

# FINDLAY CITY COUNCIL MINUTES

**REGULAR SESSION**

**DECEMBER 2, 2014**

**COUNCIL CHAMBERS**

**PRESENT:** Frische, Harrington, Klein, Monday, Nichols, Niemeyer, Russel, Shindledecker, Spence, VanDyne

**ABSENT:** none

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

## **MINUTES:**

- Councilman Nichols moved to accept the November 18, 2014 public hearing minutes for the rezoning of 325 Emma Street as written. Councilman Klein seconded the motion. All were in favor. Motion carried
- Councilman Harrington moved to accept the November 18, 2014 public hearing minutes for the rezoning of 2440 Bright Road as written. Councilman Shindledecker seconded the motion. All were in favor. Motion carried
- Councilman Harrington moved to accept the November 18, 2014 Regular Session City Council meeting minutes as written. Councilman Russel seconded the motion. All were in favor. Motion carried. Filed.

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

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

### **ADD-ONS:**

- Resolution No. 043-2014 = Larry Pocock retirement resolution (**LEGISLATION** section).

**PROCLAMATIONS:** – none.

## **RECOGNITION/RETIREMENT RESOLUTIONS:**

### **RESOLUTION NO. 043-2014**

**first reading**

**adopted**

**A RESOLUTION COMMENDING COMMENDIGN LARRY POCOCK FOR THE EXCELLENCE OF HIS SERVICES TO THE CITY OF FINDLAY, OHIO.**

Councilman Harrington moved to adopt the Resolution, seconded by Councilman Klein. Ayes: Frische, Harrington, Klein, Monday, Nichols, Niemeyer, Russel, Shindledecker, Spence, VanDyne. The Resolution was declared adopted and is recorded in Resolution Volume XXXII, and is hereby made a part of the record.

### **Discussion:**

Councilman Nichols appreciates the work Mr. Pocock and other City workers have done on the outside waterlines in all kinds of weather and at all hours of the day and night.

**WRITTEN COMMUNICATIONS:** – none.

## **ORAL COMMUNICATIONS:**

### **Peggy Grandbois/Craig VanRenterghem –Arts Partnership**

Ms. Grandbois, Executive Director of the Arts Partnership, thanked the City of Findlay for their support over the past years and informed Council on how the funds have helped them to impact the community during the current fiscal year. She recognized the Arts Partnership Education Director Craig VanRenterghem, Event Director Sarah Foltz, and Marketing and Box Office Director Zachary Huber. The focus of their activities is their art education programming.

Education Director Craig VanRenterghem shared some of those highlights. Since the beginning of their fiscal year (July 1), their education program has directly impacted over six thousand two hundred eighty (6,280) students and adults in the community. Sixty-four (64) students in grades 1-12 participated in their youth theatre summer performing art camp this past July with over four hundred fifty (450) attending the two (2) performances. Twenty-five (25) students in grades 5-12 participated in their first outdoor summer arts camp called "Into The Woods". The camp was held at Camp Glen in July in conjunction with Camp Fire. Seventy-five (75) individuals attended the showcase performance. In September, two hundred forty-seven (247) students from area schools and home schools attended presentations by the Neos Dance Company where they were able to see a demonstration of dancing, as well as learn what it is like to make a living in the arts. In October, one thousand five hundred ten (1,510) students attended presentations by the Toledo Sympathy Orchestra, percussion, brass, woodwind and string groups at eight (8) area schools. Also in October, one thousand (1,000) elementary students and teachers attended a school day performance of Skippyjon Jones, and sixty (60) middle and high school students from nineteen (19) area schools and home schools were involved in their onstage cast and crew for their October youth theatre performance of Shrek the musical. One thousand one hundred fifty-four (1,154) individuals attended the three (3) performances. In November, thirty-five (35) educators attended the professional development workshop by world-renowned children's book illustrator Jeanette and Christopher Canyon to learn how to intergrade arts into the curriculum. In addition, the Canyons presented information about their art and music to one thousand six hundred (1,600) students in four (4) area elementary schools.

Ms. Grandbois added that in addition to their education programs since July 1, nearly three thousand (3,000) student guests joined them for their annual Rib-Off On Broadway on August 2<sup>nd</sup> which is a fundraiser for their educational programming. As with all of their summer fundraising events, they appreciate the help and support they received from the City of Findlay for law enforcement and logistics for that event. The Ohio State University Alumni Band, including some of our local alumni band members, gave a lively, friendly-family performance of all OSU favorites in September. The Art Walk in downtown Findlay on November 7<sup>th</sup> included participation by over thirty (30) businesses and seventy-five (75) visual artists and musicians. Over one thousand (1,000) individuals were in downtown Findlay for that event. Four (400) individuals enjoyed two (2) sold out performances of dueling pianos in November. The events provided a great opportunity for community members to enjoy evening and music with friends in Findlay. All these opportunities help to further the mission of the Arts Partnership to provide, encourage and promote quality arts presentations, educational opportunities and entertainment in Findlay and Hancock County. In addition to enjoying a performance or event, attendees spend time in this community having lunch or dinner, making purchases and buying gas and snacks. She thanked Council for their contribution that helps them to provide events to nearly thirty thousand (30,000) youth and adults in this community each year, including ten thousand (10,000) students and adults positively affected by their education programming. She handed out a DVD to each Councilmember to help demonstrate the effectiveness of their education programming that feature students, parents and teachers who describe in their own words, how their lives have been impacted by their education programming. She encouraged anyone who has questions to contact her.

**Discussion:**

Councilman Nichols asked when the new auditorium opens if it will be available for some of the Arts Partnership presentations or programs. Ms. Grandbois replied that they will work together.

