations as to the time, place, and manner of speech.'" (quoting Palmore v. City of Pac., 851 F.Supp.2d 1162, 1172 (E.D. Mo. 2010)). The Supreme Court has noted, "[p]lainly, public bodies may confine their meetings to specified subject matter and may hold non public sessions to transact business." City of Madison, Joint Sch. Dist. No. 8 v. Wisconsin Emp. Resl. Comm'n, 429 U.S. 167, 175 n.8, 97 S. Ct. 421, 50 L. Ed. 2d 376 (1976). In Wright v. Anthony, the Eighth Circuit concluded a five-minute time limit on presenting to a United States Congressman was a reasonable time, place, and manner restriction. 733 F.2d 575, 577 (8th Cir. 1984). Indeed, it is well-established "[t]he Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy." Minn. State Bd. for Cmty. Colls. v. Knight, 465 U.S. 271, 284, 104 S. Ct. 1058, 79 L. Ed. 2d 299 (1984). When looking at the reason for excluding certain speech in a limited public forum, "[t]he government's purpose is the controlling consideration." Id.

[¶ 26] Time, place, and manner restrictions are valid if they do not reference the content of the regulated speech, "are narrowly tailored to serve a significant governmental interest, and they leave open ample alternative channels for communication of the information." Clark v. Cmty For Creative Non-Violence, 468 U.S. 288, 293, 104 S. Ct. 3065, 82 L. Ed. 2d 221 (1984). The main inquiry "is whether the government has adopted a regulation of speech because of disagreement with the message it conveys." Ward v. Rock Against Racism, 491 U.S. 781, 791, 109 S. Ct. 2746, 105 L. Ed. 2d 661 (1989). Even when a regulation incidentally [*21] regulates some speakers but not

others, the regulation is constitutional on its face if it is neutral. Ward, 491 U.S. at 791.

[¶ 27] Here, the policy at issue is content neutral and facially constitutional. It limits speakers to address agenda items and keep their time under five minutes. Doc. No. 32, p. 3. The presiding commissioner can extend the time if appropriate. Id. If a speaker wishes to address a non-agenda item, it must be scheduled for another open meeting. Id. The time the speaker will have to address that non-agenda item would be five minutes. Id. Importantly, there are no content restrictions on what agenda items may be discussed and what a citizen may request to be discussed at a regular open meeting. See id. The policy simply sets out rules governing how an individual may address the City Council at appropriate times without any reference to a specific type of prohibited speech. This is clearly content neutral and the policy is not unconstitutional on its face. See Ward, 491 U.S. at 791 ("A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others."); Wisconsin Emp. Resl. Comm'n, 429 U.S. at 175 n.8 (noting municipalities may limit their public [*22] meetings to specific topics); Wright, 733 F.2d at 577 (holding a five-minute time-limit was a reasonable time, place, and manner restriction).

[¶ 28] Accordingly, to the extent Complaint alleges a claim the City's Policy is unconstitutional, this claim fails as a matter of law and is **DISMISSED with prejudice**.

2. City Custom

[¶ 29] Drake contends the City had an unconstitutional custom of preventing him from addressing the City Council and placing matters on the meeting agendas to discuss at future meetings.⁴ The City argues there is no evidence of an unconstitutional custom of prohibiting Drake from speaking at City Council meetings.

[¶ 30] To establish liability for the City for an unconstitutional custom, Drake must demonstrate:

- 1) The existence of a continuing, widespread, persistent pattern of unconstitutional misconduct by

⁴The Court construes his argument as such. He never specifically makes this argument because he does not provide any analysis on the claims as official capacity claims. He focuses solely on the arguments as though he alleged individual capacity claims.

- the governmental entity's employees;
- 2) Deliberate indifference to or tacit authorization of such conduct by the governmental entity's policymaking officials after notice to the officials of that misconduct; and
 - 3) That plaintiff was injured by acts pursuant to the governmental entity's custom, i.e., that the custom was a moving force behind the constitutional violation.

Johnson v. Douglas Cnty. Med. Dep't, 725 F.3d 825, 828 (8th Cir. 2013) (quoting Thelma D. ex rel. Delores A. v. Bd. Of Educ. Of City of St. Louis, 934 F.2d 929, 932-33 (8th Cir. 1991)).

[¶ 31] This [*23] claim involves the City's repeated refusal to allow Drake to speak on the issues of firing the Chief of Police as he had requested of the City prior to its meetings. Insofar as Drake asserts a claim for an unconstitutional custom of excluding Drake from speaking at City Commission meetings, Plaintiffs claim necessarily fails because prohibiting Drake from speaking was a reasonable time, place, and manner restriction on speech in a limited public forum.

[¶ 32] Restrictions in a limited public forum "must only be reasonable and viewpoint neutral." Bowman v. White, 444 F.3d 967, 976 (8th Cir. 2006). (internal citation omitted). A limited public forum is generally "not open for public expression, but that the government has opened for use for free speech only on a limited period of time, a limited topic, or a limited class of speakers." Forbes v. Ark. Educ. Television Commc'n Network Found., 22 F.3d 1423, 1429 (8th Cir. 1994) (citations omitted).

[¶ 33] As a limited public forum, the City was well within its rights to customarily prohibit speaking on certain topics it deemed inappropriate for City Commission meetings. See id. The City's purported custom of excluding discussion of internal personnel issues, such as whether to terminate the employment of the Chief of Police were taken off the table by the City Commission because [*24] they were concerned about violating the Chief of Police's due process rights. Because this case involves a limited public forum, the government's purpose of prohibiting Drake from raising certain personnel issues relating to the Chief of Police at City Commission meetings governs this dispute. See Knight, 465 U.S. at 284 ("The government's purpose is the controlling consideration."). The purpose of excluding Drake's comments was because they believed personnel issues should be investigated privately before

bringing the matter to the public because of significant due process concerns. Contrary to Drake's repeated assertions, it is well-established "[t]he Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy." Id. In short, the purported "custom" of excluding Drake from discussions at City Commission meetings was justified under the circumstances.

[¶ 34] Clearly, the purpose of this custom was to prevent unsubstantiated personal attacks on city employees from occurring. While, the First Amendment recognizes the importance of unencumbered debate as to issues of public concern, Frisby v. Schultz, 487 U.S. 474, 479, 108 S. Ct. 2495, 101 L. Ed. 2d 420 (1988), an individual engaged in protected speech of public concern may not leverage [*25] this protection to make personal attacks on public officials, Dunn v. Carroll, 40 F.3d 287, 293 (8th Cir. 1994). When such speech turns into a caustic personal attack on a public official, the speech is no longer "deemed relevant to a matter of public concern" and thus no longer protected. Id. "[T]he First Amendment does not guarantee persons the right to communicate their views at all times or in any manner that may be desired." Palmore, 851 F.Supp.2d at 1171 (internal quotations omitted). Rather the right to express a view depends on the nature of the forum. See Cornelius v. NAACP Legal Defense and Educational Fund, Inc., 473 U.S. 788, 802, 105 S. Ct. 3439, 87 L. Ed. 2d 567 (1985) ("[T]he extent to which the Government can control access depends on the nature of the relevant forum.").

[¶ 35] Indeed, the United States Supreme Court has long recognized that governments have a significant interest in conducting orderly, efficient, and dignified public meetings. City of Madison, Joint Sch. Dist., 429 U.S. at 175 n.8. "Reasonable time, place and manner restrictions on the exercise of first amendment rights are not repugnant to the Constitution." Wright, 733 F.2d at 577. Time limitations on speech, and limitations not based on the content of speech serve a significant government interest in conducting orderly meetings and are thus reasonable. See id. ("Reasonable time, place and manner restrictions on the exercise of first amendment rights are not repugnant to the constitution.").

[¶ 36] Here, Drake was [*26] not prevented from addressing the City Commission. Rather he was only limited to specified time intervals for speech, agenda subject matter requirements and City rules prohibiting personal attacks. Drake concedes the City's speech

restrictions are content-neutral, however he argues without specific evidence that the City's restrictions are not applied in a content neutral manner. Doc. No. 45 at 25. The record, however, is clear the City adopted its procedural restrictions governing meeting participation in reliance on the North Dakota Attorney General's OMM and out of due process concerns relating to the termination of City employees. The City's refusal to allow Drake to address the commission to (1) demand firing the Chief of Police for his purported sexual harassment; (2) make a citizen's complaint against a police officer's compensation; and (3) discuss the police chief's severance pay are all consistent with the City's content neutral restrictions. *Ward*, 491 U.S. at 791; see also *Wright*, 733 F.2d at 577 (reasonable restrictions on rights are not repugnant to the Constitution); see *City of Madison, Joint Sch. Dist.*, 429 U.S. at 175 (stating orderly, efficient, and dignified public meetings are significant government interests). Because the actions of the City Commission [*27] in this case were entirely reasonable, the limitations placed on Drake's speech were not unconstitutional. See *Wright*, 733 F.2d at 577 ("Reasonable time, place and manner restrictions on the exercise of first amendment rights are not repugnant to the constitution."). As such, there was no unconstitutional custom that prohibited Drake from addressing the County Commission.

[¶ 37] Likewise, the record conclusively shows the City was not deliberately indifferent in this case. In determining whether the City acted with deliberate indifference, the Court looks to whether the City disregarded "its known or obvious consequences." *Bd. Of Cnt'y Com'rs of Bryan Cnt'y Okl. v. Brown*, 520 U.S. 397, 407, 117 S. Ct. 1382, 137 L. Ed. 2d 626 (1997). "Thus, only where a municipality's failure to adopt adequate safeguards was the product of deliberate indifference to the constitutional rights of its inhabitants will the municipality be liable for an unconstitutional policy under § 1983." *Szabla v. City of Brooklyn, Park, Minn.*, 486 F.3d 385, 390 (8th Cir. 2007).

[¶ 38] Here, the City carefully decided whether they were permitted to prohibit Drake from speaking at the various City Council meetings. They looked to the Policy, which fairly and accurately reflected the North Dakota Attorney General's guidance. This Court previously found the OMM was constitutional. Prior to making their decisions regarding Drake, the City also consulted [*28] with the City Attorney, who advised the City Commissioners to adopt a policy to address citizen complaints on the employment of City employees. This was out of due process concerns. In all, this shows the

City carefully reflected on the impact their decision would have on Drake and they made a reasoned decision, not a deliberately indifferent one. The City Commission clearly sought advice and counsel on how to proceed with Drake. Drake's claims against the City Defendants fail as to their purported deliberate indifference.

[¶ 39] Accordingly, the undisputed material facts show Drake's First Amendment Claim for an unconstitutional custom of the City fails. This claim is, therefore, **DISMISSED with prejudice**.

CONCLUSION

[¶ 40] The undisputed facts show the City and its employees acted reasonably and gracefully in the face of Drake's repeated rudeness and unjustified requests of the City Commission. The Policy is plainly constitutional. The City's decisions to prohibit Drake from addressing the City Commission regarding firing the Chief of Police were both reasonable and likely necessary to protect the Chief of Police's due process rights. Implementing a policy governing complaints against City employees [*29] likewise provided Drake an opportunity to bring the alleged issues with the Chief of Police to the City Commission's attention in manner consistent with the Chief of Police's due process rights.

[¶ 41] Accordingly, for the reasons set forth above, the City's Motion for Summary Judgment is **GRANTED** and Drake's Motion for Summary Judgment is **DENIED**. The Complaint⁵ is, therefore, **DISMISSED with prejudice**.

[¶ 42] **IT IS SO ORDERED.**

[¶ 43] **LET JUDGMENT BE ENTERED ACCORDINGLY.**

DATED September 15, 2023.

/s/ Daniel M. Traynor

Daniel M. Traynor, District Judge

United States District Court

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⁵The "claims" for declaratory relief, injunctive relief, or attorneys fees necessarily fail because they were contingent on a finding of a possible constitutional violation. As the Court concluded, there was no constitutional violation in this case.

DAVE YOST
Attorney General



Dave Yost

The Ohio Open Meetings Act

Overview of the Ohio Open Meetings Act

What is a “public body”?

- A “public body” is a decision-making body at any level of government.
- A public body may include the committees or subcommittees of a public body, even if these committees do not make the final decisions of the public body.

What is a “meeting”?

- A “meeting” is (1) a prearranged gathering, (2) of a majority of the members of the public body, (3) who are discussing or deliberating public business.
- A meeting does not have to be called a “meeting” for the OMA requirements to apply—if the three elements above are present, the OMA requirements apply even if the gathering is called a “work session,” “retreat,” etc.

What is “discussion” or “deliberation” of public business?

- “Discussion” is an exchange of words, comments, or ideas.
- “Deliberation” is the weighing and examination of reasons for and against taking a course of action.
- “Discussion” or “deliberation” does not generally include information-gathering, attending presentations, or isolated conversations between employees.

What are the duties of a public body if the OMA applies?

- A public body must give appropriate notice of its meetings.
 - For regular meetings, notice must include the time and place of the meeting. For all other meetings—special and emergency meetings—notice must include the time, place, and purpose of the meeting.
- A public body must make all meetings open to the public at all times.
 - Secret ballots, whispering of public business, and serial meetings or discussions are all prohibited under the openness requirement.
- A public body must keep and maintain meeting minutes.
 - Minutes must be (1) promptly prepared, (2) filed, (3) maintained, and (4) open to the public. Meeting minutes do not need to be verbatim transcripts but must have enough detail to allow the public to understand and appreciate the rationale behind a public body’s decisions.

What are the requirements for an “executive session”?

- Proper procedure must be followed to move into an executive session, including a motion, second, and roll call vote in open session.
- Discussion in an executive session must be limited to one of the proper topics listed in the OMA.

The Ohio Open Meetings Act

The Ohio Open Meetings Act

The Open Meetings Act requires public bodies in Ohio to take official action and conduct all deliberations of official business **only in open meetings where the public may attend and observe**. Public bodies must provide advance notice to the public indicating when and where each meeting will take place and, in the case of special meetings, the specific topics that the public body will discuss. The public body must take full and accurate minutes of all meetings and make these minutes available to the public, except in the case of permissible executive sessions.

Executive sessions are closed-door sessions convened by a public body, after a roll call vote, and attended by only the members of the public body and persons they invite. A public body may hold an executive session only for a few specific purposes, which are listed in the law. Further, no vote or other decision-making on the matter(s) discussed may take place during the executive session.

The Open Meetings Act is a “self-help” statute. This means that a person who believes that the Act has been violated must independently pursue a remedy, rather than asking a public official (such as the Ohio Attorney General) to initiate action on his or her behalf. If any person believes that a public body has violated the Open Meetings Act, that person may file an action in a common pleas court to compel the public body to obey the Act. If the court issues an injunction, the public body must correct its actions and pay court costs, a fine of \$500, and reasonable attorney fees subject to possible reduction by the court. If the court does not issue an injunction, and the court finds the lawsuit was frivolous, it may order the person who filed the suit to pay the public body’s court costs and reasonable attorney fees. Any formal action of a public body that did not take place in an open meeting, that resulted from deliberations in a meeting improperly closed to the public, or that was adopted at a meeting not properly noticed to the public is invalid. A member of a public body who violates an injunction imposed for a violation of the Open Meetings Act may be subject to removal from office.

Like the Public Records Act, the Open Meetings Act is intended to be read broadly in favor of openness. However, while they share an underlying intent, the terms and definitions in the two laws are not interchangeable: the Public Records Act applies to the *records of public offices*; **the Open Meetings Act addresses meetings of public bodies**.

A Note about Case Law

When the Supreme Court of Ohio issues a decision interpreting a statute, that decision must be followed by all lower Ohio courts. Supreme Court decisions involving the Public Records Act are plentiful because a person may file a public records lawsuit at any level of the judicial system and often will choose to file in the court of appeals, or directly with the Supreme Court. **By contrast, a lawsuit to enforce the Open Meetings Act must be filed in a county court of common pleas**. While the losing party often appeals a court’s decision, **common pleas appeals are not guaranteed to reach the Supreme Court, and rarely do**. Consequently, the bulk of case law on the Open Meetings Act comes from courts of appeals, whose opinions are binding only on lower courts within their district, but they may be cited for the persuasive value of their reasoning in cases filed in other districts.

The Ohio Open Meetings Act

Chapter Eight: “Public Body” and “Meeting” Defined

VIII. Chapter Eight: “Public Body” and “Meeting” Defined

Only entities that meet the definition of “public body” are subject to the Open Meetings Act. The Open Meetings Act requires “public bodies” to conduct their business in “meetings” that are open to the public. A “meeting” is any prearranged gathering of a public body by a majority of its members to discuss public business.⁹⁶³

A. “Public Body”

1. Statutory definition – R.C. 121.22(B)(1)

The Open Meetings Act defines a “public body” as any of the following:

- a. Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;⁹⁶⁴
- b. Any committee or subcommittee thereof;⁹⁶⁵ or
- c. A court⁹⁶⁶ of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district or for any other matter related to such a district other than litigation involving the district.⁹⁶⁷

“Public body” under the Open Meetings Act has a different meaning and application than “public office” under the Public Records Act. An entity that is a “public body” that must comply with the Open Meetings Act may not also be a “public office” that must comply with the Public Records Act.⁹⁶⁸

2. Identifying public bodies

The term “public body” applies to many different decision-making bodies at the state and local level. A statute may specifically identify an entity as a “public body” or it may state that an entity is not subject to the Open Meetings Act. Otherwise, courts will apply several factors to determine what constitutes a “public body,” including:

- The way the entity was created;⁹⁶⁹
- The name or official title of the entity;⁹⁷⁰
- The membership composition of the entity;⁹⁷¹
- Whether the entity engages in decision-making;⁹⁷² and
- Who the entity advises or to whom it reports.⁹⁷³

3. Applying the definition of “public body”

Using the above factors, some courts of appeals have held that the following entities are public bodies:

- A selection committee established on a temporary basis by a state agency for the purpose of evaluating responses to a request for proposals and making a recommendation to a commission.⁹⁷⁴

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- An urban design review board that provided advice and recommendations to a city manager and city council about land development.⁹⁷⁵
- A board of hospital governors of a joint township district hospital.⁹⁷⁶
- A citizens’ advisory committee of a county children services board.⁹⁷⁷
- A board of directors of a county agricultural society.⁹⁷⁸

Courts have found that the Open Meetings Act does not apply to individual public *officials* (as opposed to public *bodies*) or to meetings held by individual officials.⁹⁷⁹ Moreover, if an individual public official creates a group solely pursuant to his or her executive authority or as a delegation of that authority, the Open Meetings Act probably does not apply to the group’s gatherings.⁹⁸⁰

However, at least one court determined that a selection committee whose members were appointed by the chair of a public body, not by formal action of the body, is nevertheless a public body and subject to the Open Meetings Act.⁹⁸¹

4. When the Open Meetings Act applies to private bodies

Some private entities are considered “public bodies” for purposes of the Open Meetings Act when they are organized pursuant to state statute and are statutorily authorized to receive and expend government funds for a governmental purpose. For example, one court held that an economic opportunity planning association is a public body within the meaning of the Act based on the following factors: (1) its designation by the Ohio Department of Development as a community action organization pursuant to statute; (2) its responsibility for spending substantial sums of public funds in the operation of programs for the public welfare; and (3) its obligation to comply with state statutory provisions in order to keep its status as a community action organization.⁹⁸²

