

MARION CITY COUNCIL REGULAR MEETING

City Hall – Zoom Meeting on 4/12/2021 at 6:30 PM

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Zoom Meeting on 4/12/2021 6:30 PM

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

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

MINUTES OF 03/23/2021

Minutes needed further review by Clerk regarding motions into executive session. They will be considered at next meeting.

03/23/2021 MINUTES WILL BE REVIEWED AT NEXT MEETING

OLD BUSINESS – NONE

NEW BUSINESS

Item 1. ORD 2021-24: ORDINANCE AUTHORIZING THE PUBLIC WORKS DIRECTOR TO PURCHASE ONE Garbage Packer THROUGH RUSH Truck Centers through the State of Ohio (ODOT) and Sourcewell government contract pricing for the SANITATION DEPARTMENT, AND DECLARING AN EMERGENCY

(Bischoff) (Finance -- Mr. Daniels, chair -- 3-0)

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

RULES SUSPENDED (9-0)

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

ORDINANCE 2021-24 APPROVED (9-0)

Item 2. ORD 2021-28: ORDINANCE MAKING AN ADDITIONAL APPROPRIATION IN THE FIRE DEPARTMENT ENDING DECEMBER 31, 2021, TO ACCOUNT FOR FUNDS RECEIVED FROM THE PRIORITY ONE GRANT. (Deem) (Finance -- Mr. Daniels, chair -- 3-0)

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

RULES SUSPENDED (9-0)

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

ORDINANCE 2021-28 APPROVED (9-0)

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Item 3. ORD 2021-29: ORDINANCE MAKING AN ADDITIONAL APPROPRIATION IN THE BELOW LISTED FUNDS TO COVER UNANTICIPATED EXPENSES ENDING DECEMBER 31, 2021

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

Auditor Landon explained that this appropriation covers line items that are short on COBRA, unemployment insurance, and a utility billing service contract.

Mr. Ratliff asked the auditor to explain the reasons for the city to pay COBRA because the figures seem large for a pretty small office.

Auditor Landon explained that COBRA is handled by employees in HR.

Mr. Ratliff referred to the fire department (which is a large department) has \$6,000, police department (which is a very large department) has \$15,500, and the auditor's office (which is a small department) has \$22,000. He asked for clarification as to why such a small department would need such a relatively large amount.

Auditor Landon explained that they had an employee leave and they can use COBRA up to 18 months after employment. He offered to provide additional information at a later date.

It was the understanding of Schaber and Ratliff that COBRA is not funded or paid for through the city. The employee or the recipient of COBRA pays it out of their pocket.

Mrs. Hutchison explained that the other departments had COBRA budgeted, the Auditor's Office did not. It is not really the city's money however they have to have funding in the line item in order for the paperwork to be processed. The particular person in the Auditor's office is on a family plan, so it is more expensive.

Mr. Schneider restated it: whatever the city has in that line item to pay that they get reimbursed from the COBRA fund as it exists. Mrs. Hutchinson concurred.

Mrs. Hutchison continued. He has a family plan, so it is more expensive than a single.

There was some confusion in the amount the employee would pay. Mr. Christian stated \$1,200 per month. Mrs. Hutchison stated it is \$22.75 per month.

There was discussion about visiting possible suspension at the next meeting and allow the auditor the chance to talk to the person who actually runs COBRA.

Public Works Director Bischoff stated that the request related to the service contract for the stormwater account needs to be done quickly.

Mr. Ratliff asked about the unemployment in probation. They share a lot of probation costs with the court and he wondered if this is something that the general fund is paying, or they are paying a portion of and kind of what the breakdown of the probation unemployment issue is.

Auditor Landon stated "if we notice a line item that's short or the department comes to us and they tell us that they need more money we just work with them to get that in place so unless somebody's here from probation I would have to check with them and find out what's really their circumstance in our in their department."

Mr. Ratliff asked for clarification of what happens when a department is short. What makes you think that we need \$10,000, if there is no basis for doing it?

