

# FINDLAY CITY COUNCIL MINUTES

**REGULAR SESSION**

**September 4, 2018**

**COUNCIL CHAMBERS**

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

**ABSENT:** Hellmann

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

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

- Councilman Harrington moved to accept the August 21, 2018 Public Hearing minutes to rezone 311 and 311 ½ East Lincoln Street via Ordinance No. 2018-073. Councilwoman Frische seconded the motion. All were in favor. Motion carried. Filed.
- Councilman Slough moved to accept the August 21, 2018 Public Hearing minutes to rezone 804 Franklin Avenue via Ordinance No. 2018-072. Councilman Shindledecker seconded the motion. All were in favor. Motion carried. Filed.
- Councilman Slough moved to accept the August 21, 2018 Regular Session City Council meeting minutes. Councilman Harrington seconded the motion. All were in favor. Motion carried. Filed.

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

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

### **ADD-ONS:**

- Letter from City Clerk (*PETITIONS* section)
  - o Binner (Lonetree Dr) annexation – 60-day hold in City Clerk's office for annexation paperwork
- Ordinance No. 2018-079 (*LEGISLATION* section)
  - o Now have dollar amounts for Memorandum Of Agreement. No changes to the Ordinance.
- Ordinance No. 2018-094 (*LEGISLATION* section) – High Street Sewer Replacement project

**PROCLAMATIONS:** - none.

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

## **PETITIONS:**

### **City Clerk – 60-day hold in City Clerk's office for Binner (Lonetree Dr) Annexation paperwork**

On August 22, 2018, annexation documents for the Binner (Lonetree Dr) annexation were received. The owners for this annexation are Richard R. Binner and Brenda R. Binner and will be referred to as the Binner (Lonetree Dr) Annexation. Howard Elliott, Attorney acting on behalf of Jeffrey Whitman is the authorized agent for the petitioners. These annexation documents will be in the City Clerk's Office for the required 60-day period which will end on October 22, 2018, and then will be forwarded to the Council Clerk for Council's action. Filed.

**WRITTEN COMMUNICATIOS:** - none.

## **ORAL COMMUNICATIONS:**

### **Matthias Leguire – referendum petition**

Mr. Leguire informed Council that he is circulating a referendum petition to get Ordinance No. 2018-058 AS AMENDED on the ballot so that everyone in the City can vote on that unjust legislation. He asked when the filing deadline is for his referendum petition as the Mayor signed the ordinance into law after end of business day on August 7, 2018, which he assumes gives him thirty (30) days and the thirty (30) days would start on August 8, 2018, thus his referendum petition deadline would be end of day on Friday, September 7, 2018. Law Director Rasmussen replied that is his understanding. Mr. Leguire asked if his deadline to file his referendum petition would be 5:00pm on Friday, September 7, 2018. Law Director Rasmussen asked the Mayor what date she signed the ordinance. Mayor Mihalik replied during the August 7, 2018 City Council meeting. Law Director Rasmussen replied that the Mayor signed the ordinance the night of August 7, 2018, so the deadline would be thirty (30) days from then. Mr. Leguire asked that since it was the end of business day, if the thirty (30) days would start the next business day. Law Director Rasmussen replied the Mayor signed it on the 7<sup>th</sup>, so it would be thirty (30) days from then. Mr. Leguire asked when the deadline is. Law Director Rasmussen replied September 6, 2018. Mr. Leguire asked if he has until Thursday, September 6, 2018 5:00pm to submit his petition even though the Mayor signed the ordinance after the business day ended on August 7, 2018, if the deadline date should start the next business day. Law Director Rasmussen replied thirty (30) days from the seventh (7<sup>th</sup>). Mr. Leguire stated that if someone is going to sponsor or co-sponsor a bill and there is a citizen who comes to City Council and asks for a reason why someone sponsored or co-sponsored a bill and sits there silently, if he or she cannot answer a citizen and give them a reason for sponsoring a bill, then they should resign their position. He/she has no business representing the people if they cannot support their decisions for the laws they are requesting and that they have no business sitting on that side and are not representing people, which is their job. That even goes for the Council President. If he cannot defend his position as to why he voted for a law, he really has no reason to hold that position and should resign.

Discussion:

Councilman Harrington replied that he respectfully declines to resign.

Councilman Shindiedecker pointed out that two (2) weeks ago, Council was asked the same question and he made the statement that he was not going to say so publicly. He realizes he is open to criticism, but he was not going to criticize a private citizen, however, after the last Planning and Zoning Committee meeting, he stayed after it was over and spent about twenty (20) minutes talking with Mr. Leguire explaining why he voted the way he did, and once Mr. Leguire left, he spent at least another ten (10) minutes talking with members of his family. He has spoken with Mr. Leguire and has told him why he voted the way he did. He is not going to say so in public because to do so would involve criticism of Mr. Leguire, and he does not want to criticize a private citizen in a City Council meeting. He has told Mr. Leguire why he voted the way he did. If he does not accept it, that is fine, but he has been told.

Councilman Niemeyer asked if the deadline for Mr. Leguire to file his petition is thirty (30) business days. Law Director Rasmussen replied it is thirty (30) days.

**Mark Collins – reimbursement of zoning application fee and how to go about a formal request**

Mr. Collins stated that when he first applied for a rezoning request, it included a letter requesting a reimbursement for the two hundred fifty dollars (\$250.00) application fee. He thought it would be brought up during City Council meetings, but nothing happened. Before that City Council meeting, he went down to the Mayor's Office, the Mayor was not in, so someone in the Law Director's Office told him it was an executive decision on reimbursement, and that he could have a one-on-one meeting with the Mayor which was a waste of time and a waste of the Mayor's time. He would like to formally request via a letter and asked who he should send the letter to. As the Law Director told him, he has a unique position as his property was zoned as a duplex, but was taken away. Others have duplexes and have structures on their property so they can still use their property and would still be conforming. He does have a structure on his property, so his property is useless if he abides by the new single-family residential building requirements. He cannot build a cost-effective structure with the square footage that is required as it cannot be comparable to all the neighboring houses. He asked who he can address his letter to in order for Council to vote on it. He understands the application fee for those requesting a zoning change from a single-family residential to a duplex, but his property was always a duplex, but his lot was changed. His lot is a unique situation because he can never use his lot because there was nothing on it so it could not be grandfathered in as a non-conforming.

Discussion:

Law Director Rasmussen suggested he make his request with both the Administration and also with City Council. He suggested giving his request to the third floor Council Office who will get the letter where it needs to go.

Mayor Mihalik added that she does not have control over the reimbursement as it is in Council's budget. Mr. Collins asked if it is a Council decision or if it is a building committee decision. Councilman Harrington replied that more than likely, once the letter is received, it will be brought before Council where it will be referred to the committee that should take action on it, most likely either the Planning and Zoning Committee or the Appropriations Committee. Once the letter is received and the request is made, it will be addressed. Mr. Collins asked if he could use the same letter. Mr. Harrington replied he would address two (2) separate letters, one (1) to the President of Council, and one (1) to the Mayor.

