

City of Springdale Council

November 16th, 2016

President Vanover called Council to order on November 16th, 2016, at 7:00 p.m.

The governmental body and those in attendance recited the Pledge of Allegiance.

Mrs. McNear provided the Invocation.

Mrs. McNear took roll call. Council Members Diehl, Emerson, Ghantous, Harlow, Hawkins, Shroyer, and Vanover were present.

The minutes of the November 2nd, 2016 City Council meeting were considered. Mr. Hawkins made a motion to adopt; Mrs. Emerson seconded. Minutes were adopted as published with seven affirmative votes.

Introduction of New Fire Captain: Steven S. Sarver, Fire Department

Mr. Parham: Council, as you know, our policy and our practice is that whenever we bring on new employees, we introduce them to the elected officials and the community, as well as give the individual an opportunity to meet the elected officials. At the same time, we also recognize those employees who are already a part of the family, as they achieve to move up throughout the organization. Tonight we have a promotional opportunity in the Fire Department, and I'm going to ask that Chief Hoffman come forward and introduce our new Fire Captain.

Chief Hoffman: Good evening. As all of you may know, Captain Ralph Richey retired from the Fire Captain position in June of this year. At that time, we began a promotional process which consisted of a written exam and an assessment center process. What the process confirmed is that we have a very, very talented Fire Department. The individual that we selected at the end of the process was firefighter/paramedic Steve Sarver. He's been with us since 2005 and has been an acting Captain since 2011. After Steve says a few words, we're going to have a little ceremony, and his wife Mandy and children are going to come up and they're going to put his Captain's badge on his Class A uniform. In addition to that, we're going to present him with his bright red Fire Captain's helmet.

Captain Sarver: Thank you for allowing me to be here tonight. I truly am honored. This marks a lot of hard work and dedication over the years. I don't want to take up a lot of your time, because we have young children here, obviously. It would be entertaining for you guys, but... (Laughter) A couple people that I do want to recognize: obviously, my wife is here tonight, my kids; I couldn't be here tonight or have been able to accomplish what I've been able to accomplish without her help. She makes me want to be a better man, and obviously my kids make me want to be a better husband. My parents are here tonight, so they've instilled that work ethic in me, and that ability to choose right from wrong in different situations. My mother and father-in-law are here tonight. Throughout this process, they specifically have been able to help me a lot just by watching my kids so I could devote the time I needed to study, so I can't say enough about what they've been able to do for me over the years. Also, my brother is here with his family. He also chose a career in public service. He's actually promoted up through the Warren County Sheriff's Department; he's part of the administrative staff now. So for a little brother, I'm pretty proud of him. And then obviously, I've got some of my previous crewmates here, my Unit 1 brothers. We talk about in the fire service the brotherhood, and that crew that I worked with for almost ten years embodies that brotherhood in the fire service, so they're going to be dearly missed, but I hope to have that same brotherhood and friendship with the guys on Unit 3 that I'm going to be working with for the unknown amount of years moving forward. Like I said, thank you for allowing me to be here tonight; I truly am honored.

Captain Sarver was presented with a Captain's badge and red fire helmet (applause).

President Vanover: Again, big, hearty congratulations from here.

Mayor Webster: I'd just like to say congratulations to Captain Sarver and his family. It's a real pleasure to see young men come in to our fire service, or women for that matter, and progress up through the ranks and arrive at the level that Captain has today. And I think that

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Board of Health

Mrs. Emerson: The Board of Health met November 10th. For New Food and Service Operations, the Outback Steakhouse at Tri-County Mall had its grand opening today.

The Springdale Fire Department responded to one report of opiate overdose and administered two doses of Narcan, and that was in October of 2016, which is way down.

The Willows Work Group met November 8th. Prevention First and Higher Ground Ministries are scheduled to join the group in November to discuss their upcoming forum to raise awareness of and to reduce to the abuse of opiates. The new playground that is scheduled to be installed at the Willows Springdale Apartments is looking to be to put in either at the end of this year or the first of 2017, and that's thanks to generous support of the Vineyard Church. May 20th of 2017 is scheduled the Willows Block Party, and that is a Saturday from 1-4. We will have further information as we get closer to that date.

For Swimming Pools and Spa Program, the Ohio Department of Health completed an in-house audit of the Springdale Health Department's Swimming Pools and Spa Program, and that was on October 28th. The audit consisted of file reviews and joint inspections of licensed pools in Springdale. Springdale scored a 98% on that audit.

