

# FINDLAY CITY COUNCIL MINUTES

**REGULAR SESSION**

**May 1, 2018**

**COUNCIL CHAMBERS**

**PRESENT:** Frische, Harrington, Hellmann, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser

**ABSENT:** none

President Pro-Tem Russel welcomed Boy Scout Troop 322 in the audience. They are sponsored by Stonebridge Church of God and are working on their citizens in the community badge.

President Pro-Tem Russel opened the meeting with the Pledge of Allegiance and a moment of silent prayer.

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

- Councilman Slough moved to accept the April 17, 2018 Public Hearing minutes to rezone 2350 Keith Parkway (Ordinance No. 2018-024). Councilman Wobser seconded the motion. All were in favor. Motion carried. Filed.
- Councilman Harrington moved to accept the April 17, 2018 Regular Session City Council meeting minutes. Councilman Shindledecker seconded the motion. All were in favor. Motion carried. Filed.

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

Councilman Harrington moved to add-on the following to tonight's agenda. Councilman Slough seconded the motion. All were in favor. Motion carried. Filed.

### **ADD-ONS:**

- Letter from Director of Public Service/Acting City Engineer Thomas = Areas B-4 & B-6 sewer separation, phase 1 project 32556000 & phase 2 project 32556100 (**REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS section**)
- Ordinance No. 2018-046 = Areas B-4 & B-6 sewer separation phase 1 project 32556000 & phase 2 project 32556100 (**LEGISLATION section**)

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

**PROCLAMATIONS:** - none.

## **PETITIONS:**

### **Alley vacation request – E Lincoln St vacation**

Nicole Hoffman is requesting to vacate East Lincoln Street right-of-way west of Fishlock Avenue and adjacent to Lots 16654 and 16655 in the Tritch Addition to the City of Findlay, Ohio. Referred to City Planning Commission and Planning & Zoning Committee. Filed.

**WRITTEN COMMUNICATIONS:** - none.

## **ORAL COMMUNICATIONS:**

### **Charles Williams – police/fence**

Mr. Williams started by stating the Board of Zoning Appeals (BZA) meeting should have started at 6:00pm but did not start until 6:30pm because Mr. Rooney was not there yet. The Mack Truck's sign case took ten (10) minutes. At that meeting, the minutes were read, then the meeting was stalled and they talked about nothing for about twenty (20) minutes or more stating that one of the board members was not there yet. That discussion was not on tape and has been erased. He brought his copy of the tape with him tonight. He had asked several individuals to listen to it and asked for a show of hands indicating who had listened to it. Councilman Wobser and Law Director Rasmussen raised their hands.

### **Discussion:**

Councilman Wobser asked what meeting he is referring to. Mr. Williams replied it was for a fence to be put up on Main Street eleven feet (11 ft) from the street but is supposed to be back thirty feet (30 ft). Councilman Wobser asked if this is from a Planning and Zoning Committee meeting. Mr. Williams replied that is correct.

Mr. Williams continued saying the tape he has proves things were changed on it. The recording of it was turned off during the meeting. Van Horn Hoover and Associates' owner arrived to speak for Mr. Best. Mr. Williams was then asked to speak and informed them that Mr. Best's six foot (6 ft) fence has a thirty foot (30 ft) setback and not a ten foot (10 ft). The concern is that the fence would be too close to the street and would cause visibility issues and be dangerous for children that may run out from behind the fence into the street.

Councilman Shindledecker clarified that this is not from a Planning and Zoning Committee meeting, but from a Board of Zoning Appeals meeting (BZA).

Mr. Williams continued stating that both his wife Sue Williams and Mrs. Young provided their statements during that meeting. Phil Rooney, Chair of the BZA, stated that "he can do whatever he wants with his lot" and that he will get permits from Mr. Best to start building. Mr. Rooney took charge of the whole meeting, and at the end of the meeting just before voting, he had to sustain because he had a vested interest in being Mr. Best's attorney. Mr. Rooney should not have chaired the meeting since he represents Mr. Best. Mr. Rooney stated his Williams Street property is a salvage yard, but it has never been a salvage yard. It was also stated that Eckrich Meats was an eye sore, but that is omitted from the tape he has, but he has it in writing and got that information from the City.

The property on Sandusky Street was denied a variance, but Mr. Best was allowed a variance off of the Williams Street lots. Realtor Rooney thinks money is more important than kids' lives. He pointed to Mr. Leguire in the audience who has six (6) kids and lives on Sandusky Street. Until all this started, he had never met Mr. Leguire before, but offered his post hole digger to him to put his fence posts in, but the City went after him with every vengeance they could and still are. Before the meeting, a lady asked if anyone wanted to speak during the meeting to raise their hand, so he raised his hand and she brought him a paper to fill out and returned to her or he would not have been able to speak to which he replied that he came to speak and that it was his 1<sup>st</sup> Amendment right to do so. The lady then left the chambers and he then noticed a Police Officer standing next to the wall of the chambers. At the next meeting there were no Police Officer there.

President Pro-Tem Russel pointed out that Mr. Williams wished to address Council about a fence and a Police matter. Mr. Williams replied that is what he has listed next to talk about. It is where he is going right now.

