

FINDLAY CITY COUNCIL MINUTES

REGULAR SESSION

JANUARY 2, 2019

COUNCIL CHAMBERS

PRESENT: Frische, Hellmann, Niemeier, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser

ABSENT: Harrington

President Monday opened the meeting with the Pledge of Allegiance followed by a moment of silence in memory of Findlay Police Officer Doug Akers.

ACCEPTANCE/CHANGES TO PREVIOUS CITY COUNCIL MEETING MINUTES:

- Councilman Slough moved to accept the December 18, 2018 Public Hearing minutes to rezone 606 Howard Street via Ordinance No. 2018-116, seconded by Councilman Shindledecker. All were in favor. Motion carried. Filed.
- Councilman Slough moved to accept the December 18, 2018 Public Hearing minutes to rezone the Hengsteler annexation via Ordinance No. 2018-115, seconded by Councilman Hellmann. All were in favor. Motion carried. Filed.
- Councilman Slough moved to accept the December 18, 2018 Regular Session City Council meeting minutes. Councilman Wobser seconded the motion. All were in favor. Motion carried. Filed.

ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA:

Councilman Russel 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 Matthias Leguire – referendum petition for Ordinance No. 2018-058 AS AMENDED (**WRITTEN COMMUNICATIONS** section)
- Resolution No. 002-2019 (**LEGISLATION** section) – was added during LEGISLATION section of tonight's meeting

PROCLAMATIONS: - none.

RECOGNITION/RETIREMENT RESOLUTIONS: - none.

WRITTEN COMMUNICATIONS:

Matthias Leguire – referendum petition for Ordinance No. 2018-058 AS AMENDED

Discussion:

Councilwoman Frische requested that the letter be read. The Council Clerk read the letter in its entirety.

Mr. Leguire requested that his letter and a letter from Attorney Robert Griffin Jr. be included in tonight's agenda and be read into the minutes. The City of Findlay filed Ordinance No. 2018-058 AS AMENDED with the Hancock County Auditor's and Hancock County Recorder's Office. The Ordinance was approved 6-5 with Council President Ron Monday casting the deciding vote to vacate named streets Benton and Carrol on August 7, 2018, and as stated in the Ordinance, was to go into effect 30 days after approval, however, Hancock County records indicate the City of Findlay filed the Ordinance on August 20, 2018 which is well before the 30 days required for the Ordinance to go into effect. A referendum petition was successfully filed with the City of Findlay Auditor's Office and approved by the Hancock County Board of Elections within the required 30 days, thus putting a hold on the Ordinance until it can be voted on in the November 2019 general election. The attached letter states "Section 731.29 Ohio Revised Code, specifically provides that once a referendum petition concerning a city ordinance has been filed, such ordinance or measure shall not go into effect until approved by the majority of those voting upon it." Mr. Leguire requests Councilmembers to get involved in correcting this situation as quickly as possible. Council should also look into the processes involved when Ordinances are approved and when information is sent to the County, affected property owners, etc. He asked if the Ordinance should have waited at least 30 days before being sent to the County and if letters should be have been sent out to all involved property owners notifying them of the referendum petition explaining the situation. He also asked about 725 Hawthorne Road and informed Council that the property sold on November 21, 2018 with improper property boundaries as it borders both Carrol Street and Benton Street which are listed as vacated on the County records. Mr. Leguire requested a response from Council as to how this error will be corrected.

Discussion:

Councilman Russel noted that there is a second letter on the back side of Mr. Leguire's letter. Council President Monday replied that the other letter is addressed to Law Director Rasmussen from a Robert H. Griffin Jr., Attorney at Law that will be read into the record as well. The Council Clerk read the letter in its entirety. Council President Monday noted that Mr. Leguire will be speaking to Council tonight as an **ORAL COMMUNICATIONS**.