Councilman VanDyne noted that being a former Council representative for the Arts Partnership, he knows that it is a fantastic organization that does wonderful things. The numbers they gave tonight only tell a part of the story and do not give the effectiveness and positiveness that comes from their programs.

**Sherri Hauschultz/William Hohenbrink – driveway for 1112 6<sup>th</sup> Street**

Ms. Hauschultz, on behalf of her daughter and granddaughter, asked Council not to approve the Traffic Commission minutes on tonight's agenda, but instead grant a variance for a dual driveway at their residence on 6<sup>th</sup> Street. The house was torn down to make it handicap accessible because it could not be remodeled to accommodate her seven (7) year old granddaughter's needs who is unable to walk or talk. Riley has a genetic disorder called CDKL5 which is a mutation in the chromosomes. There are a lot of things Riley can do. She attends horse therapy and swims every day through her school. It takes a lot of equipment, extra planning and accessibility in order for her to do those things. Other handicap individuals come and visit her granddaughter, so in order to accommodate them, they would like a u-shape driveway. The City does not currently have a regulation/ordinance that governs it, but are discussing it with the Hancock County Planning Commission to adjust it to make it fit the City. While they understand the need for rules, they would like a variance that would improve her granddaughter's life greatly.

**Discussion:**

Councilwoman Spence asked if the Traffic Commission provided another option and asked why a variance is not in the best interest of the City. Service-Safety Director Schmelzer replied that in instances where an individual wants a dual curb cut for a single piece of property, they apply to the Engineering Department where the City Engineer makes a ruling on whether or not that individual will be able to do so. A couple of these incidences have come up where the general policy does not cover them. There is no written policy on what is used to judge whether or not to accept these requests. The policy has always been to deny them regardless of the situation or location. It was only granted if there were multiple pieces of property owned by the same person. If someone came into a subdivision and bought two (2) lots, each lot would have a curb cut associated to it, so they could put a u-shaped drive in. When this request originally came to the Traffic Commission, it was discussed that there was little or no standard to apply to these cases, so the Traffic Commission requested that the Engineering Department work towards developing a standard whereby someone could come in and get the information, make a determination as to whether or not they could do it, give the Engineer a basis for acceptance or denial, and if it was denied, then take it to the Traffic Commission so that it wasn't simply one person's opinion. The Hancock County regulations were gone over at the Traffic Commission. He used those as a basis, but changed some of the guidelines to make it a little more applicable to a city so that it would not be as far between curb cuts. That standard applies to residential subdivisions in the County, many of which directly abuts the City. It does address small lots and the type of access that is being requested whether it is very little volume or not. In this case, it is very little volume. Also the amount of volume on the road the driveway is accessing is taken into consideration. A cul-de-sac on a subdivision does not warrant as much concern with dual access as a busy street would (i.e. Tiffin Avenue). Average Daily Traffic (ADT) on a route and ways the volume of traffic coming from the access point sets a standard for denial or acceptance of an additional curb cut. In this case, when the standard is applied to this situation, which is a single-family residence on 6<sup>th</sup> Street, it does not meet the standard for accepting a u-shaped drive. Even though all the numbers on the policy have not been worked through and based on past practice and additional information, the request at the time was denied. He informed Mr. Hohenbrink that recourse to the Traffic Commission report would be to discuss the situation with Council.

Councilman Harrington asked if Council is acting like a Board of Appeals. Service-Safety Director Schmelzer replied that Council only needs to accept or deny the committee report. Councilman Harrington then asked if Council does not accept the report, what would be the requestor's next step. Law Director Rasmussen replied that there is a Board of Council, along with the Administration that deal with these requests and give recommendations to Council. It would take a ¾ majority vote to overturn the action of the Commission. In this case, which is different than most cases that have overturned an action, no action was taken. In the past, the Commissioners have authorized a traffic signal or a stop sign that Council has not wanted. In this case, no action was taken. The committee report is just the meeting minutes that will be filed. If someone has an objection to the action, they can move to discuss and debate that issue. It is difficult to do so tonight on this issue, but it can be done. Councilman Harrington then asked if the approval of the minutes could be tabled for further discussion so that they could review some drawings and hear some of the concerns that the Administration has and give the requestor a chance to plead their case in more detail. Law Director Rasmussen replied that can be done, but Council is not approving the minutes, but whether or not Council wants to take up the decision of the Commission on the action.

Service-Safety Director asked if Council has enough information based on the minutes to make a determination on it. He suggested Councilmembers attend the next Traffic Commission meeting to discuss this, take a look at the same exhibits that were supplied. He will provide Council with the draft for access management and will put a few of the specifics together as to why this would not meet the standard.

Councilman Nichols asked if this request could be done as a circular thoroughfare with one curb cut. Service-Safety Director Schmelzer replied it could be done but he is not sure how aesthetic it would be. It is a property that is one hundred feet (100') wide. By the time a driveway is put in and made wide enough to have a vehicle parked and have a bypass vehicle, the front yard would be covered with pavement if a circular drive is done. He suggested they come off the driveway and make a "T". There are some residences on 6<sup>th</sup> Street whose right-of-ways have a drive with twenty to twenty-two feet (20-22') of pavement perpendicular to their driveway so that they can pull in sideways and turnaround and pull out. Most have done this because of the amount of traffic volume on 6<sup>th</sup> Street so that it is easier for them to pull out forward than backward. He provided this as an alternative to the requestor. Ms. Hauschulter noted that there are several u-shaped driveways on 6<sup>th</sup> Street already. Councilman Klein asked how the six (6) houses on 6<sup>th</sup> Street have double access. Service-Safety Director Schmelzer replied he is unsure as those were done before he was on Traffic Commission. It is his understanding that they were never officially permitted in the past. So, it is now a question of whether or not to continue that past practice simply because it exists or apply a standard. If everyone on 6<sup>th</sup> Street would do exactly what the other six (6) houses have done, it would be a mess. He does not feel that would be a good solution.