Mr. Williams continued stating that he drove down South Main Street to look at a building lot and upon his return on the same route, his phone rang which was his wife, so he pulled over to the curb to talk to her. When he did so, a man knocked on his driver's side window and asked him if needed any help to which he told him that he did not. The Officer told him he could not park there. He told the Officer that he did not see any parking signs. He walked back to the hotel and looked at the columns. The columns did have no parking signs, but there were no parking signs where he parked at by the curb. He walked back to his truck and called his wife to pick him up in front of the Courthouse. Everything the hotel manager Jeremy Leveck stated in the Police Report is a lie (he provided a copy of the Police Report to Acting Mayor/President of Council Monday and is on file in the Council Office). He then drove and parked in front of the Courthouse on Main Street where he remained for twenty (20) minutes before an Officer arrived with lights activated. When he exited his truck, the Officer asked for his name and social security number. He provided his name but he refused to provide his social security number. The Officer told him he had trespassed at the hotel to which he replied he did not. The Officer then asked him about the sign he had on his truck to which he replied it is his 1<sup>st</sup> Amendment right to have it.

When he went to the Police Station to obtain a copy of his Police Report and to talk with Officer Doe, he was polite to Officer Nicely and she was also polite to him. He requested a copy of the Police cam so he could prove his innocence as what Officer Nicely wrote in his Police Report was a lie.

Mr. Williams asked why the Safety Director has a gun in Council meetings.

Mr. Williams asked why the Courthouse does not have paperwork available for appeals to the Board of Zoning Appeals (BZA) decision. He and his wife went to the Courthouse to appeal his request. When they went over there, they were informed of the two hundred fifty dollar (\$250.00) fee. When he went to write the check, he was told they did not have the paperwork there and was told they had to go to the Library to get it. President Pro-Tem Russel pointed out that Council's rules for Oral Communications are that they are given four (4) minutes to speak and that he had now been given eight (8) minutes, so he requested he come to a conclusion. Mr. Williams replied he is very close to that.

Mr. Williams asked why Findlay wants Northwestern Masonry to spend thirty thousand dollars (\$30,000) to put up a six foot (6 ft) high fence to hide a sixty foot (60 ft) building.

Mr. Williams asked why Findlay would say they want business but instead went against Mack Trucks and Northwestern Masonry.

Mr. Williams noted that he has been to City meetings and has not seen one black person on any committee.

Mr. Williams provided a hard copy of his portion of the BZA hearing, as well as the Police Report for his parking on South Main Street in front of the hotel as well as the trespass warning the hotel wished to be issued to him (all is filed in the Council Office).

#### Discussion:

Councilman Shindledecker answered one of Mr. Williams's questions that the Board of Zoning Appeals is a City board and is not a County board. The Hancock County Courthouse would not have any need to have any documents for the Board of Zoning Appeals. Mr. Williams replied that he and his wife were told that if they want to appeal their request, they have to go to the Courthouse and get the proper paperwork.

**Sue Williams** began to speak to Council stating that Mr. Rooney had told them this during the BZA meeting. Councilman Shindledecker replied that is a different type of appeal. Ms. Williams continued saying that she spent three (3) hours trying to get the required paperwork. She went to the Building Department, the Mayor's Office and was told that she needed to go to the Courthouse, so she did so, but was told they did not have the paperwork for her to fill out. She asked her why the Building Department told her to go to the Courthouse. The Courthouse called the City asking for more information and asked what she was asking for. Ms. Williams then went back to the Building Department and the Mayor's Office trying to get some information. When she went home, she told her husband what happened and they came back a day later to investigate to see what they needed to get an appeal, but never did find out. All they were told was to go to the Library to get the paperwork. If appeals are not a County issue, then the City needs to have paperwork available to file an appeal.

#### Discussion:

Councilman Hellmann asked for clarification. He asked if Ms. Williams wants to appeal a decision that was made by the Board of Zoning Appeals. Ms. Williams replied that is correct.

#### **Mathias Leguire – 6' grass**

Mr. Leguire pointed out that there are City Ordinances that state that fences have to be put back more than thirty feet (30 ft) in front of a property. He constructed one that was at twenty-six and a half feet (26½ ft). He made a mistake. He measured thirty-three feet (33 ft) from the sidewalk and put it up. The Zoning/Floodplain Administrator came to his property and informed him that he could apply for a variance at a cost of two hundred fifty dollars (\$250.00), that the City would not oppose it, and gave the reasons why. It is only three and a half feet (3½ ft) off and does not pose a hazard to anyone. Mr. Leguire paid the two hundred fifty dollar (\$250.00) fee and attended the meeting. There were three (3) individuals at the meeting. The variance board is made up of five (5) individuals and two (2) alternates. Three (3) of those were in attendance for that meeting. There were City representatives in attendance from the Zoning Department (Todd Richard, Erik Adkins, and Jodi Mathias). When it was time to discuss Mr. Leguire's request, Todd Richard left the meeting and he was told that the City was opposed to his variance. Phil Rooney and the other two (2) board members voted against his variance request, so he has to move his fence back three and a half feet (3½ ft). A Findlay business is building houses on Williams Street who requested a variance (Charles Williams from the audience stated that their Lawyer represented Mr. Best) so that they could put their fence ten foot (10 ft) off the property line.