Councilman Hellmann asked if the City Law Director has any comment regarding this. Law Director Rasmussen replied that he discussed this with the Auditor's Office the beginning of last week which is when it came to his attention that the Ordinance had been filed on August 20, 2018. He has not received the petition from the Auditor's Office, so he does not know the petition date which will be provided through the Auditor's Office or the Board of Elections. He is unsure if the thirty (30) day deadline or the filing of the Ordinance came first. He has researched the property sale that he did not know about until after the filing. Once he has all those documents, he will look at where this situation is at. If it is before the petition, there are a couple of things Council can do. They can let it go or can repeal the Ordinance. If the Ordinance was not filed in time, then it is null and void. Until he has that additional piece of information, he does not know the outcome.

Councilwoman Frische asked if there is a process in place for when something is vacated and is passed by Council for the thirty (30) day referendum period on how and who is notified. She asked if there is a process in place for the Zoning Department or Board of Zoning Appeals, or if there is anything Council needs to be doing to put any processes in place. Law Director Rasmussen replied that there is nothing in the code about the notification process. In this case, the Ordinance was not passed on an emergency measure. Every piece of legislation has a thirty (30) day period of referendum unless it is passed by an emergency measure. This Ordinance was filed and did not have the emergency language, so it should not have been filed as early as it was. Councilwoman Frische asked if the Ordinance had the thirty (30) day clause on it. Law Director Rasmussen replied that it did not. It was not an emergency, so it did not have the clause that provides the referendum period. Councilwoman Frische asked if the Zoning Department knows not to issue any permits for in-ground pools, fences, etc. for properties backing up to these streets due to the adopted Ordinance to vacate and the referendum on the vacation, even though those property owners were under the impression they would have additional ground with their property when they purchased it. She asked if the property owners are notified in order to avoid any type of issues. Law Director Rasmussen replied that the Zoning Department knows now because when he received this letter from Mr. Leguire, it was the first indication of a house transferring. Only one (1) home is transferring that shares the vacated alley. He spoke with the Zoning/Floodplain Administrator at length this afternoon to make sure nothing is being placed on those properties that would interfere with the vacation.

Safety Director Schmelzer added that subsequent to the petition that was filed, there were internal discussions about making sure that any property owner that wanted to do anything in that area was aware of it. The Zoning/Floodplain Administrator is not going to be issuing any permits into right-of-way and/or for allow for encroachments and setbacks based on right-of-way subject to that petition. Councilwoman Frische asked if letters were sent to those property owners since that initial conversation. Safety Director Schmelzer replied that the Zoning Department are not going to issue permits if someone applies for something based on that vacation. Councilwoman Frische asked if notices went out to the property owners. Safety Director replied there would be no need to if no one wants to do anything. Filed.

ORAL COMMUNICATIONS:

Matthias Leguire – Carrol St/Benton St

Mr. Leguire pointed out that this is the first he has addressed Council since he requested the deadline for the referendum petition in September. He was successful and the referendum petition will be on the November ballot. He thanked those who signed his petition and helped him garner enough signatures. He found an error in the paperwork for Ordinance No. 2018-058 for the vacation of Carrol Street and Benton Street where it was sent to the Hancock County Recorder's Office on August 20, 2018. He filed a referendum petition in September within the thirty (30) days of the Ordinance being signed by Mayor Mihalik with enough valid signatures for it to appear on the ballot in November 2019. Ohio Revised Code Section 731.29 states that the referendum petition prevents the Ordinance from going into effect until it has been voted on by the public. He asked Councilmembers to correct the mistake and un-vacate the streets with the County. He does not understand why it was sent to the County before the thirty (30) days. It was sent there within two (2) weeks of it being passed at Council. He does not think it should have gone to the County until at least thirty (30) days because it did not go into effect until thirty (30) days later. Also, he hopes that Council will notify the property owners at 725 Hawthorne Road as that property is smaller than what they purchased. Filed.

PETITIONS: - none.

REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS:

Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control for Rod & Cynthia Nelson Enterprises, LLC dba The Findlay Social, located at 330 South Blanchard Street, Findlay, Ohio for a D2 liquor permit. This requires a vote of Council.