**Charles Williams – Hancock County Fair comments about Mayor and City Council**

Mr. Williams informed Council that he had already talked with two (2) other lawyers who told him if an elected official receives money from the City and someone asks them a question, the elected official has to answer that question. He asked Law Director Rasmussen if that is true as Council President Monday told City Councilmembers (*pointed to them*) that they did not have to answer. Council President Monday replied that is correct. That is what he told them. Mr. Williams replied that he knows that, but wants to receive an answer from the Law Director. Law Director Rasmussen asked Mr. Williams if he is asking a question of Council President Monday. Mr. Williams replied, no. If an elected official is paid from the City of Findlay and is asked a question like this lady did (*pointed to Ms. Leguire in the audience*), they are obligated to answer. Ms. Leguire had asked Council why they voted the way they did. His two (2) lawyers told him that if someone is paid, they have to answer one way or the other. He asked Law Director Rasmussen if that is or is not true. Law Director Rasmussen replied that would be not true for elected officials acting in accordance to the way they think they should act as elected officials. They will answer some questions, but do not have to answer every question. Mr. Williams asked Law Director Rasmussen if his lawyers told him wrong. Law Director Rasmussen replied yes they did.

Mr. Williams pointed out that fair season was quite interesting because of the comments he got at the fair with what he had set up at 804 Fishlock. He read off a paper of what was asked of him:

1. Why do Findlay residential sidewalks impede pedestrians walking, including those who are handicapped, blind, and elderly. The Mayor told him that there is a four foot (4 ft) area that someone can walk through, but would have to go to the left, right, and go around lights (*Mr. Williams demonstrated by walking around the podium*). He asked how someone is to do that in a wheelchair. To him, that is wrong.
2. Another said that it is strange that this gentleman here (*pointed to Matthias Leguire in the audience*) put up a fence that was forty-one inches (41") off and the Mayor had him take it down, but yet Marathon can put what they want right on the street and can put it where someone cannot park because as the Mayor stated, that is for the really intelligent people eating outside, but yet there is a limousine parked right out in front of a hotel. These are questions that have been asked of him.
3. He has been asked about the bumpouts. Business people have told him that if they do not have places for cars to park downtown, people cannot get to their business, which is common sense.
4. Another individual commented about the blizzard of 1978 and why the City would put people in danger in the event of a major snowstorm. The Service Director/Acting City Engineer made a comment that the reason the bushes died in the medians were because they were planted too late. Mr. Williams informed the Service Director/Acting City Engineer that the reason those bushes died is because salt got on them. He asked why someone cannot just be honest with people in Findlay.

A father trying to protect his child loses the value of his property by corrupt members of Council, Lawyer Rasmussen – Council President Monday interrupted stating that he has had four and a half (4 ½) minutes, but will allow him another minute.

Mr. Williams continued saying he does not agree with football players taking a knee for the National Anthem, but when Council and the Administration Pledge Allegiance to the flag, each man is created equal – equal rights, but everyone that voted took the rights away from this family (*points to the Leguire family in the audience*) when they closed the alley.

He informed Council that they should plan to see a little red truck around town a little more.

#### **Renee Leguire – referendum petition**

Ms. Leguire stated that one of her questions on when the referendum petition is due was already answered which she thinks is really weird that thirty (30) days from the 7<sup>th</sup>, which was in the evening, to her would be the 8<sup>th</sup>. They have done a lot of walking. She read a letter that her son wrote to help explain why they were out walking. They did a lot of walking and heard a lot from the citizens of Findlay who are not happy.

*Why a referendum petition? My neighbors petitioned to vacate Carrol and Benton Street. Their petition was voted down by Findlay City Planning Commission, Findlay Planning and Zoning Committee, and Hancock Regional Planning Commission. City Council voted it down 10-0. The next step from my neighbors would have been to either drop it or pay to publish a notice in the paper for six (6) consecutive weeks, then it would have gone back to City Council for another month. However, Councilman Grant Russel decided he didn't want my neighbors to be burdened with the cost of paying to have a notice published in the paper, so he requested that a law, Ordinance No. 2018-058, be drafted to circumvent the process that everyone else has had to follow. The City has never vacated an alley before, let alone two (2) named streets without one hundred percent (100%) agreement between all abutting property owners. I was opposed to the vacation as was one of my neighbors. Safety Director Paul Schmelzer and Service Director Brian Thomas were both asked if the vacations would benefit the City, and they both replied no. I asked each of the five (5) Councilmembers who requested the legislation for a reason as to why they would request legislation after the initial petition to vacate was denied by three (3) committee reports, and there are property owners who are opposed to the street vacations. Not one of them gave a valid reason. They were asked if they contacted all the abutting property owners who are affected by the street vacations. Only one (1) answered – Councilman Grant Russel who said that he didn't speak to all the affected property owners. Councilman Tim Watson said the government should not be weaponizing laws against citizens. That is exactly what they are doing. They vacated two (2) streets that were always intended to be developed by my property. They have devalued my property. They have taken away the safer ingress/egress access to our property. Landlocked the portion of our property that is highest elevation and furthest from Lye Creek, which is the most valuable. During the flood last July, we were able to use that as a way out because our driveway was flooded up to our porch steps. Complete and total lack of regard to the safety of my family. If they cannot answer simple questions like why did you request this law be made, then they need to resign. Their entire purpose is to represent citizens and be able to support their decisions. Complete and total lack of accountability and transparency in local government. They have no business requesting laws if they cannot defend their position to create the law in the first place.*

#### **Discussion:**

City Auditor Staschiak clarified that if they want to complete the petition process, it will be filed with his office. He asked Law Director Rasmussen if the thirty (30) day period would be Thursday, September 6, 2018 at 5:00pm. Law Director Rasmussen replied that is correct.

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

#### **City Auditor Jim Staschiak – Resolution accepting millage rates and amounts**

The County Budget Commission has completed their work and returned our Certificate of Estimated Resources for our 2019 budget. Our tax millage has been certified exactly as submitted; 2.6 mills for the General Fund and 0.3 mills each for Police and Fire Pension Funds to a total of 3.2 mills. Local government money is estimated to be \$451,673.27 for 2019 subject to likely adjustments by the State. Council should now accept the amounts and levy the tax rates as certified by the Budget Commission. The proper Resolution must be adopted and returned to the County Auditor no later than September 30, 2018. Legislation for this is requested and only requires one reading. Resolution No. 020-2018 was created. Filed.

**City Planning Commission agenda – September 13, 2018; minutes – August 9, 2018. Filed.**

#### **Hancock Regional Planning Commission Director Matt Cordonnier – City of Findlay Revolving Loan Fund Request for Application (Goodrich Myotherapy)**

On August 14, 2018, the City of Findlay Revolving Loan Fund Committee awarded a loan to Goodrich Myotherapy in the amount of \$35,000. The funding will provide funds for working capital, including business startup expenses and supplies. The closing date for the loan has been set for September 12, 2018. Legislation to appropriate funds and pass on an emergency basis in order to accommodate the timeline of the business and the bank that are involved in the financing of the project. The appropriation of City RLF funds have historically been passed on an emergency basis in order to accommodate the time sensitive needs of businesses. Ordinance No. 2018-088 was created.

FROM:	City of Findlay Revolving Loan Fund	\$ 35,000.00
TO:	Goodrich Myotherapy	\$ 35,000.00

Filed.