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Auditor Landon continued: “if we notice a line items that is short <the> typical process is we touch base with that department and figure out what's going on in their department and see what they need and once they tell us what they need we'll work to get an ordinance and appropriation ordinance in place and bring it to council. It's their budget. They're responsible for managing their budget and they are there as a support to help them to do it correctly.”

Mrs. Hutchison: “He's right. Basically it's an estimated average or an estimated amount that we think that they're going to need if they continue at the expenses that they've been expending for the months that we've seen that and when they send us a bill it's like an average so it's not that they are going to spend that full amount but we want to make sure it's in place so we don't go over budget.”

Mr. Ratliff said that he has heard two different answers -- 1. that's when they see that a line item is running short, they ask the department what they need and 2. that the auditor's office estimates what the department needs. He is questioning which one it is and how the they arrive at \$10,000.

Mrs. Hutchison continued: “mainly it is the departments that decide. We work with the departments to decide what they think they need but we are the ones that actually see the bills and we help them with their estimates to make sure that they're in line and that they'll have enough for the rest of the year.”

Mr. Ratliff followed-up. He is unsure of who they are expecting unemployment for in the probation department, but how is that accounted for. Individuals in that department are paid by various sources, sometimes in combination. How does the Auditor account for that for the unemployment as well or is that just straight salary and unemployment it comes no matter how the person is actually paid if they're still working?

Mrs. Hutchison continued: “we have an unemployment line item and that's what they are paid from. The unemployment office or Job and Family Services actually issues us a bill and that's what we work with the departments on and tell them that the bills that are coming in because I believe Amy O'Connor handles most of the unemployment. I see it in my office at times and we deal with the departments and see how they want to get the funds into those into that line item. Like whether they want to do a transfer or they need to ask for additional appropriations or what have you but we just they are trying to work with all the departments to make sure that they're going to have enough funding for that line item for the rest of the year so that they are not constantly going back and asking for more money.”

Mr. Ratliff said that did not answer his question. The scenario that he is talking about would be if they have a person that is paid strictly from general fund that goes on unemployment versus a person that's paid from specialized court funding is the unemployment handled exactly the same and does the money come from the same place or since the person is paid from a different fund would their unemployment come from the same fund?

Mrs. Hutchison continued: “we have employment line item for every single ledger account for every single line item... so, when we transfer money into those line items that's depending on what line item that person is paid out of that's where the unemployment comes from out of those specific court or probation or general fund line items.”

Mr. Ratliff followed up: “if you have a police officer that is paid 100% out of the general fund then their unemployment would come out of the general fund. If you have a probation officer that is paid 100% out of specialized court funding, would their

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unemployment come out of the general fund or are we taking their unemployment from the same place that we take their actual funding for their job from.”

Mrs. Hutchison continued: “okay I think they are talking apples and oranges. Every single department has their own budget okay and like there's certain people like you said that are paid out of different line items like general or probation or court or whatever but each one of those start with a three-digit number like say probations like 272. Then the unemployment line item would be two seven two four digits and then unemployment whatever that is it's like 50102 11-- I think or something like that. Each line item has a specific unemployment account so we put money and that's what they are asking to do is appropriate money into each of those specific line items so that we could pay it out of that.”

Ratliff followed up: If we have a probation officer that is paid from court generated funds, is their unemployment also paid from court-generated funds? I am looking for a yes or no.”

Mrs. Hutchison: “I well honestly I don't know how to answer that because this would be appropriated money that they are putting in there so I would probably guess that it would be general fund.”

Mr. Thomas said he thought that COBRA was for a separated employee and that if they wished to continue with insurance, they could pay the COBRA price, not the city.

Mrs. Hutchison: “the city is technically not paying for the COBRA. We are basically a pass-through. The previous employee is allowed COBRA up to 18 months after terminating employment with the city, but it is on their dime and they pay like I said a month in advance.”

Mr. Thomas asked if the money that they are asking to appropriate is not general fund money, but it is money that the employee or the ex-employee has paid the city to pay COBRA.”