5. Public bodies/officials that are NEVER subject to the Open Meetings Act:

- The Ohio General Assembly;⁹⁸³
- Grand juries;⁹⁸⁴
- An audit conference conducted by the State Auditor or independent certified public accountants with officials of the public office that is the subject of the audit;⁹⁸⁵
- The Organized Crime Investigations Commission;⁹⁸⁶
- County child fatality review boards or state-level reviews of deaths of children;⁹⁸⁷
- The board of directors of JobsOhio Corp., or any committee thereof, and the board of directors of any subsidiary of JobsOhio Corp., or any committee thereof;⁹⁸⁸ and
- An audit conference conducted by the audit staff of the Department of Job and Family Services with officials of the public office that is the subject of that audit under R.C. 5101.37.⁹⁸⁹
- Fatality- or mortality-review boards established under R.C. 3738.01, 3707.071, 307.631, 307.641, and 307.651.⁹⁹⁰

6. Public bodies that are SOMETIMES subject to the Open Meetings Act:

a. Public bodies meeting for specific purposes

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Some public bodies are not subject to the Open Meetings Act when they meet for particular purposes, including:

- The Adult Parole Authority, when its hearings are conducted at a correctional institution for the sole purpose of interviewing inmates to determine pardon or parole;⁹⁹¹
- The State Medical Board,⁹⁹² the State Board of Nursing,⁹⁹³ the State Chiropractic Board⁹⁹⁴ when determining whether to suspend a license or certificate without a prior hearing;⁹⁹⁵
- The State Board of Pharmacy when determining whether to suspend a license, certification, or registration without a prior hearing (including during meetings conducted by telephone conference);⁹⁹⁶ or when determining whether to restrict a person from obtaining further information from the drug database without a hearing;⁹⁹⁷
- The Emergency Response Commission’s executive committee when meeting to determine whether to issue an enforcement order or to decide whether to bring an enforcement action;⁹⁹⁸ and
- The Occupational Therapy Section, Physical Therapy Section, and Athletic Trainers Section of the Occupational Therapy, Physical Therapy, and Athletic Trainers Board when determining whether to suspend a practitioner’s license without a hearing.⁹⁹⁹
- Nonprofit corporations that created a special improvement district under R.C. 1710 when the corporation is not discussing business relating the purpose for which the improvement district was created.¹⁰⁰⁰

b. Public bodies handling specific business

When meeting to consider “whether to grant assistance for purposes of community or economic development,” certain public bodies may conduct meetings that are not open to the public. Specifically, the Controlling Board, the Tax Credit Authority, and the Minority Development Financing Advisory Board may close their meetings by *unanimous* vote of the members present to protect the interest of the applicant or the possible investment of public funds.¹⁰⁰¹

The meetings of these three bodies may only be closed “during consideration of the following information confidentially received ... from the applicant:”

- Marketing plans;
- Specific business strategy;
- Production techniques and trade secrets;
- Financial projections; and
- Personal financial statements of the applicant or the applicant’s immediate family, including, but not limited to, tax records or other similar information not open to public inspection.¹⁰⁰²

In addition, the board of directors of a community improvement corporation, when acting as an agent of a political subdivision, may close a meeting by *majority* vote of all members present during consideration of non-public record information set out in R.C. 1724.11(A).¹⁰⁰³

B. “Meeting”

1. Definition

The Open Meetings Act requires members of a public body to take official action, conduct deliberations, and discuss the public business in an open meeting, unless the subject matter is

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specifically exempted by law.¹⁰⁰⁴ The Act defines a “meeting” as: (1) a prearranged gathering of (2) a majority of the members of a public body (3) for the purpose of discussing public business.¹⁰⁰⁵

a. Prearranged

The Open Meetings Act governs prearranged discussions,¹⁰⁰⁶ but it does not prohibit unplanned encounters between members of public bodies, such as hallway discussions. One court held that neither an unsolicited and unexpected email sent from one board member to other board members, nor a spontaneous one-on-one telephone conversation between two members of a five-member board was a prearranged meeting.¹⁰⁰⁷ In another case, the court held that two members of a three-member commission did not have a prearranged meeting when one member came to the office of another and had an impromptu discussion.¹⁰⁰⁸ However, the “prearranged” element does not require the parties to participate at the same time, and a series of emails exchanged among a majority of board members can constitute a “prearranged gathering” even when the emails started with one board member sending an unsolicited email to other board members.¹⁰⁰⁹

b. Majority of members

The requirement that a gathering of a majority of the members of a public body constitutes a meeting applies to the public body as a whole and also to the separate memberships of all committees and subcommittees of that body.¹⁰¹⁰ For example, if a council is comprised of seven members, four constitute a majority in determining whether the council as a whole is conducting a “meeting.” If the council appoints a three-member finance committee, two of those members would constitute a majority of the finance committee.

i. Attending in person

A member of a public body must be present in person at a meeting in order to be considered present, vote, or be counted as part of a quorum.¹⁰¹¹ A small number of public bodies have statutory authority to conduct meetings via teleconference, videoconference, or other remote means.¹⁰¹² In the absence of specific statutory authority, however, public bodies may not conduct a meeting via electronic or telephonic conferencing.

ii. Serial “meetings”

Unless two members constitute a majority, isolated one-on-one conversations between individual members of a public body regarding its business, either in person or by telephone, do not violate the Open Meetings Act.¹⁰¹³ However, a public body may not “circumvent the requirements of the statute by setting up back-to-back meetings of fewer than a majority of its members, with the same topics of public business discussed at each.”¹⁰¹⁴ Such conversations may be considered multiple parts of the same, improperly private, “meeting.”¹⁰¹⁵ Serial meetings may also occur over the telephone or through electronic communications, like email.¹⁰¹⁶

c. Discussing public business

With narrow exceptions, the Open Meetings Act requires the members of a public body to discuss and deliberate on official business only in open meetings.¹⁰¹⁷ “Discussion” is the exchange of words, comments, or ideas by the members of a public body.¹⁰¹⁸ “Deliberation” means the act of weighing and examining reasons for and against an action.¹⁰¹⁹ One court described “deliberation” as a thorough discussion of all factors involved, a careful weighing of positive and negative factors, and a cautious consideration of the ramifications of the proposal, while gradually arriving at a decision.¹⁰²⁰ Another court described the term as involving “a decisional analysis, i.e., an exchange of views on the facts in an attempt to reach a decision.”¹⁰²¹ Discussions of public business may also be conducted over any other media, such as the telephone, video conference, email, text, or tweet.¹⁰²² In other words, just because a discussion did not occur in-person does not mean it is exempt from the requirements of the Open Meetings Act.

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Chapter Eight: “Public Body” and “Meeting” Defined

In evaluating whether a gathering of public officials constituted a “meeting,” one court opined that the Open Meetings Act “is intended to apply to those situations where there has been actual formal action taken; to wit, formal *deliberations* concerning the public business.”¹⁰²³ Under this analysis, courts have determined that gatherings strictly of an investigative and information-seeking nature that do not involve actual discussion or deliberation of public business are not “meetings” for purposes of the Open Meetings Act.¹⁰²⁴ More importantly, the Supreme Court of Ohio has not ruled on whether “investigative and informational” gatherings are or are not “meetings.” Consequently, public bodies should seek guidance from their legal counsel about how such gatherings are viewed by the court of appeals in their district, before convening this kind of private gathering as something other than a regular or special meeting.

Some courts have distinguished “discussions” or “deliberations” that must take place in public from other exchanges among a majority of members at a prearranged gathering. These courts have opined that the following are not “meetings” subject to the Open Meetings Act:

- Question-and-answer session between board members, the public body’s legal counsel, and others who were not public officials, was not a meeting because a majority of the board members did not engage in discussion or deliberation of public business *with one another*;¹⁰²⁵
- Conversations among staff members employed by a city council;¹⁰²⁶
- A presentation to a public body by its legal counsel when the public body receives legal advice,¹⁰²⁷ or when a public body requests a legal opinion from its counsel;¹⁰²⁸ and
- A press conference.¹⁰²⁹

2. Applying the definition of “meeting”

If a gathering meets all three elements of the definition of a “meeting”—(1) a prearranged gathering of (2) a majority of the members of a public body (3) for the purpose of discussing public business—a court will consider it a “meeting” for the purposes of the Open Meetings Act. This is true regardless of whether the public body initiated the gathering itself or whether it was initiated by another entity. Further, if majorities of multiple public bodies attend one large meeting, a court may construe the gathering of each public body’s majority of members as separate “meetings” of each public body.¹⁰³⁰

a. Work sessions

A “meeting” by any other name is still a meeting. “Work retreats” or “workshops” are “meetings” when a public body discusses public business among a majority of the members of a public body at a prearranged time.¹⁰³¹ When conducting any meeting, the public body must comply with its obligations under the Open Meetings Act: openness, notice, and minutes.¹⁰³²

b. Quasi-judicial proceedings

Public bodies whose responsibilities include adjudicative duties, such as boards of tax appeals and state professional licensing boards, are considered “quasi-judicial.” The Supreme Court of Ohio has determined that public bodies conducting quasi-judicial hearings, “like all judicial bodies, [require] privacy to deliberate, i.e., to evaluate and resolve, the disputes.”¹⁰³³ Quasi-judicial proceedings and the deliberations of public bodies when acting in their quasi-judicial capacities are not “meetings” and are not subject to the Open Meetings Act.¹⁰³⁴ Accordingly, when a public body is acting in its quasi-judicial capacity, the public body does not have to vote publicly to adjourn for deliberations or to take action following those deliberations.¹⁰³⁵

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c. County political party central committees

The convening of a county political party central committee to conduct purely internal party affairs, unrelated to the committee’s duties of making appointments to vacated public offices, is not a “meeting” as defined by the Open Meetings Act. Thus, the Act does not apply to such a gathering.¹⁰³⁶

d. Collective bargaining

Collective bargaining meetings between public employers and employee organizations are private and are not subject to the Open Meetings Act.¹⁰³⁷

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Notes:

⁹⁶³ R.C. 121.22(B)(2).

⁹⁶⁴ R.C. 121.22(B)(1)(a).

⁹⁶⁵ R.C. 121.22(B)(1)(b); *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 58-59 (2001) (“R.C. 121.22(B)(1)(b) includes any committee or subcommittee of a legislative authority of a political subdivision, e.g., a village council, as a ‘public body’ for purposes of the Sunshine Law, so that the council’s personnel and finance committees constitute public bodies in that context.”); *State ex rel. Maynard v. Medina Cty. Facilities Taskforce Subcomm.*, 9th Dist. Medina No. 19VA0083-M, 2020-Ohio-5561, ¶ 18-20 (finding that subcommittee can be sued for Open Meetings Act violation even though it is not a “decision-making body” and does not have “decision-making authority”).

⁹⁶⁶ Except for sanitation courts, the definition of “public body” does not include courts. See *Walker v. Muskingum Watershed Conservancy Dist.*, 5th Dist. Tuscarawas No. 2007 AP 01 0005, 2008-Ohio-4060, ¶ 27. Note that R.C. 121.22(G) prohibits executive sessions for sanitation courts.

⁹⁶⁷ R.C. 121.22(B)(1)(c).

⁹⁶⁸ “[The Supreme Court of Ohio has] never expressly held that once an entity qualifies as a public body for purposes of R.C. 121.22, it is also a public office for purposes of R.C. 149.011(A) and 149.43 so as to make all of its nonexempt records subject to disclosure. In fact, R.C. 121.22 suggests otherwise because it contains separate definitions for ‘public body,’ R.C. 121.22(B)(1), and ‘public office,’ R.C. 121.22(B)(4), which provides that ‘[p]ublic office’ has the same meaning as in section 149.011 of the Revised Code.’ Had the General Assembly intended that a ‘public body’ for the purposes of R.C. 121.22 be considered a ‘public office’ for purposes of R.C. 149.011(A) and 149.43, it would have so provided.” *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. Comms.*, 128 Ohio St.3d 256, 2011-Ohio-625, ¶ 38.

⁹⁶⁹ *Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App.3d 460, 472 (10th Dist. 2001) (selection committee established by Ohio Rail Development Commission was a “public body” under the Open Meetings Act because it made decisions and advised the commission; that the selection committee was created without formal action was immaterial); *State ex rel. Mohr v. Colerain Twp.*, 1st Dist. Hamilton No. C-210369, 2022-Ohio-1109 (land-use planning committee created by a township’s board of trustees was a “public body” under the Open Meetings Act because the committee’s members were appointed to make recommendations for a land-use plan that the trustees had the power to approve; the committee’s lack of formal decision-making power was not dispositive); but see *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. Comms.*, 128 Ohio St.3d 256, 2011-Ohio-625, ¶ 44 (groups formed by private entities to provide community input, not established by governmental entity, and to which no government duties or authority have been delegated, were not “public bodies”); *State ex rel. Massie v. Lake Cty. Bd. of Comms.*, 11th Dist. Lake No. 2020-L-087, 2021-Ohio-786, ¶ 41 (county visitor’s bureau, a non-profit corporation, was not a public body because it was not established by statute and its authority was independent from any government entity).

⁹⁷⁰ *Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App.3d 460, 472 (10th Dist. 2001) (in finding that a selection committee was a “public body,” it was relevant that the entity was called a “committee,” a term included in the definition of a “public body” in R.C. 121.22); *Stegall v. Joint Twp. Dist. Mem. Hosp.*, 20 Ohio App.3d 100, 103 (3d Dist. 1985) (finding relevant that the name of the entity is one of the public body titles listed in R.C. 121.22(B)(1), i.e., Board of Hospital Governors).

⁹⁷¹ *Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App.3d 460, 472 (10th Dist. 2001) (finding relevant that commissioners of the parent Ohio Rail Development Commission comprised a majority of a selection committee’s membership).

⁹⁷² *Thomas v. White*, 85 Ohio App.3d 410, 412 (9th Dist. 1992) (tasks such as making recommendations and advising involve decision-making); *Cincinnati Enquirer v. Cincinnati*, 145 Ohio App.3d 335, 339 (1st Dist. 2001) (whether urban design review board, comprised of a group of architectural consultants for the city, had ultimate authority to decide matters was not controlling because the board actually made decisions in the process of formulating its advice); *State ex rel. Mohr v. Colerain Twp.*, 1st Dist. Hamilton No. C-210369, 2022-Ohio-1109 (land-use planning committee’s lack of formal decision-making power was not dispositive because it made recommendations and advised other public bodies, which necessitated making decisions); *Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App.3d 460, 472 (10th Dist. 2001) (selection committee made decisions in its role of reviewing and evaluating proposals and making a recommendation to the Ohio Rail Development Commission).

⁹⁷³ *Cincinnati Enquirer v. Cincinnati*, 145 Ohio App.3d 335, 339 (1st Dist. 2001) (finding an urban design review board that advised not only the city manager, but also the city council, to be a public body).

⁹⁷⁴ *Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App.3d 460, 472 (10th Dist. 2001) (finding relevant that the group was called a “committee,” a term included in the definition of a “public body” in R.C. 121.22; that a majority of the selection committee’s members were commissioners of the commission itself; that the selection committee made decisions in its role of reviewing and evaluating proposals and making a recommendation to the Ohio Rail Development Commission (a public body); that the selection committee was established by the committee without formal action is immaterial).

⁹⁷⁵ *Cincinnati Enquirer v. Cincinnati*, 145 Ohio App.3d 335, 339 (1st Dist. 2001) (whether an urban design review board, comprised of a group of architectural consultants for the city, had ultimate authority to decide matters was not controlling, as the board actually made decisions in the process of formulating its advice; the board advised not only the city manager, but also the city council, a public body); *State ex rel. Mohr v. Colerain Twp.*, 1st Dist. Hamilton No. C-210369, 2022-Ohio-1109 (a land-use planning committee created by a township’s board of trustees was a “public body” even though it had no formal decision-making power, because it was a subcommittee to which the trustees referred business and because it made recommendations and advised other public bodies, which necessitated making decisions).

⁹⁷⁶ *Stegall v. Joint Twp. Dist. Mem. Hosp.*, 20 Ohio App.3d 100, 102-03 (3d Dist. 1985) (the Board of Governors of a joint township hospital fell within the definition of “public body” because this definition includes “boards”; the board made decisions essential to the construction and equipping of a general hospital; and the board was of a “township” or of a “local public institution” because it existed by virtue of authority granted by the legislature for the creation of joint township hospital facilities).

⁹⁷⁷ *Thomas v. White*, 85 Ohio App.3d 410, 412 (9th Dist. 1992) (committee was a public body because the subject matter of the committee’s operations is the public business, each of its duties involves decisions as to what will be done, and the committee by law elects a chairman who serves as an *ex officio* voting member of the children services board, which involves decision-making).

⁹⁷⁸ 1992 Ohio Atty.Gen.Ops. No. 078.

⁹⁷⁹ *Smith v. Cleveland*, 94 Ohio App.3d 780, 784-785 (8th Dist. 1994) (city safety director is not a public body and may conduct disciplinary hearings without complying with the Open Meetings Act).

⁹⁸⁰ *Beacon Journal Publishing Co. v. Akron*, 3 Ohio St.2d 191 (1965) (boards, commissions, committees, etc., created by executive order of the mayor and chief administrator without the advice and consent of city council were not subject to the Open Meetings Act); *eFunds v. Ohio Dept. of Job & Family Serv.*, Franklin C.P. No. 05CVH09-10276 (2006) (an “evaluation committee” of government employees under the authority of a state agency administrator is not a public body); 1994 Ohio Atty.Gen.Ops. No. 096 (when a committee of private citizens and various public officers or employees is established solely pursuant to the executive authority of the administrator of a general health district for the purpose of providing advice pertaining to the administration of a grant, and establishment of the committee is not required or authorized by the grant or board action, such a committee is not a public body for purposes of the Open Meetings Act and is not subject to the requirements of the Act).

⁹⁸¹ *Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App.3d 460 (10th Dist. 2001).

⁹⁸² *State ex rel. Toledo Blade Co. v. Economic Opportunity Planning Assn. of Greater Toledo*, 61 Ohio Misc.2d 631, 640 (C.P. 1990) (an economic opportunity planning association was a public body because it was designed as a community action agency under the Open Meetings Act).

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⁹⁸³ While the Open Meetings Act does not apply to the General Assembly as a whole, legislative committees are required to follow the guidelines set forth in the General Assembly’s own open meetings law (R.C. 101.15), which requires committee meetings to be open to the public and that minutes of those meetings be made available for public inspection. Like the Open Meetings Act, the legislature’s open meetings law includes some exemptions. For example, the law does not apply to meetings of the Joint Legislative Ethics Committee, other than those meetings specified in the law (R.C. 101.15(F)(1)), or to meetings of a political party caucus (R.C. 101.15(F)(2)).

⁹⁸⁴ R.C. 121.22(D)(1).

⁹⁸⁵ R.C. 121.22(D)(2).

⁹⁸⁶ R.C. 121.22(D)(4).

⁹⁸⁷ R.C. 121.22(D)(5).

⁹⁸⁸ R.C. 121.22(D)(11).

⁹⁸⁹ R.C. 121.22(D)(12).

⁹⁹⁰ R.C. 121.22(D)(16)–(19), (21).

⁹⁹¹ R.C. 121.22(D)(3).

⁹⁹² R.C. 4730.25(G); R.C. 4731.22(G).