**Hancock Regional Planning Commission Director Matt Cordonnier – City of Findlay Revolving Loan Fund Request to Amend the City Revolving Loan Guidelines**

On August 14, 2018, the City of Findlay Revolving Loan Fund Committee reviewed and voted to approve the following changes to the City of Findlay Revolving Loan Fund guidelines. The proposed changes would see "Microenterprise Loans" become available through the Revolving Loan Fund. The Microenterprise Loans were previously administered by the State of Ohio separately, but have recently moved the program under the Revolving Loan Fund umbrella. The Microenterprise Loan projects work similarly to traditional RLF projects. Microenterprise projects have the following exceptions to the RLF guidelines (or rules) through:

- Owner(s) can be included as jobs created
- RLF can fund 100% of the project cost
- No equity is required
- 5-year term with maximum project cost of \$35,000

The exact changes to the guidelines are listed below:

**Part II Section E (12)**

**Microenterprise Loan Program Exemptions**

*In addition to traditional RLF loans, the board has the ability to approve Microenterprise Loans. These loans have the same requirements as traditional RLF loans but with exemptions regarding: bank involvement, private equity match in the project, and job creation requirement. For more information see Section III – Microenterprise Loans on page 13.*

**Part III Microenterprise Loan Program Elements**

**A. Statement of Program Goals**

*The Microenterprise Loan program for The City of Findlay has been established to meet the same goals as the RLF Loan program. The microenterprise loan program targets small loan amounts under \$35,000 typically used for working capital or business startup expenses. The Microenterprise Loan program has extra flexibility in working with applicants that the RLF does not.*

**B. Standards for a Microenterprise Loan Project**

**1. Eligible Loan Activities**

*Eligible loan activities include provision of "necessary or appropriate" RLF microenterprise financial assistance or purposes which result in private sector job creation/retention, stimulate private investment, and contribute to the economic development or stabilization of the area. The following are eligible types of loan activity:*

- a. *Fixed asset loans for the start-up of new businesses, the expansion of existing businesses or the conduct of current businesses. Fixed asset loans may include the acquisition and/or improvement of land, buildings, machinery and equipment, including new construction or renovation of existing facilities, demolition and site preparation. (Loan terms shall not exceed the life of the asset).*
- b. *Working capital loans for start-up of new businesses or existing businesses will be limited to 30% of the RLF program income the grantee receives in one year. (Exceptions to this limit will be looked at on a case-by-case basis and can only be overridden with written consent of OHCP.)*
- c. *Planning activities shall not exceed ten percent (10%) of the total amount of program income received in one year, up to a maximum of \$10,000. This amount will not be charged against the administrative cap.*

**2. Ineligible loan activities or uses of RLF funds include the following:**

- a. *Financing of existing debts and training costs;*
- b. *Financing of a project that involves the relocation of an industry or business from one area of the State of Ohio to another. Upon approval by the State (OHCP), exceptions may be made only if:*
  - i. *The relocation of the industry or business will demonstrate additional long-term job creation, and/or;*
  - ii. *The industry or business will demonstrate, to the satisfaction of the State (OHCP), that the operation of such industry or business cannot be continued in the existing location.*
- c. *Financing of speculative projects or buildings, and;*
- d. *Financing of speculative activities such as land banking*

**3. Job/Loan Ratio**

*Each loan should produce at least one (1) new or retained permanent, full-time equivalent job for each \$25,000 of RLF program investment for loans, and \$10,000 of RLF program investment for grants. The number of jobs created or retained may be fewer than five (5), differing from regular CDBG requirements. The owner of a newly created business may be counted as one of the jobs created.*

**4. LMI Employment Opportunities**

*At a minimum, at least 51% of the permanent full-time equivalent employment opportunities created or retained must be made available to persons from LMI households.*

**5. Match**

*For microenterprise loans, there is not match requirement and the RLF can fund up to 100% of the project.*

**6. Project Timeline**

*Projects must be completed in twelve (12) months. Job creation attributable to RLF funds must take place within twenty-four (24) months of project completion.*

**7. Eligible Applicants**

*In general, eligible applicants for financial assistance include private for-profit business and industrial developments. A non-profit agency may apply if the request will carry out a fundable activity, but the agency must first submit a written request explaining the project prior to submitting a Loan Review Report form. Such concerns may be:*

- a. *New companies/expansion/retention;*
- b. *Owned locally or outside the RLF area, but with facilities located within the RLF area;*
- c. *Businesses locating a facility near, but outside the boundaries of the City of Findlay; where the overwhelming preponderance of evidence is that by providing assistance to a firm located outside of the City of Findlay, a substantial number of City of Findlay residents will benefit from the project;*
- d. *For a business with an open RLF loan to obtain additional RLF loans, the business must have successfully completed the original project, reached its job creation commitment and demonstrated compliance with all other terms of the agreement.*

8. *Equal Lending*

*No applicant will be denied a loan on the basis of race, color, national origin, religion, age, handicap or sex.*

9. *Certification of Financial Need*

*The program must be assured that required financing is not available through other sources, and that without RLF program involvement, the project will not proceed and employment opportunities will not be created/retained as planned. This assurance will be obtained through credit analysis of the applicant's financial capacity and by obtaining one or both of the following items:*

- a. *Written applicant certification of financial need; and/or*
- b. *Written lender certification of the applicant's financial need.*

*Each of these standards is directly related to a specific goal and/or objective as stated in Part II A of this Plan. These standards may, however, be changed with approval from OHCP as area needs are met and/or developed.*

Legislation to approve these changes to the guidelines and be passed on an emergency basis in order to accommodate the timeline of the business and the bank that are involved in the financing of the project is requested. The appropriation of City RLF funds have historically been passed on an emergency basis in order to accommodate the time sensitive needs of businesses. Ordinance No. 2018-089 was created.

**Discussion:**

Councilman Russel asked for a quick history, how this works, and the difference between it and an RLF, being a new program. Mr. Cordonnier from the audience replied that the Microenterprise is not a new program, but is new to the Revolving Loan Fund. It is a small loan that originated at the State and have since moved it to the local Revolving Loan Fund. Findlay is one of the first communities that would be adopting this new program. It is capped at a thirty-five thousand dollars (\$35,000) loan. There is no equity required. The RLF will be one hundred percent (100%) of the project. It is designed for smaller loans between ten to thirty-five thousand dollars (\$10,000-\$35,000) when someone does not have a bank involved. The larger RLF can loan up five hundred thousand dollars (\$500,000) but can only be up to forty-nine percent (49%) of the project. In micro loans, RLF can be one hundred percent (100%) of the project. The RLF Committee reviewed these regulations and voted to approve them and they are now in front of Council for approval. Also in front of Council tonight is a RLF appropriation of thirty-five thousand dollars (\$35,000) which is a Microenterprise Loan. It is the first one. The RLF Board has reviewed it and has voted to approve it.

Councilman Harrington asked where the funds come from. Mr. Cordonnier replied that the RLF originate at the State. When a larger economic development project loan is done through them, they loan the funds to company A who then repays it back to City of Findlay (company B). None of the funds that are being used are City of Findlay originated funds. They all originate at the State of Ohio. If the State of Ohio wanted to recall those funds or mandate that they be used in another way, they could do that. RLF is not loaning money from the City of Findlay General Fund.

Councilman Russel asked if this was additional seed money that came with the micro loans. Mr. Cordonnier replied it is not. Councilman Russel asked if they pay an interest rate on the loan. Mr. Cordonnier replied usually a percent low prime around three percent (3%). Councilman Russel noted that Ordinance No. 2018-088 gives money out for the micro loan and Ordinance No. 2018-089 puts the micro loan in place, and asked if they have to be passed in any certain order to be valid. He asked if they both need passed tonight. Law Director Rasmussen replied whether they both are passed tonight or during separate meetings, it will not make a difference. One is just putting the guidelines into effect and the other is for the loan. If Council does nothing with the legislation for the loan and passes the legislation for the guidelines, Council would still have to come back and still do the loan, so they do not have to be passed at the same time.