Mrs. Hutchison agreed and stated that there must be money in the line item to process it. The money that has been paid into the auditor's office by the individual and it's not general fund money.

Mrs. Fosnaugh asked if they delay the payment for this COBRA will this affect the insurance coverage for the person the former employee. Mrs. Hutchison said that they have a system in place to override and process, because they know there is going to be money going into that account anyway.

Mr. Schaber also asked if this would negatively impact paying the unemployment. Auditor Landon stated: “I believe so. I mean we need to make unemployment payments as soon as possible. If they are going not pass the COBRA, we really appreciate passing unemployment insurance and service contracts as soon as possible.”

Mr. Ratliff modified his motion to include unemployment for the senior center, the four lineups for insurance, and the service contract for storm water.

Auditor Landon: “This is public prerogative. If you guys don't want to appropriate this money when it was already passed by your finance committee. That's completely up to you guys. This is your ballpark you make that decision.”

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Mr. Ratliff made a motion to amend to only include insurance, the unemployment for the senior center, and the service contract for the storm water issue; Mr. Feliciano 2nd. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Swanger, Mr. Thomas. Nays – Mrs. Fosnaugh, Mr. Neff, Mr. Daniels. (Result was misstated in meeting as 5-4, but have been corrected to 6-3 in the record after review of meeting video)

MOTION AMENDED (6-3)

Mr. Ratliff made a motion to suspend rules; Mr. Schaber 2nd. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Thomas. Nays – Mr. Neff, Mr. Daniels.

RULES SUSPENDED (7-2)

Mr. Ratliff made a motion to approve; Mrs. Swanger 2nd. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Thomas. Nays – Mr. Neff, Mr. Daniels.

ORDINANCE 2021-29 APPROVED (7-2)

Item 4. ORD 2021-30: ORDINANCE AMENDING SECTIONS 901.03 and 903.07 OF THE MARION CITY CODE AND DECLARING AN EMERGENCY (Russell) (Legislation and Codes -- Mr. Daniels, chair -- 3-0 NOT recommended)

Law Director Russell explained that this legislation (regarding parking and driveways) was presented in 2020 and created a lot of confusion. It needs to be voted up or down. The committee recommends that it be defeated.

Mr. Cooperider scolded the Council President for not allowing him to ask questions prior to the vote.

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

RULES SUSPENDED (9-0)

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

ORDINANCE 2021-30 DEFEATED (0-9)

Item 5. ORD 2021-32: ORDINANCE TO VACATE ONE (1) 16.5' WIDE NORTH/SOUTH ALLEY LOCATED EAST OF THE MARION COUNTY COURTHOUSE AND BETWEEN THE COURTHOUSE AND THE COUNTY OWNED ANNEX BUILDING PURSUANT TO ORC 723.041 RETAINING PERMANENT EASEMENT RIGHTS (contingent applicant, Marion County Commissioners) (Streets and Sewers -- Mr. Thomas, chair -- 3-0 with contingencies)

Alley vacation made it to council with approval with contingencies by the City Planning Commission and the Streets and Sewers Committee. A survey has been provided. Commissioners are scheduled to meet on application contingency on Thursday.

PUBLIC HEARING HELD

Public hearing opened at 7:35 PM. Judge Warren Edwards, Common Pleas Courts, explained that his bailiff had filed the application. The security measures being put in place help them comply with Ohio Supreme Courts standards by providing secured area to process prisoners and secured parking for the judicial staff. The issue is on the Commissioners agenda for Thursday to finalize their approval which is one of the

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contingencies. Timeliness is becoming an issue. They are also looking at some more appealing options for the fencing, as requested by City Planning. It will not affect access to spaces that are public parking now. This is not a traditional Sally Port. They are not constructing a structure. It is just a gated, secured area.

Mr. Dunston (211 E. Fairground) asked about the responses from utility/fire/police. Chief Deem stated they have no objection. He asked for more information about access. Judge said they are willing to provide utilities and safety services access.

Public Hearing closed at 8:05 PM.

