

## MARION CITY COUNCIL REGULAR MEETING

City Hall – Zoom Meeting on 5/10/2021 at 6:30 PM

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**ROLL CALL:** 10 members answered – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels, Mr. Schneider

With a quorum present via videoconferencing, Mr. Schneider called the meeting to order at 6:30 PM on Zoom. Pledge of Allegiance recited. Invocation given by Mrs. Swanger.

### **MINUTES – 04/12/2021 and 04/26/2021**

Mr. Thomas made a motion to approve; Mr. Neff 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**Minutes of 04/12/2021 and 04/26/2021 Approved**

### **OLD BUSINESS**

**Item 1. ORD 2021-33: ORDINANCE TO VACATE SOUTHERN 80' PORTION OF GILL AVE. AND VACATE 12' WIDE x 306.41' LONG EAST WEST ALLEY PURSUANT TO ORC 723.041 RETAINING PERMANENT EASEMENT RIGHTS (applicant, Nucor Steel Marion)**

- Third Reading
- (Streets and Sewers -- Mr. Thomas, chair -- 3-0 with contingencies)
- Staff Report
- Regional Planning -- additional comments
- Survey has been received

Bryan Kresack from NUCOR said that they have gone door to door and spoke with the neighbors and talked about future plans. They have provided a professional survey. The public hearing was held at the second reading.

Mr. Feliciano made a motion to approve; Mr. Meade 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**ORDINANCE 2021-33 APPROVED (9-0)**

### **NEW BUSINESS**

**Item 1. ORD 2021-38: ORDINANCE MAKING AN ADDITIONAL APPROPRIATION IN THE BELOW LISTED FUNDS TO COVER UNANTICIPATED EXPENSES ENDING DECEMBER 31, 2021.**

(Landon) (Finance Committee -- Mr. Daniels, chair -- 3-0)

Deputy Auditor Watts explained that this ordinance appropriates money specifically into a COBRA account. It is an in-and-out account.

Mr. Meade made a motion to suspend rules; Mr. Daniels 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RULES SUSPENDED (9-0)**

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Mr. Meade made a motion to approve; Mrs. Swanger 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**ORDINANCE 2021-38 APPROVED (9-0)**

**Item 2. ORD 2021-39: ORDINANCE MAKING AN ADDITIONAL APPROPRIATION FROM THE GENERAL FUND TO THE REFUND & REIMBURSEMENTS, DUE TO A REFUND FOR AN ALARM PERMIT FOR THE YEAR ENDING DECEMBER 31, 2021**

(Landon) (Finance Committee -- Mr. Daniels, chair -- 3-0)

Deputy Auditor Watts stated that they sold an alarm permit to someone who does not live in the City of Marion. They need to refund it and there is nothing appropriated to that account. He emailed out the details about number of permits as requested by Mr. Daniels in previous meeting.

Mayor Schertzer said that the program was not created to make a profit, but rather to help cut down on false alarm and so we would know who has alarms. They do not expect any increase in costs.

Mr. Feliciano made a motion to suspend rules; Mr. Meade 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RULES SUSPENDED (9-0)**

Mr. Feliciano made a motion to approve; Mr. Meade 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**ORDINANCE 2021-39 APPROVED (9-0)**

**Item 3. ORD 2021-40: ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO APPLY FOR FISCAL YEAR 22 ODOT FUNDS, FOR REPLACEMENT OF RUNWAY 7/25 PRECISION APPROACH PATH INDICATOR (PAPI) AND ADVERTISE FOR BIDS AT THE MARION MUNICIPAL AIRPORT AND DECLARING AN EMERGENCY.**

(Arnold) (Airport, Lands, and Buildings Committee -- Mr. Schaber, chair -- 3-0)

Mr. Schaber said that there is the possibility that the city would pay about 5% or \$18,000 on project.

Mr. Schaber made a motion to suspend rules; Mr. Thomas 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RULES SUSPENDED (9-0)**

Mr. Schaber made a motion to approve; Mrs. Swanger 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**ORDINANCE 2021-40 APPROVED (9-0)**

**Item 4. ORD 2021-41: ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO CONTRACT WITH DORE & ASSOCIATES. FOR THE FY 2019 CDBG MARION OF DEMOLITION PROJECTS, AND DECLARING AN EMERGENCY**

(Evelyn) (Finance Committee -- Mr. Daniels, chair -- 3-0)

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Miss Warr Cummins explained that the situation has become more urgent in that the back of the building is starting to collapse. They will partner with the Marion County Landbank on the project. She requests that rules be suspended and an emergency clause.