Councilwoman Frische asked if the legislation for the dollar amount needs to be passed tonight, or if it can wait. Mr. Cordonnier replied that he is requesting that both ordinances be passed tonight. It has been a couple of years since a City loan has come through and are a package deal with the bank. He would prefer not to make the businesses wait for six (6) weeks as the closing is set for September 14, 2018, so if the two (2) ordinances went through all three readings, it would push the project back. He has always traditionally asked that Council waive the statutory rules and give all three (3) readings in one night.

City Auditor Staschiak noted that as he has mentioned in the past, a Revolving Loan Fund by nature is a very high risk proposition. It gives the lender, of last resort, that hopefully by backing a person by good faith of this money that they are entrusted with, that they will create an economic benefit for the community. The only down side he sees from reviewing the documents is that it is taking a high risk program and making it even more high risk, but that is why it was created. It is not the City's General Fund money, but when these funds are loaned, there is a possibility of defaults, which depletes the funds for lending in the future. HRPC has done a wonderful job administering this and making sure that the applicants are appropriate. Most of the time, the applicants ask for the right things.

Councilman Wobser asked what Goodrich Myotherapy is. Mr. Cordonnier replied it is a massage therapy clinic. He did not lead up the loan package, so he does not know the ins and outs. Filed.

**Service Director/Acting City Engineer Thomas – Airport jet refueling truck**

Included in the 2018 Capital Improvement Plan (CIP) was the replacement of the 1996 Ford Jet Refueling Truck at the Airport. He is requesting that the bidding requirements be waived for this vehicle for the following reasons:

- There are no state bids for aviation fuel trucks
- The jet aircraft refueler is the only delivery method to get the product into the aircraft
- Having an operating jet aircraft refueler is critical to the operations of the Airport, as the sale of Jet A fuel is the biggest revenue source for the Airport
- There are only a handful of companies that specialize in aircraft refueling trucks and SkyMark happens to be located less than one (1) mile from the Airport
- Having a support and maintenance facility nearby is incredibly valuable as it decreases the potential time out of service for the unit

The replacement jet refueling truck is quoted as \$186,000 which is less than the estimated \$215,000 that was in the CIP. An amount of \$107,500 was previously appropriated for this vehicle. An appropriation of the remaining \$78,000 is now needed. Legislation to appropriate and transfer funds and waive formal bidding requirements is requested. Ordinance No. 2018-090 was created.

FROM: CIT Fund – Capital Improvements Restricted Account

\$ 78,500.00

TO: Airport #25010000-other

\$ 78,500.00

**Discussion:**

Council President Monday requested that the letter be read due to the fact that there are reasons listed for waving the bidding requirements. The Council Clerk read the letter in its entirety.

Councilman Wobser asked what will be done with the old truck. Service Director/Acting City Engineer Thomas replied that part of the reason it came in cheaper is because of the trade in value of the truck. Councilman Wobser asked if it makes sense to keep it as a backup truck. Service Director/Acting City Engineer Thomas replied he does not see the point with the condition that it is in. They are unsure if it will even run or not.

Councilwoman Frische asked what the amount was for trade in. Service Director/Acting City Engineer Thomas replied he does not have the quote with him, but will look into it and will let her know. Filed.

**Service Director/Acting City Engineer Thomas – 2018 Cube Code Updates, project no. 31984100**

By authorization of Ordinance No. 2018-039, a bid opening was held on August 22, 2018 for this project. This project is included in the 2018 Capital Improvements Plan and the Engineer's estimated cost of construction was \$600,000. The lowest and best bid was \$581,550 from Helms Construction Inc. of Findlay, Ohio. \$5,000 was previously appropriated for this project for startup and bidding. Legislation to appropriate and transfer \$595,000 for construction, inspection, and contingency to complete the project is requested.

FROM:	CIT Fund – Capital Improvement Restricted Account	\$ 595,000
TO:	2018 CUBE Code Updates, project no. 31984100	\$ 595,000

Based upon the existing balance in the CIT Fund, he is requesting this be referred to the Appropriations Committee. Ordinance No. 2018-091 was created. Referred to the Appropriations Committee. Filed.

**Service Director/Acting City Engineer Thomas – CIT Fund for 2019**

At the beginning of the year, there was discussion at an Appropriations Committee meeting to transfer from the General Fund to the CIT Fund. At that time, Council stated they would look at the issue again around the middle of the year. Knowing that it was Council's desire, he worked with the funds that were available and held off on asking for appropriations to make sure that the fund would be able to last until the middle of the year. He is asking Council to re-examine this at the next Appropriation Committee meeting. Referred to the Appropriations Committee. Filed.

**Law Director Rasmussen – parking in right-of-ways Ordinance No. 2018-092**

Ordinance No. 2018-092 is on the September 4, 2018 City Council agenda to amend Section 351.03(A)(21) to add new item (C) which states that no "junk vehicle" or "inoperable vehicle", as defined by 521.04(c)(1)(1-6), shall be permitted in a public right-of-way. This amendment will close a loop hole whereby persons were able to store junk vehicles and/or inoperable vehicles between the roadway and the property line. This amendment will allow the Police Department to enforce violations within the public right-of-way. Ordinance No. 2018-092 was created. Filed.

Revolving Loan Fund – August 14, 2018 minutes. Filed.

**COMMITTEE REPORTS:**

The **STREETS, SIDEWALKS, & PARKING COMMITTEE** met on August 22, 2018 to continue July 17, 2018 and August 9, 2018 discussions on a bicycle ordinance.

*We recommend that the Law Director create legislation to create a dismount zone per attached map. Also, table discussions on potential sharrow lane route. Additionally, language on bicycle licensing be removed (Section 373.13).*

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

A **COMMITTEE OF THE WHOLE** meeting was held on Thursday, August 30, 2018 to tour City-owned property located at 428 West Main Cross Street.

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

**LEGISLATION:**

**RESOLUTIONS**

**RESOLUTION NO. 019-2018** (Water Distribution vector truck) requires three (3) readings

**second reading**

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

Second reading of the Resolution.

**RESOLUTION NO. 020-2018** (*millage rates and amounts*) requires one (1) reading **first reading adopted**  
A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.

Councilwoman Frische moved to adopt the Resolution, seconded by Councilman Shindledecker. Ayes: Frische, Harrington, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser. The Resolution was declared adopted and is recorded in Resolution Volume XXXIV, and is hereby made a part of the record.

**RESOLUTION NO. 021-2018** (*mid-year budget transfer*) requires three (3) readings **first reading**  
A RESOLUTION TRANSFERRING FUNDS WITHIN APPROPRIATED FUNDS, AND DECLARING AN EMERGENCY.

First reading of the Resolution.

## **ORDINANCES**

**ORDINANCE NO. 2018-068** (*Zoning personnel enforcement rights in right-of-way*) requires three (3) readings **tabled after third reading on 8/7/18**  
AN ORDINANCE ENABLING THE CITY OF FINDLAY ZONING DEPARTMENT PERSONNEL ENFORCEMENT RIGHTS WITHIN RIGHT-OF-WAY AREAS WITHIN CITY LIMITS, AND DECLARING AN EMERGENCY.