Mr. Lequire already has his fence at twenty-six and a half feet (26½ ft) but was denied, but the business wants ten foot (10 ft) and the request is granted. Mr. Rooney championed for Best Construction because that is his client. If he would have had Mr. Rooney as his attorney, his fence would not have to be moved. During that meeting, both Phil Rooney and Sharon Rooney made comments that were deleted off the audio tape that was supplied to Mr. Williams, yet the comments show up in the written transcription that he paid for. Someone on the Variance Board is deleting things which is corruption and has to stop. The City will not get rid of corruption if they keep on restricting and regulating private property owners because there will always have to be a variance board. After Mr. Rooney championed for Best Construction's request, he then recused himself on the vote. He could not vote on it because he is their attorney, they are his client who was not at the podium making his comments like he had to, but instead was sitting in the Council President's seat as the Chairman of the Board. When it was time to vote on that variance, he stated he could not vote on it. On Williams Street, there is a fence ten foot (10 ft) off the property line. He had a couple of individuals contact the Mayor to let her know what was going on as it is corruption and is illegal. What Mr. Rooney did was unethical and should be reported to the Ohio Bar. Mr. Williams also talked to the Mayor and the City Attorney about it to which the City Attorney told him that Mr. Rooney should not have been at that meeting because of the gravity of it. It is unethical and is corruption. He has another issue with the City's six inch (6") grass limit. He asked what study the City read that states grass should never be more than six inches (6"). He asked who the City thinks they are. He asked if the City is going to continue to restrict and regulate property owners taking away their freedom and rights. He found out that he cannot park his car in the grass. Because of his fence situation, he keeps getting threatening letters from the City. He was also told he has to take the fort he built for his kids down or move it back because it is also an issue. When Mr. Richard from the City's Zoning Department lied to him telling him the City would not oppose his variance, he was going to add the fort to it because if the City is not opposed to where his fence is, then the Board would not oppose it. The City needs to do away with the N.E.A.T. Police and do away with all the restrictions and regulations because all it does is takes away neighborliness. Some of his neighbors wanted to buy some of his property, but are vindictive and called the Police on him, which he has to deal with. Thanks the City's regulations and restrictions, this is what his life is now. He asked who came up with the six inch (6") limit on grass and asked if he wanted to grow wheat, straw, or corn if he would have to pay another two hundred fifty dollars (\$250.00) to apply for a variance only to be told it cannot be more than six inches (6"). It is corruption and really irritates him. The whole situation reminds him of a story of a local Republican man who was beaten, robbed, and left for dead on public property. The man did not do or say anything. A church board member saw it, but moved to the other side of the road, avoided him and did nothing. Along came a stinky, foreigner Democrat who had never been to Findlay and did not know that Findlay is a Republican town that likes to restrict resident's personal freedoms. The stinky Democrat man notice the man, cared for him and took him to the hospital, paid his bills, took him to a hotel and put him up. If this sounds familiar, it should. He asked Council who they are in this story. If they are government, then they are who beat that man and took away his rights and his freedoms. He noted that Councilman Harrington was shaking his head just now as his opinion is that the City should be able to restrict everyone. Councilman Harrington replied that Mr. Leguire's four (4) minutes are far up and if he has anything additional to say, to return another time. Mr. Leguire continued stating that government is the robbers and thieves that are stripping property owners of their rights. The more they restrict and regulate, the more they are making strangers out of their neighbors. The City created the N.E.A.T. Police that he can call his neighbors on now. When someone asked Jesus who their neighbors were, that was the story he told them. He again asked who Council is in that story. He asked if they are the ones who are going to beat up and take away people's rights or if they are going to help their neighbor (i.e. if someone has not mowed their grass for awhile, they should be asking them if they need help). If he was the Mayor, he would be the N.E.A.T. Police. President Pro-Tem Russel reminded Mr. Leguire that Council has a four (4) minute limit on oral communications. Mr. Leguire continued stating he would like to know if Council is for restricting property owners rights in telling them how long they can have their grass on their property or if they realize it should be something left up to the homeowners and the private property owners to decide, and if a neighbor has a problem with it, then they can either turn around and look away and not drive by his house, or maybe the City could put up a fence on public property instead of him having to put it thirty feet (30 ft) on his own personal property.

#### Discussion:

Councilman Niemeyer asked Mr. Leguire if his property is the old Edelbrock property on the north side of East Sandusky Street along the creek. Mr. Leguire replied that is correct.

Councilman Wobser asked what the reason given was for not approving his variance. Mr. Leguire replied because they would not have approved it if he had requested it in advance before he put up his fence. So, there really was no reason, just like there is no reason why to have a thirty foot (30 ft) setback for a fence that only applies to him. It does not apply to Phil Rooney's clients.

Councilwoman Frische noted that the basis of tonight's oral communications conversations was that there was no paperwork available to fill out for the Board of Zoning Appeals. She asked where that paperwork is located and how someone goes about getting it. Law Director Rasmussen replied that paperwork is provided at every meeting and as soon as the hearing is over, the applicant who is a party to the case can, if he/she is denied, file an appeal. He/she is told right then and there that they have thirty (30) days to appeal. Neither of these individuals were applicants. They were witnesses who voiced their opinion against the request for the variance. The fence was permitted. Applicants that are denied get the form and file a court action in Hancock County Common Pleas Court under 2506 as an administrative appeal.