John E. Dunbar, Chief of Police – Rod & Cynthia Nelson Enterprises, LLC dba The Findlay Social, Findlay, Ohio. A check of the records shows no criminal record on the following:

Rodney J. Nelson
Cynthia S. Nelson

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

Board of Zoning Appeals Minutes – December 13, 2018. Filed.

Mayor Lydia Mihalik – Mayor appointments to various Boards and Commissions

Mayor Mihalik is requesting the following appointments to the following Boards and Commissions:

Design Review Board – requires Council confirmation

Pat Ball
Hardy Hartzell
Tim Mayle
Sharon Rooney

Terms will expire on December 31, 2021

Councilman Russel made a motion to accept these appointments, seconded by Councilman Shindledecker. All were in favor.

Hancock Regional Planning Commission Board – requires Council confirmation

Donald Bledsoe

Paul Craun

Christopher Moody

Jody O'Brien

Christie Ranzau

Terms to expire December 31, 2020

Councilman Russel made a motion to accept these appointments, seconded by Councilman Slough. All were in favor.

Parks and Recreation Board – does not require Council confirmation

Mike Slough

Term to expire on December 31, 2021

Street Designation Committee – requires Council confirmation

Dale Gillespie

Term will expire on December 31, 2020

Councilman Russel made a motion to accept these appointments, seconded by Councilman Slough. All were in favor. Filed.

Service Director/Acting City Engineer Thomas – annual street resurfacing/curb repairs 2019 project no. 32890300; E Bigelow Ave waterline replacement project no. 35790200; S Blanchard St waterline replacement project no. 35790100

These three (3) projects are included in the 2019 Capital Improvement Plan. Engineering would like to be able to bid these projects as soon as possible in an attempt to receive the best pricing available. I am requesting authorization to advertise for bids and enter into a contract for construction of the projects and that startup money be appropriated into the projects. Legislation authorizing the Service Director to advertise for bids and enter into contracts for construction and to appropriate and transfer funds is requested. Ordinance No. 2019-003 was created.

FROM:	CIT Fund – Capital Improvement Restricted Account	\$ 5,000.00
TO:	Annual Street Resurfacing/Curb Repairs 2019, Project No. 32890300	\$ 5,000.00
FROM:	Water Fund	\$ 55,000.00
TO:	East Bigelow Avenue Waterline Replacement, Project No. 35790200	\$ 50,000.00
TO:	South Blanchard Street Waterline Replacement, Project No. 35790100	\$ 5,000.00

Filed.

Service Director/Acting City Engineer Thomas – 2019 Capital Improvement Plan

The proposed version of the 2019 Capital Improvement Plan is nearly complete and is anticipated to be finalized sometime during the week of December 31, 2018. The opportunity to present the proposed 5-year plan at the next Appropriations Committee meeting is requested. Copies of the plan will be ready for pick up on Friday, January 4, 2019. If the Appropriations Committee meets on Tuesday, January 8, 2019, this will give members time for review prior to the meeting. Otherwise, finalized copies will be provided at the meeting. Referred to the Appropriations Committee. Filed.

City Planning Commission agenda – January 10, 2019; minutes – December 13, 2018. Filed.

COMMITTEE REPORTS: - none.

LEGISLATION:

RESOLUTIONS

RESOLUTION NO. 001-2019 (*Internet auctions - authorization to use*) requires one (1) reading **first reading** **adopted**
A RESOLUTION AUTHORIZING THE SALE OF PERSONAL PROPERTY WHICH IS NOT NEEDED FOR PUBLIC USE, OR IS OBSOLETE OR UNFIT FOR THE USE FOR WHICH IT WAS ACQUIRED, BY INTERNET AUCTION, AND DECLARING AN EMERGENCY.

Councilman Russel moved to adopt the Resolution, seconded by Councilwoman Frische. Ayes: Frische, Hellmann, 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. 002-2019

first reading adopted

(allows Auditor to request advances on tax settlements at the County) requires three (3) readings

A RESOLUTION REQUESTING THE COUNTY AUDITOR TO MAKE TAX ADVANCES DURING THE YEAR 2019 PURSUANT TO OHIO REVISED CODE §321.34.