**ORDINANCE NO. 2018-079** (*flood reduction*) requires three (3) readings **third reading adopted**  
AN ORDINANCE AUTHORIZING THE SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO, TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE MAUMEE WATERSHED CONSERVANCY DISTRICT FOR A FLOOD MITIGATION BENCHING PROJECT, AND DECLARING AN EMERGENCY.

Councilman Russel moved to adopt the Ordinance, seconded by Councilman Harrington. Ayes: Harrington, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-079 and is hereby made a part of the record.

**ORDINANCE NO. 2018-082** (*716 Franklin St 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 716 FRANKLIN STREET REZONE) WHICH PREVIOUSLY WAS ZONED "R2 SINGLE FAMILY, MEDIUM DENSITY" TO "R4 DUPLEX/TRIPLEX"

Second reading of the Ordinance.

**ORDINANCE NO. 2018-083** (*310 Frazer St 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 310 FRAZER STREET REZONE) WHICH PREVIOUSLY WAS ZONED "R2 SINGLE FAMILY, MEDIUM DENSITY" TO "R4 DUPLEX/TRIPLEX"

Second reading of the Ordinance.

**ORDINANCE NO. 2018-085** (*WPC UV replacement*) requires three (3) readings **second reading adopted**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its third reading, seconded by Councilman Harrington. Ayes: Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Harrington. The Ordinance received its third reading. Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Russel

### **Discussion:**

Councilwoman Frische asked what this is for. Service Director/Acting City Engineer Thomas replied it is to replace the ultraviolet disinfection at the Wastewater Plant.

Ayes: Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Harrington, Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance volume XXI, Page 2018-085 and is hereby made a part of the record.

**ORDINANCE NO. 2018-086** (*Areas B4-B6 sewer separation*) requires three (3) readings **second reading adopted**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its third reading, seconded by Councilman Harrington. Ayes: Russel, Shindledecker, Slough, Watson, Wobser, Frische, Harrington, Niemeyer, Ostrander. The Ordinance received its third reading. Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Slough. Ayes: Shindledecker, Slough, Watson, Wobser, Frische, Harrington, Niemeyer, Ostrander, Russel. The Ordinance was declared adopted and is recorded in Ordinance volume XXI, Page 2018-086 and is hereby made a part of the record.

**ORDINANCE NO. 2018-088** (*City of Findlay Revolving Loan Fund Request for Appropriation (Goodrich Myotherapy)*) **first reading** **adopted**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

Councilman Harrington moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Slough. Ayes: Slough, Watson, Wobser, Frische, Harrington, Niemeyer, Ostrander, Russel, Shindledecker. The Ordinance received its second and third reading. Councilman Wobser moved to adopt the Ordinance, seconded by Councilman Slough. Ayes: Watson, Wobser, Frische, Harrington, Niemeyer, Ostrander, Russel, Shindledecker, Slough. The Ordinance was declared adopted and is recorded in Ordinance volume XXI, Page 2018-088 and is hereby made a part of the record.

**ORDINANCE NO. 2018-089** (*amend Revolving Loan guidelines*) requires three (3) readings **first reading** **adopted**  
AN ORDINANCE AMENDING THE CITY OF FINDLAY REVOLVING LOAN FUND GUIDELINES, AND DECLARING AN EMERGENCY.

Councilman Slough moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Wobser. Ayes: Wobser, Frische, Harrington, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson. The Ordinance received its second and third reading. Councilman Wobser moved to adopt the Ordinance, seconded by Councilman Slough. Ayes: Frische, Harrington, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser. The Ordinance was declared adopted and is recorded in Ordinance volume XXI, Page 2018-089 and is hereby made a part of the record.

**ORDINANCE NO. 2018-090** (*Airport jet refueling truck*) requires three (3) readings **first reading**  
AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR OF THE CITY OF FINDLAY, OHIO TO WAIVE FORMAL ADVERTISING AND BIDDING REQUIREMENTS AND ENTER INTO A CONTRACT WITH SKYMARK FOR THE PURCHASE OF A REPLACEMENT JET REFUELING TRUCK FOR THE CITY OF FINDLAY AIRPORT, APPROPRIATING AND TRANSFERRING FUNDS THERETO, AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

**ORDINANCE NO. 2018-091** (*2018 Cube Code Updates, project no. 31984100*) requires three (3) readings **first reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

**ORDINANCE NO. 2018-092** (*parking in right-of-way*) requires three (3) readings **first reading**  
AN ORDINANCE AMENDING SECTION 351.03(a)(21) OF CHAPTER 351 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO.

First reading of the Ordinance.

**ORDINANCE NO. 2018-093** (*mid-year budget appropriations*) requires three (3) readings **first reading**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

**ORDINANCE NO. 2018-094** (*High Street Sewer Replacement*) requires three (3) readings **first reading**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

## **UNFINISHED BUSINESS:**

### **OLD BUSINESS**

Councilwoman Frische pointed out that late last night, she sent an email to all of Council and she forwarded it on to the Law Director and Mayor over the weekend. The email is in regards to Ordinance No. 2018-058 on the vacation of Carrol Street and Benton Street. She found out that there were additional properties that are having landlock issues, one being 730 East Sandusky Street. There is City property in between. She also received a phone call from a property owner on Osborn about the original petitioner having to overcome some obstacles with the vacation of Carrol Street in order to get a vehicle to the back of the property to trim trees. There is a referendum out there that could go on the ballot. She brought those items to Council's attention in the best interest of the City as the City should do what is best for the community as a whole in order to avoid any potential lawsuits to the City. The referendum is to rescind Ordinance No. 2018-058 and leave things as they have been for many years. She read a letter she, as well as most of Council, received from Lynn Schank who lives at 730 East Sandusky Street:



Dear City Council,

*I have been following a rumor on Facebook that hints that the City and the Neely's are trying to vacate streets that would adversely affect my property at 730 East Sandusky Street. I have 4.37 acres, including an acre and a half north of Lye Creek near Hawthorne, Carroll, and Benton Street, that might become landlocked if the City would consider it. I have not been notified of any such application for vacation, and as an affected property owner, I would clearly want to be notified of any such intent. The City could have easily sent me a postcard at this address since I live there full-time to ask for my opinion. I understand that all affected property owners would have to be in agreement before any such action could be considered. The City, nor the Neely's would certainly not have my permission to vacate any streets that lead to my property. I am a taxpaying citizen and cannot believe that the City would do such a thing. This must be a mistake. I am so glad that Holly Frische posted a picture of the proposed vacation since almost no one in the neighborhood would know where Benton or Carroll Street is located. These are all unimproved streets with unknown names that I have been patiently waiting for the City to develop properly as planned. Please send me the form to sign to protect my property so I can deny permission. Up until this point, I thought it was a neighborhood fence dispute, a neighborhood mowing garden dispute with threatened retaliation from the City. I did not know until I saw the map posted on Facebook this weekend that my property had been threatened. I had not seen this map previously in any of the newspaper articles. Once again, you do not have my signature or permission for these street vacations. This would create a serious hardship for this tax paying landowner.*

After that email, and after her email this morning, she asked the Law Director what Council's options are, but he must have forgot to get back with her on it. She did receive an email back from the Mayor saying that Council may have received that email as well and that she would be willing to talk with the County on the flood property that abuts or backs into this same area for the 730 East Sandusky Street property to see if an easement can be given for it, but she did not seem to want to address the full issue, which leaves it up to Council. Tonight is the last night to address this matter before it becomes law. She would like to make a motion to rescind. Councilman Shindledecker asked for a point of order stating that the only Councilmembers that can make such a motion are those who voted with the prevailing vote. Council President Monday asked that Council hear the motion first. He does not know what the motion is. Councilwoman Frische continued that she would like to make the motion to rescind Ordinance No. 2018-058 because it causes a hardship to multiple property owners including the City. It does not have to be by a member of Council who voted in favor of the ordinance to rescind it. That would be for a reconsideration. She is not asking for a reconsideration because it is past that point. She is asking to make a motion to rescind and is asking for a second to do that.