A proud kudos to the Health Department. They won an award called the Healthy Ohio Community Award. Last year we won it; it was a two-step award, and this year they were presented with a three-step award. The difference in those two is what the community offers, the healthy programs and the educational things that they offer. There is only one other three-step community in the State of Ohio. We would be the second.

Regulation R2-2016 was held. The Health Department held their second reading, and that is a proposal for a 5% increase in the food license fees set by R212-2015. The 5% increase falls in line with the other local jurisdiction fees, so we're right with everybody else on that.

For the Nurse's Report, the Zika Virus, the CDC continues to advise travel warnings for travel to areas with active Zika transmissions. If you want to see any of the current warnings or areas, you can go to www.cdc.gov. Flu activity in the US remains minimal in the Continental USA. Widespread flu activity is reported in Guam, and regional activity is reported in Puerto Rico. The characteristics this year of the majority of the flu virus cases that were tested between May and September are similar to the recommended components of this year's vaccine, so we actually vaccinated against the virus this year. We had 42 cases of flu in Hamilton County so far. Flu vaccines continue to be offered to employees from our purchased stock of vaccine and to the community members who qualify for the State-supplied vaccine. As of the end of October, we have given 62 employees and employee family members the flu vaccination. The Annual Health Fair was held October 18th. It was a very successful health fair. We gave 76 total vaccines: 33 very given by Walgreens and 43 were given by Springdale. They had ten hearing screens, multiple blood pressure screenings, 30 glucose checks, and we were assisted by the Xavier University nursing students this year. The Healthy Diabetes Workshop, there were nine members in that, and that concludes November 17th. The Latino Coalition of Southwest Ohio met October 16th for their community. It was well-attended. The Springdale Health Department had several community partners in this: Medicaid Community Partners, Mercy Fairfield Hospital, OB-GYN Clinic, Good Sam Hospital. They provided vaccinations and there were 61 given there. They offered information on immigration laws and they had lawyers and (inaudible) available for questions that they would have.

Capital Improvements

Mrs. Emerson - no report

O-K-I

Mrs. Harlow: OKI met on November 10th, and in addition to our regular reports such as the Finance Officer's Report and the Executive Director's Report, we had a legislative update. \$850 million will be awarded for the 2017 Fastlane Grant. This is a highway infrastructure grant, and the Western Hills Viaduct will be part of that grant. We also had a resolution regarding our Executive Director. His contract, Mr. Mark Poleneski's contract has been

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extended to June 30th, 2020. The other items were just amendments to the 2016-2019 Transportation Improvement Program.

Mayor's Report

Mayor Webster: I had the pleasure today to cut the ribbon at the new Outback Steakhouse, which is located out in front of Macy's over in Tri-County Mall. Outback has been in the city for 24 years, and they've been located, as all of you know, right up the street here at the Wimbledon Plaza. They've created fine dining for the community for many years, and so they have a really nice-looking facility over there. It's slightly larger than the one up the street, but very modern and very up-to-date, and I think we wish them well and I think they'll do tremendously well over there.

The other thing I'd like to mention is once again SOS is in full swing, our Christmas program. We have 59 families that have applied for need, for help, and we have 45 of those families adopted, so we're still looking for 14 what we would consider donor families, so if anyone would be so inclined, please give our Health Department a call at 346-5725 to get signed up for that. Also, we're accepting food, accepting any kind of gifts that you'd want to bestow upon us. Here again, those can be dropped off at our Health Department here at the Municipal Building or also at the Springdale Community Center. I'm sure our 59 families will grow, as they usually do. Did I leave anything out, Mrs. Ghantous?

Mrs. Ghantous: Nope.

Mayor Webster: At this point, I would like to present a proclamation to another one of our long-standing businesses in the community, if I can find the proclamation here.

Whereas Full Throttle Indoor Karting was founded by Joe Gorman and Aaron Van Thiel in 2011 with one track, thirty go-karts, and twenty-five employees;

And whereas Full Throttle Indoor Karting expanded their fleet of go-karts in 2014 to make them accessible to racers of all ages and physical abilities;

And whereas Full Throttle Indoor Karting hosts parties, corporate team-building programs, and special events such as the Racing for Vets 24-Hour Team Endurance Race;

And whereas by 2016, Full Throttle Indoor Karting expanded their operations to include three tracks, eighty-two go-karts, and sixty employees;

And whereas Full Throttle Indoor Karting hosts over 40,000 unique visitors each year, and recently welcomed their 500,000th customer;

And whereas Full Throttle Indoor Karting has received numerous awards including the TripAdvisor Certificate of Excellence, the Cincy Magazine Best Place for Team-Building, the Springdale Chamber of Commerce Corporate Citizens of the Year, and a finalist for the Cincinnati Regional Chamber of Commerce Small Business of the Year;

And whereas Full Throttle Indoor Karting is recognized on the occurrence of its fifth anniversary for its outstanding and distinguished service to the City;

Now therefore I, Doyle H. Webster, Mayor of the City of Springdale, do hereby proclaim November 16th, 2016 as Full Throttle Indoor Karting Day in the City of Springdale, and command this observance to our City.