Councilman Monday asked if all City Councilmembers should attend the next Traffic Commission meeting to discuss this issue. Service-Safety Director Schmelzer replied all Councilmembers are welcome to attend. He can add it to the agenda if Council desires. Councilman Monday made a motion to refer this issue back to the Traffic Commission to be discussed at the next regularly scheduled meeting. Councilman Klein seconded the motion.

Councilman Harrington asked if an exception could be made similar to spot zoning, or does it need to be all or none. Service-Safety Director Schmelzer replied that each case has to be looked at individually to decide whether or not there is something different about it. He was concerned with granting access based on the standard, that it would set some kind of precedent.

William Hohenbrink noted that he asked for a variance for this one property and is not trying to change policy. They want to go through the proper channels to ask for a variance and does not want to open a can of worms. If someone else has a special need, they too would have to come back to Council and ask for a variance.

Councilwoman Spence noted that when Council makes decisions, they have to look what is done in each situation and have to consider what is best for the entire community. She works with special needs children, so she understands how this might make it easier to accommodate this child's needs. She agrees that talking about it more and also going back to the Traffic Commission would be the right thing to do. All were in favor to this being referred back to the Traffic Commission. Council President asked Service-Safety Director Schmelzer to notify Councilmembers when the next Traffic Commission is.

#### **Brian Dill – change Block Watch program to Community Watch program**

Mr. Dill, Crime Prevention Office for the Findlay Police Department came before Council to discuss the Block Watch program that has been going on for the past twenty plus (20+) years. Many in the community have not heard about this program. There are close to thirty (30) neighborhoods that are registered with the Block Watch program. When he first came into Crime Prevention, he did not have a lot of experience with it, so he went to some training and talked to some folks and realized that it is a great asset. When the City took some budget cuts and lost some Officers, citizens stepped up and became the eyes and ears of the Police Department. They notified them of things that were going on so that they could address them and be more proactive. It has worked very well in Hunters Creek and other neighborhoods. There have been some gang and drug activity in some neighborhoods that members of the Block Watch program have been aware of and have notified the Police Department. The problem with the program is that once the crime is done and once the area is cleaned up and things have calmed down in the area, it becomes out of sight and out of mind. There are not many who want to attend meetings or want to talk or do much because they do not see the need. One of the initiatives that they have come up with is to have a community watch to involve not just certain neighborhoods, but involve the entire community. Once their issues are resolved in their neighborhood, they no longer wanted to talk to the Block Watch program. The Community Watch program will begin the beginning of next year with a meeting on January 15, 2015 at 7:00pm. The idea is to make the meetings mobile so that they can take place in different voting wards to try to pull more people in so it will not be just specific neighborhoods. It will give them the opportunity to get information out about what is going on and how citizens can take some action to keep neighborhoods safe. Community Watch programs allow citizens to know exactly what is going on in their specific neighborhood, but should not take the place of individual Block Watch meetings. A Community Watch program is to get more individuals on board and to let them know there is such a program and are willing to move forward and get more information out to more people and get them involved.

#### **Discussion:**

Councilman Shindledecker asked if the Block Watch program is a nation-wide program and if Findlay is affiliated with a national organization. Mr. Dill replied it is a local program. Councilman Shindledecker pointed out that the program does receive some publicity when it is broadcasted on other city television stations which gives it some name recognition. He asked if it would be a similar relationship if it became a Community Watch. Mr. Dill replied no, but it would still be the same concept. Block Watch will still be mentioned because that is what it has always been called. Councilman Shindledecker then asked if there are any concerns with the loss of national recognition. Mr. Dill replied he does not have any concerns because the goal is not to replace the Block Watch program. The Community Watch program is to supplement it to bring more people in who might not have had a Neighborhood Block Watch program and could take it back to their neighborhood to spark some interest for their own group.

Councilwoman Frische noted that the block watch signs will still be utilized and will still be promoted. This is just another step to build awareness and bring people in, stay involved and keep the smaller block watches active. It would pull in Crime stoppers and Block Watch.

Councilman Russel congratulated Mr. Dill on his recent promotion to Sergeant in the Findlay Police Department. He asked if the new Community Officer has been named. Mr. Dill replied he/she has not been named.

Councilman Klein attended some of the block watch recruitment meetings where Officer Dill and Chief Horne did a fantastic job of communicating with the citizens. He has received excellent feedback. Officer Dill has done a great job so far.

Councilwoman Spence noted that with Officer Dill's promotion to Sergeant means he will be leaving the Block Watch program.

Mayor Mihalik added that Sergeant is probably the most visible individual from the Police Department and has done an outstanding job, not just within this community, but also in the school system. Community Watch is definitely a great idea and needs to continue to build momentum in order to maintain it. People are interested when things are happening in their neighborhood, but not as much when things start to calm down. This could be a supplement to the Special Assignment Unit that will be starting back up the beginning of the year.

**PETITIONS:** - none.

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

Findlay City Board of Health minutes – October 15, 2014. Filed.

Findlay Fire Department Activities Report – October 2014. Filed.

Board of Zoning Appeals Minutes – October 16, 2014. Filed.

Parks and Recreation Board minutes – November 17, 2014. Filed.

Traffic Commission minutes – November 17, 2014. Filed.

City Planning Commission agenda – December 11, 2014; minutes – November 13, 2014. Filed.

Treasurer's Reconciliation Report – October 31, 2014. Filed.

**Service-Safety Director Paul Schmelzer – vehicle insurance payment**

The City has received payment for the repair of a vehicle and towing cost from an accident from the other party's insurance company in the amount of eighteen thousand six hundred sixty-nine dollars and fifty-three cents (\$18,669.53) that has been deposited into the Water Fund. Legislation to appropriate funds is requested. Ordinance No. 2014-098 was created.

