

FINDLAY CITY COUNCIL MINUTES

REGULAR SESSION

MAY 21, 2013

COUNCIL CHAMBERS

PRESENT: Monday, Murray, Nichols, Slough, Spence, VanDyne, Ward

ABSENT: Collette, Schedel

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

MINUTES:

Councilman Ward moved to accept the minutes as circulated from the May 7, 2013 Public Hearing for the rezoning of 123 Cherry Street. Councilwoman Spence seconded the motion. All were in favor. Motion carried.

Councilwoman Spence moved to accept the minutes as circulated from the May 7, 2013 Regular Session City Council meeting. Councilman Nichols seconded the motion. All were in favor. Motion carried. Filed.

ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA – none.

RECOGNITION/RETIREMENT RESOLUTIONS – none.

WRITTEN COMMUNICATIONS – none.

ORAL COMMUNICATIONS – none.

PROCLAMATIONS – none.

PETITIONS:

City Auditor Jim Staschiak – 60-day hold in Auditor's Office for Darway Annexation paperwork

On May 1, 2013, annexation documents for the Darway annexation were received. The original petitioner for this annexation is Darway, Ltd. and will be referred to as the Darway Annexation. Philip L. Rooney is the agent for the petitioners. These annexation documents will be in the Auditor's Office for the required 60-day period which will end on June 30, 2013, and then will be forwarded to the Council Clerk. Filed.

Alley vacation request – from Prospect Avenue to Ash Avenue

Sue Read has requested an alley vacation for the alley running between Ash Avenue and Prospect Avenue between lots 2370, 2345, 2369, and 2346. Referred to City Planning Commission and Planning & Zoning Committee. Filed.

REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENT:

Treasurer's Reconciliation Report – April 30, 2013. Filed.

City Planning Commission staff report – May 9, 2013. Filed.

Findlay City Board of Health Minutes – April 17, 2013. Filed.

Service-Safety Director Paul Schmelzer – appropriation of sidewalk bond for Palms Subdivision – West Sandusky Street

The Engineering Department recently collected on a performance bond that was posted for sidewalk construction for this development. The bond was posted by the developer as a guarantee for sidewalk installation associated with construction of the subdivision. The sidewalk was not constructed, and the City will need to hire a local sidewalk contractor to complete the work using the bond proceeds. Legislation to appropriate funds is requested. Ordinance No. 2013-029 was created.

FROM:	General Fund (sidewalk bond)	\$ 10,000.00
TO:	Engineering Department #21021000-other	\$ 10,000.00

Filed.

Parks and Recreation Board Minutes – April 15, 2013.

Discussion:

Councilman Murray asked if these minutes should be changed from "construction of a new facility will" to now be "construction of a new facility could". Service-Safety Director Schmelzer replied that sounds appropriate. Councilman Murray moved to amend the minutes to make this change which currently reflects the positivity of the construction of a new swimming pool to that it could happen as early as October. President J Slough replied that he is unsure of the process to amend minutes. He then asked Councilman Ward for his opinion as he is the most senior Councilmember. Councilman Ward replied he is unsure if Council has the right to change the Board's minutes. They can be sent back to the Parks and Recreation Board to have the minutes changed at their next meeting to reflect more of what reality is. Minutes returned to the Parks and Recreation Board.

COMMITTEE REPORTS:

The **APPROPRIATIONS COMMITTEE** to whom was referred a request from the Service-Safety Director to appropriate funds for the purchase of trees for the 2013 Adopt-A-Tree Program.

FROM: General Fund \$ 4,500.00
TO: Parks Maintenance #21034000-other \$ 4,500.00

We recommend approval of the above request. Ordinance No. 2013-029 was created.

Councilman Nichols moved to adopt the committee report. Councilwoman Spence seconded the motion. All were in favor. Filed.

The **APPROPRIATIONS COMMITTEE** to whom was referred a request to discuss entering into a contract with Emergency Management Agency (EMA) for the development of an emergency operations plan. During the December 18, 2012 City Council meeting, Ordinance No. 2012-100 dealing with this was referred to the January 18, 2013 Appropriations Committee meeting where it was tabled.

We recommend continued participation with EMA and authorize the increase requested of two thousand nine hundred fifty-four dollars and ten cents (\$2,954.10). Ordinance No. 2013-029 was created.

Councilwoman Spence moved to adopt the committee report. Councilman Ward seconded the motion. All were in favor. Filed.