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So, with that I'd like to ask Joe Gorman and his partner Aaron to step down and receive this proclamation.

Just a personal note, we'd like to thank Full Throttle for their participation in our Chamber of Commerce. They're always willing to step forth and do whatever is needed, so we appreciate their coming to Springdale and it's just a shining example of what a small business can do and the way they can grow and create opportunity and jobs for a lot of people, so Joe and Aaron, congratulations. Thank you very much.

Mrs. McNear: Mayor Webster, question about the food donations. Can you drop those off at the police station again this year?

Mayor Webster: The food, there's a bin right outside the Health Department. You can drop it off there.

Mrs. McNear: Right. I just want to know if you can do it at the police station as usual this year.

Mayor Webster: Well, let's not confuse this with Food for Fines.

Mrs. McNear: No, I'm not.

Mayor Webster: No, primarily here and the Community Center.

Mrs. McNear: Okay. It's always been at the police station before; that's why I asked the question, for clarification.

Mayor Webster: Well, we talked about that today, but they didn't own up to having a bin down there, so the two places.

Mrs. McNear: Okay, thank you.

President Vanover: Lock them up.

Mrs. McNear: I didn't get a ticket. (laughter)

Mayor Webster: You have my address.

Clerk of Council/Finance Director

Mrs. McNear: An update for the General Fund, year-to-date through October 31st. Our net receipts are \$16.54 million, and we have received \$16.281 million to date. That's 99% of the anticipated net receipts. Those receipts are made up of our top five sources of earnings tax, real estate taxes, paramedic services, local government funds, and Mayor's Court. That totals \$15.253 million, or 94%. In 2015, at this point we also were at 94%. Net expenditures are \$16.708 million. We have spent \$13.398 million, which is 78% of the anticipated expenditures for the year. Our ending General Fund balance is \$5.228 million.

Administrator's Report

Mr. Parham: Council, just a couple items for you. First of all, the Ohio Department of Transportation, as we've talked about before, has awarded the City with Urban Paving Program funds for State Route 4 (Springfield Pike). If you recall, a couple years ago, we were fortunate to be able to receive the funding from ODOT that covered State Route 4 from Sharon Road to Cameron. This next program is scheduled in 2017 from Cameron to just north of the eastbound exit ramp at State Route 4 at I-275. The funding for the program is typically 80% covered by ODOT and 20% covered by the City. That is only for the paving portion of the project. Any other improvements that are necessary, whether you need to improve curbs, whether you need to improve catch basins or such things, those are then covered by the municipality. When you begin to factor out the cost relative to the paving and all the other improvements, it's typically, what they'll estimate is about a 50/50 split. The cost for the project is estimated at \$915,000 or \$457,500 for each organization. In addition, there are a couple of other additional costs the City has chosen to consider. One is, since the project is going to run from Cameron to essentially I-275, a year or two ago, we completed the

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improvement on West Kemper Road. The Urban Paving improvement and the W. Kemper Road will not meet at a point. As a result, we would essentially have old, worn pavement in between two new pavement portions at the conclusion of this project. For an additional estimated cost of \$21,000, I think it would be appropriate for the City then to cover that gap of old pavement.