Mr. Thomas made a motion to suspend rules; Mrs. Swanger 2nd. Roll Call: Ayes -- Mr. Meade, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – Mr. Ratliff

RULES SUSPENDED (8-1)

Mr. Thomas made a motion to approve contingent on receiving documents from commissioners; Mr. Daniels 2nd. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mr. Feliciano, Mrs. Fosnaugh, Mrs. Swanger, Mr. Thomas, Mr. Thomas, Mr. Neff, Mr. Daniels. Nays – none

ORDINANCE 2021-32 APPROVED (9-0)

Item 6. 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) (Streets and Sewers -- Mr. Thomas, chair -- 3-0 with contingencies)

Alley vacation made it to council with approval with contingencies by the City Planning Commission and the Streets and Sewers Committee. A survey is pending.

PUBLIC HEARING HELD

Bryan Kresak, NUCOR, stated that no industrial activity will occur in the area. The property will be a storage area. They will recreate another alley or a turnaround. They have contacted all utilities and made arrangements there. NUCOR has purchase many of the properties on Gill and demolished properties planning for potential growth. This area would be fenced in and would have security. They would be moving the alleyway so that the neighbors have egress in and out the same they have today.

Fire department said that proposal is an improvement. They cannot use the alley as it is. Survey is scheduled but not completed. It is expected to be done in the next 2 weeks out.

Miss Warr-Cummings (Regional Planning) stated that the alley as it is actually on NUCOR property. The platted alley is unimproved, overgrown and not use. The new alley will be a benefit to the neighborhood.

Public hearing started at 8:10 PM and closed at 8:19PM

ORDINANCE 2021-33 HAD FIRST READING

Item 7. RES 2021-08: RESOLUTION AUTHORIZING THE FILING OF (AN) APPLICATION(S) WITH THE OHIO DEPARTMENT OF TRANSPORTATION BY CITY OF MARION FOR GRANTS THROUGH THE US DOT FEDERAL TRANSIT ADMINISTRATION (FTA), AS AUTHORIZED UNDER FEDERAL TRANSIT LAWS, 49 USC SECTION 5310, ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES,

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OHIO'S SPECIALIZED TRANSPORTATION PROGRAM AND EXECUTING A CONTRACT WITH THE OHIO DEPARTMENT OF TRANSPORTATION UPON PROJECT APPROVAL, AND DECLARING AN EMERGENCY

(Badertscher) (Finance -- Mr. Daniels, chair -- 3-0)

Mr. Badertscher (Senior Center) explained that this is to purchase 2 replacement vans. There is an 80/20 match. These are \$50,000 vans. They will be spending money in carryover from Senior Levy transportation funds from the Council on Aging. They will both have a lift that helps with larger wheelchairs and a higher weight. The old vans were not handicapped accessible. They provide transportation throughout Marion County, with most of that being within the city limits. None of the match will come from general fund.

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

RULES SUSPENDED (9-0)

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

ORDINANCE 2021-08 APPROVED (9-0)

Item 8. RES 2021-09 -- RESOLUTION CONFIRMING THE APPOINTMENT, BY THE MAYOR, OF RALPH LITSCHER, AS A MEMBER OF THE MARION CITY PLANNING COMMISSION (Mayor)

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

RULES SUSPENDED (9-0)

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

ORDINANCE 2021-09 APPROVED (9-0)

OTHER BUSINESS

Item 1. Russell letter regarding Auditor

Mr. Ratliff asked for an update from the Law Director regarding the Auditor. Law Director Russell stated that he had forwarded a letter with content related to the question that was posed to him by council person Schaber on March 2nd. Schaber had reported that City Auditor Landon had reported during the March 1st Finance Committee meeting that he had made a payment to the federal government for obligations associated with 2020 941 withholdings. They learned subsequently that it was paid on February 9th, 2021.