Councilman Wobser asked for clarification if Mr. Leguire was or was not the applicant at that meeting. Law Director Rasmussen replied he was referring to Mr. Williams's request that Mr. Leguire was also at that meeting. It was not his property. He was just appearing. Law Director Rasmussen continued that he was not present at that meeting and does not know what happened with the fence. The pin was there and the fence was not installed at the thirty feet (30 ft) setback and therefore, was not in compliance. Councilman Wobser then asked if the Board denied the variance to Mr. Leguire. Law Director Rasmussen replied that they denied the variance and that Mr. Leguire had the chance to appeal under 2506 through the Hancock County Common Pleas Court. Councilman Wobser then asked Mr. Leguire if he did that. Mr. Leguire replied he misplaced the paperwork. After that meeting, he was really hurt and offended. Mr. Richard was not in the room to answer the questions on why he approved it. Afterwards, he sent a long email to Councilwoman Frische, but did not get a reply back. He sent it to her Findlay email address. He was waiting to see if he would receive some kind of reply. So, no he did not go through that process. Councilwoman Frische replied that she has never received an email from Mr. Leguire. Mr. Leguire replied he can resend it to her. Councilwoman Frische replied that she would like him to do so. Mr. Leguire replied that he was so hurt because there was a nasty letter read by his neighbors at the variance request meeting. It really hurt him. He did not leave his house for two (2) months except to go to work and church because he is an introvert, so the whole process was very hurtful for him and his family. He and his wife have six (6) kids, so two hundred fifty dollars (\$250.00) is a lot of money for them to beg the City for something.

Councilman Harrington moved to take a ten (10) minute recess. Ayes: Harrington, Slough, Watson. Nays: Frische, Hellmann, Niemeyer, Ostrander, Russel, Shindlecker, Wobser. Motion denied.

**Paul "Tobe" Drew (All American Rock House) – noise ordinance**

Mr. Drew is before Council tonight to represent his business All American Rock House located at 1851 Tiffin Avenue. They are a live music venue that brings large national music acts to the community just like other large venues in Findlay who are also zoned commercial. His business has received noise violations and complaints that local law enforcement has recently dealt with. His business has been extremely proactive in trying to make it a better situation for all involved. Their proactive approach has included many facility upgrades including sound defining and sound blocking to the building. They have also started the process of purchasing a new and very costly sound system that will be a directional system that will keep the sound more confined in their space. They have received three (3) citations from the City at this point. He addressed Noise Ordinance 509.10 and the violations that keep occurring. The ordinance was passed on May 21, 2002 and has been beneficial to some, but has not been written to include businesses that are in commercial zoned areas. Through research, he has found that many cities have adopted sound ordinances that include decibel readings, but Findlay's has not. They would like to continue to do business in Findlay and have not had any other issues with law enforcement whatsoever. Enforcing an ordinance that does not have a decibel reading is a very hard situation as no two (2) individuals have the exact same hearing. It is like asking someone to drive on the highway and give them a speeding ticket without having a speed limit. The ordinance in question only indicates that sound is audible at a distance greater than fifty feet (50 ft) from the point of amplification. It is the violation that occurred. His building is in a commercially zoned area that is one hundred twenty feet by eighty feet (120 ft x 80 ft) which means anywhere, even on his property, if it can be heard whatsoever, it is a violation, the same as in this room (Council Chambers). They have sophisticated decibel meters and have tested their system at their property line and have yet to break fifty-five (55) decibels directly at that line. Columbus, Cincinnati, and Dayton have the lowest point during the hours of 9pm-7am sixty-two (62) decibels fifty feet (50 ft) off of their property line for commercially zoned businesses. They look forward to growing their business and doing whatever it takes to not only be a great business bringing amazing music acts to Findlay, but also by fixing issues they have with their neighbors. He provided a copy of noise ordinances from Columbus, Cincinnati, and Dayton. He also provided some normal decibel readings that include air conditioning systems, normal conversations, and other household sounds (all of which are filed in the Council Office). They look forward to working with Findlay to make sure that they provide the best possible experience for not only their customers, but also their neighbors. He asked Council to not only look into this situation, but to also consider revising the ordinance that is considered outdated and was originally written to include car audio systems, that back in the day, everyone pretty much hated the big thumping systems that drove by the City. The entire ordinance is written around that situation. They would like to continue to do business the best they can possibly do and look forward to working with Council on this situation.

**Discussion:**

Councilman Wobser asked what the hours of operation are. Mr. Drew replied that they open as early as 5:00pm on some days and stay open until 2:00am. Sound is stopped by 12midnight to 12:30am at the latest for all the national acts they have brought in. Councilman Wobser then asked what time all the live acts end. Mr. Drew replied that they start at 6:30pm to 7:00pm and are over by midnight to 12:30am at the latest. Councilman Wobser asked what nights these acts take place. Mr. Drew replied only Thursday through Saturday. There are some weekday acts that will be coming through as they are buckling on Interstate 75 which has been the perfect hub for bringing large country and rock national acts to Findlay. It has allowed them to afford them. The Arts Partnership has also been able to bring in the acts and helps keep the costs low enough for them to be able to continue.

Councilwoman Frische thanked Mr. Drew for coming before Council as it is uncommon for bars to attend Council meetings wanting to work with the City. She received an email from a property owner backing into that area, asked if the business has talked to that property owner, and asked if the business has received any tickets from neighbor complaints. Mr. Drew replied that they have received three (3) citations that refer to the 509.10 loud sound amplification prohibited situations. but when reading it, it does not include any commercial property, especially in zoned commercial areas.