In addition, as you recall, we have been trying to move towards using more microwave detection device systems. We now have three in the community. The very first one installed was at Kemper Commons and Century Boulevard on East Kemper Road. The second was at State Route 747 (Princeton Pike) and Crescentville Road. The most recent one was installed this year at State Route 4 and Crescentville Road. What we've looked at as a part of the Urban Paving project is instead of installing traffic loops into the ground, we would install the microwave detection systems at three major locations that are part of this project. The three intersections are State Route 4 and Northland, the second is State Route 4 and Kemper, the third is at State Route 4 and Glensprings. The loops get damaged when we have construction projects in their location or sometimes the loops are just faulty and they begin to fail. It costs about \$4,000 to replace a loop. In the case of the microwave, we can have as many improvements as we need in the intersection, and not impact a microwave device. Therefore, we find microwaves to be much more efficient and effective in helping to move our traffic. At the same time, they give us an additional benefit as a traffic counter. They do a pretty good job of counting traffic vehicles. For an additional \$30,000, we can have the microwaves added to the project. The loops, if you think about it we are talking about getting three different intersections for an incremental difference of \$30,000. If we were putting one of these microwaves at any of these locations, they're about \$25,000 individually. So, I think we'll get a chance to experience some savings as well as have more efficiency with the use of the microwave as opposed to the traffic loops. That project is scheduled to take place in 2017. ODOT is requesting that Council adopt a preliminary ordinance for the project. If Council is in agreement, ODOT will come back in April of next year and ask us to adopt a final ordinance. At that point, the City will have to make our contribution to ODOT for the project. This will be an ODOT project that they will oversee. At this time, I am willing to answer any questions you may have.

President Vanover: I just have one. Are these, I know years past that the loops were not sensitive to picking up two wheel traffic, bicycles. Now do the microwaves pick those up?

Mr. Parham: The microwave will pick up a motorcycle. We're not sure whether or not they will pick up my bicycle. If not, I just circle around the building. (laughter)

The second item I'd like to share is related to the Comprehensive Capital Improvement Program the City put together earlier this year. As you recall, as a part of that program there were three OPWC applications that we have been discussing this for some time now. The three applications involve projects covering the Beacon Hills Subdivision and Kenn Road, the Jake Sweeney Rehabilitation project, and then the Glensprings Drive Rehabilitation project. We received the preliminary results back last week. Unfortunately our projects did not receive favorable recognition. Out of a total of seventy-two projects, our three finished number sixty-five, number sixty-seven, and number sixty-nine. How we finished so bad, I have no idea. It looks as if they are going to be rewarding the top twelve projects out of the seventy-two. If you recall, we previously discussed wanting to take advantage of their loan opportunity. As a result, our applications were submitted with a 50% grant, 50% loan request. We also anticipated that perhaps as in the past some jurisdictions would not take advantage of the loan. OPWC would then come back and ask the jurisdiction if they are interested in taking a loan at 100%. To our knowledge, they have been making phone calls to jurisdictions to determine who would be willing to take a loan or not. As of yet, we have not heard from them. I don't know if we will get an opportunity because we're so far down the list, but it really is the only opportunity that we will have to receive outside funding at this point. So as we're beginning to conclude our 2017 Budget process, and mind you, these projects that we've identified were scheduled to go out to bid perhaps late fall of 2017 or early spring of 2018. The dollars under this funding would not become available until July of next year if we were successful. This means the project would not be constructed until 2018. We know that Beacon Hills is one of the most challenged streets in the City. I think it finished second worst streets on our list as we evaluated our own streets. We know relative to Jake Sweeney, I think this is probably the fourth time we have applied for funding and been unsuccessful. However, we know that there are challenges with that street as well, and there are challenges with Glensprings Drive. At some point, we, Council, as a body is

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going to have to make some decisions as to how we're going to address those streets. I think the program we put together was a prudent program. It would have allowed us to address those streets sooner as opposed to what we were doing prior to that. We were hoping that financially we could try to attack a portion of a subdivision at a time, as we were able to do with the Oxford Hills subdivision. Trying to put them all in one basket and address them now without this outside funding would essentially mean we would have to consider some additional debt. We would have to come up with a program in which we're going to be able to pay off the debt, if we wanted to include that into one of the programs we have already identified. We already have a program for 2017 in which we are borrowing \$3.5 million. Those dollars are scheduled to cover the 2017 Street Program, as well as the West Kemper Road project to the west of State Route 4 to Kenn Road. So with that I'll pause and try to address any questions you may have.

Mayor Webster: I really would like to see, and I know we've got a Finance Committee Meeting for the 28th of February, I really would like to see us devote part of that agenda to discuss the funding here, because I think we are sort of back at square one as to what we want to do and how we want to finance this. I know I've got a few ideas I'd like to run past the Finance Committee. Mr. Diehl, if we could make that an agenda item, I'd appreciate it.