FROM: Water Fund (insurance proceeds)	\$ 18,669.53
TO: Water Distribution Department #25053000-other	\$ 18,669.53

Filed.

**Service-Safety Director Paul Schmelzer – Marathon Petroleum CRA Development Agreement**

The past year has brought the City many exciting opportunities. One of which was the approval of the ODOT Transportation Alternative Plan (TAP) for our downtown. During the discussion regarding funding for the project, the Service-Safety Director stressed the fact that it could be done without significantly impacting our other plans for capital improvement throughout the City.

The main source for the funds to match the City's share of the two million four hundred thousand dollar (\$2,400,000.00) commitment from ODOT will be made available through a development agreement between the City and Marathon Petroleum Corporation (MPC). MPC committed early to the project, believing that it would increase the impact of its investment in their campus and new headquarters for MPLX, LP.

MPC not only committed to the Transportation Alternative Plan, but has allowed for the flexibility to look at other transportation projects that will increase the ability to move traffic and pedestrians safely and effectively. The development agreement outlines the framework whereby MPC will give back up to five million dollars (\$5,000,000.00) of the abatement created under the recently passed CRA legislation.

Authorization to enter into a development agreement is requested. Ordinance No. 2014-097 was created. Filed.

**Service-Safety Director Paul Schmelzer – Health Department Combination**

The committee work dedicated to the creation of one Hancock County Public Health Department has been very productive. The members, facilitated by the Hospital council of Northwest Ohio have developed a path forward. The Service-Safety Director requests an opportunity to discuss the plan, along with a proposed schedule at a Committee of the Whole meeting preferably sometime before the end of the year. The County District Advisory Council is also planning to meet on this topic. Thank you to the members of the committee and the employees of both City and County Health Departments for coming together to work on this issue. There is still a lot of work to do, but the framework that has been developed allows for a transition that will position to achieve their mission to prevent disease, promote healthy lifestyles, and protect the environment for the residents of Hancock County. Filed.

**Service-Safety Director Paul Schmelzer – road salt purchase**

It was mentioned earlier this year that there may be a request for an appropriation of funds to purchase salt for the coming winter. Availability of supply through ODOT has been monitored, but with the shortage that occurred last winter, preparations to receive salt as soon as ODOT makes it available. Because ODOT had to make different arrangements this year due to low supply, they originally stated that municipalities would have to pick up the salt from an ODOT location, but it now sounds like they may deliver to our location if we are positioned to accept it. Legislation to transfer funds into the Street Construction Maintenance and Repair (SCM&R) Fund for a portion of what is needed to get through the winter is requested. Ordinance No. 2014-100 was created.

FROM: General Fund	\$ 199,000.00
TO: SCM&R Fund	\$199,000.00
FROM: SCM&R Fund	\$ 199,000.00
TO: SCM&R #22040000-other	\$ 199,000.00

**Discussion:**

Councilman Russel asked if the collaboration with the County would be continue past this current year and asked what the feedback from the County Commissioner has been. Service-Safety Director Schmelzer replied feedback was very positive. It is something that can be worked on in future years. Due to the price this year, the County will use a lot more rocks on the road as a cost-savings measure, but the City does not have that ability to do because of the impact from it on the roads and stormsewers and the issues it causes. While they have a little bit of flexibility on how to handle it, the City does not. If the City can have a place to put road salt when there is an order of three thousand five hundred to four thousand (3,500-4,000) ton but only have the capacity to store a third of that, it creates a storage issue for the City. If the City can work with what they have of two thousand to two thousand five hundred (2,000-2,500) ton storage space and the County allow two thousand five hundred to three thousand (2,500-3,000) ton, then both the City and County could work within that facility. The preliminary indicators on both combined use and combined bid is to try to take better advantage of our own pricing because neither the City nor the County knows what the price is going to come back at with the ODOT bid. We have to tell them how much we want and then are committee to whatever the price comes back at. If the City and County could collaborate and take a larger quantity from some of the larger salt suppliers, we might be able to get a similar price, or a few dollars per ton higher, but still know what it is before we commit to it. The County Engineer and the County Commissioner that he has spoken with are in favor of exploring those opportunities.

Councilwoman Spence asked if regardless if the City would use the County's salt barn, if the City would be able to look at going together with the County to bid for the purchase of salt. Service-Safety Director Schmelzer replied the City could, but if the City is going to bid by themselves, they will need to bid a large quantity and then be prepared to take delivery. Currently, the City does not have the storage capacity to store all that is used. The barn can hold fifteen to eighteen hundred (1,500-1,800) ton, but when four thousand (4,000) tons a winter is used, there needs to be a supply that will keep the City going. The sale has to be use, bought, used, and bought. If the City cannot come to some sort of agreement with the County, then some other sort of increased storage capacity will be needed so that for a winter like last winter, the City could handle the storage of capacity to try to purchase it at a lower price with a combined bid from the County. If not, then the City can always take advantage of the winter bid with ODOT like what has been traditionally done. Filed.

**COMMITTEE REPORTS:** - none.

**LEGISLATION:**

**RESOLUTIONS:**

**RESOLUTION NO. 041-2014** **first reading** **adopted**  
A RESOLUTION COMMENDING ROBERT LYNN RITCHIE FOR THE EXCELLENCE OF HIS SERVICES TO THE CITY OF FINDLAY, OHIO.

Councilman Harrington moved to adopt the Resolution, seconded by Councilwoman Spence. Ayes: Harrington, Klein, Monday, Nichols, Niemeyer, Russel, Shindldecker, Spence, VanDyne, Frische. The Resolution was declared adopted and is recorded in Resolution Volume XXXII, and is hereby made a part of the record.