⁹⁹³ R.C. 4723.281(B).

⁹⁹⁴ R.C. 4734.37.

⁹⁹⁵ R.C. 121.22(D)(6)–(7), (9).

⁹⁹⁶ R.C. 121.22(D)(8)(a); R.C. 4729.16(D); R.C. 3796.14(B); R.C. 4752.09(C); R.C. 3719.121(B).

⁹⁹⁷ R.C. 121.22(D)(8)(b); R.C. 4729.75; R.C. 4729.86(C).

⁹⁹⁸ R.C. 121.22(D)(10).

⁹⁹⁹ R.C. 121.22(D)(13)–(15); R.C. 4755.11; R.C. 4755.47; R.C. 4755.64.

¹⁰⁰⁰ R.C. 121.22(D)(20).

¹⁰⁰¹ R.C. 121.22(E).

¹⁰⁰² R.C. 121.22(E)(1)–(5).

¹⁰⁰³ R.C. 1724.11(B)(1) (providing that the board, committee, or subcommittee shall consider no other information during the closed session).

¹⁰⁰⁴ R.C. 121.22(A), (B)(2), (C).

¹⁰⁰⁵ R.C. 121.22(B)(2).

¹⁰⁰⁶ *State ex rel. Cincinnati Post v. Cincinnati*, 76 Ohio St.3d 540, 544 (1996) (back-to-back, prearranged discussions of city council members constitute a “majority,” but clarifying that the Open Meetings Act does not prohibit impromptu meetings between council members or prearranged member-to-member discussion).

¹⁰⁰⁷ *Haverkos v. Northwest Local School Dist. Bd. of Edn.*, 1st Dist. Hamilton Nos. C-040578, C-040589, 2005-Ohio-3489, ¶ 7.

¹⁰⁰⁸ *State ex rel. Ames v. Portage Cty. Bd. of Commrs.*, 11th Dist. Portage No. 2023-P-0044, 2024-Ohio-146, ¶ 32-33.

¹⁰⁰⁹ *White v. King*, 147 Ohio St.3d 74, 2016-Ohio-2770, ¶ 15-20.

¹⁰¹⁰ *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 58-59 (2001).

¹⁰¹¹ R.C. 121.22(C).

¹⁰¹² The following are examples of public bodies that have statutory authority to conduct meetings via teleconference, videoconference, or other remote means: R.C. 308.051 (board of trustees of a regional airport authority); R.C. 339.02 (board of county hospital trustees); R.C. 715.693 (board of directors of joint economic development zones); R.C. 940.39(B) (board of supervisors of a soil and water conservation district; R.C. 3307.091 (State Teachers Retirement Board); R.C. 3316.05(K) (school district financial planning and supervision commission); R.C. 3345.82 (board of trustees of a state institution of higher education); R.C. 4517.35 (motor vehicle dealers board); R.C. 4582.60(A) (board of directors of a port authority); R.C. 5123.35(F) (developmental disabilities council); R.C. 5126.0223 (county board of developmental disabilities); R.C. 6133.041(A) (joint board of county commissioners of joint county ditches). NOTE: this list is not exhaustive, consult with legal counsel or conduct independent legal research to determine if a specific public body has statutory authority to meet via remote means.

¹⁰¹³ *State ex rel. Cincinnati Post v. Cincinnati*, 76 Ohio St.3d 540, 544 (1996) (“[The Open Meetings Act] does not prohibit member-to-member prearranged discussions.”); *Haverkos v. Northwest Local School Dist. Bd. of Edn.*, 1st Dist. Hamilton Nos. C-040578, C-040589, 2005-Ohio-3489, ¶ 11 (a spontaneous telephone call from one board member to another to discuss election politics, not school board business, did not violate the Open Meetings Act).

¹⁰¹⁴ *State ex rel. Cincinnati Post v. Cincinnati*, 76 Ohio St.3d 540, 543 (1996) (city council members had a “meeting” for purposes of the Open Meetings Act when it held back-to-back, prearranged discussions of public business).

¹⁰¹⁵ *State ex rel. Cincinnati Post v. Cincinnati*, 76 Ohio St.3d 540, 542-44 (1996) (noting the purpose of the Open Meetings Act is to prevent a game of “musical chairs” in which elected officials contrive to meet secretly to deliberate on public issues without accountability to the public); *State ex rel. Floyd v. Rock Hill Local School Bd. of Edn.*, 4th Dist. Lawrence No. 1862, 1988 Ohio App. LEXIS 471, *4, 13-16 (Feb. 10, 1988) (school board president improperly discussed and deliberated dismissal of principal with other board members in multiple one-on-one conversations, and came to next meeting with letter of non-renewal ready for superintendent to deliver to principal, which the board voted to approve without discussion); *but see Wilkins v. Harrisburg*, 10th Dist. Franklin No. 12AP-1046, 2013-Ohio-2751 (two presentations were not serial meetings when the gatherings were separated by two months, the presentations were discussed at regularly scheduled meetings, and a regularly scheduled meeting was held between the two presentations).

¹⁰¹⁶ *White v. King*, 147 Ohio St.3d 74, 2016-Ohio-2770, ¶ 16-18 (“Allowing public bodies to avoid the requirements of the Open Meetings Act by discussing public business via serial electronic communications subverts the purpose of the act.”).

¹⁰¹⁷ R.C. 121.22(A), (B)(2), (C).

¹⁰¹⁸ *DeVere v. Miami Univ. Bd. of Trustees*, 12th Dist. Butler No. CA85-05-065, 1986 Ohio App. LEXIS 7171, *10 (June 10, 1986) (no discussion of public business when board president simply conveyed information to the board and there was no exchange of words, comments, or ideas).

¹⁰¹⁹ *State ex rel. Mohr v. Colerain Twp.*, 1st Dist. Hamilton No. C-210369, 2022-Ohio-1109, ¶ 39.

¹⁰²⁰ *State ex rel. Ames v. Brimfield Twp. Bd. of Trustees*, 11th Dist. Portage No. 2019-P-0018, 2019-Ohio-5311, ¶ 13-15.

¹⁰²¹ *Piekutowski v. S. Cent. Ohio Edn. Serv. Ctr. Governing Bd.*, 161 Ohio App.3d 372, 2005-Ohio-2868, ¶ 14 (4th Dist.).

¹⁰²² *White v. King*, 147 Ohio St.3d 74, 2016-Ohio-2770, ¶ 16; *State ex rel. Mohr v. Colerain Twp.*, 1st Dist. Hamilton No. C-210369, 2022-Ohio-1109, ¶ 39.

¹⁰²³ *Holeski v. Lawrence*, 85 Ohio App.3d 824, 829 (11th Dist. 1993).

¹⁰²⁴ *State ex rel. Ames v. Portage Cty. Bd. of Commrs.*, 11th Dist. Portage No. 2017-P-0093, 2018-Ohio-2888, ¶ 25 (no deliberations occurred when the evidence established that the public body convened for informational purposes, and the members did not “exchange[] any ideas amongst one another”); *Piekutowski v. S. Cent. Ohio Edn. Serv. Ctr. Governing Bd.*, 161 Ohio App.3d 372, 2005-Ohio-2868, ¶ 14-18 (4th Dist.) (a board may gather information on proposed school district in private, but it cannot deliberate privately in the absence of specifically authorized purposes); *State ex rel. Massie v. Lake County Bd. Of Commrs.*, 11th Dist. Lake No. 2020-L-087, 2021-Ohio-786, ¶ 27 (evidence supported finding that commission members’ gathering was for information-seeking and was not a “meeting” under the Open Meetings Act); *State ex rel. Kovoar v. Trumbull Cty. Bd. of Elections*, 11th Dist. Trumbull No. 2022-TR-0101, 2023-Ohio-2256, ¶ 33 (board’s request for a legal opinion from the prosecutor constituted information-gathering).

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¹⁰²⁵ *Cincinnati Enquirer v. Cincinnati Bd. of Edn.*, 192 Ohio App.3d 566, 2011-Ohio-703 (1st Dist.) (a non-public information-gathering investigative session with legal counsel was not a “meeting” under the Open Meetings Act because board members did not deliberate or discuss public business).

¹⁰²⁶ *Kandell v. City Council of Kent*, 11th Dist. Portage No. 90-P-2255, 1991 Ohio App. LEXIS 3640 (Aug. 2, 1991); see also *State ex rel. Bd. of Edn. for Fairview Park School Dist. v. Bd. of Edn. for Rocky River School Dist.*, 40 Ohio St.3d 136, 140 (1988) (employee’s discussions with a superintendent did not amount to secret deliberations within the meaning of R.C. 121.22(H)).

¹⁰²⁷ *Cincinnati Enquirer v. Cincinnati Bd. of Edn.*, 192 Ohio App.3d 566, 2011-Ohio-703 (1st Dist.).

¹⁰²⁸ *State ex rel. Kovoov v. Trumbull Cty. Bd. of Elections*, 11th Dist. Trumbull No. 2022-TR-0101, 2023-Ohio-2256, ¶ 29-33.

¹⁰²⁹ *Holeski v. Lawrence*, 85 Ohio App.3d 824 (11th Dist. 1993).

¹⁰³⁰ *State ex rel. Fairfield Leader v. Ricketts*, 56 Ohio St.3d 97 (1990); *State ex rel. Wengerd v. Baughman Twp. Bd. of Trustees*, 9th Dist. Wayne No. 13CA0048, 2014-Ohio-4749.

¹⁰³¹ *State ex rel. Singh v. Schoenfeld*, 10th Dist. Franklin Nos. 92AP-188, 92AP-193, 1993 Ohio App. LEXIS 2409 (May 4, 1993).

¹⁰³² *State ex rel. Fairfield Leader v. Ricketts*, 56 Ohio St.3d 97 (1990).

¹⁰³³ *TBC Westlake v. Hamilton Cty. Bd. of Revision*, 81 Ohio St.3d 58, 62 (1998).

¹⁰³⁴ *TBC Westlake v. Hamilton Cty. Bd. of Revision*, 81 Ohio St.3d 58, 62 (1998) (“[T]he Sunshine Law does not apply to adjudications of disputes in quasi-judicial proceedings, such as the [Board of Tax Appeals].”); *State ex rel. Ross v. Crawford Cty. Bd. of Elections*, 125 Ohio St.3d 438, 445, 2010-Ohio-2167, ¶ 32 (board of elections proceeding determining whether to remove a candidate from the ballot was a quasi-judicial proceeding and the Open Meetings Act did not apply); *Pennell v. Brown Twp.*, 5th Dist. Delaware No. 15 CAH 09 0074, 2016-Ohio-2652, ¶ 34-37 (board of zoning appeals hearing was quasi-judicial and Open Meetings Act did not apply); *Wightman v. Ohio Real Estate Comm.*, 10th Dist. Franklin No. 16AP-466, 2017-Ohio-756, ¶ 26 (state professional licensing board was quasi-judicial and Open Meetings Act did not apply).

¹⁰³⁵ *State ex rel. Ross v. Crawford Cty. Bd. of Elections*, 125 Ohio St.3d 438, 2010-Ohio-2167 (because the Open Meetings Act did not apply to the elections board’s quasi-judicial proceeding, there was no violation in failing to publicly vote on whether to adjourn the public hearing to deliberate, and failing to publicly vote on the matters at issue following deliberations); *In re Application for Additional Use of Property v. Allen Twp. Zoning Bd. of Appeals*, 6th Dist. Ottawa No. OT-12-008, 2013-Ohio-722, ¶ 15 (board of zoning appeals was acting in its quasi-judicial capacity in reviewing applications for conditional use); *Beachland Ents., Inc. v. Cleveland Bd. of Rev.*, 8th Dist. Cuyahoga No. 99770, 2013-Ohio-5585, ¶ 44-46 (board of review was acting in quasi-judicial capacity in adjudicating tax dispute between the city commissioner of assessments and licenses and the taxpayer); *Electronic Classroom of Tomorrow v. Ohio State Bd. of Edn.*, 10th Dist. Franklin No. 17AP-510, 2018-Ohio-716, ¶ 20-28 (consideration of hearing officer’s recommendation was a quasi-judicial function); *Howard v. Ohio State Racing Comm.*, 10th Dist. Franklin No. 18AP-349, 2019-Ohio-4013, ¶ 46 (proceedings before Ohio State Racing Commission were quasi-judicial in nature and Commission not obligated to deliberate in public); *Nosse v. Kirtland*, 11th Dist. Lake No. 2022-L-032, 2022-Ohio-4161, ¶ 28 (public hearing on police chief’s removal was a quasi-judicial proceeding).

¹⁰³⁶ 1980 Ohio Atty.Gen.Ops. No. 083; see also *Jones v. Geauga Cty. Republican Party Cent. Commt.*, 11th Dist. Geauga No. 2016-G-0056, 2017-Ohio-2930, ¶ 35 (upholding the trial court’s dismissal of the case because the meeting at issue concerned purely internal affairs, not public business, and was therefore not subject to the Open Meetings Act); *State ex rel. Ames v. Geauga Cty. Republican Cent. & Executive Commts.*, 11th Dist. Geauga No. 2021-G-0004, 2021-Ohio-2888 (the Open Meetings Act does not apply to meeting of county political party central committee when purpose of the meeting is to conduct internal party business).

¹⁰³⁷ R.C. 4117.21; see also *Springfield Local School Dist. Bd. of Edn. v. Ohio Assn. of Pub. School Emps.*, 106 Ohio App.3d 855, 869 (9th Dist. 1995) (R.C. 4117.21 manifests a legislative interest in protecting the privacy of the collective bargaining process); *Back v. Madison Local School Dist. Bd. of Edn.*, 12th Dist. Butler No. CA2007-03-066, 2007-Ohio-4218, ¶ 6-10 (school board’s consideration of a proposed collective bargaining agreement with teachers was properly held in a closed session; collective bargaining meetings are exempt from Open Meetings Act requirements under RC. 4117.21).

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Chapter Nine: Duties of a Public Body

IX. Chapter Nine: Duties of a Public Body

The Open Meetings Act requires public bodies to provide: (A) openness, (B) notice, and (C) minutes.

A. Openness

The Open Meetings Act declares all meetings of a public body to be public meetings open to the public at all times.¹⁰³⁸ The General Assembly mandates that the Act be liberally construed to require that public officials take official action and “conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.”¹⁰³⁹

1. Where meetings may be held

A public body must conduct its meetings in a venue that is open to the public.¹⁰⁴⁰ Although the Open Meetings Act does not specifically address where a public body must hold meetings, some authority suggests that a public body must hold meetings in a public meeting place¹⁰⁴¹ that is within the geographical jurisdiction of the public body.¹⁰⁴² Clearly, a meeting is not “open” when the public body has locked the doors to the meeting facility.¹⁰⁴³

Where space in the facility is too limited to accommodate all interested members of the public, closed-circuit television may be an acceptable alternative.¹⁰⁴⁴ Allowing members of the public to observe the meeting from the hall and through the open meeting door may also be acceptable.¹⁰⁴⁵ Federal law requires that a meeting place be accessible to individuals with disabilities.¹⁰⁴⁶

2. Method of voting

Unless a particular statute requires a specific method of voting, the public cannot insist on a particular form of voting. The body may use its own discretion in determining the method it will use, such as voice vote, show of hands, or roll call.¹⁰⁴⁷ The Open Meetings Act only specifies the method of voting when a public body is adjourning into executive session by requiring that the vote for that purpose be by roll call.¹⁰⁴⁸ The Supreme Court of Ohio held that the Act precludes a public body from taking official action by way of secret ballot.¹⁰⁴⁹ Voting by secret ballot contradicts the openness requirement of the Open Meetings Act by hiding the decision-making process from public view.¹⁰⁵⁰

Using a consent agenda whereby a public body votes on the entire agenda in a single motion and with a single vote may violate the Open Meetings Act if doing so constructively closes a public meeting, or otherwise acts as a way around the openness requirement of the Act.¹⁰⁵¹ A public body is also prohibited from voting on a consent agenda when the public has no way of knowing all the items the consent agenda contains.¹⁰⁵²

3. Right to hear but not to be heard or to disrupt

The public must be able to hear meetings of a public body. Thus, one court found that members of a public body who whispered and passed documents among themselves constructively closed that portion of their meeting by intentionally preventing the audience from hearing or knowing the business the body discussed.¹⁰⁵³ However, the Open Meetings Act does not provide (or prohibit) attendees the right to be heard at meetings. Note that other laws may apply to limit the restrictions the public body can place on the public’s ability to speak during meetings.¹⁰⁵⁴ Further, a disruptive person waives his or her right to attend meetings, and the body may remove that person from the meeting.¹⁰⁵⁵

4. Audio and video recording

A public body cannot prohibit the public from audio or video recording a public meeting.¹⁰⁵⁶ A public body may, however, establish reasonable rules regulating the use of recording equipment, such as

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requiring equipment to be silent, unobtrusive, self-contained, and self-powered to limit interference with the ability of others to hear, see, and participate in the meeting.¹⁰⁵⁷

5. *Executive sessions*

Executive sessions (discussed below in Chapter Nine) are portions of open meetings from which the public can be excluded. However, public bodies may not vote or take official action in an executive session.¹⁰⁵⁸

B. *Notice*

Every public body must establish, by rule, a reasonable method for notifying the public in advance of its meetings.¹⁰⁵⁹ The public body's notice rule must provide for "notice that is consistent and actually reaches the public."¹⁰⁶⁰ The requirements for proper notice vary depending on the type of meeting a public body is conducting, as detailed in this section.

1. *Types of meetings and notice requirements*

a. *Regular meetings*

"Regular meetings" are those held at prescheduled intervals, such as monthly or annual meetings.¹⁰⁶¹ A public body must establish, by rule, a reasonable method that allows the public to know the *time* and *place* of regular meetings.¹⁰⁶²

b. *Special meetings*

A "special meeting" is any meeting other than a regular meeting.¹⁰⁶³ A public body must establish, by rule, a reasonable method that informs the public of the *time*, *place*, and *purpose* of special meetings¹⁰⁶⁴ and conforms with the following requirements:

- A public body must provide at least 24-hours advance notification of a special meeting to all media outlets that have requested such notification,¹⁰⁶⁵ except in the event of an emergency requiring immediate official action (see "Emergency meetings," below).
- When a public body holds a special meeting to discuss particular issues, the statement of the meeting's purpose must specifically indicate those issues, and the public body can only discuss those specified issues at that meeting.¹⁰⁶⁶ When a special meeting is simply a rescheduled "regular" meeting occurring at a different time, the statement of the meeting's purpose may be for "general purposes."¹⁰⁶⁷ Discussing matters at a special meeting that were not disclosed in the notice of purpose, either in open session or executive session, is a violation of the Open Meetings Act.¹⁰⁶⁸

c. *Emergency meetings*

An emergency meeting is a type of special meeting that a public body convenes when a situation requires immediate official action.¹⁰⁶⁹ Rather than the 24-hours advance notice usually required, a public body scheduling an emergency meeting must *immediately* notify all media outlets that have specifically requested such notice of the time, place, and purpose of the emergency meeting.¹⁰⁷⁰ The purpose statement must comport with the specificity requirements discussed above.