Mr. Parham: The final item is an update. I think at either the last meeting or the previous meeting, Council requested that the Administration proceed with the evaluation of putting sidewalks on West Kemper Road. Just to give you an update, on Thursday, November 10th, CT Consultants did place stakes out on West Kemper Road on the south side of the road so that everyone can get a sense of how close the back edge of the sidewalk would be to their residence. The day before, on November 9th, the City provided a letter authored by the Public Works Director to the residents on the south side of the road. The letter informed the residents that the stakes would be placed, that the Council was considering constructing a sidewalk on the south side, and we requested feedback by December 1st. That would give us time to hear from the residents and give them time to consider it. To date, I was originally going to report we hadn't received a response, but we did receive a response late this afternoon from one resident, and that resident did indicate that they were interested. There are a total of nineteen properties that are on the south side that would be directly impacted by a sidewalk.

Law Director's Report

Mr. Forbes

- no report

Engineers Report

Mr. Shvegza: Just one update. This involves some of the components of what was going to be the 2016 Street Program that were to be done under purchase order. The Public Works office has contracted with Prus Construction to perform the repair work on State Route 4 at the service drive that's just down the street, however, due to the time of year, that construction will not begin until spring of 2017.

President Vanover: Before we leave Committee and Official Reports, Council, we will address the subcommittee appointments at the first meeting in December, and we will do all of them, so plan likewise.

Communications

Mrs. McNear: I do have one item this evening from OKI. This is to notify us that our representative's, who is Mrs. Harlow, position or appointment will expire on January 12th, so we need to appoint a representative. So I would suggest we take nominations at this point. We do need to make this notification to them pretty quickly.

Mr. Hawkins nominated Mrs. Harlow; Mr. Diehl seconded.

Mrs. Harlow: Thank you both, gentlemen, but I have spoken with Mr. Shroyer, and Mr. Shroyer has expressed an interest in serving on that committee and I would like to give him the opportunity to do so. So I nominate Mr. Shroyer.

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Mr. Hawkins and Mr. Diehl withdrew their nominations for Mrs. Harlow, and Mr. Diehl then seconded Mrs. Harlow's nomination of Mr. Shroyer.

President Vanover: Are you willing to serve?

Mr. Shroyer: Certainly.

President Vanover: By acclimation, Mr. Shroyer is now the OKI representative.

Mrs. McNear: Alright, thank you. I'll notify the OKI Board.

Communications from the Audience

Mrs. Sullivan-Wisecup: Hello. My name is Meghan Sullivan-Wisecup. I am here representing Springdale Youth Boosters today. I haven't come representing them in a while, so I got the call and I said absolutely. As you all know, we did not have a parade in the spring. SYB has decided to change it to a Youth Winter Sports Pep Rally, and it will be on January 6th at 6 o'clock in the, I call it the New Gym. It's going to be a pep rally of all of our youth sports for winter time. We have basketball, cheerleading, and volleyball, and of course we're going to have the Mayor come and talk on behalf of our Rec Commission. Every single elected official in invited, just like when we had our parade. We want you to come and represent, and we're hoping it'll be a really, really fun time. We're having all of the kids, Springdale Youth Boosters is providing canvas or something for each of the teams so that they'll all have identical backgrounds, and they're all going to make their banners on that and they're going to hang from the walking track down. So it's going to hang the entire season. Every single one of our teams will be represented for the entire winter sports season so it's kind of cool that no matter who's playing, we're still representing all of our teams. And we're really excited to see how it's going to turn out.

President Vanover: You said January 6th?

Mrs. Sullivan-Wisecup: At 6 o'clock.

President Vanover: At 6 o'clock. Okay.

Mayor Webster: What Mrs. Wisecup was referring to, as far as the Mayor talking about the Rec Center or Parks and Recreation Commission, we will be inducting two coaches into the Coaches' Hall of Fame; Mr. Gene Burt and Mr. Gene Nell. So if anyone knows of any other coaches or youth advocates that passed away in the last year or so, please let us know, but as of right now those two individuals will be inducted.

Mr. Gibbs: Hi. My name is Larry Gibbs. I live here in... do I sign in?

President Vanover: Yes, sir. Please

Mr. Gibbs: I was here a couple months ago and addressed an issue, and I just was gonna kind of elaborate a little bit on it and see if anything was looked into it, about the parking situation at Nelson and Van Cleve intersection. We have resident there, it's 248 that lives across. I don't know how many people live in the home, but there are a lot of vehicles that park there, and I've already called the police since I've been here. They've been hanging way out into the street. That corner that comes down, that curve, they park there and they back up, and then coming down Nelson as you go into the park, they park there. And they're just sticking out, and it's a really busy intersection, and it kind of needs to be open. Since I've been here I lost a fifteen foot tree in my yard. I heard it when it hit; it was around twelve o'clock at night and they clipped the whole thing down. I didn't see what happened, but it's just so congested there. I just was wondering how many vehicles are we permitted to have in a home. They've got like six or seven vehicles that are always there. They're always just parked there, constantly. If anybody's come down Nelson or come down Van Cleve at the intersection there, they can see that, I think there's going to be an accident there. I really do, because it's just... And the only way, you can't really, I can't be calling the police. They can't be babysitting everybody, but I think it be looked into that so many feet from that curb, and then the part down from Nelson to Van Cleve, it should just be