Councilwoman Frische moved to adopt the Resolution.

Discussion:

Councilman Russel noted that a copy of this Resolution was included in the packet, but was not on the agenda. He asked if Council needs to add this to the agenda. Law Director Rasmussen replied it does and that it is up to Council whether they want to add it now or during OLD BUSINESS.

Council President Monday asked Councilwoman Frische to withdraw her motion to adopt the Resolution until the motion to add it to the agenda is given. Councilwoman Frische withdrew her motion.

Councilman Russel moved to add this Resolution to the agenda, seconded by Councilman Slough. All were in favor.

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

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. 2018-097 *(credit card policy)* requires three (3) readings **tabled after second reading on 10/2/18**
AN ORDINANCE APPROVING THE BANK CREDIT CARD POLICY ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT A.

ORDINANCE NO. 2018-121 *(2018 annual sewer televising project)* 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 Wobser. Ayes: Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Hellmann. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-121 and is hereby made a part of the record.

ORDINANCE NO. 2018-122 *(Blanchard River/Stanford Pkwy waterline replacement project)* requires three (3) readings **third reading adopted**
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

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

Discussion:

Councilwoman Frische asked why the waterline is being replaced. Service Director/Acting City Engineer Thomas replied because it is an old concrete pipe, so it is at the age where it needs to be replaced. As part of this project, one company would not be isolated and would be out of water, which is why on New Year's Eve, a day when all businesses were closed, the Water Shop went out there and cut in a valve so that when this project is constructed, they can be isolated and everyone will have water and no one will be affected by the construction.

Ayes: Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Hellmann, Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-122 and is hereby made a part of the record.

ORDINANCE NO. 2018-124 *(Emergency Management Services contract renewal)* requires three (3) readings **third reading adopted**
AN ORDINANCE AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC SAFETY OF THE CITY OF FINDLAY, OHIO TO ENTER INTO A CONTRACT WITH HANCOCK COUNTY EMERGENCY MANAGEMENT AGENCY TO DEVELOP AN EMERGENCY OPERATION PLAN THAT WILL ENCOMPASS ALL POLITICAL SUBDIVISIONS OF HANCOCK COUNTY, PRUSUE A PROFESSIONAL DEVELOPMENT TRAINING PROGRAM, AND COORDINATE THE EMERGENCY MANAGEMENT ACTIVITIES OF ALL THE POLITICAL SUBDIVISIONS ACCORDING TO THE DUTIES AND REQUIREMENTS OF SECTION 5502.27 OF THE OHIO REVISED CODE, AND DECLARING AN EMERGENCY.

Councilman Hellmann moved to adopt the Ordinance, seconded by Councilwoman Frische. Ayes: Russel, Shindledecker, Slough, Watson, Wobser, Frische, Hellmann, Niemeyer, Ostrander. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-124 and is hereby made a part of the record.

ORDINANCE NO. 2018-125 (*elected officials salaries*) requires three (3) readings **third reading adopted**
AN ORDINANCE ESTABLISHING THE SALARIES FOR THE MAYOR, AUDITOR, AND DIRECTOR OF LAW OF THE CITY OF FINDLAY, OHIO, BEGINNING JANUARY 1, 2020 AND ENDING DECEMBER 31, 2023 AND REPEALING ALL OTHER ORDINANCES AND/OR PARTS OF ORDINANCES IN CONFLICT WHERE TO , AND DECLARING AN EMERGENCY.

Councilman Shindledecker moved to adopt the Ordinance, seconded by Councilman Slough Ayes: Shindledecker, Slough, Watson, Wobser, Frische, Hellmann, Niemeyer, Ostrander, Russel. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2018-125 and is hereby made a part of the record.

ORDINANCE NO. 2018-127 (*WPC clarifier 1&2 rehab, project no. 35681500*) requires three (3) readings **second reading**
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

ORDINANCE NO. 2018-132 (*701-807 Adams St; 700-714 Putnam 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 701-807 ADAMS STREET AND 700-714 PUTNAM STREET REZONE) WHICH PREVIOUSLY WAS ZONED "R3 SINGLE FAMILY HIGH DENSITY RESIDENTIAL" TO "M2 MULTIPLE FAMILY RESIDENTIAL DISTRICT".