2. *Rules for giving notice*

The Open Meetings Act requires every public body to adopt rules establishing reasonable methods to notify the public of the time and place of all regularly scheduled meetings, and the time, place, and purpose of all special meetings.¹⁰⁷¹ A parent public body may impose its own notice rules on a subordinate committee.¹⁰⁷²

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Those rules must include a provision for any person, upon request and payment of a reasonable fee, to obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed.¹⁰⁷³ The statute says that provisions for advance notification may include mailing the agenda of meetings to all subscribers on a mailing list or mailing notices in self-addressed, stamped envelopes provided by the person requesting notice.¹⁰⁷⁴

3. Notice by publication

Courts have found that publication of meeting information in a newspaper is one reasonable method of noticing the public of its meetings.¹⁰⁷⁵ This method, however, does not satisfy the notice requirement if the public body does not have a rule providing for it or if the newspaper has discretion not to publish the information.¹⁰⁷⁶ Courts have addressed situations in which the media misprints meeting information and have not found a violation of the notice requirement.¹⁰⁷⁷ Many public bodies that adopt some other means of notice by rule also notify their local media of all regular, special, and emergency meetings as a courtesy.

C. Minutes

1. Content of minutes

A public body must keep full and accurate minutes of its meetings.¹⁰⁷⁸ Minutes do not have to be a verbatim transcript of the proceedings, but must include enough facts and information for the public to understand and appreciate the *rationale* behind the public body's decisions.¹⁰⁷⁹ Thus, minutes must include more than a record of roll call votes.¹⁰⁸⁰ However, minutes may be sufficient even if information such as the date of the meeting is missing.¹⁰⁸¹ Minutes are inadequate when they contain inaccuracies that are not corrected.¹⁰⁸² A public body cannot rely on sources other than their approved minutes to argue that their minutes contain a full and accurate record of their proceedings.¹⁰⁸³

Because executive sessions are not open to the public, the meeting minutes need to reflect only the general subject matter of the executive session via the motion to convene the session for a permissible purpose or purposes (see "Executive Session," discussed later in Chapter Ten).¹⁰⁸⁴ Including details of members' pre-vote discussion following an executive session may prove helpful, though. At least one court found that the lack of pre-vote comments reflected by the minutes supported the conclusion that the public body's discussion of the pros and cons of the matter at issue must have improperly occurred during executive session.¹⁰⁸⁵

2. Making minutes available "promptly" as a public record

A public body must promptly prepare, file, and make its minutes available for public inspection.¹⁰⁸⁶ The term "promptly" is not defined. One court has adopted the definition applied by courts to the Public Records Act (without delay and with reasonable speed, depending on the facts of each case), to define that term in the Open Meetings Act.¹⁰⁸⁷ The final version of the official minutes approved by members of the public body is a public record.¹⁰⁸⁸ Note that a draft version of the meeting minutes that the public body circulates for approval,¹⁰⁸⁹ as well as the clerk's handwritten notes used to draft minutes,¹⁰⁹⁰ may also be public records.

3. Medium on which minutes are kept

Because neither the Open Meetings Act nor the Public Records Act addresses the medium on which a public body must keep the official meeting minutes, a public body may make this decision itself. Some public bodies document that choice by adopting a formal rule or by passing a resolution or motion at a meeting.¹⁰⁹¹ Many public bodies make a contemporaneous audio recording of the meeting to use as a back-up in preparing written official minutes. The Ohio Attorney General has

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opined that such a recording constitutes a public record that the public body must make available for inspection upon request.¹⁰⁹²

D. Modified Duties of Public Bodies under Special Circumstances

1. Declared emergency

During a declared emergency,¹⁰⁹³ R.C. 5502.24(B) provides a limited exemption to fulfilling the requirements of the Open Meetings Act. If, due to a declared emergency, it becomes “imprudent, inexpedient, or impossible to conduct the affairs of local government at the regular or usual place,” the governing body may meet at an alternate site previously designated (by ordinance, resolution, or other manner) as the emergency location of government.¹⁰⁹⁴ Further, the public body may exercise its powers and functions in light of the exigencies of the emergency without regard to or compliance with time-consuming procedures and formalities of the Open Meetings Act. Even in an emergency, however, there is no exemption to the “in person” meeting requirement of R.C. 121.22(C), and the provision does not permit the public body to meet by teleconference, unless the public body otherwise has a specific statutory authority to do so.¹⁰⁹⁵

2. Municipal charters

The Open Meetings Act applies to public bodies at both the state and local government level. However, because the Ohio Constitution permits “home rule” (self-government), municipalities may adopt a charter under which their local governments operate.¹⁰⁹⁶ A charter municipality has the right to determine by charter the manner in which its meetings will be held.¹⁰⁹⁷ Charter provisions take precedence over the Open Meetings Act when the two conflict.¹⁰⁹⁸ If a municipal charter includes specific guidelines regarding the conduct of meetings, the municipality must abide by those guidelines.¹⁰⁹⁹ In addition, if a charter expressly requires that all meetings of the public bodies must be open, the municipality may not adopt ordinances that permit executive session.¹¹⁰⁰

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Notes:

¹⁰³⁸ R.C. 121.22(C).

¹⁰³⁹ R.C. 121.22(A).

¹⁰⁴⁰ R.C. 121.22(C); *State ex rel. Randles v. Hill*, 66 Ohio St.3d 32, 35 (1993) (locking the doors to the meeting hall, whether or not intentional, is not an excuse for failing to comply with the requirement that meetings be open to the public); *Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. Trumbull No. 2012-T-0035, 2013-Ohio-881, ¶ 22 (a public body may limit the time, place, and means of access to its meetings, if the restrictions are content neutral and narrowly tailored to serve a significant governmental interest).

¹⁰⁴¹ *Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. Trumbull No. 2012-T-0035, 2013-Ohio-881, ¶ 24 (“While [the Open Meetings Act] does not state where a public body must hold its public meetings, it has been held that the public body must use a public meeting place.”); 1992 Ohio Atty.Gen.Ops. No. 032.

¹⁰⁴² 1992 Ohio Atty.Gen.Ops. No. 032.

¹⁰⁴³ *Specht v. Finnegan*, 149 Ohio App.3d 201, 2002-Ohio-4660, ¶ 33-35 (6th Dist.).

¹⁰⁴⁴ *Wyse v. Rupp*, 6th Dist. Fulton No. F-94-19, 1995 Ohio App. LEXIS 4008 (Sept. 15, 1995) (Ohio Turnpike Commission handled large crowd in a reasonable and impartial manner when it aired the meeting via closed circuit television in an adjacent room).

¹⁰⁴⁵ *State ex rel. Ames v. Portage Cty. Bd. of Comms.*, 11th Dist. Portage No. 2023-P-0044, 2024-Ohio-146, ¶ 37-39. NOTE: the public body in this case was meeting when occupancy restrictions were in place due to the COVID-19 pandemic.

¹⁰⁴⁶ 42 U.S.C. 12101 (Americans with Disabilities Act of 1990, P.L. §§ 201-202) (providing that remedy for violating this requirement would be under the ADA and does not appear to have any ramifications for the public body under the Open Meetings Act).

¹⁰⁴⁷ *But see State ex rel. Roberts v. Snyder*, 149 Ohio St. 333, 335 (1948) (council had no authority to adopt a conflicting rule when enabling law limited council president’s vote to solely in the event of a tie under statute that preceded enactment of Open Meetings Act).

¹⁰⁴⁸ R.C. 121.22(G).

¹⁰⁴⁹ *State ex rel. More Bratenahl v. Bratenahl*, 157 Ohio St.3d 309, 2019-Ohio-3233, ¶ 8-20; 2011 Ohio Atty.Gen.Ops. No. 038 (voting by secret ballot is contrary to the principles of observing the workings of the government and holding government representatives accountable).

¹⁰⁵⁰ *State ex rel. Bratenahl v. Village of Bratenahl*, 157 Ohio St.3d 309, 2019-Ohio-3233, ¶ 15.

¹⁰⁵¹ *State ex rel. Ames v. Portage Cty. Bd. of Comms.*, 165 Ohio St.3d 292, 2021-Ohio-2374, ¶ 19 (public body violated the Open Meetings Act when it approved multiple consent agendas in a single vote; use of a consent agenda in such a way “constructively closes its public meetings and is an impermissible end run around the Open Meetings Act”).

¹⁰⁵² *State ex rel. Ames v. Portage Cty. Bd. of Comms.*, 165 Ohio St.3d 292, 2021-Ohio-2374, ¶ 19.

¹⁰⁵³ *Manogg v. Stickle*, 5th Dist. Licking No. 97CA00104, 1998 Ohio App. LEXIS 1961 (Apr. 8, 1998).

¹⁰⁵⁴ *Black v. Mecca Twp. Bd. of Trustees*, 91 Ohio App.3d 351, 356 (11th Dist. 1993) (the Open Meetings Act does not require that a public body give the public an opportunity to comment at its meetings, but if public participation is permitted, it is subject to the protections of the First and Fourteenth Amendments); *Forman v. Blaser*, 3d Dist. Seneca No. 13-87-12, 1988 Ohio App. LEXIS 3405 (Aug. 8, 1988) (the Open Meetings Act guarantees the right to observe a meeting, but not necessarily the right to be heard); *see also Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. Trumbull No. 2012-T-0035, 2013-Ohio-881, ¶ 19-29 (while the Public Records Act permits a requester to be anonymous when making a public records request, the Open Meetings Act does not have a similar anonymity requirement; thus a public body can require attendees at meetings to disclose their identities by signing a sign-in sheet as long as the practice is content-neutral and narrowly tailored to serve a significant interest).

¹⁰⁵⁵ *Fraehlich v. Ohio State Med. Bd.*, 10th Dist. Franklin No. 15AP-666, 2016-Ohio-1035, ¶ 25-27 (no violation of Open Meetings Act where disruptive person is removed); *Forman v. Blaser*, 3d Dist. Seneca No. 13-87-12, 1988 Ohio App. LEXIS 3405, *8 (Aug. 8, 1988) (“When an audience becomes so uncontrollable that the public body cannot deliberate, it would seem that the audience waives its right to, or is estopped from claiming a right under the Sunshine Law to continue to observe the proceedings.”); *see also Jones v. Heyman*, 888 F.2d 1328, 1333 (11th Cir. 1989) (no violation of First or Fourteenth Amendments when disruptive person was removed from a public meeting).

¹⁰⁵⁶ *McVey v. Carthage Twp. Trustees*, 4th Dist. Athens No. 04CA44, 2005-Ohio-2869, ¶ 14-15 (trustees violated the Open Meetings Act when they banned videotaping of their meetings).

¹⁰⁵⁷ *Kline v. Davis*, 4th Dist. Lawrence Nos. 00CA32, 01CA13, 2001-Ohio-2625 (blanket prohibition on recording a public meeting is not permissible); 1988 Ohio Atty.Gen.Ops. No. 087 (opining that trustees have authority to adopt reasonable rules for use of recording equipment at their meetings); *see also Mahajan v. State Med. Bd. of Ohio*, 10th Dist. Franklin Nos. 11AP-421, 11AP-422, 2011-Ohio-6728 (when rule allowed board to designate reasonable location for placement of recording equipment, requiring appellant’s court reporter to move to the back of the room was reasonable, given the need to transact board business).

¹⁰⁵⁸ R.C. 121.22(A); *Mansfield City Council v. Richland Cty. Council AFL-CIO*, 5th Dist. Richland No. 03CA55, 2003 Ohio App. LEXIS 6654, *12 (Dec. 24, 2003) (reaching a consensus to take no action on a pending matter, as reflected by members’ comments, is impermissible during an executive session).

¹⁰⁵⁹ R.C. 121.22(F); *Katterhenrich v. Fed. Hocking Local School Dist. Bd. of Edn.*, 121 Ohio App.3d 579, 587 (4th Dist. 1997) (“Typically, one would expect regular meetings to be scheduled well in advance”).

¹⁰⁶⁰ *State ex rel. Patrick Bros. v. Putnam Cty. Bd. of Comms.*, 3d Dist. Putnam No. 12-13-05, 2014-Ohio-2717, ¶ 24; *Doran v. Northmont Bd. of Edn.*, 147 Ohio App.3d 268, 272 (2d Dist. 2002).

¹⁰⁶¹ 1988 Ohio Atty.Gen.Ops. No. 029; *Katterhenrich v. Fed. Hocking Local School Dist. Bd. of Edn.*, 121 Ohio App.3d 579, 587 (4th Dist. 1997).

¹⁰⁶² R.C. 121.22(F); *see also Wyse v. Rupp*, 6th Dist. Fulton No. F-94-19, 1995 Ohio App. LEXIS 4008, *21 (Sept. 15, 1995) (finding a public body must specifically identify the time at which a public meeting will start).

¹⁰⁶³ *State ex rel. Fairfield Leader v. Ricketts*, 56 Ohio St.3d 97, 100 (1990) (“The council either meets in a regular session or it does not, and any session that is not regular is special.”); 1988 Ohio Atty.Gen.Ops. No. 029 (opining that, “[w]hile the term ‘special meeting’ is not defined in R.C. 121.22, its use in context indicates that a reference to all meetings other than ‘regular’ meetings was intended”).

¹⁰⁶⁴ R.C. 121.22(F); *see also Doran v. Northmont Bd. of Edn.*, 147 Ohio App.3d 268, 272-73 (2d Dist. 2002) (a board violated the Open Meetings Act by failing to establish, by rule, method to provide reasonable notice to the public of time, place, and purpose of special meetings); *State ex rel. Stiller v. Columbiana Exempted Village School Dist. Bd. of Edn.*, 74 Ohio St.3d 113, 119-20 (1995) (public body did not violate the Open Meetings Act when it gave general notice that nonrenewal of contract would be discussed, even though ancillary matters were also discussed).

¹⁰⁶⁵ R.C. 121.22(F); 1988 Ohio Atty.Gen.Ops. No. 029.

¹⁰⁶⁶ *Keystone Comm. v. Switzerland of Ohio School Dist. Bd. of Edn.*, 7th Dist. Monroe No. 15 MO 0011, 2016-Ohio-4663, ¶ 35-36, 40-43 (special meeting notice of “2015-2016 school year” was not specific enough to meeting’s purpose to discuss a school closure, and large crowds did not prove notice was sufficient); *State ex rel. Young v. Lebanon City School Dist. Bd. of Edn.*, 12th Dist. Warren No. CA2012-02-013, 2013-Ohio-1111 (school board failed to comply with special meeting notice requirements when notice indicated that the purpose of the special meeting was “community information,” but during the meeting the board entered executive session “to discuss negotiations with public employees concerning their compensation and other terms and conditions of their employment”); *State ex rel. Ames v. Rootstown Twp. Bd. of Trustees*, 11th Dist. Portage No. 2019-P-0019, 2019-Ohio-5412, ¶ 56 (special meeting notice of “budget approval” was sufficiently specific to cover discussion of invoice payments).

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¹⁰⁶⁷ *Jones v. Brookfield Twp. Trustees*, 11th Dist. Trumbull No. 92-T-4692, 1995 Ohio App. LEXIS 2805 (June 30, 1995); see also *Satterfield v. Adams Cty. Ohio Valley School Dist.*, 4th Dist. Adams No. 95CA611, 1996 Ohio App. LEXIS 4897, *17 (Nov. 6, 1996) (although specific agenda items may be listed, use of agenda term “personnel” is sufficient for notice of special meeting).

¹⁰⁶⁸ *State ex rel. Jones v. Bd. of Edn. of the Dayton Pub. Schs.*, 2d Dist. Montgomery No. 27649, 2018-Ohio-676, ¶ 51-66 (action taken in open session of special meeting exceeded the scope of the notice); *Hoops v. Jerusalem Twp. Bd. of Trustees*, 6th Dist. Lucas No. L-97-1240, 1998 Ohio App. LEXIS 1496, *13 (Apr. 10, 1998) (business transacted at special meetings exceeded scope of published purpose and thus violated R.C. 121.22(F)). But see *State ex rel. Ames v. Portage Cty. Bd. of Comms.*, 11th Dist. Portage No. 2-16-P-0057, 2017-Ohio-4237, ¶ 46 (public bodies may convene into executive session in emergency meetings; doing so did not exceed the scope of the special meeting notice).

¹⁰⁶⁹ *State ex rel. Bates v. Smith*, 147 Ohio St.3d 322, 2016-Ohio-5449, ¶ 13-17 (“emergency” meeting was improper because there was no suggestion of any emergency that would necessitate such a meeting); *Neuvirth v. Bd. of Trustees of Bainbridge Twp.*, 11th Dist. Geauga No. 919, 1981 Ohio App. LEXIS 14641, **2-4 (Jun. 29, 1981) (meetings were not emergencies when evidence showed that matters could have been scheduled any time in the preceding two or three months; the public body could not postpone considering the matter until the last minute and then claim an emergency). But see *State ex rel. Ames v. Portage Cty. Bd. of Comms.*, 11th Dist. Portage No. 2-16-P-0057, 2017-Ohio-4237, ¶ 39 (rejecting the argument “that an emergency session is invalid under R.C. 121.22(F) where a public body decides not to take official action at the close of the session”).

¹⁰⁷⁰ R.C. 121.22(F).

¹⁰⁷¹ R.C. 121.22(F).

¹⁰⁷² *Ames v. Geauga Cty. Invest. Advisory Comm.*, 11th Dist. Geauga No. 2022-G-0035, 2023-Ohio-2252, ¶ 49.

¹⁰⁷³ R.C. 121.22(F); *State ex rel. Patrick Bros v. Putnam Cty. Bd. of Comms.*, 3d Dist. Putnam No. 12-13-05, 2014-Ohio-2717, ¶ 33-37.

¹⁰⁷⁴ These requirements notwithstanding, many courts have held that actions taken by a public body are not invalid simply because the body failed to adopt notice rules. These courts reason that the purpose of the law’s invalidation section (R.C. 121.22(H)) is to invalidate actions taken when insufficient notice of the meeting was provided. See *Doran v. Northmont Bd. of Edn.*, 147 Ohio App.3d 268, 271 (2d Dist. 2002); *Hoops v. Jerusalem Twp. Bd. of Trustees*, 6th Dist. Lucas No. L-97-1240, 1998 Ohio App. LEXIS 1496 (Apr. 10, 1998); *Barbeck v. Twinsburg Twp.*, 73 Ohio App.3d 587 (9th Dist. 1992).

¹⁰⁷⁵ *Black v. Mecca Twp. Bd. of Trustees*, 91 Ohio App.3d 351, 356 (11th Dist. 1993); *Doran v. Northmont Bd. of Edn.*, 147 Ohio App.3d 268, 272 (2d Dist. 2002) (“If the board would establish a rule providing that it would notify these newspapers and direct the newspapers to publish this notice consistently, it would satisfy the first paragraph of R.C. 121.22(F).”).

¹⁰⁷⁶ *Doran v. Northmont Bd. of Edn.*, 147 Ohio App.3d 268, 272 (2d Dist. 2002).

¹⁰⁷⁷ *Black v. Mecca Twp. Bd. of Trustees*, 91 Ohio App.3d 351, 356 (11th Dist. 1993) (chairman of zoning commission testified that he correctly reported meeting time to newspaper but newspaper mispublished it); *Swickrath & Sons, Inc. v. Elida*, 3d Dist. Allen No. 1-03-46, 2003-Ohio-6288, ¶ 19 (no violation from newspaper’s misprinting of meeting start time when village had three separate methods of providing notice of its meetings and village official made numerous phone calls to newspaper requesting correction).