Council President Monday asked for a legal opinion. Law Director Rasmussen replied that the motion is for a reconsideration, not to rescind. Councilwoman Frische asked if she is correct that a motion to reconsideration cannot be done at this point according to Robert's Rules. Law Director Rasmussen replied that is correct. Councilwoman Frische replied that she is asking to rescind which can be done now. Law Director Rasmussen replied it is a motion for reconsideration by Council's rules. Councilwoman Frische pointed out that when she asked for the Law Director's legal opinion this morning on that with options to fix this as it is causing a hardship to more than one property owner and should not be causing a hardship to any property owner. She asked if the Mayor is not willing to veto it, what is options the City has. Law Director Rasmussen replied the Mayor cannot veto it. Councilwoman Frische replied that is correct and pointed out that she had asked him if it is the Mayor that needs to fix the problem or if it is City Council. Law Director Rasmussen replied that the Mayor cannot veto it because it is signed. Councilwoman Frische replied that per her discussion with the Law Director this morning, it was signed but is not passed until tomorrow. Law Director Rasmussen replied that is correct. He also told Councilwoman Frische that the Mayor could not veto it. It was looked at it, and he will let them explain why some of these properties are not landlocked and what they thought they could do to help the situation. Councilwoman Frische replied that she would first like to have the Law Director's legal opinion of what City Council's options are to fix this problem to avoid a lawsuit in the future or any hardship to those property owners, which is the question she called him about this morning. It was referred over to the Mayor and she responded that she is willing to fix 730 East Sandusky Street but does not seem to feel there is a landlock issue on the City property, and does not feel the other portion needs to be fixed. Councilwoman Frische has maps with her tonight. She asked what is City Council's option to fix this. Law Director replied they could have done a motion to reconsider, but are now out of time for that. Per Council's rules that Council has adopted, it has to be done by the next meeting and by someone who voted in favor. So, Councilwoman Frische's motion is out and there is no veto. Councilwoman Frische asked what a motion to rescind is and what it can and cannot do. Law Director Rasmussen replied Council cannot rescind by a separate motion on a piece of legislation that has already passed.

Councilman Niemeyer noted that he would second that.

Councilman Shindledecker pointed out that he checked with Robert's Rules of Order and only those who voted from the prevailing side can make such a motion. He is unsure about the second to the motion. It is not proper for Councilwoman Frische to make such a motion, and only those who voted on the prevailing side can. If Council wants to be clear on this, they can poll those on who voted on the prevailing side to see if they are willing to initiate the process to rescind, repeal or whatever they want to do, if anything.

Councilman Harrington noted that there seems to be a couple of legal questions that have not been addressed. The question from Councilwoman Frische was whether she can propose a motion to rescind, which she did and it was seconded, so the question before legal counsel is whether that is appropriate or allowed under the current rules of Council. That should be answered before moving on with any other questions. Law Director Rasmussen replied that the legislation has been passed and has been signed. Those motions would have to be made during that same meeting. Council can have discussions to rescind something previously adopted on a motion, but this is a motion to reconsider. If Council is trying to change their votes, it would be a reconsideration motion.

Councilman Watson asked how the motion that Councilwoman Frische made is different. Council passes legislation all the time, previous Councils have also passed legislation, and future Councils can repeal certain sections of City code at a later date. He asked how this situation is different from that. Law Director Rasmussen replied that Councilman Watson is asking a different question than what Councilwoman Frische asked. Councilman Watson is asking a question of whether it goes through, because it is unknown if it will go through or not as it is still subject to referendum, as another Council (future Council) can move to change it, but at that point in time, all those vacations have already been made, so it would be a difficult issue to try and straighten out afterwards.

Councilwoman Frische asked if she understands that Council writes their own rules if they want to by motion and second to vote. She asked if that is or is not an option. Law Director Rasmussen replied that they are Council's rules and have been looked at for a year, but are not adopted yet. He is unsure if they would have anything in it about rescinding, but are still talking about a reconsideration motion which are the rules under Council's rules. Councilwoman Frische asked if Council can reconsider afterwards because it is Robert's Rules. She asked if the Law Director feels rescind is the same word. She asked if the Law Director is telling Council that they have no option nor a motion that Council can make even though this ordinance was passed on the 7<sup>th</sup> if it does not become law until tomorrow. She asked if it is not technically passed until tomorrow. Law Director Rasmussen replied it has technically passed. Council passed it.

Councilman Watson clarified that Council's option to do anything has already passed. Even if Council were to reconsider, at this point, unless anyone else has changed their vote, it would not be a productive move unless someone who voted affirmatively, changes their mind.

Safety Director Schmelzer asked if he is correct that the reconsideration, because it has not been formalized, can occur tonight to reconsider that if the votes were changed, then the vacation, in its entirety, would not occur. Law Director Rasmussen replied it is not correct in that Council has passed two (2) ordinances. Council passed an ordinance last year that started this whole thing. Councilwoman Frische asked what ordinance Council passed last year. Law Director Rasmussen replied to vacate Benton Street. Councilwoman Frische asked if it was last year. Law Director Rasmussen replied yes, it was done in 2017. Safety Director Schmelzer added that the most recent legislation was to vacate Carroll Street and Benton Street, but there is a short stub that runs north and south on another area that runs east and west that could be reconsidered tonight if someone who voted for the vacation got a motion and a second. Council President Monday replied that no, the reconsideration has to occur the very next meeting after the ordinance was passed which in this case, would have been last meeting. It is too late to reconsider.

Councilwoman Frische still feels that Council still needs to clarify between reconsider and rescind, because from what she read in Robert's Rules, reconsider has to happen in the same Council meeting, not the next one or a couple after. She understands rescind to mean it could happen afterwards. She asked if she is correct that even if a member of Council who voted in favor of the vacation were to make a motion to reconsider, Council would not be able to vote on it because they are considering it passed. She asked if a member of Council here tonight that voted yes for Ordinance No. 2018-058 were to make the motion instead of her, if it would be reconsidered. Law Director Rasmussen replied it would have had to be a motion to reconsider on the side who voted for it and would have had to be at the last meeting.

Councilman Shindledecker agreed and feels it is a moot question. Council could save time and get beyond this by polling those who had the prevailing vote and see if any of them are willing to initiate any kind of a motion to rescind, repeal or whatever. He himself is not willing to do so.