Councilman Slough asked where this property is located. Mr. Drew replied it is the old Wooley Bulley's. Law Director Rasmussen noted that there were three (3) citations issued. He had three (3) conversations with the last one being this morning with Mr. Hawkins, their attorney, wondering if he was going to appear. They talked about and disagree on the meaning and the construction of the ordinance. It is his understanding that the business is going to try to work with the City to solve the problem. As long as that is the case, it can move forward.

He is unsure if decibels relate to the thumping which is the same problem that was there before All American Rock House took over, but was made much better by the owners of the property several years back which seemed to stop it. Mr. Drew added that the ordinance does not state any decibel levels and varies on what level everyone's hearing is. If they are given a definite decibel reading like Columbus or Toledo has, he will abide by it. He owns a restaurant in Toledo that is right next door to a large housing community where they had the same situation. Toledo added allowed decibel levels and brought in an external sound company who provided sound readings around the property line, they kept their levels under that and never went over it ending the situation. If they are given a limit, they will abide by it one hundred percent (100%), but to tell them that they cannot have any sound whatsoever coming from their business is virtually impossible and is tearing their business apart.

Councilman Shindledecker asked if Council restricted the hours of operation for the car wash just east of the All American Rock House because of the sound from the dryer. There have been complaints on this property for many years. Law Director Rasmussen replied that the City has restricted hours and did do decibel readings on the dryers, not unlike what could be done in this case as well, which is what he would like to do because they do not know what the readings are. The new sound system they are getting may very well help. What was done with dead air space and acoustic material helped as they were able to run their business for quite awhile. He told Jeff that he would work with him and would like to get some decibel readings. Mr. Drew added that other cities also list their allowed times of operation for commercial properties and that sound is only allowed fifty feet (50 ft) from the property line. His business has yet to even come close to fifty-five (55). A normal outside air conditioning system on a house is fifty to sixty-five (50-65). Mr. Drew provided handouts on decibel readings for other cities as well as Findlay's noise ordinance (filed in the Council Office). The Council Clerk will scan and email the handouts to Councilmembers.

Councilwoman Frische asked if the City has equipment to measure decibels and asked if Council should be addressing the current ordinance to improve it. She asked when the ordinance was last addressed. All American Rock House is having more live bands than those who were previously in that facility. Mr. Drew replied that they do not like to be referred to as a bar. They are a live music venue. Law Director Rasmussen replied that the City did at one time have equipment to measure decibels and did use it in other situations. He is unsure if the City still has the equipment, but does know that there are employees who know how to do the measuring. In the 1100 section (1163.01), it also talks about nuisance and noise. The City is not trying to drive the All American Rock House out of town. They are just trying to come up with a solution. Mr. Drew replied they too want to come up with a solution for all. Law Director Rasmussen added that a lot of bars and music venues in Columbus are not as close to residential areas as the All American Rock House. Mr. Drew replied that Dayton is identical to them.

Councilman Hellmann pointed out that it is important to keep the residences in mind that abut up against the venue as they have been there for a long time. That is their home. It is where they are raising their families. They are trying to sleep at night, so Council owes them that consideration. Mr. Drew agreed and pointed out that as a business, they are trying to address those issues and are closing their sound down by midnight and are only on, on weekends. If they have a show during the week, they are done by 10:00pm.

Councilwoman Frische encouraged Mr. Drew to talk to the neighbors that abut that area. Mr. Drew replied that the ones directly behind them are all big fans of what they are doing. One of the first things they did was bring in proper license, bonding and assured security. They have not had any drug or alcohol issues. They put taxi cabs in the parking lot every night they are open to make sure their customers are getting out of their venue safely. They are one hundred percent (100%) supportive of the military and the thin blue line. They have several law enforcement employees that frequent the establishment and enjoy it just as much as everyone else.