¹⁰⁷⁸ R.C. 121.22(C).

¹⁰⁷⁹ *White v. Clinton Cty. Bd. of Comms.*, 76 Ohio St.3d 416, 424 (1996) (“[F]ull and accurate minutes must contain sufficient facts and information to permit the public to understand and appreciate the rationale behind the relevant public body’s decision.”). See also *State ex rel. Citizens for Open, Responsive & Accountable Govt. v. Register*, 116 Ohio St.3d 88, 2007-Ohio-5542, ¶ 27-29 (construing R.C. 121.22, 149.43, and 507.04 together, a township fiscal officer has a duty to maintain full and accurate minutes and records of the proceedings, as well as the accounts and transactions of the board of township trustees); *State ex rel. Dunlap v. Violet Twp. Bd. of Trustees*, 5th Dist. Fairfield No. 12-CA-8, 2013-Ohio-2295, ¶ 9-11 (absent evidence of alleged missing details or discussions, meeting minutes stating a vote was taken and providing the resolution number being voted on were sufficient); *State ex rel. Ames v. Portage Cty. Bd. of Comms.*, 11th Dist. Portage No. 2021-P-0118, 2022-Ohio-1012, ¶ 4 (public body prepared full and accurate minutes, even though minutes referenced a report that was attached as an exhibit, because the minutes never purported to attach the report as an exhibit or otherwise expressly incorporate the report).

¹⁰⁸⁰ *White v. Clinton Cty. Bd. of Comms.*, 76 Ohio St.3d 416, 424 (1996) (minutes “certainly should not be limited to a mere recounting of the body’s roll call votes,” but must contain “a more substantial treatment of the items discussed”).

¹⁰⁸¹ *State ex rel. Ames v. Portage Cty. Solid Waste Mgt. Dist. Bd. of Comms.*, 11th Dist. Portage No. 2023-P-0045, 2023-Ohio-4870.

¹⁰⁸² *State ex rel. Ames v. Portage Cty. Board of Comms.*, 165 Ohio St.3d 292, 2021-Ohio-2374, ¶ 23 (public body failed to keep full and accurate minutes when minutes referenced attachment that was not in the approved minutes or produced to requester).

¹⁰⁸³ *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 58 (2001); but see *Shaffer v. W. Farmington*, 82 Ohio App.3d 579, 585 (11th Dist. 1992) (minutes may not be conclusive evidence on whether roll call vote was taken); *State ex rel. MORE Bratenahl v. Bratenahl*, 8th Dist. Cuyahoga No. 105281, 2018-Ohio-497, ¶ 25 (“[T]he meeting minutes in question, along with the transcripts of the subsequent council meetings, provide an accurate and adequate record[.]”), *rev’d on other grounds*, 157 Ohio St.3d 309, 2019-Ohio-3233.

¹⁰⁸⁴ R.C. 121.22(C).

¹⁰⁸⁵ *Piekutowski v. S. Cent. Ohio Edn. Serv. Ctr. Governing Bd.*, 161 Ohio App.3d 372, 380, 2005-Ohio-2868 (4th Dist.).

¹⁰⁸⁶ R.C. 121.22(C); see also *White v. Clinton Cty. Bd. of Comms.*, 76 Ohio St.3d 416 (1996); *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 57 (2001) (audiotapes that are later erased do not meet requirement to maintain minutes).

¹⁰⁸⁷ *State ex rel. Young v. Lebanon City School Dist. Bd. of Edn.*, 12th Dist. Warren No. CA2012-02-013, 2013-Ohio-1111, ¶ 33 (reading R.C. 121.22 with R.C. 3313.26, school board failed to “promptly” prepare minutes where it was three months behind in approving minutes and did not approve minutes at the next respective meeting).

¹⁰⁸⁸ R.C. 121.22(C).

¹⁰⁸⁹ *State ex rel. Doe v. Register*, 12th Dist. Clermont No. CA2008-08-081, 2009-Ohio-2448, ¶ 28.

¹⁰⁹⁰ *State ex rel. Verhovec v. Marietta*, 4th Dist. Washington No. 12CA32, 2013-Ohio-5415, ¶ 19-30.

¹⁰⁹¹ In *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 57 (2001), the Supreme Court found meritless the council’s contention that audiotapes complied with Open Meetings Act requirements because they were not treated as official minutes, e.g., council approved written minutes, did not tape all meetings, and voted to erase tapes after written minutes had been approved.

¹⁰⁹² 2008 Ohio Atty.Gen.Ops. No. 019 (opining that an audio tape recording of a meeting that is created for the purpose of taking notes to create an accurate record of the meeting is a public record for purposes of the Public Records Act; the recording must be made available for public inspection and copying and retained in accordance with the terms of the records retention schedule for such a record).

¹⁰⁹³ “Emergency” is defined as “any period during which the congress of the United States or a chief executive has declared or proclaimed that an emergency exists.” R.C. 5502.21 (F). “Chief executive” is defined as “the president of the United States, the governor of this state, the board of county commissioners of any county, the board of township trustees of any township, or the mayor or city manager of any municipal corporation within this state.” R.C. 5502.21(C).

¹⁰⁹⁴ R.C. 5502.24(B).

¹⁰⁹⁵ 2009 Ohio Atty.Gen.Ops. No. 034; R.C. 5502.24(B).

¹⁰⁹⁶ Ohio Constitution, Article XVIII, Sections 3, 7.

¹⁰⁹⁷ *State ex rel. Plain Dealer Publishing Co. v. Barnes*, 38 Ohio St.3d 165, 168 (1988) (finding it unnecessary to decide the applicability of the Open Meetings Act because the charter language expressly provided for open meetings and encompassed the meeting at issue); *Hills & Dales, Inc. v.*

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Wooster, 4 Ohio App.3d 240, 242-43 (9th Dist. 1982) (finding a charter municipality need not comply with the Open Meetings Act; there is “nothing in the Wooster Charter which mandates that all meetings of the city council and/or the city planning commission must be open to the public”).

¹⁰⁹⁸ *State ex rel. Lightfield v. Indian Hill*, 69 Ohio St.3d 441, 442 (1994) (“In matters of local self-government, if a portion of a municipal charter expressly conflicts with a parallel state law, the charter provisions will prevail.”); *Kanter v. Cleveland Heights*, 8th Dist. Cuyahoga No. 104375, 2017-Ohio-1038 (city council did not have to follow the mandates of the Open Meetings Act when its charter permitted it to maintain its own rules, and those rules distinguished council meetings from special meetings, and made recording minutes of council meetings discretionary); *Kujvila v. Newton Falls*, 11th Dist. Trumbull No. 2016-T-0010, 2017-Ohio-7957, ¶ 32-35.

¹⁰⁹⁹ *State ex rel. Bond v. Montgomery*, 63 Ohio App.3d 728, 736 (1st Dist. 1989) (“If a city does choose to draft its own rules concerning the meeting of a public body and the rules are included in its charter, the city council must abide by those rules.”); *State ex rel. Gannett Satellite Information Network, Inc. v. Cincinnati City Council*, 137 Ohio App.3d 589, 592 (1st Dist. 2001) (rules of city council cannot supersede city charter that mandates all meetings be open).

¹¹⁰⁰ *State ex rel. Inskeep v. Staten*, 74 Ohio St.3d 676 (1996); see also *Johnson v. Kindig*, 9th Dist. Wayne No. 00CA0095, 2001 Ohio App. LEXIS 3569, **8-9 (Aug. 15, 2001) (when charter explicitly states that all meetings shall be public and contains no explicit exemptions, charter’s reference to Open Meetings Act is insufficient to allow for executive sessions).

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X. Chapter Ten: Executive Session

Executive Session Overview

- Executive session is a portion of an open meeting from which the public can be excluded.
- Proper procedure is required to move into executive session:
 - Meetings must always begin and end in open session, where the public may be present
 - Motion on the record to move into executive session, followed by a second
 - Specific reason for executive session must be put in the motion and recorded
 - Roll call vote, which must be approved by the majority of a quorum of the public body
 - Motion and vote recorded in the meeting minutes
- Executive session can only be held for the following reasons:
 - Certain personnel matters
 - Purchase or sale of property
 - Pending or imminent court action
 - Collective bargaining matters
 - Matters required to be kept confidential
 - Security matters
 - Hospital trade secrets
 - Confidential business information of an applicant for economic development assistance
 - Veterans Service Commission applications
- Discussion in executive session must be limited to the specific, statutory reason for the executive session, as set forth in the motion.
- The public body can invite non-members to be present in an executive session, but cannot exclude other members of the public body from the executive session.
- Discussion in executive session is not automatically confidential, but other confidentiality rules may apply; public records considered in the executive session may be accessible through the Public Records Act.
- The public body may not vote or make any decisions in executive session.

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A. General Principles

An “executive session” is a conference between members of a public body from which the public is excluded.¹¹⁰¹ The public body, however, may *invite* anyone it chooses to attend an executive session.¹¹⁰² The Open Meetings Act strictly limits the use of executive sessions in several ways. First, a public body may only hold executive sessions at regular and special meetings.¹¹⁰³ Second, the Open Meetings Act limits the matters that a public body may discuss in executive session to those matters identified in the Act,¹¹⁰⁴ although one court held that a public body may discuss other related issues if they have a direct bearing on the permitted matter(s).¹¹⁰⁵ Third, a public body must follow a specific procedure to adjourn into an executive session.¹¹⁰⁶ Finally, a public body may not take any formal action, such as voting or otherwise reaching a collective decision, in an executive session; any formal action taken in an executive session is invalid.¹¹⁰⁷

The Open Meetings Act does not prohibit the public body or one of its members from disclosing the information discussed in executive session.¹¹⁰⁸ However, other laws may prohibit such disclosure.¹¹⁰⁹ An Ohio Ethics Commission Opinion concluded that if information discussed in executive session is made confidential by statute, or has been clearly designated as confidential, public officials may have a duty to keep that information confidential under Ohio ethic laws.¹¹¹⁰ Public officials should seek legal counsel to determine whether ethics laws prohibit them from disclosing topics discussed during executive session.

The privacy afforded by the Open Meetings Act to executive session discussions does not make confidential any documents that a public body may discuss in executive session. If a document is a “public record” and is not otherwise exempt under one of the exemptions to the Public Records Act, the record will still be subject to public disclosure even if the public body appropriately discussed it in executive session. Thus, an executive session under the Open Meetings Act is not an exemption for public records under the Public Records Act. For example, if a public body properly discusses pending litigation in executive session, a settlement agreement negotiated during that executive session and reduced to writing may be subject to public disclosure.¹¹¹¹

B. Permissible Discussion Topics in Executive Session

A public body can only adjourn into executive session to discuss one of the following nine topics.

1. Certain personnel matters when particularly named in motion

A public body may adjourn into executive session:

- To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official; and
 - To consider the investigation of charges or complaints against a public employee, official, licensee, or regulated individual,¹¹¹² unless the employee, official, licensee, or regulated individual requests a public hearing;¹¹¹³
- but*
- A public body may not hold an executive session to consider the discipline of an elected official for conduct related to the performance of the official’s duties or to consider that person’s removal from office.

A motion to adjourn into executive session must specify which of the *particular* personnel matter(s) listed in the statute the movant proposes to discuss. A motion “to discuss personnel matters” *is not sufficiently specific and does not comply with the statute.*¹¹¹⁴ One court has concluded that a public body violated the Open Meetings Act by going into executive session for the stated purpose of an employee’s “evaluation.” That court did not “necessarily disagree” that the Act allows discussion on an employee’s “job performance” in executive session, but it concluded that “the public body must

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specify the context in which ‘job performance’ will be considered by identifying one of the statutory purposes set forth in R.C. 121.22(G).”¹¹¹⁵ The motion need not include the name of the person involved in the specified personnel matter¹¹¹⁶ or disclose “private facts.”¹¹¹⁷

Appellate courts disagree whether a public body must limit its discussion of personnel in an executive session to a specific individual or may include broader discussion of employee matters. At least three appellate courts have held that the language of the Open Meetings Act clearly limits discussion in executive session to consideration of a specific employee’s employment, dismissal, etc.¹¹¹⁸ These court decisions are based on the plain language in the Act, which requires that “all meetings of any public body are declared to be open to the public at all times,”¹¹¹⁹ meaning any exemptions to openness should be drawn narrowly. A different appellate court, however, looked to a different provision in the Act that permits the public body to exclude the name of any person to be considered during the executive session as allowing general personnel discussions.¹¹²⁰ It is important for a public body to consult the case law within its own appellate district to determine what applies.

2. *Purchase or sale of property*

A public body may adjourn into executive session to consider the purchase of property of any sort – real, personal, tangible, or intangible.¹¹²¹ A public body may also adjourn into executive session to consider the sale of real or personal property by competitive bid, or the sale or disposition of unneeded, obsolete, or unfit property under R.C. 505.10, if disclosure of the information would result in a competitive advantage to the person whose personal, private interest is adverse to the general public interest.¹¹²² No member of a public body may use this exemption as subterfuge to provide covert information to prospective buyers or sellers.¹¹²³

3. *Pending or imminent court action*

A public body may adjourn into executive session with the public body’s attorney to discuss a pending or imminent court action.¹¹²⁴ Court action is “pending” if a lawsuit has been commenced, and it is “imminent” if it is on the brink of commencing.¹¹²⁵ Courts have concluded that threatened litigation is imminent and may be discussed in executive session.¹¹²⁶ However, a general discussion of legal matters is not a sufficient basis for invoking this provision.¹¹²⁷ Note that a member of a public body is not necessarily the public body’s duly-appointed counsel simply because the member happens to also be an attorney.¹¹²⁸

4. *Collective bargaining matters*

A public body may adjourn into executive session to prepare for, conduct, or review a collective bargaining strategy.¹¹²⁹

5. *Matters required to be kept confidential*

A public body may adjourn into executive session to discuss matters that federal law or regulations or state statutes require the public body to keep confidential.¹¹³⁰ The common law attorney-client privilege does not qualify under this enumerated exemption to allow general legal advice in executive session because the public body is not *required* to assert the privilege.¹¹³¹

6. *Security matters*

A public body may adjourn into executive session to discuss details of security arrangements and emergency response protocols for a public body or public office if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office.¹¹³²

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7. *Hospital trade secrets*

Certain hospital public bodies established by counties, joint townships, or municipalities may adjourn into executive session to discuss trade secrets as defined by R.C. 1333.61.¹¹³³

8. *Confidential business information of an applicant for economic development assistance*

This topic requires that the information to be discussed in executive session be directly related to economic development assistance of specified types listed in the statute.¹¹³⁴ “A unanimous quorum of the public body [must determine], by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.”¹¹³⁵

9. *Veterans Service Commission applications*

A Veterans Service Commission must hold an executive session when considering an applicant’s request for financial assistance unless the applicant requests a public hearing.¹¹³⁶ Note that, unlike the other discussion topics, discussion of Veterans Service Commission applications in executive session is mandatory.

C. *Proper Procedures for Executive Session*

A public body may only hold an executive session at a regular or special meeting, and a meeting that includes an executive session must always begin and end in an open session.¹¹³⁷ In order to begin an executive session, there must be a proper motion approved by a majority¹¹³⁸ of a quorum of the public body, using a roll call vote.¹¹³⁹

1. *The motion*

A motion for executive session must specifically identify “which one or more of the approved matters listed . . . are to be considered at the executive session.”¹¹⁴⁰ Thus, if the public body intends to discuss one of the matters included in the personnel exemption in executive session, the motion must specify which of those specific matters it will discuss (e.g., “I move to go into executive session to consider the promotion or compensation of a public employee.”).¹¹⁴¹ It is not sufficient to simply state “personnel” as a reason for executive session.¹¹⁴² The motion does not need to identify the person whom the public body intends to discuss.¹¹⁴³ Similarly, reiterating “the laundry list of possible matters from R.C. 121.22(G)(1) without specifying which of those purposes [will] be discussed in executive session” is improper.¹¹⁴⁴ Finally, a public body’s motion to enter into executive session should include all the topics it might reasonably discuss during an executive session. But the public body is not required to discuss every topic it included in the motion during executive session.¹¹⁴⁵

2. *The roll call vote*

Members of a public body may adjourn into executive session only after a majority of a quorum of the public body approves the motion by a roll call vote.¹¹⁴⁶ The vote may not be by a show of hands, and the public body should record the vote in its minutes.¹¹⁴⁷

Although a proper motion is required before entering executive session, a motion to end the executive session and return to public session is not necessary because the closed-door discussion is “off the record.” Similarly, a public body does not have to take minutes during executive session. Note that any minutes taken during executive session may be subject to the Public Records Act. The minutes of the meeting need only document a motion to go into executive session that properly identifies the permissible topic or topics that the public body will discuss, as well as the return to open session (e.g., “We are now back on the record.”).

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Notes:

¹¹⁰¹ *Weisel v. Palmyra Twp. Bd. of Zoning Appeals*, 11th Dist. Portage No. 90-P-2193, 1991 Ohio App. LEXIS 3379 (July 19, 1991); *Davidson v. Sheffield-Sheffield Lake Bd. of Edn.*, 9th Dist. Lorain No. 89-CA004624, 1990 Ohio App. LEXIS 2190 (May 23, 1990).

¹¹⁰² *Chudner v. Cleveland City School Dist.*, 8th Dist. Cuyahoga No. 68572, 1995 Ohio App. LEXIS 3303, **8-9 (Aug. 10, 1995) (inviting select individuals to attend an executive session is not a violation as long as no formal action of the public body will occur).

¹¹⁰³ R.C. 121.22(G).

¹¹⁰⁴ R.C. 121.22(G)(1)-(8), (J).

¹¹⁰⁵ *Chudner v. Cleveland City School Dist.*, 8th Dist. Cuyahoga No. 68572, 1995 Ohio App. LEXIS 3303 (Aug. 10, 1995) (finding that issues discussed in executive session each had a direct bearing on topic that was permissible subject of executive session discussion).

¹¹⁰⁶ R.C. 121.22(G)(1), (7) (requiring roll call vote and specificity in motion).

¹¹⁰⁷ R.C. 121.22(H).

¹¹⁰⁸ *But see* R.C. 121.22(G)(2) (providing that “no member of a public body shall use [executive session under property exemption] as a subterfuge for providing covert information to prospective buyers or sellers”).

¹¹⁰⁹ *See, e.g.,* R.C. 102.03(B) (providing that a public official must not disclose or use any information acquired in course of official duties that is confidential because of statutory provisions or that has been clearly designated as confidential); *Humphries v. Chicarelli*, S.D. Ohio No. 1:10-cv-749, 2012 Ohio App. LEXIS 168038, at *14-15 (Nov. 27, 2012) (prohibiting city council members from testifying as to attorney-client privileged matters discussed during executive session); *Talismanic Properties, LLC v. Tipp City*, S.D. Ohio No. 3:16-cv-285, 2017 U.S. Dist. LEXIS 90290, *6-7 (June 9, 2017) (when city council entered executive session to discuss pending litigation—this case—and allegedly made the decision not to mediate, those discussions were privileged and not subject to discovery in the subsequent litigation when (1) the council did not violate the Open Meetings Act and (2) even if it had, the information was protected by attorney-client privilege).