Councilman Harrington clarified that Hancock Regional Planning Commission (HRPC) addressed the concerns of the property owner on Sandusky Street whom Councilwoman Frische read the email for. That property does not abut the current Benton Street/Carroll Street vacation that may have at one time. He would need clarification from either HRPC or the Zoning Department. The initial vacation that was applied for by Mr. Leguire was approved. Lye Creek does not go through the property in the 700 block of Sandusky Street. A portion of that property is to the north, but per the rule, a property that is to the north of Lye Creek is considered contiguous to the property along Sandusky. That property, even though it is split in two by Lye Creek, is considered one piece of property. Before Councilwoman Frische makes accusations that are not true, she should have done her homework and researched a little more to find out that while what she has proposed might be her concern, those concerns should have been addressed at a different time than tonight. Councilwoman Frische has asked the City Law Director tonight the same question three (3) or four (4) times - whether or not that ordinance can be rescinded and he has answered her each time that the answer is no and that a referendum is the only course of action that can be taken by Mr. Leguire, the property owner. Whether it is successful or not is yet to be determined because the deadline is yet to be. He wished Mr. Leguire luck in his endeavors and applaud him for his efforts, but at some point in time, the matter will be resolved and it will be time to move on to other City business. Councilwoman Frische replied that she did do her homework, and it is not about making accusations about anything. She brought a map with her and pointed out that Carroll Street runs into Wayne. Wayne is the road that would be taken to get off of Carroll Street in order to get to the back of that property. Whether or not the Mayor is willing to go above and beyond and talk with the County Commissioners about the flood property to get her an easement, is not the most upstanding way to handle this situation because there is a situation at 830 East Sandusky Street in not having full access. There also is the City of Findlay property listed on the Auditor's maps. She pointed out that Matthias Leguire did a vacation on his property of Decker Street and his portion of Benton Street. Councilman Russel was on the Planning and Zoning Committee at that time and had approved to keep all of Carroll Street and fifty feet (50 ft) of Benton Street unvacated to maintain access to Mr. Leguire's property. There were no objections nor any concerns to that property owner stated in the minutes, but then the City got involved in a neighborhood dispute that the City had no business getting in the middle of. She had respected that vote, but is now bringing those items to light as she just learned about them. She did not agree with it, but respected it. When Council as a whole gets additional information that is causing harm to City property owners and the Mayor is only willing to address one property owner and not all, that is sad. It is sad and unprofessional. We as Council are subjecting ourselves and City tax dollars to potential lawsuit dollars that could be ended tonight. Whether or not Mr. Leguire obtains the required signatures for the referendum, is not the issue to take it forward. Council could have fixed it. She does not understand why Council is still playing fourth (4<sup>th</sup>) grade playground politics when it comes to property owner rights. When there is more than one property owner, including the Neely's, who made decisions that they are now having obstacles to overcome to be able to cut down trees or trim trees in their back yard, there has to be a way, if the Law Director was creative, to fix the problem so that Council does not have to suspend potential lawsuit dollars for a year or two, or make the City look bad on a decision that was made as a mistake. Council made a mistake. Council can fix a mistake and could save face in this community. The Mayor could save face in this community by taking care of this problem tonight. If none of the five (5), who asked for the legislation are willing to revoke it, even though the Law Director says it can't be done, it is Council's own fault for where we are at, and unfortunately, she is looking at a sign in this arena that she does not think many can object to (*Mr. Williams in the audience lifted up a sign he brought with him to the meeting*). Council President Monday informed Mr. Williams to put his sign down and noted that if he picks it up again, the sign and Mr. Williams will have to leave the building. He asked the Officer in the back of the room if he would do so. The Officer nodded his head in agreement. Councilwoman Frische pointed out that when Council is taking place and citizens are speaking, they deserve to be given respect. Council does not always give respect and she does not get it. The Council President can speak to her however he likes. Council President replied that Councilwoman Frische is out of order. Councilwoman Frische replied that he then needs to be respectful. Council President Monday replied he is respectful. Mr. Williams, in the audience, was violating Council's rules as there is not to be any displays. Councilwoman Frische asked Council President Monday to change his tone with her. Council President Monday replied that he has given Mr. Williams the benefit of the doubt with his signs, but they should not have even been in the room, but when he wants to parade them, they will not be paraded in the room.

Councilman Harrington deferred his question to the Safety Director and would like to speak after him.

Safety Director Schmelzer asked for clarification on what keeps getting alluded to that the Mayor has some course of action on this that could be taken. Law Director Rasmussen replied that the Mayor has cannot veto it. She signed the legislation. Safety Director Schmelzer asked what course of action is available to the Mayor, at this point, to alter the course of the passed legislation. Law Director Rasmussen replied that the Mayor does not have any ability to do that. Safety Director Schmelzer asked if the Mayor has any ability to alter the path of the legislation that Councilwoman Frische keeps referring to and what course of action the Mayor has. Law Director Rasmussen replied that the Mayor has no course of action. Councilwoman Frische asked if it is the same for Council that they have no course of action.

Councilman Harrington asked for Judy Scrimshaw from the audience to explain the conversation she had with the homeowner at 730 East Sandusky Street with the Lye Creek situation and what her findings were before, during, and after that conversation. Ms. Scrimshaw replied that she talked to Ms. Schank who lives at 730 East Sandusky Street. She looked at her parcel on the Auditor's website while she spoke with her. Ms. Schank told Ms. Scrimshaw that she should have been notified and Ms. Scrimshaw explained that she did not about the pieces of right-of-ways that were in the petition, which was strictly Carroll Street and Benton Street. Ms. Schank's property does not touch either one of them and never has which is why she did not receive any notifications. Ms. Schank then started talking about the portion of her property that is across the creek and stated that it would keep her from being able to go through there to get down to that portion of her property. Ms. Schank admitted that she does not go back there very often and stated that she occasionally goes back there to look at it, and when she did, she had gone through Mr. Mickey's property, with his permission, who lived on Hawthorn Street, to walk back there to look at her woods. Ms. Schank did not realize that the County had bought that property in January of 2016 and that the house was gone until recently, so she had not been back there in quite some time. Ms. Schank was surprised to see that the house was torn down, so Ms. Scrimshaw explained that the flood properties the County had bought are now vacant land and that they will remain open space and that nothing can be done with them, that another house cannot be put back on it to which Ms. Schank stated that she can probably see her property on Hawthorn Road now because it is a clear view since the house is gone. Ms. Schank asked if that was public land so that she can go there anytime she wanted to. Ms. Scrimshaw replied that she does not know if that is true and cannot give her an opinion on it and that no one would probably care at this point if she walked back there as they are not really watching it. Ms. Scrimshaw suggested that if Ms. Schank really wanted to, she could approach the Commissioners. If she wanted something to legally guarantee her the right to pass through there all the time, she should request some kind of an easement access, to which Ms. Schank felt that was a good idea. She claims she can not get through the property if she did go down Carroll and try to go down the little strip of Wayne because the woods is overgrown and cannot go through there anyway. It is a shorter route for Ms. Schank to go straight through Mr. Mickey's lot and be at her property rather than zigzag through the other way. Ms. Schank asked Ms. Scrimshaw about coming to tonight's meeting and stated that she sent Councilmembers an email about this. Ms. Scrimshaw replied it is up to her. After Ms. Scrimshaw ended her phone call with Ms. Schank, she researched Ms. Schank's property further and determined that it is not landlocked because as Councilman Harrington stated, it is one piece of property. It does not matter that there is a creek running through it. A bridge can be put across a creek. Ms. Schank does not use it as it is woods. The City Planning Commission would only consider it if it is a valid parcel when splitting a property. They also look to see if the property owner has valid frontage on a public right-of-way. The back part does not matter. Ms. Schank's lot would have to be divided legally to make it a separate parcel if it were somehow landlocked.