LEGISLATION:

RESOLUTIONS

RESOLUTION NO. 018-2013

First reading

Adopted

A RESOLUTION COMMENDING WILLIAM DOMME FOR THE EXCELLENCE OF HIS SERVICES TO THE CITY OF FINDLAY, OHIO.

Councilman Monday moved to adopt the Resolution, seconded by Councilman Nichols. Ayes: Monday, Murray, Nichols, Slough, Spence, VanDyne, Ward. The Resolution was declared adopted and is recorded in Resolution Volume XXXIII, and is hereby made a part of the record. Filed.

ORDINANCES

ORDINANCE NO. 2012-100 (EMA)

Mayor Mihalik referred this to the 1/8/13 Appropriations Committee after the first reading

Adopted during Old Business

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, DEVELOP A 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.

ORDINANCE NO. 2013-024 (repeal & replace flood damage reduction – Chapter 1351)

Third reading

Adopted

AN ORDINANCE REPEALING CURRENT CHAPTER 1351 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO AND IN ITS PLACE, ENACTING A NEW CHAPTER 1351 TO BE KNOWN AS THE FLOOD DAMAGE REDUCTION ORDINANCE.

Councilman VanDyne moved to adopt the Ordinance, seconded by Councilman Murray. Ayes: Murray, Nichols, Slough, Spence, VanDyne, Ward, Monday. Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2013-024 and is hereby made a part of the record.

ORDINANCE NO. 2013-026 (Dietsch Bros – W Main Cross rezone)

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 DIETSCH BROTHERS REZONE) WHICH PREVIOUSLY WAS ZONED "I1 LIGHT INDUSTRIAL" TO "C3 DOWNTOWN COMMERCIAL".

Second reading of the Ordinance.

ORDINANCE NO. 2013-029 (appropriation of funds)

First reading

Adopted

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilwoman Spence moved to suspend the Statutory Rules and give the Ordinance its second and third readings. Councilman Monday seconded the motion. Ayes: Nichols, Slough, Spence, VanDyne, Ward, Monday, Murray. The Ordinance received its second and third readings. Councilwoman Spence moved to adopt the Ordinance, seconded by Councilman Nichols. Ayes: Slough, Spence, VanDyne, Ward, Monday, Murray, Nichols. Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2013-029 and is hereby made a part of the record.

UNFINISHED BUSINESS:

Old Business:

Councilman Ward asked if Ordinance 2012-100 needs to be lifted off the table since Council already approved the increase for EMA and if Council can lift it from being tabled since the Appropriations Committee tabled it. Mayor Mihalik replied that the ordinance was tabled at a Council meeting. Councilman Ward added that tonight's agenda says it was tabled at the Appropriations Committee meeting. Service-Safety Director Schmelzer replied that it was tabled at the City Council meeting so it could be referred to the Appropriations Committee. It was originally budgeted, but the increase wasn't budgeted. Mayor Mihalik added that she requested Council to table the ordinance. Councilman Ward made a motion to remove Ordinance 2012-100 from the table. Seconded by Councilman Nichols. Ayes: Spence, VanDyne, Ward, Monday, Murray, Nichols, Slough. The Ordinance was lifted from the table. Councilman Ward noted that since the ordinance has an emergency clause and since Council has not voted on it yet, he made a motion to suspend the Statutory Rules and give the Ordinance its second and third readings. Seconded by Councilman VanDyne. Ayes: VanDyne, Ward, Monday, Murray, Nichols, Slough, Spence. The Ordinance received its second and third readings. Councilman Ward moved for adoption. Seconded by Councilman VanDyne. Ayes: Ward, Monday, Murray, Nichols, Slough, Spence, VanDyne.