The land belongs to the Marion County Land Bank and they are in conversations with St. Mary's Church.

Mr. Meade made a motion to suspend rules; Mr. Feliciano 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RULES SUSPENDED (9-0)**

Mr. Feliciano made a motion to approve; Mr. Meade 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**ORDINANCE 2021-41 APPROVED (9-0)**

**Item 5. ORD 2021-42: ORDINANCE TO ESTABLISH A COMMUNITY DEVELOPMENT PROGRAM THROUGH THE STATE OF OHIO'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG PROGRAM) AND TO AUTHORIZE THE MAYOR TO APPLY FOR COMMUNITY DEVELOPMENT ALLOCATION FUNDS AND TARGET OF OPPORTUNITY FUNDS AND ADMINISTER THE GRANTS, AND DECLARING AN EMERGENCY**

(Warr-Cummings) (Jobs and Economic Development -- Mr. Ratliff, chair -- 3-0)

Mr. Ratliff explained that committee had a lengthy discussion regarding distribution of funds among projects. The City is allowed to have three projects. Should a project come in lower than budgeted, they can adjust spending within other eligible projects. They are capped on the \$80,000 for the demolition and no other dollars can be shifted to demolition. Mrs. Warr-Cummings said that these projects are good projects that have flexibility for extra should parts of the projects come in under bid. The Founders Park projects has been added to the ordinance as a "Target of Opportunity" grant, separate pot of money that also follows some of the CDBG rules. There will be a hearing on May 24, 2021. There is a designated administrative cost that goes to Regional Planning for administering the grant.

**ORD 2021-42 HAS HAD A FIRST READING**

**Item 6. RES 2021-11: A RESOLUTION IN SUPPORT OF SMALL BUSINESS IN MARION CITY AND CREATING AN ANNUAL EVENT IN SUPPORT FOR THEM ON THE THIRD THURSDAY, FRIDAY, AND SATURDAY IN JUNE AND DECLARING AN EMERGENCY.**

(Meade) (Jobs and Economic Development Committee -- Mr. Ratliff, chair -- 3-0)

Mr. Meade explained that this is an expansion of the event from one day last year to three in 2021.

Mr. Meade made a motion to suspend rules; Mrs. Swanger 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RULES SUSPENDED (9-0)**

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Mr. Meade made a motion to approve; Mrs. Swanger 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RESOLUTION 2021-11 APPROVED (9-0)**

### MATTERS NOT ON THE AGENDA

### ITEMS EXPECTED TO BE ADDED

**Item 1. RES 2021-12: RESOLUTION AUTHORIZING PARTICIPATION IN THE ODOT ROAD SALT CONTRACTS AWARDED IN 2021, AND DECLARING AN EMERGENCY (Bischoff) (no committee consideration)**

Public Works Director explained that this resolution is an annual action. This allows the City to take advantage of large volume discount prices because of ODOT buying power. It also locks in turnaround deadlines when a purchase is made. The City benefits from the pricing, but actually makes their purchase through an approved supplier.

1<sup>ST</sup> by Mr. Schaber, 2<sup>nd</sup> by Mr. Feliciano, and 3<sup>rd</sup> by Mr. Meade

**RES 2021-12 ADDED TO THE AGENDA**

Mr. Schaber made a motion to suspend rule 56; Mr. Feliciano 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RULE 56 SUSPENDED (9-0)**

Mr. Feliciano made a motion to suspend rules; Mr. Meade 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RULES SUSPENDED (9-0)**

Mr. Feliciano made a motion to approve; Mr. Meade 2<sup>nd</sup>. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

**RESOLUTION 2021-12 APPROVED (9-0)**

### OTHER BUSINESS

1. Mr. Feliciano asked about two fire hydrants that are out of service and are spewing water. Bischoff has confirmed that they are out of service because they are leaking. There could be issue with pressure should safety services hook up. It is an AQUA issue.
2. Mr. Neff indicated that he had reached out to Law Director Russell last Wednesday (05/05/2021) regarding some issues/questions related to the Special Committee created and approved by Council. He would like to have some of these answered prior to the meeting on Monday.
  - a. Is it not a conflict of interest for you to advise council in a matter regarding city officials who you are responsible to represent and advise?
  - b. Shouldn't the Law Director recuse himself from the special committee?
  - c. Is it feasible and legal for the committee to not take any comments or questions from council or anyone involved?