**RESOLUTION NO. 042-2014** *(Health Board – transfer emergency quarantine authority)* **first reading** **adopted**  
A RESOLUTION APPROVING THE POLICY ESTABLISHED BY THE FINDLAY CITY HEALTH DEPARTMENT TO TRANSFER EMERGENCY QUARANTINE AUTHORITY FROM THE FINDLAY CITY BOARD OF HEALTH TO THE HEALTH COMMISSIONER, UNTIL SUCH TIME THAT THE BOARD CAN CONVENE, ALL IN ACCORDANCE WITH OHIO REVISED CODE 3707.04 – 3707.34, SPECIFICALLY 3707.34(B), AND DECLARING AN EMERGENCY.

Councilman Harrington moved to suspend the statutory rules and give the Resolution its second and third readings. Councilman VanDyne seconded the motion. Ayes: Klein, Monday, Nichols, Russel, Shindldecker, Spence, VanDyne, Frische, Harrington. Abstain: Niemeyer. The Resolution was given its second and third readings. Councilman Harrington moved to adopt the Resolution, seconded by Councilman VanDyne.

**Discussion:**

Councilwoman Frische asked if this is part of what needs to be discussed with the Health Department before the end of the year or if it needs to be discussed sooner. Service-Safety Director Schmelzer replied this is totally different. This is about quarantine and the other topic is about the combination of the two (2) departments.

Councilman Russel asked how this came about. Mayor Mihalik replied that there is a certain responsibility that the Board of Health has when enforcing public health. This resolution gives the ability to quarantine. Ebola has come up in recent discussions. This resolution will cover almost any contagious disease that someone would have to be quarantined for. Board of Health policies do not require City Council affirmation, but in this particular case, Council has a fiduciary responsibility to take care of any incidentals that would be required to pay for an individual if they were quarantined. Council would be responsible to provide meals, a place to stay, etc. which is why the Board of Health has given this to Council to approve. It is a policy change. There are a few lines in the policy that gives the authority to the Health Commissioner. Law Director Rasmussen added that the state statute also requires that the policy is not affective unless adopted by Council by resolution. Since it is required to be done by resolution which is why it needed the three (3) readings. Mayor Mihalik added that the only responsibility Council has is financial. Councilman Russel then asked if the process would be the Health Director would indicate if a citizen of the City would need to be quarantined and would make that decision until such time it could be brought to City Council to consider. Law Director Rasmussen replied until the Board of Health can convene. It is a temporary emergency issue until that board convenes, considers the facts and makes a decision. Mayor Mihalik added that Council does not make that decision. It is a Board of Health decision. Councilman Russel then asked if Council is financially responsible for the incidentals. Mayor Mihalik replied that the bills will come to Council.

Councilwoman Frische asked if this is for individual quarantines and what amount of funds would need to be appropriated for a large breakout. Mayor Mihalik replied that there are plans in place if and when a pandemic situation arises. It is unknown what the costs would be. Councilwoman Frische asked if any funds will be appropriated at this time. Mayor Mihalik replied that this resolution is just a policy that covers the quarantine. It is for Council to acknowledge it could happen and that if it did, Council would have a financial responsibility to it.

Councilman Shindledecker asked if there is already a quarantine policy already in affect and has to be renewed every year. He asked why Council is seeing this. Service-Safety Director Schmelzer replied he is required to bring this to Council's attention so that Council is aware they have a fiduciary responsibility in the event that this occurs regardless of its size. Councilman Shindledecker then asked if this is just an informational resolution. Service-Safety Director Schmelzer replied that it is to address a policy that is already in place and continues to function the same as it has in the past. When he asked that question to the Health Department, he was told they are making everyone take it to their City Council for approval so that everyone is aware that if something does happen regardless of the size, they will have a fiduciary responsibility.

Councilman Harrington noted that there is no reason to argue about the amount of money spent or the people involved. Council's fiduciary responsibility would be if and when something like this would happen, Council will do what is necessary and pay the bill to get it handled, so this resolution should be passed.

Ayes: Monday, Nichols, Russel, Shindledecker, Spence, VanDyne, Frische, Harrington, Klein. Abstain: Niemeyer. The Resolution was declared adopted and is recorded in Resolution Volume XXXII, and is hereby made a part of the record.

**RESOLUTION NO. 043-2014** (*Lary Pocock retirement*)  
See page 1 above.

## **ORDINANCES**

**ORDINANCE NO. 2014-095** (*McLane project*)  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

**second reading**

**adopted during  
Old Business**

**ORDINANCE NO. 2014-096** (*EMA contract renewal*) **second reading**  
AN ORDINANCE AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC SERVICE-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.

Second reading of the Ordinance.

**ORDINANCE NO. 2014-097** (*Marathon Petroleum Company – development agreement*) **first reading** **adopted**  
AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF FINDLAY, OHIO TO ENTER INTO A DEVELOPMENT AGREEMENT WITH MARATHON PETROLEUM COMPANY (HEREINAFTER REFERRED TO AS MPC) TO FORMALIZE THE FINANCIAL CONTRIBUTION BY MPC TOWARD THE PUBLIC IMPROVEMENTS AT, AROUND, AND IN SUPPORT OF THE MARATHON CAMPUS EXPANSION PROJECT, AND DECLARING AN EMERGENCY.

Councilman Harrington moved to suspend the statutory rules and give the Ordinance its second and third readings. Councilman Shindledecker seconded the motion. Ayes: Nichols, Niemeyer, Shindledecker, Spence, VanDyne, Frische, Harrington, Klein, Monday. Abstain: Russel. The Ordinance received its second and third readings. Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Klein.

### **Discussion:**

Councilman Russel noted that due to his employment with Marathon Petroleum Company, he is abstaining.