Councilman Ward asked for clarification from Auditor Staschiak on exactly how much unappropriated funds the City has, and explain how the three million dollar (\$3,000,000.00) minimum carry-over figures into this. There have been a lot of numbers floating around since it was brought up at the last City Council meeting dealing with how much cash balance we have. We've heard anywhere from thirty-one million (\$31,000,000.00) to four million seven hundred thousand dollars (\$4,700,000.00) of unappropriated money that we can work with this year. Auditor Staschiak replied that The Courier newspaper stated in the editorial section that when two (2) Accountants crunch numbers, their hope is that the answer would be at least close. For that to happen, both of the Accountants would have to use the same accounting basis. In this case, that did not happen. In dealing with State Law, Ohio Revised Code 5705.36 restricts the resources the City of Findlay can use during a given calendar year for budgeting purposes. A given calendar year for the City of Findlay is January 1st to December 31st. The City of Findlay for this calendar year 2013 certified through the Budget Commission, it is confirmed that the City of Findlay has thirty-one million seven hundred thousand dollars (\$31,700,000.00) available in the general fund for resources to draw against (i.e. cash, unappropriated money, carry forward balance from 2012). As of the last City Council meeting on May 7, 2013 regarding the thirty-one million seven hundred thousand dollars (\$31,700,000.00), all of it is currently obligated except for four million seven hundred thousand dollars (\$4,700,000.00). By Council's own resolution to address the three million dollar (\$3,000,000.00) question that was asked, of the four million seven hundred thousand dollars (\$4,700,000.00), three million two hundred thousand dollars (\$3,200,000.00) is reserved as a minimum cash reserve which is twelve percent (12%) of the budget. It is for emergencies or in case revenues come up short during the calendar year as part of our resources are projected revenues, not actual revenues. Thirty-one million seven hundred thousand dollars (\$31,700,000.00) was certified to the County and by the County by the City Auditor's Office and the County Auditor's Office. Of that, all but four million seven hundred thousand dollars (\$4,700,000.00) has been appropriated by Council for use by the different departments. If the three million two hundred thousand dollars (\$3,200,000.00) is removed that is being kept as a minimum cash reserve, there would be one million five hundred thousand dollars (\$1,500,000.00) in the general fund at this time. The monthly updates that the City Auditor's Office does are done by fund and are provided by on a monthly basis to the Administration and this Council. The financial snapshot that is prepared for the Appropriations Committee on a monthly basis is very reliable. That number can be quoted to anyone in the public when they ask how much money is available in the general fund that is unappropriated.

Councilwoman Spence noted that it depends a lot on what particular point in time you are looking at what funds are available and whether or not books have been satisfied from previous months. She compared this to when someone is paid, in that when they receive a paycheck, it appears that a lot of money is available, but by the time everything has been paid out, you have a better understanding of the amount that is truly available. She then asked if she could have a copy of that information. Auditor Staschiak replied that Council already has that report. It is the financial snapshot which shows the four million seven hundred thousand dollars (\$4,700,000.00) available. He emailed the Mayor monthly allocations of the city income tax detail. This is available in the MUNIS software. Mayor Mihalik added that she will provide Councilwoman Spence a copy of what she received from Auditor Staschiak.

Councilman Nichols noted that he understands why the public is confused as it is confusing. He compared it to when someone says the check is in the mail, but the check has not been cashed yet, so figures do bounce around. He appreciates the updates Council receives from the Auditor's Office.

Service-Safety Director Schmelzer clarified that the four million seven hundred thousand dollars (\$4,700,000.00) and the three million two hundred thousand dollars (\$3,200,000.00) have been set aside for cash management, which is a very wise policy, and is not extra money. Funds are left in reserve to deal with decisions like the Firefighter layoffs and capital improvements. Keep in mind; we still only have sixteen percent (16%) of our budget going to capital improvements. The perception is that the money is just sitting out there and that it is extra money.

Councilman Murray asked if there would be some type of emergency, would any of that money be used. If Findlay would experience some kind of disaster (i.e. similar to the recent Oklahoma tornado), funds would be needed. Service-Safety Director Schmelzer agreed that funds would be needed and that is what these reserves are for. The additional money we have left that is unappropriated general fund that is not part of a reserve; going in 2014 is money that may need to be utilized. If we do not need it for operations, there is a definite need for capital. Auditor Staschiak added that this Council experienced that in 2009 and 2010 when there was an excess of six million to seven million dollars (\$6,000,000.00-\$7,000,000.00) in cash balance that is unappropriated and available Council for use. In a short time, the City spent millions of dollars down to two million dollars (\$2,000,000.00) of its unappropriated balance. It is a good thing the City had those reserves, doing reserves management, having polices that are in place are not only fiscally prudent, but have been vital in the very recent past. Service-Safety Director Schmelzer added that he was not privy to where that money went, but that he guesses it did not go to capital improvements.

New Business:

Councilman Ward made a motion to excuse the absence of Councilmen Collette and Schedel. Seconded by Councilman VanDyne. All were in favor.