#### **Lynn Passet – noise from All American Rock House**

Mr. Passet is before City Council tonight on behalf of the residents in Country Club Acres. They are asking Council to halt the loud music that they have had to endure every Thursday, Friday, and Saturday nights coming from the All American Rock House. The establishment sits well off of the front of Tiffin Avenue. It is tucked against the restraining wall that separates the business from the neighborhood. He thanked the Findlay Police Department for taking their weekly calls and imagines Dispatch is tired of hearing from them on a regular basis. He is certain they feel their frustration when they answer the phone, but they are always calm and considerate of the situation. The Officers that show up to his home when he asks to file a report are always courteous and understanding of their anger, but have reminded him many times that it is a business and that they have to respect the business as well, which he fully understands, but feels the situation could have been handled more sternly from the very beginning not allowing it to get out of control, which is probably why both parties are probably here tonight. The operators of the night club seem to have zero (0) concern for the neighbors despite what they have stated tonight because if they did have concern, the music would be calming down, but it is not. They continue to play their live music at levels that are not even safe for those inside the building because if the neighbors are hearing it, he can only imagine what it is like inside. He asked why an indoor facility has to play its music at such an atrociously loud levels in the first place as the building is not that large, and yet with the doors shut, the music can be heard up to three (3) blocks away. It started last fall, and now their windows have been closed all winter and furnaces have been running, but they can still hear the constant thumping and the music. Spring and summer are now close to arriving and they would like to open their windows for fresh air, but all they will hear is the thumping. He feels sorry for those who live in the apartment complex and the condominiums that are right across the fence because the kids in those apartment complexes have to go to school on Friday mornings which cannot be a pleasant experience when they have been up all night. His neighborhood is beautiful with lots of trees, lots of families, and is a nice mixture of middle income homes. They chose that community because of the peaceful setting and with it being so close to the mall and many of the restaurants, but yet still off the beaten path, however, every Thursday, Friday, and Saturday night, the neighborhood is taken over by the loud obnoxious music that prevents children from sleeping and wake up tired for school on Friday mornings. It also keeps working parents up (he is up at 5:30am) for work and is not usually asleep until about 1:00am on the nights of operation at the venue. If he were to park his truck outside of any of the Councilmember's houses every single night and cranked up his stereo with his windows down, it would not be long before they would call the Police on him, and asked how long the Police would put up with it. He believes it would be a lot less longer than they have had to put up with it. If he were to do that night after night, week after week, month after month, he most likely would be in jail. He does not understand why this has been left to go on for so long. He asked Council how long they are going to allow the establishment to disturb the families and the neighborhood around it. They have been dealing with it for over six (6) months and it is not getting any better. In fact, it is getting worse especially as the phone calls have been made. Fifty-nine (59) calls were called in on Thursday last week. That night was the loudest he has heard it, and yet Mr. Drew claims he is trying to work with them. The neighborhood has been existence since the 1950s and 1960s and the homes were in place long before the night club. All they are asking for is some help in putting an end to the loud music. He walked his block on Saturday and Sunday (Queenswood, Camelot and Sutton Place) to get signatures for him to go in front of Council on this matter. Everyone signed it but one (1) person because that person works 3<sup>rd</sup> shift and said he did not really notice it. They are asking Council to help out the people of Country Club Acres so that they can sleep at night. He should not have to go to work dead tired on Friday mornings and should be able to get a good night of sleep any night that the business is in operation.

#### **Discussion:**

President Pro-Tem Russel pointed out that Mr. Passet provided a list of twenty-three (23) names and signatures that the Council Clerk will scan and email to all Councilmembers (filed in the Council Office).

Councilwoman Frische asked Mr. Passet what his solution is and how the neighbors want to work through this. She asked what ideas he has to address it. Since his email to her, she contacted the Police Department. Mr. Passet replied that three (3) citations for noise has been issued since December. She asked Mr. Passet if he wants a decibel reading done. Mr. Passet replied no because that will not solve the problem. As Mr. Drew stated earlier, his hearing is not the same as someone else's hearing and while he may be correct, the neighbors are still hearing it and are still calling. Councilwoman Frische then asked if Mr. Passet lived there when there was another venue there. Mr. Passet replied no he did not. He has only lived there for two (2) years. Councilwoman Frische replied that the City addressed it with Wooley Bulley's when they were there and it worked for awhile. A new way of addressing the situation might be needed. Mr. Passet feels a level for the music needs to be set that would be sustainable for the neighborhood. Councilwoman Frische asked if that level would be a decibel. Mr. Passet replied that Mr. Drew stated that Dayton, Cincinnati and Cleveland have decibel levels and that Findlay's venue is not even close to that level which means that level already does not work. If Findlay follows other cities levels, then Findlay's venue can go even higher. Following other bigger/larger cities where there is more traffic noise may not work as they may not be butted up against a neighborhood like Findlay's venue is. Councilwoman Frische is trying to come up with something to change or upgrade the current legislation. It sounds like Mr. Passet wants a decibel or wants the City to control the volume of the sound to accommodate the neighborhood. Mr. Passet noted that there were a couple of nights that the Police Department was getting inundated by phone calls, so the establishment did turn it down and it was livable then, but he does not understand why it has to get to that point of calling and disturbing the neighborhood's lives. He asked why they cannot just start at that level they know they are allowed at as they start right back up at the same level again just to see how far they can go. He asked why they cannot just drop it down to the last level they were told to be at and go from there.

Councilman Hellmann asked how far the business's building is from Mr. Passet's rear property line. Mr. Passet replied roughly five hundred feet (500 ft). He is on Camelot. Queenswood is right up against the fence where Canterbury Club is. He is the next block over. His bedrooms are in the back of his house, so they hear the thumping. He can be laying in bed and his insides are moving and his windows are shaking and vibrating.

**Mark Stoffel – noise complaint**

Mr. Stoffel has lived on Queenswood Drive for thirty-one (31) years, so he has gone through other venues where the All American Rock House currently is. He is a fairly tolerable person, is an old rocker himself as he used to play in a band and knows what good music sounds like, but what the All American Rock House provides is not it. It is subsonic bass which is why the decibel level will have no meaning in this situation. He lives on the corner of Camelot and Queenswood which is equivalent to being in the Municipal Building to LaRiche parking lot which is approximately one thousand feet (1,000 ft). Three (3) weeks ago, he was watching the news while the All American Rock House was doing a sound check and his front windows were vibrating. He lives the furthest away from the establishment. He called the Police Dispatch and the Officer that came out was helpful and sympathetic. It is not a decibel reading issue, it is a subsonic issue. He has been around bars his whole life and knows what good music sounds like. Good bands do not need loud decibel levels to sound good. Bad bands do. He was there when the building was put up. It is a morton building that has never been upgraded or de-foamed, and has no sound deadening. When they do a sound check, it sounds like lifeflight going over. He worked thirty-four (34) years at Cooper Tire Rubber Company and just retired in December. He worked in that rubber factory his whole working life so that he could live in the Country Club. He grew up on Canterbury Drive, but did not work his entire adult life there to put up with the noise. It is not because the noise ordinance is vague. It is because the neighborhood does not want the decibel reading. He does not want to put the All American Rock House out of business, have them cited or have their liquor license pulled, but if he were still working the hours he had worked, the conversations with the Police Department would be different. He can be pretty tolerable as long as the Police Department can get them to turn it down. If the All American Rock House wants to be a part of the neighborhood, then there needs to be a happy medium. If the subsonic went away, the music would be tolerable. He could never hear anything when the old Wooley Bulleys and Damons were there. He is one thousand feet (1,000 ft) from them and it sounds like the Polaris.