¹¹¹⁰ OEC Adv.Op. 20-02, 2020 Ohio Ethics Comm. LEXIS 2.

¹¹¹¹ *State ex rel. Findlay Publishing Co. v. Hancock Cty. Bd. of Comms.*, 80 Ohio St.3d 134, 138, 1997-Ohio-353 (“Since a settlement agreement contains the result of the bargaining process rather than revealing the details of the negotiations which led to the result, R.C. 121.22(G)(3), which exempts from public view only the conferences themselves, would not exempt a settlement agreement from disclosure.”).

¹¹¹² R.C. 121.22(B)(3) (defining “regulated individual” as (a) a student in a state or local public educational institution or (b) a person who is, voluntarily or involuntarily, an inmate, patient, or resident of a state or local institution because of criminal behavior, mental illness or intellectual disability, disease, disability, age, or other condition requiring custodial care).

¹¹¹³ This provision does not create a substantive right to a public hearing. *See Matheny v. Frontier Local Bd. of Edn.*, 62 Ohio St.2d 362, 368 (1980) (“[T]he term ‘public hearing’ in subdivision (G)(1) of the Open Meetings Act refers only to the hearings elsewhere provided by law.”). An employee who has a statutory right to a hearing may request a public hearing and prevent executive session. *Schmidt v. Newton*, 1st Dist. Hamilton No. C-110470, 2012-Ohio-890, ¶ 26 (“Only when a hearing is statutorily authorized, and a public hearing is requested, does R.C. 121.22(G) operate as a bar to holding an executive session to consider the dismissal of a public employee.”); *Brownfield v. Warren Local School Bd. of Edn.*, 4th Dist. Washington No. 89 CA 26, 1990 Ohio App. LEXIS 3878, *13 (Aug. 28, 1990) (finding that, upon request, a teacher was entitled to have deliberations regarding his dismissal occur in open meetings). An employee with no statutory right to a hearing may not prevent discussion of his or her employment in executive session. *Stewart v. Lockland School Dist. Bd. of Edn.*, 1st Dist. Hamilton No. C-130263, 2013-Ohio-5513; *Nosse v. City of Kirtland*, 11th Dist. Lake No. 2022-L-032, 2022-Ohio-4161 (when a public body is acting in a quasi-judicial capacity, the adjudicatory hearing process is not a meeting under the Open Meetings Act; thus, the public body’s deliberations may be held privately in executive session).

¹¹¹⁴ R.C. 121.22(G)(1), (7) (requiring roll call vote and specificity in motion); *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 59 (2001) (finding respondents violated the Open Meetings Act by using general terms like “personnel” and “personnel and finances” instead of one or more of the specified statutory purposes listed in division (G)(1)); *Maddox v. Greene Cty. Children Servs. Bd. of Dirs.*, 2d Dist. Greene No. 2013-CA-38, 2014-Ohio-2312, ¶ 18-21 (general reference to “personnel matters” or “personnel issues” is insufficient); *Jones v. Brookfield Twp. Trustees*, 11th Dist. Trumbull No. 92-T-4692, 1995 Ohio App. LEXIS 2805, *8 (June 30, 1995) (stating “[p]olice personnel matters” does not constitute substantial compliance because it does not refer to any of the specific purposes listed in the Open Meetings Act); *State ex rel. Dunlap v. Violet Twp. Bd. of Trustees*, 5th Dist. Fairfield No. 12-CA-8, 2013-Ohio-2295, ¶ 25 (minutes stating that executive session was convened for “personnel issues” did not comply with the Open Meetings Act).

¹¹¹⁵ *Maddox v. Greene Cty. Children Servs. Bd. of Dirs.*, 2d Dist. Greene No. 2013-CA-38, 2014-Ohio-2312, ¶ 19; *see also Lawrence v. Edon*, 6th Dist. Williams No. WM-05-001, 2005-Ohio-5883 (Open Meetings Act does not prohibit a public body from discussing a public employee’s evaluations or job performance in executive session). NOTE: the proper context and enumerated exemption in *Lawrence v. Edon* was “dismissal or discipline”—other enumerated exemptions that might constitute proper contexts for considering employee evaluations include “employment,” “promotion,” “demotion,” or “compensation.”

¹¹¹⁶ R.C. 121.22(G)(1).

¹¹¹⁷ *Smith v. Pierce Twp.*, 12th Dist. Clermont No. CA2013-10-079, 2014-Ohio-3291, ¶ 50-55 (finding public body’s required publication of statutory purposes under R.C. 121.22(G)(1) for special meetings and executive sessions did not support claim of invasion of privacy under a publicity theory).

¹¹¹⁸ *State ex rel. Patrick Bros. v. Putnam Cty. Bd. of Comms.*, 3d Dist. Putnam No. 12-13-05, 2014-Ohio-2717, ¶ 36; *Gannett Satellite Information Network, Inc. v. Chillicothe City School Dist. Bd. of Edn.*, 41 Ohio App.3d 218 (4th Dist. 1988); *Davidson v. Sheffield-Sheffield Lake Bd. of Edn.*, 9th Dist. Lorain No. 89-CA004624, 1990 Ohio App. LEXIS 2190 (May 23, 1990) (rejecting the argument that an executive session was illegally held for a dual, unauthorized purpose when it was held to discuss termination of a specific employee’s employment due to budgetary considerations).

¹¹¹⁹ R.C. 121.22(C).

¹¹²⁰ *Wright v. Mt. Vernon City Council*, 5th Dist. Knox No. 97-CA-7, 1997 Ohio App. LEXIS 4931 (Oct. 23, 1997) (public body could discuss merit raises for exempt city employees in executive session without referring to individuals in particular positions).

¹¹²¹ R.C. 121.22(G)(2); *see also* 1988 Ohio Atty.Gen.Ops. No. 003. A public body can convene into executive session “[t]o consider the purchase of property for public purposes” without additional qualification, *e.g.*, “if the premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest.” *Look Ahead Am. v. Stark Cty. Bd. of Elections*, 5th Dist. No. 2022-CA-00152, 2023-Ohio-2494, *appeal pending*, S.Ct. No. 2023-1059.

¹¹²² R.C. 121.22(G)(2); *see also* 1988 Ohio Atty.Gen.Ops. No. 003.

¹¹²³ R.C. 121.22(G)(2).

¹¹²⁴ R.C. 121.22(G)(3); *State ex rel. Ames v. Brimfield Twp. Bd. of Trustees*, 11th Dist. Portage No. 2019-P-0018, 2019-Ohio-5311, ¶ 32 (finding there is no requirement that an attorney be physically present for the exception under R.C. 121.22(G)(3) to apply, and board properly conducted conference in executive session with attorney via telephone).

¹¹²⁵ *State ex rel. Cincinnati Enquirer v. Hamilton Cty. Comms.*, 1st Dist. Hamilton No. C-010605, 2002-Ohio-2038, ¶ 20 (“imminent” is satisfied when a public body has moved beyond mere investigation and assumed an aggressive litigative posture manifested by the decision to commit government resources to the prospective litigation); *but see Greene Cty. Guidance Ctr., Inc. v. Greene-Clinton Community Mental Health Bd.*, 19 Ohio App.3d 1, 5 (2d Dist. 1984) (finding a discussion with legal counsel in executive session under 121.22(G)(3) is permitted when litigation is a “reasonable prospect”).

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¹¹²⁶ *Maddox v. Greene Cty. Children Servs. Bd.*, 2d Dist. Greene No. 2013-CA-38, 2014-Ohio-2312, ¶ 22 (finding letter expressly threatening litigation if a settlement is not reached “reasonably made a lawsuit appear imminent”).

¹¹²⁷ *State ex rel. Dunlap v. Violet Twp. Bd. of Trustees*, 5th Dist. Fairfield No. 12-CA-8, 2013-Ohio-2295, ¶ 25 (executive session was improper when minutes stated that it was convened for “legal issues”); *State ex rel. Ames v. Rootstown Twp. Bd. of Trustees*, 11th Dist. Portage No. 2019-P-0019, 2019-Ohio-5412, ¶ 36 (because meeting minutes did not indicate that board convened in executive session to discuss “pending or imminent court action,” executive session was improper even though it included discussion with an attorney).

¹¹²⁸ *Tobacco Use Prevention & Control Found. Bd. of Trustees v. Boyce*, 185 Ohio App.3d 707, 2009-Ohio-6993, ¶ 66-69 (10th Dist.) (board members and executive director who were attorneys were not acting as legal counsel for the board when they discussed legal matters in executive session), *aff’d* 127 Ohio St.3d 511, 2010-Ohio-6207, ¶ 8, 27-29; *Awadalla v. Robinson Mem. Hosp.*, 11th Dist. Portage No. 91-P-2385, 1992 Ohio App. LEXIS 2838, *7 (June 5, 1992) (executive session improper when a board’s “attorney” was identified as “senior vice president” in meeting minutes).

¹¹²⁹ R.C. 121.22(G)(4); *see also Back v. Madison Local School Dist. Bd. of Edn.*, 12th Dist. Butler No. CA2007-03-006, 2007-Ohio-4218, ¶ 8 (a school board’s meeting with a labor organization to renegotiate teachers’ salaries was proper because the meeting was not an executive session but was a “collective bargaining meeting,” which was exempt from the Open Meetings Act’s requirements under R.C. 4117.21).

¹¹³⁰ R.C. 121.22(G)(5).

¹¹³¹ *State ex rel. Hardin v. Clermont Cty. Bd. of Elections*, 12th Dist. Clermont Nos. CA2011-05-045, CA2011-06-047, 2012-Ohio-2569, ¶ 75-79; *State ex rel. Ames v. Brimfield Twp. Bd. of Trustees*, 11th Dist. Portage No. 2019-P-0018, 2019-Ohio-5311, ¶ 27; *State ex rel. Ames v. Rootstown Twp. Bd. of Trustees*, 11th Dist. Portage No. 2019-P-0019, 2019-Ohio-5412, ¶ 39-42.

¹¹³² R.C. 121.22(G)(6).

¹¹³³ R.C. 121.22(G)(7).

¹¹³⁴ R.C. 121.22(G)(8)(a).

¹¹³⁵ R.C. 121.22(G)(8)(b); *State ex rel. Ames v. Rootstown Twp. Bd. of Trustees*, 11th Dist. Portage No. 2019-P-0019, 2019-Ohio-5412, ¶ 79 (board failed to comply with R.C. 121.22(G)(8)(a) and (b) when meeting minutes reflected merely that the board moved into executive session “to discuss economic development assistance concerning” a development contract).

¹¹³⁶ R.C. 121.22(I).

¹¹³⁷ R.C. 121.22(G).

¹¹³⁸ R.C. 121.22(G).

¹¹³⁹ R.C. 121.22(G). NOTE: to consider confidential business information of an application for economic development assistance under R.C. 121.22(G)(8), the motion must be approved by a unanimous quorum. R.C. 121.22(G)(8)(b).

¹¹⁴⁰ R.C. 121.22(G)(1), (8).

¹¹⁴¹ *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 59 (2001).

¹¹⁴² *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 59 (2001) (using general terms like “personnel” instead of one or more of the specified statutory purposes is a violation of R.C. 121.22(G)(1)); *Jones v. Brookfield Twp. Trustees*, 11th Dist. Trumbull No. 92-T-4692, 1995 Ohio App. LEXIS 2805, *8 (June 30, 1995) (“[A] reference to ‘police personnel issues’ does not technically satisfy [the R.C. 121.22(G)(1)] requirement because it does not specify which of the approved purposes was applicable in this instance.”).

¹¹⁴³ R.C. 121.22(G)(1); *Beisel v. Monroe Cty. Bd. of Edn.*, 7th Dist. Columbiana No. CA-678, 1990 Ohio App. LEXIS 3761 (Aug. 29, 1990).

¹¹⁴⁴ *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 59 (2001); *State ex rel. Ames v. Portage Cty. Bd. of Comms.*, 11th Dist. Portage No. 2019-P-0015, 2019-Ohio-3729, ¶ 63.

¹¹⁴⁵ *State ex rel. Hicks v. Clermont Cty. Bd. Of Comms.*, 171 Ohio St.3d 593, 2022-Ohio-4237, ¶ 34-36 (public body need not discuss every single topic included in the executive-session motion during executive session).

¹¹⁴⁶ R.C. 121.22(G).

¹¹⁴⁷ R.C. 121.22(G); 1988 Ohio Atty.Gen.Ops. No. 029; *State ex rel. MORE Bratenahl v. Bratenahl*, 8th Dist. Cuyahoga No. 105281, 2017-Ohio-8484, ¶ 29 (finding evidence in the record and on audio recording of the village council meeting that a roll call vote that took place before the council went in to executive session was sufficient to show compliance with the Open Meetings Act, even though the roll call vote technically took place before the court reporter began recording the transcript), *rev’d on other grounds*, 157 Ohio St.3d 309, 2019-Ohio-3233.

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Chapter Eleven: Enforcement & Remedies

XI. Chapter Eleven: Enforcement and Remedies

The Open Meetings Act is a “self-help” statute. This means that if any person believes a public body has violated or intends to violate the Open Meetings Act, that person may file suit in a common pleas court to enforce the law’s provisions.¹¹⁴⁸ A person does not need to ask a public official (such as the Ohio Attorney General) to initiate legal action on their behalf, and no state or local government official has the authority to enforce the Act.

The Open Meetings Act states that its provisions “shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.”¹¹⁴⁹ The executive session exemptions contained in R.C. 121.22(G) are to be strictly construed.¹¹⁵⁰

A. Enforcement

1. Injunction

Any person may file a court action for an injunction to address an alleged or threatened violation of the Open Meetings Act. This action must be “brought within two years after the date of the alleged violation or threatened violation.”¹¹⁵¹ There must still be an actual, genuine controversy at the time the action is filed, or the claim may be dismissed as moot.¹¹⁵² If granted by a court, an injunction compels the members of the public body to comply with the law by either refraining from the prohibited behavior or by lawfully conducting their meetings when they previously failed to do so. If the court finds multiple violations of the Open Meetings Act through the same conduct, the court may issue a single injunction for the multiple violations.¹¹⁵³

a. Who may file and against whom

“Any person” has standing to file for an injunction to enforce the Open Meetings Act.¹¹⁵⁴ The person need not demonstrate a personal stake in the outcome of the lawsuit.¹¹⁵⁵

Open Meetings Act injunction actions sometimes include the public body as the defendant, or individual members of the public body, or both. No reported cases dispute that individual members of a public body are proper defendants, but some courts have held that the public body itself is not “sui juris” (capable of being sued) for violations of the Act.¹¹⁵⁶ Other courts find that public bodies are “sui juris” for purposes of suits alleging violations of the Act.¹¹⁵⁷ Persons filing an enforcement action should consult case law applicable to their appellate district.

b. Where to file

The Open Meetings Act requires that an action for injunction be filed in the court of common pleas in the county where the alleged violation took place.¹¹⁵⁸

Appellate courts disagree on whether an injunction action must be filed as a separate original action or whether it may be brought with a related lawsuit. One court found that a party may not assert an alleged violation of the Open Meetings Act in a related action before a county board of elections.¹¹⁵⁹ Courts have reached different conclusions as to whether a court may consider an alleged violation of the Act as a claim made within an administrative appeal.¹¹⁶⁰ Those cases finding no jurisdiction have reasoned that the exclusive method to enforce the Act is as a separate original action filed in the common pleas court.

c. Proving a violation

The person filing an action under the Open Meetings Act generally has the burden of proving the alleged violation, even if the alleged violation occurred during an executive session.¹¹⁶¹ Absent

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evidence to the contrary, courts will presume that public officers properly performed their duties and acted lawfully.¹¹⁶² Thus, courts should presume that a public body in executive session discussed the topics stated in its motion to enter executive session.¹¹⁶³ However, courts do not necessarily accept a public body's stated purpose for an executive session if other evidence demonstrates that the public body improperly deliberated during the executive session.¹¹⁶⁴ Upon proof of a violation or threatened violation of the Act, the court will conclusively and irrebuttably presume harm and prejudice to the person who brought the suit¹¹⁶⁵ and will issue an injunction.¹¹⁶⁶

d. Curing a violation

Once a violation is proven, the court must grant the injunction, regardless of the public body's subsequent attempts to cure the violation.¹¹⁶⁷ Courts have different views as to whether and how a public body can then cure the violation, for instance with new, compliant discussions followed by compliant formal action.¹¹⁶⁸ One court explained that after a violation a public body must "start its decision-making process over with regard to what was illegally deliberated or decided in a closed meeting."¹¹⁶⁹ The Supreme Court of Ohio held that a city's failure to have public deliberation regarding the adoption of a charter amendment was cured when the amendment was placed on the ballot and adopted by the electorate.¹¹⁷⁰

2. *Mandamus*

When a person seeks access to the public body's minutes, that person may also file a mandamus action under the Public Records Act to compel the creation of or access to meeting minutes.¹¹⁷¹ Mandamus is also the appropriate action to order a public body to give notice of meetings to the person filing the action.¹¹⁷²

3. *Quo warranto*

Once a court issues an injunction finding a violation of the Open Meetings Act, members of the public body who later commit a "knowing" violation of the injunction may be removed from office through a *quo warranto* action, which may only be brought by the county prosecutor or the Ohio Attorney General.¹¹⁷³

B. Remedies

1. *Invalidity*

A resolution, rule, or formal action of any kind is invalid unless a public body adopts it in an open meeting.¹¹⁷⁴ However, courts have refused to allow public bodies to benefit from their own violations of the Open Meetings Act.¹¹⁷⁵ For instance, a public body may not attempt to avoid a contractual obligation by arguing that approval of the contract is invalid because of a violation of the Act.¹¹⁷⁶

a. Failure to take formal action in public

The Open Meetings Act requires a public body to take all "official" or "formal" action in open session.¹¹⁷⁷ Even without taking a vote or a poll, members of a public body may inadvertently take "formal action" in an executive session when they indicate how they intend to vote about a matter pending before them, making the later vote in open session invalid.¹¹⁷⁸ A formal action taken in an open session also may be invalid if it results from deliberations that improperly occurred outside of an open meeting, e.g., at an informal, private meeting or in an improper executive session.¹¹⁷⁹ Even a decision in executive session not to take action (on a request made to the public body) has been held to be "formal action" that should have been made in open session, and thus, was deemed invalid.¹¹⁸⁰

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b. Improper notice

When a public body takes formal action in a meeting for which it did not properly give notice, the action is invalid.¹¹⁸¹

c. Minutes

At least one court has found that minutes are merely the record of actions; they are not actions in and of themselves.¹¹⁸² Thus, failure to properly approve minutes does not invalidate the actions taken during the meeting.¹¹⁸³

2. Mandatory civil forfeiture

If the court issues an injunction, the court will order the public body to pay a civil forfeiture of \$500 to the person who filed the action.¹¹⁸⁴ Courts that find that a public body has violated the law on repeated occasions have awarded a \$500 civil forfeiture for each violation.¹¹⁸⁵ However, if multiple violations through the same conduct are found, the court may issue a single injunction, and order the public body to pay a single \$500 civil forfeiture penalty as to all offenses.¹¹⁸⁶

3. Court costs and attorney fees

If the court issues an injunction, it will order the public body to pay all court costs¹¹⁸⁷ and the reasonable attorney fees of the person who filed the action.¹¹⁸⁸ Courts have discretion to reduce or completely eliminate attorney fees, however, if they find that, (1) based on the state of the law when the violation occurred, a well-informed public body could have reasonably believed it was not violating the law; and (2) it was reasonable for the public body to believe its actions served public policy.¹¹⁸⁹

If the court does not issue an injunction and decides the lawsuit was frivolous, the court will order the person who filed the suit to pay all the public body's court costs and reasonable attorney fees as determined by the court.¹¹⁹⁰ A public body is entitled to attorney fees even when those fees are paid by its insurance company.¹¹⁹¹

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Notes:

¹¹⁴⁸ R.C. 121.22(l)(1).