Second reading of the Ordinance.

ORDINANCE NO. 2018-133 (*Eastern Woods-Birchaven Ln 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 BIRCHAVEN LANE/EASTERN WOODS LOT 2 REZONE) WHICH PREVIOUSLY WAS ZONED "C1 LOCAL COMMERCIAL" TO "M2 MULTIPLE-FAMILY HIGH DENSITY".

Second reading of the Ordinance.

ORDINANCE NO. 2019-001 **first reading adopted**
(*appropriations for current expenses & other expenditures for 2019*) requires three (3) readings
AN ORDINANCE TO MAKE APPROPRIATIONS AND TRANSFERS WHERE NECESSARY FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FINDLAY, OHIO, DURING FISCAL YEAR ENDING DECEMBER 31, 2019, AND DECLARING AN EMERGENCY.

Councilman Wobser moved to suspend the statutory rules of Council and give the Ordinance its second and third readings, seconded by Councilman Slough. Ayes: Slough, Watson, Wobser, Frische, Hellmann, Niemeyer, Ostrander, Russel, Shindledecker. The Ordinance received its second and third readings.

Discussion:

Councilman Hellmann asked if the reason this is being done is because it is part of the appropriations for this year and want to get it done as opposed to giving it three (3) readings. Safety Director Schmelzer replied that Council has to authorize the spending of these funds, so this needs to be done tonight for all the expenditures for this year.

Councilman Russel moved to adopt the Ordinance, seconded by Councilman Hellmann. Ayes: Watson, Wobser, Frische, Hellmann, Niemeyer, Ostrander, Russel, Shindledecker, Slough. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2019-001 and is hereby made a part of the record.

ORDINANCE NO. 2019-002 (*Sewer Fund*) requires three (3) readings **first reading adopted**
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

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

Discussion:

Councilman Hellmann asked if this is being done for the same reason as the last Ordinance – to spend money. Safety Director Schmelzer nodded in agreement.

Ayes: Frische, Hellmann, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2019-002 and is hereby made a part of the record.

ORDINANCE NO. 2019-003 requires three (3) readings

first reading adopted

(annual street resurfacing/curb resurfacing/curb repairs for 2019; E Bigelow Ave waterline replacement; S Blanchard St waterline replacement)

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 2019 CAPITAL IMPROVEMENT PLAN, APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules of Council and give the Ordinance its second and third readings, seconded by Councilman Wobser. Ayes: Hellmann, Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische. The Ordinance received its second and third readings. Councilman Russel moved to adopt the Ordinance, seconded by Councilman Wobser. Ayes: Niemeyer, Ostrander, Russel, Shindledecker, Slough, Watson, Wobser, Frische, Hellmann. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2019-002 and is hereby made a part of the record.

UNFINISHED BUSINESS:

OLD BUSINESS – none.

NEW BUSINESS

Councilman Russel: **APPROPRIATIONS COMMITTEE** meeting on January 8, 2019 at 4:00pm in the third floor conference room of the Municipal Building (CR1).

agenda: 2019 Capital Plan

Mayor Mihalik informed that the Council of the Martin Luther King Jr. Unity Walk program will be held on January 15, 2019 from 6:00pm-7:30pm. It will gather at the Church of the Living God at 5:45pm and then will walk down to Winebrenner Theological Seminary on the campus of the University of Findlay. It is about a ten (10) minute walk and then it will come back to the church for a brief ceremony of reflection and prayer around 6:45pm. It is a very good community celebration of what Martin Luther King Jr. stood for as well as a recognition of the value of diversity in our community. It would be nice to see great representation of the City of Findlay at this event.

Councilman Russel made a motion to excuse the absence of Councilman Harrington seconded by Councilman Niemeyer. All were in favor. Filed.

President Monday adjourned Council at 7:37pm.



CLERK OF COUNCIL



PRESIDENT OF COUNCIL