

MARION CITY COUNCIL REGULAR MEETING

City Hall – Council Chambers on 4/11/2022 at 6:30 PM

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ROLL CALL: 10 members answered – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins, Mr. Thomas, Mr. Schneider.

With a quorum present, President Schneider called the meeting to order at 6:30 PM. Pledge of Allegiance recited. Mr. Cornelius led Lord's Prayer.

Mayor Schertzer swore in Chris Coburn and Dylan Reese to their promotion to Lieutenants in the Marion Police Department.

SUMMARY OF PROCEEDINGS

Mr. Rollins made a motion to accept the summary of proceedings for 3/28/2022; Mr. Thomas 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins, Mr. Mr. Thomas; Nays – none.

Summary of proceedings for 3/28/2022 approved (9-0)

OLD BUSINESS

- 1. ORDINANCE 2022-029: ORDINANCE RATIFYING AND APPROVING THE BARGAINING AGREEMENT BETWEEN THE CITY OF MARION AND THE AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES, OHIO COUNCIL 8 and AFSCME LOCAL 1158, AND DECLARING AN EMERGENCY. (Bischoff) (Municipal Services -- Mr. Thomas, chair --2-0) (3rd Reading)**

Mr. Ratliff stated per ORC that the council only has a certain number of days to act on the legislation or the contract goes into effect. Law Director Russell confirmed that they have 30 days to act after contract presented to council. Council's vote to statutory irrelevant currently.

Mr. Thomas made a motion to adopt; Mr. Rollins 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mr. Thomas; Nays – Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins.

ORDINANCE 2022-029 APPROVED (5-4)

- 2. ORDINANCE 2022-036: ORDINANCE AMENDING EXISTING MARION CITY CODE SECTION 1360.99 RELATED TO DANGEROUS BUILDINGS FINDING A REAL AND PRESENT NEED TO ELIMINATE NUISANCES WITHIN THE CITY OF MARION, OHIO (Law Director Russell) (Legislation, Codes, and Regulations – Mr. Meade, chair – 3-0) (2nd Reading)**

ORDINANCE 2022-036 HAD A SECOND READING

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NEW BUSINESS

- 1. ORDINANCE 2022-039: ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN THE STORM, SEWER, STORM WATER, TIF, ESID, WPC AND GENERAL FUNDS (STATUTORY ACCOUNT – AUDITOR’S FEES) FOR THE YEAR ENDING DECEMBER 31, 2022. (Auditor Meginness) (Finance -- Mr. Schaber, chair -- 2-0)**

Mr. Rollins made a motion to suspend further readings; Mr. Meade 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins, Mr. Thomas; Nays – None.

SUSPEND THREE READINGS (9-0)

Mr. Rollins made a motion to adopt; Mr. Meade 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins, Mr. Thomas; Nays – None; Abstain – Mr. Mr. Schaber (due to relation).

ORDINANCE 2022-039 ADOPTED (8-0-1)

- 2. RESOLUTION 2022-014: RESOLUTION AUTHORIZING PARTICIPATION IN THE ODOT ROAD SALT CONTRACTS AWARDED IN 2022, AND DECLARING AN EMERGENCY (Director Bischoff) (Finance -- Mr. Schaber, chair -- 3-0)**

Mr. Schaber made a motion to suspend further readings; Mr. Meade 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins, Mr. Thomas; Nays – None.

SUSPEND THREE READINGS (9-0)

Mr. Schaber made a motion to adopt; Mr. Feliciano 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins, Mr. Thomas; Nays – None.

RESOLUTION 2022-014 ADOPTED (9-0)

MATTERS NOT ON THE AGENDA

- 1. ORDINANCE 2022-030: ORDINANCE AMENDING ORDINANCE 1969-29, COMMONLY KNOWN AS THE YARGER REPORT, BY CREATING A NEW POSITION IDENTIFIED AS TAX INVESTIGATOR/ADMINISTRATOR WITHIN THE AUDITOR’S DEPARTMENT, AND DECLARING AN EMERGENCY (Auditor Meginness) (Municipal Services, Parks, and Recreation – Mr. Thomas, chair – 2-0)**

Mr. Neff asked for more information related to the salary and what that means in actual dollars.