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

**Treasurer’s Reconciliation Report** – March 31, 2018. Filed.

**Traffic Commission minutes** – February 20, 2018. Filed.

**City Planning Commission agenda** – May 10, 2018; **minutes** – April 12, 2018. Filed.

**Director of Public Service/Acting City Engineer Thomas – Areas B-4 & B-6 sewer separation, phase 1, project 32556000; phase 2, project 32556100**

By authorization of Ordinance No. 2016-010 and 2016-115, a bid opening was held for these projects on May 1, 2018. Bids were received from one potential contractor with the bid amount of \$869,812.75. The lowest and best bid was received from Helms and Sons Excavating of Findlay, Ohio. The project is included in the Capital Improvements Plan, and the total project estimate is within the budgeted amount. Previously, an amount of \$149,000 was appropriated to the project for design, startup and grant monies. At this time, an appropriation for construction, inspection and contingency is requested to complete the project. Legislation to appropriate and transfer funds is requested. Ordinance No. 2018-046 was created.

FROM: OPWC	\$ 250,000.00
Sewer Fund	\$ 45,000.00
Sewer Fund – Stormwater restricted account	\$ 45,000.00
TO: Areas B-4 & B-6 Sewer Separation, Phase 1 Project No. 32556000	\$ 340,000.00
FROM: OPWC	\$ 250,000.00
Water Fund	\$ 125,200.00
Sewer Fund	\$ 75,650.00
Sewer Fund – Stormwater restricted account	\$ 75,650.00
TO: Areas B-4 & B-6 Sewer Separation, Phase 2 Project No. 32556100	\$ 526,500.00

**Discussion:**

Councilman Russel requested that the letter be read. The Council Clerk read the letter in its entirety. Filed.

**Mayor Mihalk – Findlay Performance**

**Discussion:**

Councilman Hellmann suggested that this be held until the next board meeting. President Pro-Tem Russel noted that the Mayor will be making a presentation on this at some point in time. Filed.

**COMMITTEE REPORTS:**

The **WATER AND SEWER COMMITTEE** to whom was referred a request to continue discussions on the Deer Landing Waterline Oversizing Project via Ordinance No. 2017-098, AS AMENDED.

*We recommend to meet May 1st at 6:00pm with a committee report to review and make a final decision on this request.*

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

The **WATER AND SEWER COMMITTEE** to whom was referred a request to discuss guidelines and procedures on water and sewer lines from past issues.

*We recommend to continue the City’s standard practice.*

Councilman Slough moved to adopt the committee report. Councilman Wobser seconded the motion. All were in favor. Filed.

The WATER AND SEWER COMMITTEE to whom was referred a request to review the Rotary Policy changes.  
We recommend to finalize and give to the Law Director.

Councilman Slough moved to adopt the committee report. Councilman Hellmann seconded the motion.

Discussion:

Councilman Wobser asked if the changes will come back to Council at some point for approval. Service Director/Acting City Engineer Thomas replied that is correct. He has to get the information to the Law Director for him to look over the legal jargon on it and also get it to the City Auditor for his review.

All were in favor. Filed.

**LEGISLATION:**  
**RESOLUTIONS** – none.

**ORDINANCES**

**ORDINANCE NO. 2018-031** (2017 annual sewer & manhole lining program) requires three (3) readings **third reading** **adopted**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilman Slough moved to adopt the Ordinance, seconded by Councilman Hellmann. Ayes: Frische, Harrington, Hellmann, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-031 and is hereby made a part of the record.

**ORDINANCE NO. 2018-032** (Blanchard St/Sixth St intersection upgrade) requires three (3) readings **third reading** **adopted**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

Councilman Slough moved to adopt the Ordinance, seconded by Councilman Wobser. Ayes: Harrington, Hellmann, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-032 and is hereby made a part of the record.

**ORDINANCE NO. 2018-035, AS AMENDED** (Design Review District changes) requires three (3) readings **third reading** **adopted**  
AN ORDINANCE REPLACING CHAPTER 1138, ENTITLED DESIGN REVIEW REGULATIONS, AS WELL AS ENACTING NEW CHAPTER 1139 ENTITLED DESIGN REVIEW GUIDELINES, BOTH OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO.

Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Shindledecker. Ayes: Hellmann, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Harrington. Nays: Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-035 and is hereby made a part of the record.

**ORDINANCE NO. 2018-037** (113 Alexander Place rezone) requires three (3) readings **second reading**  
AN ORDINANCE AMENDING CHAPTER 1100 ET SEQ OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, KNOWN AS THE ZONING CODE BY REZONING THE FOLLOWING DESCRIBED PROPERTY (REFERRED TO AS 113 ALEXANDER PLACE REZONE) WHICH PREVIOUSLY WAS ZONED "R2 SINGLE FAMILY, MEDIUM DENSITY" TO "M2 MULTI-FAMILY, HIGH DENSITY".