¹¹⁴⁹ R.C. 121.22(A).

¹¹⁵⁰ *State ex rel. Hardin v. Clermont Cty. Bd. of Elections*, 12th Dist. Clermont Nos. CA2011-05-045, CA2011-06-047, 2012-Ohio-2569, ¶ 15; *Maddox v. Greene Cty. Children Servs. Bd. of Dirs.*, 2d Dist. Greene No. 2013 CA 38, 2014-Ohio-2312, ¶ 17.

¹¹⁵¹ R.C. 121.22(l)(1); see also *Mollette v. Portsmouth City Council*, 179 Ohio App.3d 455, 2008-Ohio-6342 (4th Dist.); *State ex rel. Dunlap v. Violet Twp. Bd. of Trustees*, 5th Dist. Fairfield No. 12-CA-8, 2013-Ohio-2295, ¶ 16.

¹¹⁵² *Tucker v. Leadership Academy*, 10th Dist. Franklin No. 14AP-100, 2014-Ohio-3307, ¶ 14-17 (finding closure of charter school rendered allegedly improper resolution under Open Meetings Act moot); *State ex rel. Crilley v. Lowellville Bd. of Educ.*, 7th Dist. Mahoning No. 20 MA 0128, 2021-Ohio-3333 (Open Meetings Act challenge based on school board's reopening plan was moot by the end of the school year).

¹¹⁵³ *Ames v. Rootstown Twp. Bd. of Trustees*, 172 Ohio St.3d 1, 2022-Ohio-4605, ¶ 21.

¹¹⁵⁴ R.C. 121.22(l)(1); *McVey v. Carthage Twp. Trustees*, 4th Dist. Athens No. 04CA44, 2005-Ohio-2869.

¹¹⁵⁵ *Doran v. Northmont Bd. of Edn.*, 153 Ohio App.3d 499, 2003-Ohio-4084, ¶ 20 (2d Dist.); *State ex rel. Mason v. State Employment Relations Bd.*, 133 Ohio App.3d 213 (10th Dist. 1999). But see *Korchnak v. Civil Serv. Comm. of Canton*, 5th Dist. Stark No. CA-8133, 1991 Ohio App. LEXIS 291, *5 (Jan. 7, 1991) (finding a party did not have standing to challenge a public body's failure to provide requested notices of meetings when he had not followed procedures entitling him to notice).

¹¹⁵⁶ *Mollette v. Portsmouth City Council*, 169 Ohio App.3d 557, 2006-Ohio-6289 (4th Dist.) (finding suit should have been filed against the individual council members in their official capacities).

¹¹⁵⁷ *Maddox v. Greene Cty. Children Servs. Bd. of Dirs.*, 2d Dist. Greene No. 2013-CA-38, 2014-Ohio-2312, ¶ 10-14; *Krueck v. Kipton Village Council*, 9th Dist. Lorain No. 11CA009960, 2012-Ohio-1787, ¶ 3-4, 16; *State ex rel. Maynard v. Medina Cty. Facilities Taskforce Subcomm.*, 9th Dist. Medina No. 19CA0083-M, 2020-Ohio-5561, ¶ 18-21 (finding that subcommittee is *sui juris* even though it is not a "decision-making body" and does not have "decision-making authority"; while individual subcommittee members were also sued, they were not necessarily parties).

¹¹⁵⁸ R.C. 121.22(l)(1).

¹¹⁵⁹ *State ex rel. Savko & Sons v. Perry Twp. Bd. of Trustees*, 10th Dist. Franklin No. 14AP-204, 2014-Ohio-1181.

¹¹⁶⁰ **Courts finding jurisdiction:** *Brenneman Bros. v. Allen Cty. Commrs.*, 3d Dist. Allen No. 1-13-14, 2013-Ohio-4635; *Hardesty v. River View Local School Dist. Bd. of Edn.*, 63 Ohio Misc.2d 145 (C.P. 1993). **Courts finding no jurisdiction:** *Stainfield v. Jefferson Emergency Rescue District*, 11th Dist. Ashtabula No. 2009-A-0044, 2010-Ohio-2282; *Fahl v. Athens*, 4th Dist. Athens No. 06CA23, 2007-Ohio-4925; *Pfeffer v. Bd. of Cty. Commrs. of Portage Cty.*, 11th Dist. Portage No. 2000-P-0030, 2001 Ohio App. LEXIS 3185 (July 13, 2001).

¹¹⁶¹ *State ex rel. Hicks v. Clermont Cty. Bd. Of Commrs.*, 171 Ohio St.3d 593, 2022-Ohio-4237, ¶ 40 ("Plaintiffs alleging violations of Ohio's OMA, R.C. 121.22, bear the burden of proving the violations they have alleged"); *Paridon v. Trumbull Cty. Children Servs. Bd.*, 11th Dist. Trumbull No. 2012-T-0035, 2013-Ohio-881, ¶ 18 (requiring proof by clear and convincing evidence); *State ex rel. Masiella v. Brimfield Twp. Bd. of Trustees*, 11th Dist. Portage No. 2016-P-0038, 2017-Ohio-2934, ¶ 53 (finding appellant failed to meet this burden, which required him "to demonstrate that a meeting occurred . . . [and] that a public action resulted from a deliberation in the meeting that was not open to the public").

¹¹⁶² *State ex rel. Hicks v. Clermont Cty. Bd. Of Commrs.*, 171 Ohio St.3d 593, 2022-Ohio-4237, ¶ 21.

¹¹⁶³ *State ex rel. Hicks v. Clermont Cty. Bd. Of Commrs.*, 171 Ohio St.3d 593, 2022-Ohio-4237, ¶ 21; *Armatus v. Plain Twp.*, 5th Dist. Stark No. 2022 CA 00039, 2023-Ohio-204, ¶ 59 (plaintiff failed to present evidence of the public body's improper deliberations during secret meeting), *discretionary appeal not allowed*, 170 Ohio St.3d 1480, 2023-Ohio-2236.

¹¹⁶⁴ *Sea Lakes, Inc. v. Lipstreu*, 11th Dist. Portage No. 90-P-2254, 1991 Ohio App. LEXIS 4615, *12 (Sept. 30, 1991) (finding a violation when board was to discuss administrative appeal merits privately, appellant's attorney objected, board immediately held executive session "to discuss possible legal actions", then emerged to announce decision on appeal); *In the Matter of Removal of Smith*, 5th Dist. Morgan No. CA-90-11, 1991 Ohio App. LEXIS 2409, *2 (May 15, 1991) (county commission violated the Open Meetings Act when it emerged from executive session held "to discuss legal matters" and announced decision to remove Smith from Board of Mental Health; no county attorney was present in executive session, and a request for public hearing on removal decision was pending).

¹¹⁶⁵ R.C. 121.22(l)(3).

¹¹⁶⁶ R.C. 121.22(l)(1); see also *Doran v. Northmont Bd. of Edn.*, 153 Ohio App.3d 499, 2003-Ohio-4084, ¶ 21 (2d Dist.) (statute's provision that an injunction is mandatory upon finding violation is not an unconstitutional violation of separation of powers); *Fayette Volunteer Fire Dept. No. 2, Inc. v. Fayette Twp. Bd. of Trustees*, 87 Ohio App.3d 51, 54 (4th Dist. 1993) (finding injunction mandatory even though challenged board action was nullified and there was no need for an injunction).

¹¹⁶⁷ *McVey v. Carthage Twp. Trustees*, 4th Dist. Athens No. 04CA44, 2005-Ohio-2869, ¶ 9 ("Because the statute clearly provides that an injunction is to be issued upon finding a violation of the Sunshine Law, it is irrelevant that the Trustees nullified their prior [offending] action.").

¹¹⁶⁸ **Courts finding that violation was not cured:** *Keystone Comm. v. Switzerland of Ohio School Dist. Bd. of Edn.*, 7th Dist. No. 15 MO 0011, 2016-Ohio-4663, ¶ 44-46 (a public body cannot "cure" a violation by simply voting again on the same information improperly obtained in executive session); *Wheeling Corp. v. Columbus & Ohio River R.R. Co.*, 147 Ohio App.3d 460, 476 (10th Dist. 2001) (no cure of violation by conducting an open meeting prior to taking formal action); *M.F. Waste Ventures, Inc. v. Bd. of Amanda Twp. Trustees*, 3d Dist. No. 1-87-46, 1988 Ohio App. LEXIS 493, *9 (Feb. 12, 1988) (based on violation "the resolutions were invalid, and the fact that they were later adopted at public meetings did not cure their invalidity"); *Gannett Satellite Information Network, Inc. v. Chillicothe City School Dist. Bd. of Edn.*, 41 Ohio App.3d 218, 221 (4th Dist. 1988) ("A violation of the Sunshine Law cannot be 'cured' by subsequent open meetings if the public body initially discussed matters in executive session that should have been discussed before the public."); **Courts finding violation was cured:** *Kuhlman v. Leipsic*, 3d Dist. Putnam No. 12-94-9, 1995 Ohio App. LEXIS 1269, *8 (Mar. 27, 1995) ("[A]n initial failure to comply with R.C. 121.22 can be cured if the matter at issue is later placed before the public for consideration."); *Beisel v. Monroe Cty. Bd. of Edn.*, 7th Dist. Monroe No. CA-678, 1990 Ohio App. LEXIS 3761, *6-7 (Aug. 29, 1990) (discussing a permitted matter in executive session, without a proper motion, was cured by rescinding the resulting action and then conducting the action in compliance with the Open Meetings Act).

¹¹⁶⁹ *Danis Montco Landfill Co. v. Jefferson Twp. Zoning Commn.*, 85 Ohio App.3d 494, 501 (2d Dist. 1993); see also *Maddox v. Greene Cty. Children Servs. Bd.*, 2d Dist. Greene No. 2013-CA-38, 2014-Ohio-2312, ¶ 36 (finding Open Meetings Act violation in termination of an employee did not afford employee lifetime employment but the public body must re-deliberate "at least enough to support a finding that its discharge decision did not result from prior improper deliberations").

¹¹⁷⁰ *Fox v. Lakewood*, 39 Ohio St.3d 19 (1998); see also *Skindell v. Madigan*, 8th Dist. Cuyahoga No. 103976, 2017-Ohio-398, ¶ 5.

¹¹⁷¹ *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54 (2001) (once a public body's minutes are prepared, the Public Records Act requires the public body to permit access to the minutes upon request); *Ames v. Portage Cty. Bd. Commrs.*, S.Ct. No. 2022-0148, 2023-Ohio-3382 (finding that when the public body violated the Open Meetings Act in failing to prepare full and accurate minutes, the relator also established a violation of the Public Records Act).

¹¹⁷² *State ex rel. Vindicator Printing Co. v. Kirila*, 11th Dist. Trumbull No. 91-T-4550, 1991 Ohio App. LEXIS 6413 (Dec. 31, 1991).

¹¹⁷³ R.C. 121.22(l)(4); R.C. Chapter 2733 (quo warranto); *State ex rel. Bates v. Smith*, 147 Ohio St.3d 322, 2016-Ohio-5449 (granting *quo warranto* to remove township trustee from office because trustees unlawfully voted to declare that position vacant when officeholder was on active military

The Ohio Open Meetings Act

Chapter Eleven: Enforcement & Remedies

service); *State ex rel. Newell v. Jackson*, 118 Ohio St.3d 138, 2008-Ohio-1965, ¶ 8-14 (to be entitled to a writ of *quo warranto* to oust a good-faith appointee, a relator must either file a *quo warranto* action or an injunction challenging the appointment before the appointee completes the probationary period and becomes a permanent employee; this duty applies to alleged violations of the Open Meetings Act); *Randles v. Hill*, 66 Ohio St.3d 32 (1993) (granting writ of *quo warranto* reinstating petitioner when vote to remove him was made at a meeting where the public was inadvertently excluded); *McClarren v. Alliance*, 5th Dist. Stark No. CA-7201, 1987 Ohio App. LEXIS 9211 (Oct. 13, 1987) (finding that an injunction must be issued upon the finding of a violation to allow for removal from office after any future knowing violation).

¹¹⁷⁴ R.C. 121.22(H).

¹¹⁷⁵ *Jones v. Brookfield Twp. Trustees*, 11th Dist. Trumbull No. 92-T-4692, 1995 Ohio App. LEXIS 2805 (June 30, 1995); *Roberto v. Brown Cty. Gen. Hosp.*, 12th Dist. Brown No. CA87-06-009, 1988 Ohio App. LEXIS 372 (Feb. 8, 1988).

¹¹⁷⁶ *Roberto v. Brown Cty. Gen. Hosp.*, 12th Dist. Brown No. CA87-06-009, 1988 Ohio App. LEXIS 372 (Feb. 8, 1988).

¹¹⁷⁷ R.C. 121.22(A), (C), and (H).

¹¹⁷⁸ *Piekutowski v. S. Cent. Ohio Edn. Serv. Ctr. Governing Bd.*, 161 Ohio App.3d 372, 2005-Ohio-2868, ¶ 19 (4th Dist.) (finding that resolution to adopt proposal was invalid; even though it was adopted in open session, board members gave personal opinions and indicated how they would vote in resolution in an executive session); *Keystone Comm. v. Switzerland of Ohio School Dist. Bd. of Edn.*, 7th Dist. Monroe No. 15 MO 0011, 2016-Ohio-4663, ¶ 37-39 (finding an attempt to “cure” a violation “with an open vote that immediately followed presentations and discussions held behind closed doors in executive sessions is exactly the type of conduct the Act seeks to prohibit”); *Mathews v. E. Local School Dist.*, 4th Dist. Pike No. 00CA647, 2001 Ohio App. LEXIS 1677 (Jan. 4, 2001) (board was permitted to discuss employee grievance in executive session, but was required to take formal action by voting in an open meeting); *State ex rel. Kinsley v. Berea Bd. of Edn.*, 64 Ohio App.3d 659, 664 (8th Dist. 1990) (once a conclusion is reached regarding pending or imminent litigation, the conclusion is to be made public, even though the deliberations leading to the conclusion were private).

¹¹⁷⁹ R.C. 121.22(H); *Keystone Comm. v. Switzerland of Ohio School Dist. Bd. of Edn.*, 7th Dist. Monroe No. 15 MO 0011, 2016-Ohio-4663, ¶ 30-31 (action by the public body that resulted from improper discussion in executive session was invalid); *Mansfield City Council v. Richland Cty. Council AFL-CIO*, 5th Dist. Richland No. 03 CA 55, 2003 Ohio App. LEXIS 6654 (Dec. 24, 2003) (finding council reached its conclusion based on comments in executive session and acted according to that conclusion).

¹¹⁸⁰ *Mansfield City Council v. Richland Cty. Council AFL-CIO*, 5th Dist. Richland No. 03 CA 55, 2003 Ohio App. LEXIS 6654 (Dec. 24, 2003).

¹¹⁸¹ R.C. 121.22(H). *But see Hoops v. Jerusalem Twp. Bd. of Trustees*, 6th Dist. Lucas No. L-97-1240, 1998 Ohio App. LEXIS 1496, *10-11 (Apr. 10, 1998) (illustrating that actions are not invalid merely because a reasonable method of notice had not been enacted by “rule”); *Keystone Comm. v. Switzerland of Ohio School Dist. Bd. of Edn.*, 7th Dist. Monroe No. 15 MO 0011, 2016-Ohio-4663, ¶ 35-36 (finding notice of special meeting “to discuss the 2015-2016 school year” was not specific enough to meeting’s purpose to discuss a school closure); *Barbeck v. Twinsburg Twp.*, 73 Ohio App.3d 587 (9th Dist. 1992); *Huth v. Bolivar*, 5th Dist. Tuscarawas No. 2014 AP 02 0005, 2014-Ohio-4889, ¶ 20-23 (holding that, even if notice was flawed, the second reading of a proposed ordinance was not “formal action”).

¹¹⁸² *Davidson v. Hanging Rock*, 97 Ohio App.3d 723, 733 (4th Dist. 1994).

¹¹⁸³ *Davidson v. Hanging Rock*, 97 Ohio App.3d 723, 733 (4th Dist. 1994).

¹¹⁸⁴ R.C. 121.22(l)(2)(a). *But see State ex rel. Dunlap v. Violet Twp. Bd. of Trustees*, 5th Dist. Fairfield No. 12-CA-8, 2013-Ohio-2295, ¶ 32 (2013) (declining to award civil forfeiture damages and attorney fees when case was filed as mandamus action in the court of appeals instead of a request for an injunction in the court of common pleas).

¹¹⁸⁵ *Specht v. Finnegan*, 6th Dist. Lucas No. 2-02-1012, 2002-Ohio-4660; *Managg v. Stickle*, 5th Dist. Licking No. 98CA00102, 1999 Ohio App. LEXIS 1488 (Mar. 15, 1999); *Weisbarth v. Geauga Park Dist.*, 11th Dist. No. 2007-G-2780, 2007-Ohio-6728, ¶ 30 (holding that the only violation alleged was board’s failure to state a precise statutory reason for going into executive session and that this “technical” violation entitled appellant to only one statutory injunction and one civil forfeiture”); *Maddox v. Greene Cty. Children Servs. Bd.*, 2d Dist. Greene No. 2013 CA 38, 2014-Ohio-2312, ¶ 40-51 (stacking forfeitures for certain violations but not others). *But see Doran v. Northmont Bd. of Edn.*, 2d Dist. Montgomery No. 19956, 2003-Ohio-7097, ¶ 18, n.3 (determining that the failure to adopt rule is one violation with one \$500 fine; fine is not assessed for each meeting conducted in absence of rule where meetings were, in fact, properly noticed and held in an open forum).

¹¹⁸⁶ *Ames v. Rootstown Twp. Bd. of Trustees*, 172 Ohio St.3d 1, 2022-Ohio-4605, ¶ 21.

¹¹⁸⁷ R.C. 121.22(l)(2)(a).

¹¹⁸⁸ R.C. 121.22(l)(2)(a); *State ex rel. Long v. Cardington Village Council*, 92 Ohio St.3d 54, 60 (2001) and 93 Ohio St.3d 1230 (2001) (awarding a citizen over \$17,000 in attorney fees); *Maddox v. Greene Cty. Children Servs. Bd. of Dirs.*, 2d Dist. Greene No. 2013-CA-38, 2014-Ohio-2312, ¶ 60 (“[T]he OMA is structured such that an injunction follows a violation and attorney fees follow an injunction.”); *But see State ex rel. Dunlap v. Violet Twp. Bd. of Trustees*, 5th Dist. Fairfield No. 12-CA-8, 2013-Ohio-2295, ¶ 32 (2013) (declining to award civil forfeiture damages and attorney fees when case was filed as mandamus action in the court of appeals instead of a request for an injunction in the court of common pleas).