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no parking there. It's just, I've talked to the police about it. They tell me to address it here, and it's just a back and forth thing, and maybe there are some other areas in Springdale that have this same problem and nobody's ever addressed them, but I know I've got the neighbors around that are getting pretty... And I know you've got a lot on your plate. You've got a lot to do, and I appreciate what you do, and I appreciate what the police do. Sometimes you can address issues and they come down there and they can look at it, and all the vehicles will be gone. But then they come when you're not there. That's the thing. And I don't know how to address the issue. It just, it's a problem, and I really hesitated coming up here because it's almost asking you to babysit them. If there just could be something looked at that at that section because there's so many people coming from off of Van Cleve up to Nelson, it's really a major intersection. I mean I don't know how many cars that just come there constantly, and they can't see beyond these cars. And when they're parked in their driveway, they're hanging over the walkway. You can't even walk past that house. If there's a limit on adults, there should be a limit on vehicles for home. These houses were just not made... and these trucks are commercial, they're big trucks. Even my neighbor here (gestures to Recording Secretary), she knows. She's seen them. So I'm just addressing that, and don't know if anything can be done or not.

Mayor Webster: After the last time you were here, did we not move any of the No Parking signs and clear some of that?

Mr. Gibbs: Nothing was put there, no.

Mayor Webster: Please?

Mr. Gibbs: What's that now?

Mayor Webster: Did we move one of the No Parking signs and clear an area there around that intersection to make no parking closer to the intersection?

Mr. Gibbs: No, there's no signs there or nothing, if that's what you're asking.

Mayor Webster: So nothing happened as a result of you being here last time?

Mr. Gibbs: No, not that I know of. It's still going on. I mean, it just was, they're still parking the same way and I just wanted to...

Mayor Webster: Well I was under the understanding that we were going to take a look at that and see if we couldn't put some No Parking signs within twenty feet or thirty feet or something of that intersection. Do you know if we looked at that, Mr. Parham?

Mr. Parham: We did look at it. We looked at a number of the situations that Mr. Gibbs talked about. In order, as I understand it, to have a No Parking there, it has to be a fire lane, and it's not a fire lane at that location. We've had a discussion with both the Fire Department as well as the Police Department, so we couldn't just adjust the sign to say No Parking if it isn't a fire lane, as I understand it. Relative to the cars parked across the sidewalk, we spoke with the Police Department. I think you've called the Police Department. The Police Department has been on notice to identify that situation if that occurs. I do not believe there is a limitation on the number of vehicles. I think there is a limitation on the types of vehicles that can be parked overnight. If it's a commercial vehicle, those have limitations on the street. Relative to your concern last time to the number of people residing in the house, we did, through the Building Department, send a notice to the property owner. In fact, the property owner came up and had a very lively discussion, not in agreement with the Building Official, so they were placed on notice. We did not totally ignore your comments. Every last one of those were looked into. There were a number of other things that you identified. I think one was about a sacrificial animal in the back of the property. The Police Department checked in there. We had no calls on such an event. So no, we did not simply ignore his concerns; we looked into every one of his concerns.

Mayor Webster: But I would advise you, whenever you see a car or truck parked on the sidewalk or hanging over into the street, call the police right away. If you have to call them every day, call them every day.

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Mr. Gibbs: Yeah, sure. I just wanted to bring that up to see if, ya know, I know you've got a lot of stuff to do, and stuff kinda, ya know. But I appreciate you looking into that and I just wanted to readdress that.

Mr. Parham: Mr. Gibbs, we're never too busy to address concerns that residents bring to us. You were brave enough to come before us and talk to us. Often people send us anonymous notes, and so when you raise your concerns, we go and take a look at those and see what we can do to make those go away.

Mr. Gibbs: Well I'm all for making the community all it can be, and sometimes if it's a little thing, you've got to start somewhere to, even a little small thing, take care of it, to keep it from getting to be a bigger thing. I appreciate you letting me address the issue and looking into that for me.