Second reading of the Ordinance.

**ORDINANCE NO. 2018-038** (2131 Spruce Dr rezone) requires three (3) readings **second reading**  
AN ORDINANCE AMENDING CHAPTER 1100 ET SEQ OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, KNOWN AS THE ZONING CODE BY REZONING THE FOLLOWING DESCRIBED PROPERTY (REFERRED TO AS 2131 SPRUCE DRIVE REZONE) WHICH PREVIOUSLY WAS ZONED "R2 SINGLE FAMILY, MEDIUM DENSITY" TO "R4 DUPLEX/TRIPLEX, HIGH DENSITY RESIDENTIAL DISTRICT".

Second reading of the Ordinance.

**ORDINANCE NO. 2018-039** (2<sup>nd</sup> qtr Capital expenditures) requires three (3) readings **second reading**  
AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR 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 2018 DEPARTMENT EQUIPMENT LIST WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT A, APPROPRIATING FUNDS FOR SAID CAPITAL EXPENDITURES, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2018-041** (*change to junk vehicles codified ordinance*) requires three (3) readings **second reading**  
AN ORDINANCE AMENDING SECTION 521.04(c)(1) AND SECTION 521.07(a) OF CHAPTER 521 OF THE CODIFIED ORDINANCES OF  
THE CITY OF FINDLAY, OHIO.

Second reading of the Ordinance.

**ORDINANCE NO. 2018-042** (*2018 resurfacing program Contracts A & B*) requires three (3) readings **second reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2018-046** (*Areas B4 & B6 sewer separation Phase 1 & Phase 2*) requires three (3) readings **first reading**      **adopted**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

Councilwoman Frische moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Hellmann. Ayes: Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Harrington, Hellmann. The Ordinance received its second and third readings. Councilwoman Frische moved to adopt the Ordinance, seconded by Councilman Hellmann. Ayes: Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Harrington, Hellmann, Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2018-046 and is hereby made a part of the record.

### **UNFINISHED BUSINESS:**

**OLD BUSINESS** – none.

### **NEW BUSINESS**

Councilman Harrington: **PLANNING & ZONING COMMITTEE** meeting on May 10, 2018 at 12:00pm in the Council Office, first floor of the Municipal Building (CO).

- agenda:
1. 119 Center St rezone
  2. Hawthorne Rd vacation
  3. E Lincoln St ROW vacation

Councilman Hellmann asked how some of the issues that were brought up during the ORAL COMMUNICATIONS portion of tonight's meeting could be handled. He asked if they still need to fill out the proper forms if they want to appeal the ruling that was made, and if that is the case, is there someone who can advise them on that. Law Director Rasmussen replied that they have to be a party to it which is the applicant and the City of Findlay. The applicant would need to ask the City to waive a rule or procedure so that he/she can do something different which is a variance. If he/she wins, and, in this case, is permitted to put up a fence, then there isn't anything more to do as they have already won and can get a permit to put up a fence. If it is denied, he/she is immediately handed a form that needs to be read, filled out, and an action filed with the Court of Appeals within thirty (30) days. Councilman Hellmann asked if the fence situation that was provided during the ORAL COMMUNICATIONS portion of tonight's meeting was handed that way. Law Director Rasmussen replied no. They would not have been given the form because they were not parties to it. They were not asking for the variance. Best was asking for the variance. They are a neighbor and just came to the meeting to speak their peace. The party is Best and the City of Findlay.

Councilwoman Frische asked if non-parties can still go to the Board of Zoning Appeals meeting and state whatever their concerns are and if that would have any impact on the decision or if they not allowed to appeal. Law Director Rasmussen replied that he has listened to the tape three (3) times and have had several nice meetings with Mr. Williams and his wife. The City's Computer Services Department employee who copied the discs has signed an affidavit indicating that he did not alter the discs in any way. This very issue is the difference in talking into a microphone and not talking into one. So, the Board of Zoning Appeals has now been asked to turn on their microphones at the beginning of the meetings and never turn them off. There is the argument that things were said and things were taken off the tape. If you are not a party but are affected, they still have the right to come in and make a presentation, which happens all the time. Both Mr. Williams and his wife have expressed their views at the BZA meeting. Councilwoman Frische asked if someone is not a party to the issue, if those in the neighborhood can come to the hearing and their concerns can potentially impact the decision and if they do or do not have the right to file an appeal that is passed because they are not considered a party even though they are in the neighborhood. Law Director Rasmussen replied they are not the applicant for the variance or zoning amendment.

Councilman Wobser asked for clarification. Was Mr. Leguire's issue requested by Best. Law Director Rasmussen replied no, that is two (2) different fences. Councilman Wobser then noted that Mr. Leguire filed his variance and was denied. He asked if it is the same process. Law Director Rasmussen replied it is the same process and as Mr. Leguire indicated tonight, he forgot or lost it, so it is then State Law, Chapter 2506 for the Administrative Review that has to be filed at the Common Pleas Court within thirty (30) days. If that is not done, it is over. Councilman Wobser then asked if Mr. Williams was discussing Mr. Best or Mr. Leguire's fence. Law Director Rasmussen replied Mr. Best's fence.

President Pro-Tem Russel adjourned Council at 8:18pm.



CLERK OF COUNCIL



PRESIDENT OF COUNCIL PRO-TEM