Mr. Ratliff made a motion to reconsider the previous vote on Ordinance 2022-030; Mr. Thomas 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Thomas; Nays – Mr. Rollins.

PREVIOUS COUNCIL VOTE ON ORDINANCE 2022-030 WILL BE RECONSIDERED (8-1)

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Mr. Thomas made a motion to take a 5-minute recess to allow Auditor Meginness to get pay scale documents; Mr. Schaber 2nd. Roll Call: Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Rollins, Mr. Thomas; Nays – None

COUNCIL RECESSED FOR FIVE MINUTES (9-0)

President Schneider called the meeting back to order after a five-minute recess.

Auditor Meginness reviewed the pay grade chart with council members. In response to Mr. Neff, it was determined that the annual salary at advanced steps of this position would exceed the auditor's salary.

Mr. Schaber reminded people that council was receptive to an increase in the auditor's salary. However, past Auditor Landon did not want any increase for the position, and it was voted down by council upon his request.

Reconsideration Roll Call (no motions required): Ayes – Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mr. Thomas; Nays – Mrs. Fosnaugh, Mr. Neff, Mr. Cornelius, Mr. Mr. Rollins.

ORDINANCE 2022-030 APPROVED AFTER RECONSIDERATION (5-4)

OTHER MATTERS

1. Auditor Meginness

Auditor Meginness provided council a letter summarizing the status of numerous issues within her office. The audit is still not completed. More critical errors have been found related to school income tax withholding and possible penalties.

President Schneider directed that Council Clerk read the correspondence into the record:

Members of Council Administration.

I wanted to take a few moments of your time to provide an update on the state of the city Auditors Office. I was appointed to fill the vacancy on November 29, 2021. Since that time, I have worked diligently with the Auditor of State to compile the annual financial statements of the City for 2020. Unfortunately, due to the failure of the former Auditor Robert Landon the City has faced many consequences from his failure to perform the duties as Auditor.

First, the penalties and interest which amounts to just shy of \$160,000.00 with the failure to pay the Internal Revenue Service is still and ongoing issue and is under appeal with a third-party Tax Attorney representing the city. At this time there is no additional information to provide, however, I will keep you posted as the matter develops.

The second and foremost consequence was the lack of record keeping and balancing of the city financial records in accordance with the Fiscal Integrity Act and GAAP Principles. This has made the task of compiling

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complete financial records impossible. Currently, I do have a draft of the financial statements and they are being audited at this time.

With the delay of the financial statements, there has been an even further delay in the Audit for 2020. The audit was originally due by September 30, 2021, and was delayed by the Federal Audit Clearinghouse until March 31, 2022. I have spoken with Justin of the Auditor of States Office, and he has stated that the goal was to finalize the 2020 Audit by April 30, 2022. With that being said, the City is late in filing the required Audit with the Federal Clearinghouse. This is a major problem for the grants the city receives and could result in further issues with new grant applications.

With the 2020 Audit potentially being finalized by the end of April, this does delay the 2021 Audit. The 2021 Financial Statements cannot begin to be prepared until the finalizing of the 2020 Audit. I will be requesting an extension for the financial statement filings. The 2021 Audit is due no later than September 30, 2022, with the Federal Audit Clearinghouse. I do not know if there would an extension granted for the 2021 Audit. I will continue to work with our Auditors to complete the audit as timely as possible.

The Third issue and consequence from Auditor Landon's missteps, is a lack of the city paying bills on time and to the correct entities. We have discovered this has happened all too frequently. Employees who reside in the Ridgedale local school district had their correct amount withheld for the income tax, however, these amounts were not paid to Ridgedale they were paid to River Valley. This was not discovered until after the W-2's were issued for 2021 in January of 2022. There were 23 employees affected by this lack of payment to the correct entity and most have suffered a penalty for not paying the tax as they should have. This is not the fault of the employee rather the fault of the prior Auditor Landon. I will be bringing forth an appropriation to repay the employees the penalties they have incurred due to this error.