Councilman Murray: **PLANNING & ZONING COMMITTEE** meeting on May 28, 2013 at 4:30pm, Council Office, first floor of the Municipal Building (CO).

agenda: 1. CRAs proposal from HRPC

Auditor Staschiak noted that on April 30, 2013, the Ethics Commission provided training for City Administrators, Supervisors, and Councilmembers. During that meeting, the issue of City employees working in functions associated with their normal job duties as being prohibited was discussed at length. Currently, the City is dealing with in the Recreation Department and the tournaments, the question of independent contractors or documents to protect the City, the question that presents itself is how does the City Auditor's Office or how does the general public know if a City employee that is collecting money that works in that department is working for the City or someone else? For other departments, for example, our Income Tax Administrator cannot prepare city income taxes on the side for extra money. It would be a conflict for him and his duties. Another example would be an employee in the Street Department cannot take a backhoe home and excavate and then bring it back the next day after making some money. He suggested either a COMMITTEE OF THE WHOLE meeting or an AD HOC COMMITTEE meeting, to discuss the possibility Council adopting a formal policy preventing any such activity in the future so that there is no ambiguity for the City or the public.

Councilwoman Spence asked if someone in the Law Office would not be able to practice law outside of working for the City. She asked this because this has not been an issue previously. Auditor Staschiak replied he does not know the answer. He then asked Council if they would be willing to review a possible policy so that it is absolutely clear what is and what is not allowed to department specifics, we would all benefit in the long run.

Councilman VanDyne asked if these situations could be handled administratively. Auditor Staschiak replied that there are different opinions administratively on this issue, so he feels it would be best if Council weighed in on them. Councilman VanDyne added that he feels some of these types of issues are more of an administrative function than they are a Council function. Mayor Mihalik replied that there is not a misunderstanding in that it was incorrectly reported in The Courier in regards to City employees utilizing City facilities. She does not feel there is any misunderstanding on this issue at all. It was a misunderstanding in how it is communicated. Service-Safety Director Schmelzer does not object to a policy as it would clear up a lot of confusion. He summarized the situation with the Recreation Department that has received a lot of publicity. This individual was requested that he do that and did it for a number of years prior to 2012. In 2012 when we found out there was some ambiguities and some issues with how the cash was being transferred. It was this administration that said to the OHSAA and the employee that we will no longer handle tournaments that way. It would clear up a lot of confusion if we said this is an example of what you do not want to do. We do not accept this practice and we are able to give that information to a current employees and potentially new employees that could save us a lot of heartburn. This has been nothing but a very time consuming headache. The way the tournaments were run in the past was the most appropriate way to do it. Councilman VanDyne asked the Service-Safety Director if he too would like to see Council's involvement in the making of a policy. Service-Safety Director Schmelzer replied that he does not have an issue with anything that would provide clarity to this issue.

Councilman Murray asked if Auditor Staschiak is recommending the Ohio Ethics Commission give a seminar to Council or if it will be given internally Auditor Staschiak replied that the Ohio Ethics Commission provided training on April 30, 2013. He is unsure when the next one will be. He has sample policies that have been passed by other communities. There are the ethics rules as well that can be incorporated into those policies. He is looking for some guidance from Council on where they would approve a set of policies to create clarity and allow for no ambiguity between the Administration.

Councilman Ward suggested that if anyone in the Administration has sample policies that they circulate them to Councilmembers so that Council can review them, and then Council as a consensus can decide at that time if an Ad Hoc committee needs to be formed to help the Administration put together a policy for Findlay if needed. He would like to see a policy before he makes a decision.

Mayor Mihalik reiterated again that neither the City Administration, the Auditor of State's Office, or the County Prosecutor's Office found anything that was illegal. There may be some issues with the process, so we are working to remediate. Nothing inappropriate was done during this exercise.

Councilman Ward agreed with the Mayor that nothing illegal was done. Mayor Mihalik replied that she is not sure that everyone understands that. Councilman Ward replied that it has been in the news and other sources that nothing was found. He agrees that it was the appearance that we have to be careful with. Creating a policy would take care of that. He does not have a problem with checking to see if a policy is needed. Mayor Mihalik replied that she too does not have a problem with that either. She just wants everyone to understand that in this particular incident, there was no wrong doing. It was investigated by several different independent offices to come to that conclusion.

Auditor Staschiak will circulate sample policies.

President J Slough adjourned Council at 8:03pm.


CLERK OF COUNCIL


PRESIDENT OF COUNCIL