Ayes: Niemeyer, Shindledecker, Spence, VanDyne, Frische, Harrington, Klein, Monday, Nichols. Abstain: Russel. Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2014-097 and is hereby made a part of the record.

**ORDINANCE NO. 2014-098** (*vehicle insurance payment*) **first reading** **adopted**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

**first reading**

**adopted**

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings. Councilman VanDyne seconded the motion. Ayes: Russel, Shindledecker, Spence, VanDyne, Frische, Harrington, Klein, Monday, Nichols, Niemeyer. The Ordinance received its second and third readings. Councilman Russel moved to adopt the Ordinance, seconded by Councilman Harrington. Ayes: Shindledecker, Spence, VanDyne, Frische, Harrington, Klein, Monday, Nichols, Niemeyer, Russel. Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2014-098 and is hereby made a part of the record.

**ORDINANCE NO. 2014-099** (*HRPC provide CDBG program*) **first reading**  
AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF FINDLAY, OHIO, TO ENTER INTO AN AGREEMENT WITH THE HANCOCK REGIONAL PLANNING COMMISSION (HEREINAFTER REFERRED TO AS HRPC) FOR THE FACILITATION AND PREPARATION OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM, AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

## 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 Russel seconded the motion. Ayes: Spence, VanDyne, Frische, Harrington, Klein, Monday, Nichols, Niemeyer, Russel, Shindledecker. The Ordinance received its second and third readings. Councilwoman Spence moved to adopt the Ordinance, seconded by Councilman Klein. Ayes: VanDyne, Frische, Harrington, Klein, Monday, Nichols, Niemeyer, Russel, Shindledecker, Spence. Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2014-100 and is hereby made a part of the record.

**UNFINISHED BUSINESS****OLD BUSINESS:**

Councilman Russel made a motion to reconsider Ordinance No. 2014-095. Councilman VanDyne seconded the motion. Councilman Russel moved to suspend the statutory rules and give the ordinance its third reading. Councilman VanDyne seconded the motion. Ayes: Frische, Harrington, Klein, Monday, Nichols, Niemeyer, Russel, Shindledecker, Spence, VanDyne. The ordinance received its third reading. Councilman Russel moved to adopt the resolution, seconded by Councilman Klein. Ayes: Harrington, Klein, Monday, Nichols, Niemeyer, Russel, Shindledecker, Spence, VanDyne, Frische. Ordinance was declared adopted and is recorded in Ordinance Volume VV, Page 2014-095 and is hereby made a part of the record.

Councilman Monday noted that there has been some questions about Fire Chief Lonyo being able to receive some severance pay that some City employee can receive. He can receive the severance if he takes a voluntary demotion to Fire Captain, serve one day and then retire. It would be perfectly legal for him to retire as a Fire Captain and receive severance pay as it is in the contract with the Fire Department union. In doing so, he would leave the City as a Fire Captain and not as a Fire Chief. He asked if there is any agreement that can be made to compensate Chief Lonyo and pay him the severance if he were demoted to Fire Captain so that it would be the same amount of money & no different money would change hands and he can leave the City with his head high as a Fire Chief, not a Fire Captain. He asked if an agreement can be reached short of going through the process of demoting him. Law Director Rasmussen replied that on pay issues, Council has the right to appropriate those funds. They have the right to reach an agreement along those lines. This issue with the Chief is brought to light in an area that isn't addressed in our ordinances, but the Service-Safety Director is working on that. There have been a couple of drafts on it for the future. There is no legislation for it. There is possibly an argument that the Chief is entitled to it anyway because he once was a member of the bargaining contract and that contract states when he retires, he is not immediately eligible, but would still be guaranteed it would be paid out. Going forward, this issue needs to be worked out so that promoting Chiefs in the future would be easier without the issue of the severance payout as it may not be attractive to many Battalion Chiefs and Captains. The other issue with Chief Lonyo would be for Council to discuss and have a Committee of the Whole meeting on or take it to the Appropriations Committee, but it is up to Council. Councilman Monday requested this be discussed at the next Appropriations Committee meeting and that either the City Auditor or the Service-Safety Director provide the Appropriations Committee the amount of severance money that Chief Lonyo would receive if he were to be demoted to Fire Captain. He asked that this information be given at the Appropriations Committee meeting to either be accepted or rejected at that meeting.

Councilman Monday: **APPROPRIATIONS COMMITTEE** meeting on December 9, 2014 at 4:00pm in the third floor conference room of the Municipal Building (CR1).

agenda: 1. Fire Chief severance payout

City Auditor replied he is not sure if he can provide this or not. This afternoon, he received some draft legislation outlining details the Administration is proposing and wanting to work with Council on. Several years ago, the City was sued on this issue by an employee that left on identical circumstances. The City did not pay those funds based on the decision of the Auditor at that time. That decision was supported in courts that the payment was not only inappropriate and should not have been made, but should not have been made in a past payment that the request was based on. That ruling went to an Appellate Court in which they ruled in favor of the City Auditor (Auditor Staschiak at that time) who has a fiduciary responsibility to protect finances and is personally responsible for the monies of the City. The research done on this issue during the limited time given was whether the City could pay at all under the prior contract because of the terms in that contract, and the Appellate Court has made it clear that nothing can be paid as a sick time payout to an employee that resigns and calls it a retirement. He does not see how it is possible to pay the Fire Chief severance sick time short of Council requesting specific legislation that says when an employee resigns they will be eligible to receive a specific payout. That decision is part of the Appellate Court ruling. It is irrelevant whether the Appellant informed the City that he was retiring as this does not change the nature of his/her leaving office. If Council wants to make a payout to the Fire Chief, it is not a clean cut issue. Law Director Rasmussen added that the issues that are being discussed are two (2) different issues. One being Fire Chief Lonyo and the other is the ordinance that was shown to the Auditor that is not before Council tonight. This is a retirement issue as the Fire Chief is retiring and not resigning. He may or may not be eligible for his benefits immediately, but does not mean it is not a retirement. It would be a retirement under the definition in the ordinance. The Fire Chief has the right to go back to Captain, be demoted and get the payout. Council has the right to make the appropriation for it and pay it.