Mayor Webster: As far as the numbers of people residing in the house, that's one of the hardest things we have to enforce because we almost have to have the police stake out the house on a 24-hour basis to see who comes and goes, and who sleeps there and who gets up and goes to work the next morning. Just one violation, you can't issue a citation. You've got to do it over and over again, so it's a pretty costly enforcement measure.

Mr. Gibbs: Almost need a camera in that corner, don't you? Okay, well that's all I have. Thank you. Thank you very much.

Mr. Hawkins: Mr. Gibbs, are you indicating that cars are parking all the way up to the corner of the intersection?

Mr. Gibbs: What's that now?

Mr. Hawkins: Are you saying cars are parking all the way up to the intersection on the curb?

Mr. Gibbs: Well, they come out on the curb as you're coming down, and the people coming up, there's a stop sign there anyway. But if you've got a car that stops at the stop sign, it's a, what are they going to do? And then if you go around the corner as you go into the park, if they're sticking out there, they're coming in here because it's an intersection. It's just so busy. I just thought there should be some clearance on each curb. No Parking from here back. The police wouldn't have to be called, nothing like that. Just something to think about. Thanks a lot.

Mrs. Harlow: I guess my question is for Mr. Parham. Why can we not put a No Parking from here to the corner? Why are we not allowed to do that in our City?

Mr. Parham: I'm not sure if it's just that we're not allowed to do it in our City, it may not be something that is allowed in any city. When we explored it last time, we explored it relative to fire lanes. Now, Don, I think last time there was a note that you sent me. Something relative to ...

Mr. Shvegza: Yes, I'd have to take a look back at it, but there's a certain distance between basically the stop sign and back away from there where there's no parking permitted.

Mr. Parham: Okay, so there may be. We will look into it again.

Mrs. Harlow: But, I agree with Mr. Gibbs. If you're coming down Van Cleve and you choose to turn left onto Nelson, and all of those trucks are parked there, you can't see if there is any vehicle coming up Nelson, and so you just kind of have to inch your way out and look around, and it's very, very tight there. So, especially at night, it's very difficult to get out of there. So I totally agree with him.

Mr. Parham: We'll take a look and see if there's something that's in the State Code that permits us to limit them. At this point, my understanding is based on the fire code, where the limitations are. But we'll look at that as well.

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Mr. Hawkins: Just a cursory scan, I note the ORC has got something under 4511.68 for parking with regard to you can't park within 20 feet of a crosswalk at an intersection. Not saying there's a crosswalk there, but there may be something that is in there in the ORC.

Ordinances and Resolutions

Public Hearing

Ordinance No. 33-2016

AMENDING VARIOUS SECTIONS OF THE CODIFIED ORDINANCES OF THE CITY OF SPRINGDALE ZONING CODE

President Vanover: We've heard the reading; at this point we'll open a public hearing. Is there anybody that wants to address Council for or against?

Ms. Fields: As stated, we presented these revisions of the code to Planning Commission last month. At that meeting, we kind of went over the general changes that were proposed and Planning Commission recommended approval with two minor changes. Those I will identify as we go. I'm going to do a quick presentation. We'll go through it, and then if there are questions at the end we can address those. The document that you have in front of you identifies the changes as you go through the code. The presentation will kind of group those by theme, but in the presentation it will also identify which sections of the code we're talking about.

The first item is we added a provision to the rezoning process that if an applicant proposed to rezone their property and is denied that rezoning by Planning Commission, that the applicant is required to request that the application is forwarded to City Council for review. If they do not make that request that the application be forwarded to Council for review, then it will not be forwarded. So if Planning Commission recommends denial and they don't request it to be forwarded, it will just end at that point. Planning Commission recommended adding a thirty day time limit to that so it wouldn't just be an unending time frame. That was incorporated into the document that you received.

We made some changes to the Community Social Service Facilities definition. Based on that change to the definition, it affected some of the permitted use language, and also the parking standards. More just clean-up items. We just cleaned up that, Community Social Service Facilities did not include residential units.

We had a couple changes that were made to the Non-Residential Permitted Use Table. The four that are listed up there were the changes to that table. The ones of note are the second one, where we added the installation of products purchased on premise as a permitted accessory use in GB and SS. This came out, we did a study of Northland Boulevard, especially the SS zone of Northland Boulevard, and this was identified as a need for some of the businesses in that area, such as installing car stereos. If you buy the car stereo at the store, having the ability to install that on site seemed appropriate. The third one, we added permitted use for mobile food trucks and mobile medical trucks. We also added standards for both of those. Those are later in the presentation, but I wanted to make note. The other ones were more clean-up items and clarification items.