¹¹⁸⁹ R.C. 121.22(l)(2)(a)(i), (ii); *Maddox v. Greene Cty. Children Servs. Bd. of Dirs.*, 2d Dist. Greene No. 2013-CA-38, 2014-Ohio-2312, ¶ 61-62 (trial court could reasonably conclude that a well-informed public body would know that it must be specific when giving a reason for executive session, and that it cannot vote in executive session); *Mathews v. E. Local School Dist.*, 4th Dist. Pike No. 00CA647, 2001 Ohio App. LEXIS 1677 (Jan. 4, 2001) (the board was not entitled to reduction when two board members knew not to take formal action during executive session); *State ex rel. Jones v. Bd. of Edn. of Dayton Pub. Schs.*, 2d Dist. Montgomery No. 28637, 2020-Ohio-4931, ¶ 61-62, 71 (awarding attorney fees because no well-informed board would believe it could publish a misleading notice of a special meeting or alter a published agenda after meeting; whether public body’s actions were “egregious” or benefited the public is irrelevant).

¹¹⁹⁰ R.C. 121.22(l)(2)(b); *McIntyre v. Westerville City School Dist. Bd. of Edn.*, 10th Dist. Franklin Nos. 90AP-1024, 90AP-1063, 1991 Ohio App. LEXIS 2658, at *9 (June 6, 1991) (finding a plaintiff engaged in frivolous conduct because her actions subjected the board to a baseless suit and the incurring of needless expense); *State ex rel. Chrisman v. Clearcreek Twp.*, 12th Dist. Warren No. CA2013-03-025, 2014-Ohio-252, ¶ 19 (upholding award of attorney fees when “there was no possible violation of the OMA as alleged in Relator’s first four allegations”).

¹¹⁹¹ *State ex rel. Chrisman v. Clearcreek Twp.*, 12th Dist. Warren No. CA2013-03-025, 2014-Ohio-252, ¶ 23.

Committee Members:

- Brian Bauman, Ward 5 – Committee Chair
- Dan DeArment, Ward 4
- Dennis Hellmann, Ward 2
- Jim Niemeyer, Ward 6
- Grant Russel, at large

Staff:

- Eric Adkins, Zoning Supervisor
- Matt Cordonnier, HRPC Director
- Don Rasmussen, Law Director
- Jacob Mercer, HRPC
- Jeremy Kalb, City Engineer

Meeting Start Time: 12:00 PM

Meeting End Time: 12:19 PM

Guests:

Agenda:

Call to Order

Roll Call

Approval of Minutes

New Items

1. Twp Rd 230/CR 212 (Sheetz) aka Hat Trick; aka Buchanan annexation zoning
2. 116 Laquino Street rezone
3. YMCA vacation

Adjournment



Brian Bauman, Planning & Zoning Committee Chair

COMMITTEE REPORT

THE CITY COUNCIL OF THE CITY OF FINDLAY, OHIO

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from Rooney & Ranzau, Ltd. Phil Rooney, agent for the petitioner, for the zoning of 77.808 acres of land located on Township Road 230 and County Road 212 known as the Sheetz/Hat Trick/Buchanan annexation, being part of the east one-half (1/2) of the southwest one-quarter (1/4) of Section thirty-two (32), Allen Township, Ohio, owned by Stella Buchanan. Said parcel is currently in the process of being annexed into the City of Findlay, Ohio limits, to be zoned as I-1 Light Industrial.

We recommend

THAT THE PROPERTY LOCATED ON TWP. RD. 230 AND COUNTY RD. 212 KNOWN AS THE SHEETZ/HATRICK, BUCHANAN ANNEXATION BE ZONED AS I-1 LIGHT INDUSTRIAL.

PUBLIC HEARING:

Aye Nay Brian Bauman
Brian Bauman, Chairman

MOTION

Aye Nay Dan DeArment
Dan DeArment

SECOND

PLANNING & ZONING COMMITTEE

Aye Nay Dennis Hellmann
Dennis Hellmann

LEGISLATION: _____

Aye Nay Jim Niemeyer
Jim Niemeyer

DATED: March 14, 2024

Aye Nay _____
Grant Russel

COMMITTEE REPORT

THE CITY COUNCIL OF THE CITY OF FINDLAY, OHIO

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from the Women's Resource Center of Hancock County to rezone 1600 Laquino Street from R3 Small Lot Residential to O1 Office/Institutions.

We recommend

TO TABLE THIS AGENDA ITEM.

PUBLIC HEARING:

Aye Nay *Brian Bauman*
Brian Bauman, Chairman

Aye Nay *Dan DeArment*
Dan DeArment

Aye Nay *Dennis Hellmann*
Dennis Hellmann

Aye Nay *Jim Niemeyer*
Jim Niemeyer

Aye Nay _____
Grant Russel

MOTION

PLANNING & ZONING COMMITTEE

LEGISLATION: _____

DATED: March 14, 2024

SECOND

COMMITTEE REPORT

THE CITY COUNCIL OF THE CITY OF FINDLAY, OHIO

The **PLANNING & ZONING COMMITTEE** to whom was referred a request from Young Mens Christian Association (YMCA) to vacate the north-south alley between Lots 568 and 569 in the Carlins S&P Addition, and the east-west alley between Lots 565-568 and 587-590 in the Carlins S&P Addition.

We recommend

VACATION OF ABOVE REFERENCED ALLEYS.

PUBLIC HEARING:

Aye Nay Brian Bauman
Brian Bauman, Chairman

Aye Nay Dan DeArment
Dan DeArment

Aye Nay Dennis Hellmann
Dennis Hellmann

Aye Nay Jim Niemeyer
Jim Niemeyer

Aye Nay _____
Grant Russel

MOTION

PLANNING & ZONING COMMITTEE

SECOND

LEGISLATION: _____

DATED: March 14, 2024

**FINDLAY CITY COUNCIL
CARRY-OVER LEGISLATION
March 20, 2024**

ORDINANCE NO. 2024-027 (*extend current contracts for City insurance policies*) **requires three (3) readings** **third reading**
AN ORDINANCE AUTHORIZING THE MAYOR AND/OR SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO TO TAKE BIDS AND ENTER INTO CONTRACTS FOR INSURANCE COVERAGE FOR AIRPORT LIABILITY, AUTOMOBILE, BOILER MACHINERY, CONTRACTOR'S EQUIPMENT, CRIME INSURANCE, POLICE PROFESSIONAL LIABILITY, PUBLIC OFFICIAL'S ERRORS AND OMISSION LIABILITY, REAL AND PERSONAL PROPERTY, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 2024-030 **requires three (3) readings** **second reading**
(*Strong Ave vacation - 60' unimproved ROW on the west side of Strong Ave north of Blanchard Ave*)
AN ORDINANCE VACATING A CERTAIN PORTION OF A CERTAIN STREET (HEREINAFTER REFERRED TO AS THE STRONG AVENUE VACATION) IN THE CITY OF FINDLAY, OHIO.

ORDINANCE NO. 2024-031 (*Sixth St vacation - 15' unimproved ROW on the west side of Strong Ave*) **requires three (3) readings** **second reading**
AN ORDINANCE VACATING A CERTAIN PORTION OF A CERTAIN ALLEY (HEREINAFTER REFERRED TO AS THE SIXTH STREET VACATION) IN THE CITY OF FINDLAY, OHIO.

ORDINANCE NO. 2024-033 (*first 2024 Capital Improvement appropriation*) **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 WHERE REQUIRED AND ENTER INTO A CONTRACT OR CONTRACTS FOR CONSTRUCTION OF VARIOUS PROJECTS IN ACCORDANCE WITH THE 2024 DEPARTMENT EQUIPMENT LIST, APPROPRIATING AND TRANSFERRING FUNDS FOR SAID CAPITAL EXPENDITURES, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 2024-027

AN ORDINANCE AUTHORIZING THE MAYOR AND/OR SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO TO TAKE BIDS AND ENTER INTO CONTRACTS FOR INSURANCE COVERAGE FOR AIRPORT LIABILITY, AUTOMOBILE, BOILER MACHINERY, CONTRACTOR'S EQUIPMENT, CRIME INSURANCE, POLICE PROFESSIONAL LIABILITY, PUBLIC OFFICIAL'S ERRORS AND OMISSION LIABILITY, REAL AND PERSONAL PROPERTY, AND DECLARING AN EMERGENCY.

WHEREAS, the aforementioned insurance policies expire during the calendar year 2024, and it is necessary to take bids so that new policies may be in effect upon the expiration of the old policies.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Findlay, State of Ohio, two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That the Mayor and/or Service-Safety Director of the City of Findlay, Ohio be and he is hereby authorized to take bids and enter into contracts for insurance policies for airport liability, automobile, boiler machinery, contractor's equipment, crime insurance, police professional liability, public official's errors and omission liability, real and personal property for the renewal period of July 2024 up to July 2028.

SECTION 2: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the City of Findlay, Ohio, and for the further reason that it is immediately necessary to secure bids on all of the afore described insurance coverages so that new policies may be acquired and in place upon expiration of the current policies.

WHEREFORE, this Ordinance shall take effect immediately upon its passage and approval by the Mayor.

PRESIDENT OF COUNCIL

MAYOR

PASSED: _____

ATTEST _____
CLERK OF COUNCIL

APPROVED: _____

ORDINANCE NO. 2024-030

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

WHEREAS, a petition has been presented to Council requesting that a portion of street to be vacated as set forth herein, and;

WHEREAS, Council upon approval and recommendation of such vacation by the Planning Commission of the City of Findlay, Ohio, is satisfied that it will not be detrimental to the general interest and ought to be made.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Findlay, State of Ohio:

SECTION 1: That the following described alley be and the same is hereby vacated:

Situated in the City of Findlay, County of Hancock and State of Ohio:

A sixty foot (60') unimproved right-of-way on the west side of Strong Avenue north of Blanchard Avenue. This right-of-way is located between Lots 11, 12, and 13 of the M. C. Whiteley Addition Block 17, and Lot 1 of the M. C. Whiteley Addition, Block 18.

SECTION 2: That the aforesaid vacation is hereby made subject to the preservation of the public utilities right-of-way, in accordance with the provisions of Ohio Revised Code Section 723.041 including an easement is reserved for all sanitary and/or storm sewer lines in said vacated right-of-way.

SECTION 3: That this Ordinance shall be in full force and effect from and after the earliest period provided by law.

PRESIDENT OF COUNCIL

MAYOR

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

ORDINANCE NO. 2024-031

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

WHEREAS, a petition has been presented to Council requesting that a portion of alley to be vacated as set forth herein, and;

WHEREAS, Council upon approval and recommendation of such vacation by the Planning Commission of the City of Findlay, Ohio, is satisfied that it will not be detrimental to the general interest and ought to be made.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Findlay, State of Ohio:

SECTION 1: That the following described street be and the same is hereby vacated:

Situated in the City of Findlay, County of Hancock and State of Ohio:

A fifteen foot (15') unimproved right-of-way on the west side of Strong Avenue. This right-of-way is located between Lots 10, 11, 12 and 13 of the M. C. Whiteley Addition, Block 17.

SECTION 2: That the aforesaid vacation is hereby made subject to the preservation of the public utilities right-of-way, in accordance with the provisions of Ohio Revised Code Section 723.041 including an easement is reserved for all sanitary and/or storm sewer lines in said vacated right-of-way.

SECTION 3: That this Ordinance shall be in full force and effect from and after the earliest period provided by law.

PRESIDENT OF COUNCIL

MAYOR

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

ORDINANCE NO. 2024-033

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO, TO ADVERTISE FOR BIDS WHERE REQUIRED AND ENTER INTO A CONTRACT OR CONTRACTS FOR CONSTRUCTION OF VARIOUS PROJECTS IN ACCORDANCE WITH THE 2024 DEPARTMENT EQUIPMENT LIST, APPROPRIATING AND TRANSFERRING FUNDS FOR SAID CAPITAL EXPENDITURES, AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Findlay, State of Ohio, two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That the Service-Safety Director of the City of Findlay be and he is hereby authorized to advertise for bids where necessary pursuant to law and enter into contracts for construction of various projects as set forth in the capital improvements program for the year 2024.

SECTION 1: That the following sums be and the same are hereby appropriated and transferred:

FROM:	CIT Fund – Capital Improvements Restricted Account	\$ 249,500.00
TO:	Street Department #22040000-other	\$ 169,500.00
TO:	Police Department #21012000-other	\$ 50,000.00
TO:	Dispatch #21015000-other	\$ 30,000.00
FROM:	Sewer Fund	\$ 80,000.00
TO:	Water Pollution Control #25061000-other	\$ 80,000.00
FROM:	Sewer Fund-Stormwater Restricted Account	\$ 137,500.00
TO:	Street Department #22040000-other	\$ 137,500.00
FROM:	CIT Fund – Capital Improvements Restricted Account	\$ 279,994.00
TO:	Patrol Car Camera System #31940700	\$ 54,494.00
TO:	FFD No. 1 Air Condition Replacement #31940900	\$ 25,500.00
TO:	Airport Shop Roof Replacement #35241000	\$ 20,000.00
TO:	Riverside Toy and Surface #31941100	\$ 150,000.00
TO:	West Park Toy #31941200	\$ 30,000.00
FROM:	Water Fund	\$ 451,000.00
TO:	WTP Roof Replacement (2024)	\$ 451,000.00
FROM:	Sewer Fund	\$ 75,000.00
TO:	2024 Manhole Adjustment Program #35641300	\$ 75,000.00
FROM:	Sewer Fund	\$ 25,000.00
TO:	2024 Manhole Adjustment Program #35641300	\$ 25,000.00

SECTION 2: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the City of Findlay, Ohio, and for the further reason it is immediately necessary to appropriate and transfer said funds so that said projects may proceed expeditiously.

WHEREFORE, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

PRESIDENT OF COUNCIL

MAYOR

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

City of Findlay

Office of the Director of Law

318 Dorney Plaza, Room 310
Findlay, OH 45840
Telephone: 419-429-7338 • Fax: 419-424-7245

Donald J. Rasmussen
Director of Law

MARCH 20, 2024

THE FOLLOWING IS THE NEW LEGISLATION TO BE PRESENTED TO THE CITY COUNCIL OF THE CITY OF FINDLAY, OHIO, AT THE WEDNESDAY, MARCH 20, 2024 MEETING.

RESOLUTIONS

012-2024 A RESOLUTION APPROVING THE RENEWAL PETITION, SERVICES PLAN AND BUDGET OF THE DOWNTOWN FINDLAY IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY.

ORDINANCES

2024-035 AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

2024-036 AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

2024-037 AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

RESOLUTION NO. 012-2024

A RESOLUTION APPROVING THE RENEWAL PETITION, SERVICES PLAN AND BUDGET OF THE DOWNTOWN FINDLAY IMPROVEMENT DISTRICT, AND DECLARING AN EMERGENCY.

WHEREAS, the Downtown Findlay Improvement District's petition, articles of incorporation and services plan was previously adopted pursuant to Resolution 012-2019, and is subject to expire this year, and;

WHEREAS, the Downtown Findlay Improvement District has filed a renewal petition, amended and renewed services plan and budget, and;

WHEREAS, Ohio Law allows property owners to assess themselves to fund a number of services through the creation of a Special Improvement District (SID). Passage of this legislation represents the first step of a process by which businesses downtown may agree to improved services to be paid for by a special assessment. The Ohio Revised Code (§§1710 et. seq) requires that the legislative body of a community in which the SID is proposed is to act upon the petition within sixty (60) days of the submission of such petition. As a part of the City of Findlay's ongoing efforts to more effectively coordinate the work of downtown entities and to more efficiently partner with downtown businesses to help maintain, improve, and build the downtown area of the City of Findlay as a viable business, cultural, residential, and recreational community, approval for a renewal of the SID serving the downtown area has been requested. Downtown Findlay Improvement District, Inc. presented the City of Findlay with a renewal petition with an amended and renewed services plan and budget to extend the SID for a period of five (5) years commencing upon the expiration of its initial petition and services plan. After securing the agreement of property owners representing at least seventy-five percent (75%) of the area of lots and lands affected by this SID, a petition for renewal of the SID was filed by the Downtown Findlay Improvement District, Inc. in conformance with the Ohio Revised Code (§§1710 et seq).

WHEREAS, Council members, as well as its committee assigned to review this petition, deems it to be a desirable project for downtown Findlay and will be done all at the property owner's expense and desire to approve same.

NOW, THEREFORE, BE IT RESOLVED by the Council of the city of Findlay, State of Ohio, two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That the City of Findlay hereby approves the renewal petition submitted to Findlay City Council on March 20, 2024 for the renewal of a proposed Special Improvement District (SID) in downtown Findlay in the area identified in the attached maps. The name of the SID created by Downtown Findlay Improvement District, Inc. shall remain the Downtown Findlay Improvement District (hereinafter referred to as "DISTRICT").

SECTION 2: That the City of Findlay hereby also approves the Amended and Renewed Downtown Services Plan and Budget of the DISTRICT submitted to Findlay City Council on March 20, 2024 included with said petition and specifically finds that the public services and improvements of said plan will benefit the District.

SECTION 3: This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the adoption of this resolution were taken, and that all deliberations of this Council and any of its committees that resulted in those formal actions were held, in meetings open to the public and in compliance with law

SECTION 4: That this Resolution hereby is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that this Resolution must be immediately effective in order to maintain, improve, and build the downtown area of the City of Findlay as a viable business, cultural, residential, and recreational community.

PRESIDENT OF COUNCIL

MAYOR

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

ORDINANCE NO. 2024-035

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Findlay, State of Ohio, two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That the following sums be and the same are hereby appropriated:

FROM:	Self Insurance Fund	\$ 14,000.00
TO:	Self Insurance #26066000-other	\$ 14,000.00

SECTION 2: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the City of Findlay, Ohio, and for the further reason it is immediately necessary to appropriate funds so that may be utilized to pay a legal settlement.

WHEREFORE, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

PRESIDENT OF COUNCIL

MAYOR

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

ORDINANCE NO. 2024-036

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Findlay, State of Ohio, two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That the following sums be and the same are hereby appropriated:

FROM:	General Fund (insurance proceeds)	\$ 1,101.24
TO:	Police Department #21012000-other	\$ 1,101.24

SECTION 2: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the City of Findlay, Ohio, and for the further reason it is immediately necessary to appropriate funds so that a received insurance payment for the repair of a City of Findlay Police vehicle from an accident may be utilized within the City of Findlay Police Department.

WHEREFORE, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

PRESIDENT OF COUNCIL

MAYOR

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____

ORDINANCE NO. 2024-037

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

BE IT ORDAINED by the Council of the City of Findlay, State of Ohio, two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That the following sums be and the same are hereby appropriated and transferred:

FROM:	CIT Fund – Capital Improvements Restricted Account	\$ 516,000.00
TO:	2024 Annual Street Resurfacing/Curb Repairs, <i>project no. 32840100</i>	\$ 516,000.00

SECTION 2: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the City of Findlay, Ohio, and for the further reason it is immediately necessary appropriate and transfer funds so that the aforementioned annual street resurfacing/curb repairs projects may proceed expeditiously and be completed during this construction season.

WHEREFORE, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.

PRESIDENT OF COUNCIL

MAYOR

PASSED _____

ATTEST _____
CLERK OF COUNCIL

APPROVED _____