Councilman Klein asked if anything has to be done by the end of this fiscal year. Service-Safety Director Schmelzer replied that not for an ordinance change in the payroll ordinance. Council would not be forced at any point to do anything. Councilman Klein asked how much time Council has to make a decision. Service-Safety Director Schmelzer replied until a new Chief would be deciding to accept the position based upon the benefit package offered which would be sometime in the first quarter.

Councilman Frische asked if the decision for Chief Lonyo would have to be made by January 4, 2015 since that is his last day. Without an ordinance in place, she asked how a retirement would be addressed if he is already gone and did not receive his severance payout. She asked if the Chief would be brought back and demoted. City Auditor Staschiak replied that it has been made clear to his office that it can be called whatever you want, but they cannot interpret it as a retirement because of the Appellant Court ruling that there has to be some ability to pay on it. It will have to be paid as a resignation. Councilwoman Frische added that since this is a sick time payout, he is not eligible for it because he has not met the age requirement. When Councilman Monday said that the only way he can receive his severance payout is if he becomes Captain, but the only way he is going to get it is if the Administration demotes him and makes that decision. She asked if that is what the Administration wants or if they want to prolong it because time is needed to help bring in another Captain which will enable more applicants if sick time payout is offered if they are not forty-eight (48) years of age when they retire. Service-Safety Director Schmelzer replied that it has to do with the promotion to Chief because it has to do with the benefit that is accrued while someone is veteran of the union and accrues a bunch of sick leave unless they abuse it. If someone comes to work every day and accrues a bunch of sick leave and takes a promotion, they

lose the ability to collect on it if they retire before they meet the age benefit. Councilwoman Frische hopes that when the City promotes up, it will be a long time career. Sometimes that changes and it is not by the age of forty-eight (48). Sometimes changes are made sooner that hopefully will benefit them. She asked if the Administration wants to do this for Fire Chief Lonyo. If so, does it have to be done by January 4, 2015 or can Council take their time and work on changing the ordinance. Service-Safety Director Schmelzer replied Fire Chief Lonyo has earned a benefit. While it is true that he is choosing to leave and take a different path, it is unfair that there is a gap in the ordinance on compensation. At that Battalion Chief level, it will be questionable whether it is fiscally responsible for them to take a promotion or not. It is up to Council what they want to do. It can go either way. He will support whatever Council decides to do in this matter and how to treat Fire Chief Lonyo's situation. It has been his pleasure to work with him. He has been a great Chief and a great long-standing employee. The message needs to be sent that the City supports leaders in this organization, but it is also equally important that rules are set up to attract leaders out of a union organization and come into a position where they have to deal more with the public and deal with all issues related to the budget, change their schedule, and lose overtime, comp time, and now potentially sick leave benefit.

Councilman Klein agrees with the Service-Safety Director but does not feel that it can be developed by the end of the year. It will take some time to look at it and come up with something that is fair for the individuals and employees of the City, and also fair for the taxpayers and citizens. Service-Safety Director Schmelzer replied that it is not his expectation to have it done by the end of the year. The ordinance that he is proposing is in no way shape or form designed to be custom made for Fire Chief Lonyo or a severance package for him. This will be a rule change that will be applied to anyone that is coming out of the bargaining unit in Police or Fire. City Auditor Staschiak added that in order to get through the audit process, it is a situation where the Auditor's Office hands are tied. There is a lot of history with this. This ordinance did not just appear. It was put in place because there was abuse of the ordinance. It was done for a reason. When Council decides whether or not to change the second portion, they need to look at the history on why those rules are there. There is a lot of documentation available.

Councilman Monday asked if the bargaining unit has approved this within their contract so that they do not have to draw benefits in order to receive their severance at a certain level of time (i.e. if Chief Lonyo would have had the same set of circumstances and was a Fire Captain, there would be no question that he could draw his severance). City Auditor Staschiak replied that it depends on what level of hours were accrued. Employees in the past had the ability to receive back their sick time prior to taking the promotions. The answer is more complex than timing would allow. Law Director Rasmussen added that the Fire Department allows an employee to retire without being immediately eligible to receive the benefits. The ordinance that the Fire Chief falls under requires that. The contract allows after ten (10) years of continuous service, sick leave is given upon retirement. Councilman Monday asked that if assuming Fire Chief Lonyo was never a Chief, but was a Captain and decided he was going to retire, based on the bargaining unit contract, would he be eligible to receive severance pay. Law Director Rasmussen replied he would. If they serve more than ten (10) years, they can retire without having to immediately receive benefits. Councilman Monday then asked if that would still be true if they are in a bargaining unit. Law Director Rasmussen replied that is correct. Councilman Monday asked if Council's choice is to make some kind of legislation that would give the Fire Chief the equal amount of money, or if the Fire Chief would have to take a voluntary demotion to Fire Captain and draw his/her severance with the money being exactly the same. All Councilman Monday wants to do is let Chief Lonyo leave as a Fire Chief, not a Fire Captain as it means nothing to Council as far as pay.

City Auditor Staschiak replied he is not sure that is true and would have to review it and prepare the numbers. Councilman Monday asked if the Auditor's Office would be in violation of the union contract. City Auditor Staschiak replied he would not be, but is unsure if it is the same amount, so he would need to do a review and do a calculation. Councilman Monday asked if those amounts, as if he were a Fire Captain, could be provided to Council. Law Director Rasmussen noted that the City's Human Resource Director already has those numbers prepared. Councilman Monday moved to discuss this matter with the amount of money a Fire Captain would get as a severance package upon retirement at the next Appropriations Committee meeting.