The point of his letter is to summarize the research that he has completed. Under Ohio law, it is the Council that makes the determination and acts as the trier of fact – not the Law Director and not other Executives. It is the Council that discovers the facts that are relevant, asks the questions that are relevant, and then eventually makes findings. The letter includes two questions that he thinks are pertinent to determine. What was the actual source of funds used on February 9, 2021 to pay the obligations related to calendar year 2020? Were they from appropriated 2021 monies out of the salary and

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benefits line items of the departments or was the fund source unappropriated and unencumbered cash balances?

ORC 5705.41 is the provision which states that no subdivision (which the Marion is a taxing subdivision) shall make any expenditure of money unless it has been appropriated. No taxing subdivision may make any expenditure of monies except by proper warrant drawn against an appropriated fund. Finally, just to provide a further guidance item three is the state auditor's compliance supplement which states: if the monies were advanced from unappropriated unencumbered cash funds the Auditor of State says that that requires a formal resolution of Council. It is up to the council at this point to undertake an action, find answers to the questions that they find pertinent, and then at some point, make a finding or a determination of the questions contained within his letter.

Mr. Ratliff said that he would like to see Council form a special 3-person fact-finding committee. He asked that Council members who are interested in serving, should let him know that (like any other committee). The scope would include looking into this matter and reporting back to city council regarding: issues surrounding the auditor's office specifically the payment or mispayment of the monies between the state of Ohio and the federal government.

Mr. Thomas said that he thinks this is a good idea. When they were negotiating the contract with the hospital they created a council of the whole and what they did is put two democrats and two republicans on that so they had a balance of both political parties and he would suggest that that they might want to look into that to make sure they have two democrats and two republicans on this committee

Russell said that Mr. Thomas is right reflecting back the council did create a select committee to address the lease matter with the Marion General Hospital board. They do not want to refer to it in any way as a council of a whole because that is a whole other entity or structure of a committee. It would be the select committee with the title that council person Ratliff just referenced and as council person Thomas is suggesting council decide whether it be a three-member committee or a four-member committee

Law Director Russell cited legislation: subsection b right before rule 15 so it must be rule 14b that members of council by a majority vote of all members elected may choose members of a select committee, so it is just a motion. It is not a written resolution It is not an ordinance it's just a motion a second and a majority vote would create the select committee

Mr. Ratliff made a motion to establish special committee; Mr. Meade 2nd. Roll Call: Ayes -- Mr. Meade, Mr. Ratliff, Mr. Schaber, Mrs. Swanger, Mr. Thomas. Nays –Mr. Feliciano, Mrs. Fosnaugh, Mr. Neff, Mr. Daniels.

CREATION OF SPECIAL COMMITTEE APPROVED (5-4)

Item 2. Mayor Schertzer stated that they are looking for employees for the Aquatics Center. They are having trouble finding lifeguards. There are only 5 applicants. If that does not change, they will not be able to open the Aquatics Center with 5 lifeguards. There are some classes coming up at the YMCA. They are also looking for mowers for the weed and grass program.

Item 3. Mike Clark (543 King Avenue) said the committee regarding the Auditor needs to be even. City has spent too much time on this. Do not make it a witch hunt.

Item 4. Mr. Meade announced forthcoming clean-up projects.

Committees:

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- Finance Committee – Mr. Daniels, chair – 04/19/2021 at 6:30 PM – Monthly Reports, ARPA
- Jobs and Economic Development – Mr. Ratliff, chair – 04/19/2021 at 6:45 -- CDBG projects
- Legislation and Codes Mr. Daniels, chair – 04/19/2021 at 7:00 PM – liquor license
- Municipal Parks – Swanger, chair – 04/19/2021 at 7:05 PM -- Senior Center job descriptions
- Regional Planning – Mrs. Swanger – 04/28/2021 7:00 PM – County Building
- Airport, Lands, and Buildings – Mr. Schaber, chair – 04/19/2021 at 7:10 PM – further discussion of Safety City building

No other Committees called at this time. Please check Thursday notice for changes.

With no further business to come before Council, President Schneider adjourned the meeting at 9:01 PM.

Todd Schneider
President of Council

Tarina R. Rose
Clerk of Council

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