Councilwoman Frische noted that she and Ms. Scrimshaw talked earlier today. The back section is divided by the creek. It is woods. Ms. Schank is not the only one who enters what Ms. Scrimshaw has stated. Most of the time it is not even her. She sometimes sends someone out to do work back there (tree falls – they remove it, if she needs wood for her property to burn – she sends someone out there) who enter the property from Benton/Carroll and have entered it by getting permission from Mrs. Ellerbrock who previously owned 830 East Sandusky Street where they would enter off of Decker, which is the City property. There are dense woods. She agrees that it is one piece of property, but she has always had access to it with the access was from Benton/Carroll to Wayne. Wayne is what would have gotten her onto her property legally and directly.

Council President Monday pointed out that there still is a motion on the floor from Councilwoman Frische and seconded by Councilman Niemeyer. He asked Law Director Rasmussen if that motion is in order or out of order. Law Director Rasmussen replied that it was a motion to reconsider and it is out of order. Per Council's rules, it should have been made at the very next meeting after the legislation was signed. Council President Monday notified Councilwoman Frische that her motion is out of order.

### **NEW BUSINESS**

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

Councilman Russel: **APPROPRIATIONS COMMITTEE** meeting on September 11, 2018 at 4:00pm in the third floor conference room of the Municipal Building (CR1).

- agenda:
1. Water Distribution vector truck (Resolution No. 019-2018)
  2. 2018 CUBE code updates project no. 31984100
  3. CIT Fund for 2019

Councilman Watson: **STREETS, SIDEWALKS, AND PARKING COMMITTEE** meeting on September 11, 2018 at 6:30 5:00pm in the first floor Council Office (CO).

- agenda: bicycle ordinance

Councilman Watson noted that this meeting is to discuss dismount zones, language, and to have additional discussion and input. He invited all members of Council and the public attend to provide input. He reminded Council that Committee rules are a little different than Council rules in that the Chair invites people to speak.

Councilman Watson received a question from a parent about Jefferson School and the traffic flow. That parent has some concerns about how the current system is set up. In the past, based on the designs and City signs, it wasn't being used. It seemed like a reasonable expectation to him and what he told him made sense. He asked if it is something that could be studied by the Traffic Commission. Safety Director Schmelzer replied that it will be passed on to the Traffic Commission. Traffic Commission has talked about Jefferson School for about two (2) years now. Based on comments from the Police Department and the school, Traffic Commission has sent some recommendations over to the school. Dennis McPherson has them. The school is considering some of the suggestions. They feel as though they have been down that rodeo before. One of the big problems is stacking in the area and that some do not always use commonsense, which is hard to legislate, but they are looking at the issue and he will provide to Council what is said at the Traffic Commission meeting during the next City Council meeting.

Councilman Harrington pointed out that last year, he requested it be discussed at Traffic Commission where it was tabled and died due to lack of action. He would like to have that issue put back on the agenda for the next Traffic Commission meeting. He drops his grandson off there every day and sees the potential for harm in many different areas and not just the stacking areas. It fell on deaf ears. It is a K-2 school, so there are young students and there are a lot of parents dropping their kids off and walking them rather than following the directions the school has provided them. It is a potential for disaster and needs some action.

Safety Director Schmelzer asked if Councilman Harrington is referring to Jefferson School. Councilman Harrington replied he is. Safety Director replied it did not fail for lack of action. It was tabled. The plan was developed and discussed with the school who since have had another meeting, so the Traffic Commission altered the plan and sent it back to them. Councilman Harrington noted that as the one who proposed it, he reads the minutes of the Traffic Commission meetings for every meeting and that eventually, it fell off the agenda. He is unsure if the reason it did was because of it being a new year or why. It was studied, but no course of action was decided for or against that study. He would like to see it brought back to the table and re-looked at.

Councilwoman Frische asked Service Director/Acting City Engineer Thomas if he informed Safety Director Schmelzer of a potential traffic light at Melrose/Deer Valley. She asked that even though it doesn't line up to the new apartments, if it could be added to the Traffic Commission agenda.

Councilwoman Frische noted that over the weekend, there was some discussion on the grass height ordinance on large lots. A property owner on Osborn stated that he had talked with the Mayor about it who told him she was waiting for guidance from City Council on how to enforce on large lots. Councilwoman Frische asked if the Planning and Zoning Committee would like to add that to their agenda or if it should be addressed at a separate Ad Hoc Committee meeting. The property owner would be interested in attending as a resident to weigh-in because he also has a large lot. Councilman Harrington replied that the Planning and Zoning Committee meeting is scheduled to meet on the 9<sup>th</sup> at 12:00pm. There are already agenda items for that meeting. One of the agenda items at a past meeting was large lot mowing. Per the committee report, it was determined that the committee would readdress it at a later date. Currently, any large lot mowing falls under the current City ordinance. If there is a question on whether or not the mowing is being done to the satisfaction of the N.E.A.T. Department, they can be referred to the current ordinance. Any additional ordinances would be forthcoming based on a recommendation. Councilman Shindledecker asked if Councilman Harrington stated the 9<sup>th</sup>. Councilman Harrington replied yes he did. Councilman Shindledecker replied that is a Sunday. Councilman Harrington replied he meant the 13<sup>th</sup>. Councilwoman Frische added that was exactly what she told the property owner that if the Mayor needs to enforce, she needs to have something on the books, but when she mentioned she needed guidance, she assumed she meant what Council had agreed on for large lots. She asked if it is being added to the agenda for the 13<sup>th</sup> so she call tell the property owner to be there for that discussion. Councilman Harrington replied he will determine the agenda at a later date. He is unsure at this point in time how many items are already on the agenda for that date, and that due to a time constraint of a couple of the committee members, he is unsure right now. He asked Councilwoman Frische to provide him with the property owner contact name and contact information, and he will let him/her know if and when it is ever discussed. Councilwoman Frische suggested if the Planning and Zoning Committee does not want to address it, it should go to an Ad Hoc Committee so that the Mayor can have some guidance and that the property owners that are abutting 830 East Sandusky Street who also have a large lot, can have an understanding of how it is going to be addressed. Councilman Harrington replied that any Councilmember can call an Ad Hoc Committee for any issue at any time if they feel it is necessary. He personally feels that it is not necessary for this. He has given Councilwoman Frische an answer and is sorry if it is not the answer she wants to hear. He said to have the person who contacted Councilwoman Frische to get ahold of him and he will let him/her know when that will be addressed at a Planning and Zoning Committee meeting. Council President Monday clarified that Ad Hoc Committees are appointed by the President Pro-Tem of Council who does so at such a time the majority of Council wants to have an Ad Hoc Committee on any subject. A single Councilmember does not propose an Ad Hoc Committee. It would take a motion and a second, and if the majority wants it, President Pro-Tem Russel would make the appointment. If that is what Council wants to do, he would entertain a motion and a second (there was no second to the motion for an Ad Hoc Committee for this, so request dies).

Councilman Harrington: **PLANNING AND ZONING COMMITTEE** meeting on September 13, 2018 at 12:00pm in the first floor Council Office (CO).

- agenda: 1. large lot mowing  
2. wind turbines

Councilman Watson replied that the time he stated for Streets, Sidewalks and Parking Committee was incorrect. It is at 5:00pm on the 11<sup>th</sup>.

Council President Monday adjourned Council at 8:29pm



CLERK OF COUNCIL



PRESIDENT OF COUNCIL