Councilwoman Spence agrees that this should be discussed further in the Appropriations Committee meeting and requested that the information be provided to Council during that meeting. City Auditor Staschiak noted that he wants to be sure the correct number is being calculated and asked if Council wants what is in the current contract that the Fire Union has in place or if they want the contract the Fire Chief worked under prior to leaving the union and accepting the Fire Chief position.

Councilman Harrington asked if the Fire Chief takes a demotion back to a Fire Captain if he has to do it voluntarily on his own accord, or is it something the Administration has to do on his behalf. Service-Safety Director Schmelzer replied he can make the request via payroll change notice that would require the Service-Safety Director's signature. He will not sign it without the full support of Council wanting to send him out. He agrees with Councilman Monday that if it is the intent to provide some type of severance package, that process is a complete waste of time. Councilman Harrington asked if the Fire Chief came to the Administration and said he was not going to do anything, does he have the right to demote himself back to Fire Captain and take the retirement benefits. Service-Safety Director Schmelzer replied that he cannot demote himself, but can request it.

Councilman Shindledecker noted that if Chief Lonyo chose to accept a position as Captain, there would be a vacancy there at this time, but it might not be the case in the future. This might create a domino effect down the line which is something to avoid at all cost. Service-Safety Director Schmelzer agreed with Councilman Shindledecker in that the circumstances may not be the same and there may not be an opening. He does not believe that is a prudent path going forward at all.

Councilwoman Frische asked if Council follows the demotion if it will not be in Council's hands, but would be in the Administration's hands. She asked if there has to be an opening in the Captain level and if the Administration has to approve it and if Council would have nothing to do with it. She asked if an ordinance is going to be changed for this if it will eliminate Chief Lonyo from getting any severance package if Council takes their time to change the ordinance to a different way. She asked if the Chief is demoted if it would be done by Council or the Administration. If by the Administration, then there would be nothing for Council to meet on during the Appropriations Committee meeting for this. Law Director Rasmussen replied that there are two (2) separate issues going on. It will not fall under the ordinance because the ordinance won't be adopted by then. We do not have the ordinance. It has been talked about for weeks to try to figure out why someone who has given twenty-five (25) years of service would not get sick leave, but a person who have ten (10) years services does. This came to light because of the situation that he is not immediately eligible to receive benefits that are required under the salary ordinance, but is not required under the fire contract. The Administration is trying to fix that going forward. This has nothing to do with the current Fire Chief. Fire Chief Lonyo could be demoted if approved by the Administration or this Council authorizing a payment. Councilwoman Frische would rather see the ordinance be addressed and make the change going forward permanently. She is not comfortable giving a demotion that Council approves. If the Administration wants to approve a demotion then that is their choice because Council would not be involved. In Chief Lonyo's situation, he is leaving the Chief position twenty-three (23) months early, so that is his choice not to receive the sick payout. He will still receive his retirement benefit in twenty-three (23) months, just will not get the sick time payout unless Council passes an ordinance by January 4, 2015. Law Director Rasmussen replied that the Administration is not asking Council to that, but wants to go through the entire process of having Council review it, giving it all of its readings and adopt it. It has nothing to do with what current Fire Chief Lonyo will or will not get. Councilwoman Frische is correct in that the demotion would be with the Administration. Council has the right to make an appropriation on the payment.



Councilman VanDyne simplified and summarized this discussion in saying that at the next Appropriations Committee meeting, Council can do whatever they want with Fire Chief Lonyo, and then work on the ordinance for the future for these two (2) separate issues. He would like to see the numbers that have been asked of the City Auditor, and Council will do what they want to do with Chief Lonyo next Tuesday during that Appropriations Committee meeting so it is out of the way before he retires on January 4, 2015, then however long it takes to work on the ordinance.

Councilman Harrington noted that while he is not on the Appropriations Committee, he feels it is important not to prolong finalizing the ordinance because during the time it will take to finalize the ordinance, the process to hire another Fire Chief will be going on. It is important to have that policy in place so that when the Chief position is offered to candidates, the compensation package is attractive enough that they will take it. Why would anyone go from a Battalion Chief to a Fire Chief if they would potentially lose their benefit. Councilman VanDyne agrees with Councilman Harrington that the ordinance is needed as soon as it is feasible.

Councilman Nichols thanked the Service-Safety Director for the emails he sends Council to explain different things that are proposed to do. He suggested all Councilmembers read them.

Council President Slough: **COMMITTEE OF THE WHOLE** meeting on December 18, 2014 at 5:30pm in the third floor conference room of the Municipal Building (CR1):

agenda: 1. Health Department combination

### **NEW BUSINESS:**

Councilman Harrington brought to Council's attention that there is a top ten Hancock County Most Wanted that has been on Facebook. It is done by the Crime stoppers. This has been done in the Toledo area where they have televised it. He encouraged everyone to look at it.

Councilman Russel: **PLANNING & ZONING COMMITTEE** meeting on December 11, 2014 at 2:50pm in the first floor Council Office of the Municipal Building (CO):

agenda: Lincoln Street vacation

City Auditor reminded Council that budget hearings begin at 3:00pm on December 11, 2014 in the third floor conference room of the Municipal Building (CR1). If anyone has any questions on the contents of the budget books to contact the Auditor's Office. Department Heads and Administrative staff have worked very hard to put together, for the first time, a full two (2) year budget which is a worthy accomplishment and hopes Council will see the advantage of it.

President J. Slough adjourned Council at 9:05pm.

  
CLERK OF COUNCIL

  
PRESIDENT OF COUNCIL