Law Director Russell advised him that he was currently researching two questions asked by the committee on Monday night regarding subpoenas and oaths. Once

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complete, he could move on to other questions. Mr. Neff emailed his questions Wednesday morning.

Law Director Russell addressed the issue of the committee not taking comments or questions from council or others. The meeting last week was a special organizational meeting and was labeled as such. The prepared agenda had a single item. Under Ohio Law, only the items identified when calling the meeting and thus specified on the agenda can be addressed. The meeting was to identify the scope and the committee dates.

He has no need to recuse himself, nor does he have a conflict of interest. He will be issuing a written opinion to give more detail and citations.

Mr. Neff asked about subpoenas. He did not approve of forming special committee, but he believe that this will open up the city to costs because of the need to provide legal council to every person who is subpoenaed. Mr. Russell stated that he is planning to issue a written opinion on the 8 questions he received from Neff this morning. He will answer him later this week in writing

3. Mrs. Chaffin thanked individuals for their help on another clean-up day through the “Love Our Neighborhood” program 04/28 and 04/29. There were over 50 volunteers. They addressed 30 junk cars, removed 48.8 tons of trash, removed 354 tires and secured three vacant properties. They have volunteer participants from the following community service programs: Marion Municipal Courts, Marion Matters, Marion Council Family Courts. Other volunteers include: Ralph and Sherri Litcher, Tom Pannett, 3<sup>rd</sup> Ward Councilman Jason Schaber, 6<sup>th</sup> Ward Councilwoman Kathy Swanger Life Point Church, Marion County children Services, group of HHS students. Thank you to Mr. Schaber who provided lunch for volunteers, and Michelle from Stewarts Root Beer for help with lunch as well.

Mrs. Chaffin said that Sindy Thrapp is their Code Enforcement Coordinator and handles complaints from residents. Their group meets regularly. In some cases, they can schedule a “micro-clean-up” which is a Wednesday or Thursday afternoon clean up or they turn into their 2 day clean up. All of the 70+ salaried employees of Wyandot are helping with an upcoming clean-up on Ballentine. Constituents are able to call in to look at scheduling something like that.

4. Tracey Cooperider (904 Maynard Drive) asked about the Select Committee. He states that the Marion Star put together an article on the topics covered by this committee and it seems to answer the questions that any committee may want. He questions what further investigation is necessary because the issues are resolved in his mind. He also asked if there has ever been a similar committee within the Marion City Council.

Law Director Russell explained that in the late 1990s or early 2000, they had a select committee related to the extension of Marion General Lease. He said that the committee was very clear of their scope and he will let the minutes stand to demonstrate that. Further, Council rules state that once a matter is delegated to a committee, Council should not have committee discussion as part of their regular meeting.

Mr. Cooperider opined about a council meeting in March 2020 that was considering legislation to fund a special prosecutor. No one from the Law Director’s office was present and they should have been according to Council rules. He wanted Mr. Russell to look up the code and explain why he was not present.

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5. Mr. Mike Clark (543 King Ave.) believes that by limiting public discussion as a portion of the Select Committee meeting is refusing to listen to the general public and that is wrong.
6. Mr. Schaber stated that he is saddened that some Council members do not know the rules of council. He feels that this gets residents fired up for being unable to speak within the context of a committee formed specifically for an exploratory/investigative activity. Specifically, on an organizational meeting, there is no discussion from the public. The next meeting will be another organizational meeting with no input from public. At some point during the time of the work of the committee, there will be a time where the public will be permitted to speak as part of the agenda.

### COMMITTEE MEETING SCHEDULE FOR 05/17/2021:

- Finance Committee – Mr. Daniels, chair – 05/17/2021 at 6:30 PM – monthly reports
- Select Committee – Exploratory/Investigative Committee – Mr. Schaber, chair – 05/17/2021 immediately following last committee meeting – second special/organizational meeting to determine scope, format, schedule of dates of meetings, and to review responses on requested clarifications from Law Director
  - Note: Due to the investigatory nature of this committee and in compliance with ORC 121.22, no public comment or questioning will occur during these open public meetings. Individuals wishing to submit comments or questions for consideration by this committee may direct those to [trose@marionohio.org](mailto:trose@marionohio.org). Please reference “Select Committee” in the subject line.

No other Committees called at this time. Please check Thursday notice for changes. With no further business to come before Council, Mr. Schneider adjourned the meeting at 7:58 PM.

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Todd Schneider  
President of Council

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Tarina R. Rose  
Clerk of Council