Finally, the city is going to face dire consequences from the lack of competency shown by the former Auditor. I have received notification from the City's rating agency that if they do not have the 2020 Audit by the end of the week, they will likely move forward with putting the city on CreditWatch and the potential of withdrawing the credit rating of the city.

This will mean that the city will pay a higher interest rate and our investors with our bonds could become nervous. With that in mind, it could very well mean that bonds could be called, and we would need to reissue the debt at a higher rate. I am working with our bond counsel to keep this at bay, but this could be another potential consequence of the inaction of the former auditor.

Unfortunately, there is no good news to provide you at this time, but we will continue to work through each and every issue as they are presented. The before mentioned issues are everything we have discovered as of now, and I am determined to work hard and focus

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the city back on the path to stability and restore the credibility of my office.

I want to thank the Members of Council and the Administration for continued support and guidance as we move the city forward.

Sincerely, Auditor Miranda Meginness

Mr. Rollins requested an update on pursuing bonds. Law Director Russell is working with the Deputy Auditor Watts to develop a spreadsheet of pursuable costs. He will work to transmit the information to the bond holder. He is also working with the state auditor's office as they finalize the audit. The auditor and deputies are bonded for \$100,000 each. Law Director Russell explained that the state would issue a "finding for recovery" and that will be referred to the state attorney general for collection.

Mr. Ratliff expressed that it is impossible to quantify what this will ultimately cost the city with consideration of the bonds being called in, our credit rating, interest costs, and loss of federal government funding. He expressed frustration that it did not have to be this bad if some members of council had not covered up and excused an incompetent auditor at every turn. This could cost the city millions of dollars over the years. He suggested that council may want to consider the minimum limits of bonds. He said that there are many federal funds available, and they should be in a really good position, if not for this. It is council's own fault. He asked at what point does this negligence become criminal. Law Director Russell explained that the state audit findings would drive this. Any person can make a referral as well.

Mr. Dunstan (E. Fairground Street) expressed concern that some members of council are not taking this seriously. There was more concern about the reconsideration of the previous vote. Council members were on their phone while letter was read. The cleanup will be hard and they all need to participate. This is not a political issue about a guy. He urged the entire council to work together, and he would like to be able to see it on this issue.

Mrs. Arndt also commented on the cell phone use and lack of adequate concern about a very serious concern. Put the phones away.

2. Mr. Feliciano asked about laws pertaining to lose dogs. Chief McDaniel agreed to speak with him directly and determine the best course of action on individual cases. He explained that the city does not have an animal control unit, but they can issue citations.
3. Mr. Feliciano asked about aquatics center seasonal passes. Director Chaffin explained that they are currently recruiting lifeguards. No season passes will be sold until they can confirm that they have adequate staffing to be open every day.
4. Director Caryer requested that each council person complete a form related to dangerous trees in their wards, specifically the top 10. The city is not responsible for trees in the tree lawn. This is a specially funded program targeted at trees in the right of way at the direction of council.

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5. Mayor Schertzer reminded everyone of closures related to Good Friday. Also, yard waste collection starts one week from today.
6. The city will hire for the weed and grass program, and they can take in 18-year-old and up for those positions. The aquatics center is the only place where minors are employed.
7. Law Director Russell talked about utility aggregation programs. They had a program called the “guaranteed savings program.” PUCO’s “apples to apples” site is the best source of comparative pricing. Volunteer Energy Services filed for bankruptcy, and they were their supplier for gas.

COMMITTEE MEETING SCHEDULE:

- Finance – Mr. Schaber, chair – 6:30 PM 04/18/2022 – appropriations expected, regular business
- Regional Planning – Mrs. Fosnaugh, chair -- 7 PM 4th Wednesday at county building
- Ad Hoc Committee – City Charter – Mr. Cornelius, chair – 6:30 PM 04/19/2022 – presentation by Garry Hunter
- No other committees were called.

With no further business to come before Council, Mr. Schneider adjourned the meeting at 7:38 PM.

Todd Schneider
President of Council

Tarina R. Rose
Clerk of Council