For Non-Residential Fence Regulations, we clarified that chain-link and barbed-wire fences are only permitted in the G1 zoning district, and then clarified the permitted fence materials for the other Non-Residential zoning districts that are listed there.

Again, for the mobile uses, food and medical, we added regulations in the code that addresses those. There are different regulations that affect mobile food and mobile medical, such as where they can park, how long they can park, what lighting that can have, what signage, hours of operation, noise and parking. If you have any questions on those, again this

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is a new addition to the code that was identified as a need that was not taken care of with the first code update.

As I stated, we did a zoning study on Northland Boulevard, and one of the other findings of that study was the need to increase the percentage of retail sales allowed in that district. The current code speculated that retail sales in the SS district should only be 10% of any business in that zoning district, not to exceed 500 square feet. Some of the uses, specifically Frame USA, did not meet that regulation, so looking into what their current needs are and their expansion plans, we are proposing to up that 10% to 20% of the total building area, as that should take care of Frame USA's current operation, and then we also are proposing to not include that 500 square foot maximum.

Non-Residential Accessory Structures and Buildings, we added standards and set-backs for those. This was an oversight in the first code and we wanted to make sure that we had standards in there for Accessory Buildings in the Non-Residential Zones. So those were added to the code.

Sign changes, there's two slides of kind of a number of sign changes. Most were kind of clean-up items. We added a definition for sign height, so then in the code we removed some places where we explained how to measure sign height in the code, as now the definition of sign height is taking care of that. One, the bottom one, is probably the major change in that list. We changed how the calculation of signage, the previous code had a kind of convoluted formula to calculate wall signage, which was found to be good for some of the smaller businesses within the City, but was problematic for some of the larger businesses within Springdale. As we were going through the update process, we proposed to change it to a percentage of the building façade, as that was found to be more beneficial to the larger businesses, so the code was adopted with wall signage to be equal to 4% of the primary building façade. That worked pretty well for the larger businesses, but as we went through the process we realized it was not successful or not appropriate for some of the smaller businesses in the City, especially if they only had a small storefront in a strip center or something. 4% of their building frontage was sometimes ten square feet, so we were hurting the little guys with this change, even though we were helping some of the bigger guys. So we looked at this again. We went back to a similar calculation as what your previous code had, but altered it slightly, found kind of a middle ground to hopefully have appropriate sign allowances for all businesses within the City. So we think that this will be a more successful approach.

These are some additional sign changes. One I will note is we are proposing an addition for allowing temporary signs for City events or activities in the right-of-way. Previously no signs were permitted in the right-of-way. At the Planning Commission meeting, the Commission recommended that legal counsel to review this to ensure that there were no concerns moving forward from this. Mr. Forbes is here, but in his response to that, he stated that Council should articulate some rationale or reason why the City can advocate and promote events in the right-of-way where no other businesses can, just to ensure that you're covered. And again, if Mr. Forbes wants to add anything, you can. Other than that, I think the other things are more clean-up items for signage. I guess the first one up there, for electronic signs, we only had those permitted in General Business zones and in PUDs; we added, they are proposing to add that in the Public Facilities and the SS zone, that electronic signs would be allowed per a conditional use permit. In cases where, especially certain businesses and public facilities, schools or churches, a lot of times would have an electronic sign and at least allowing a process where they can request that, and if it's appropriate then the Boards can approve that instead of not allowing it at all.

Lastly, this is just kind of the remainder of the items in your report, mainly just the small clean-up items. We had a couple typos we found, and things like that. So that really concludes the very quick summary of all of the changes that are proposed to the zoning code. I'm happy to answer any questions or expand on any of those topics.

Mr. Diehl: How are you doing?

Ms. Fields: Pretty good. How are you?

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Mr. Diehl: Good. Good to see you again. I have a question on the Northland retail, when you took it to 20%. I don't know if I misunderstood, or what. You took that to 20% just to cover USA Frames?

Ms. Fields: We looked at the businesses within the Northland area that are in that SS zone. There were two or three that had a retail component. Frame USA is the largest one in there, and they far exceeded the 10% and the 500 square feet that the current code permitted, so we wanted to make sure that we were accommodating them, as they were kind of the outlier. The other uses kind of also would fall into that 20% in their current forms. So it was based on Frame USA's current business model.

Mr. Diehl: Well, okay. Here's my question then. If USA Frames was not there, would you still increase it to 20%?

Ms. Fields: We based that number on their current operation so I'm not sure we would have come up with that 20% if we weren't using the existing business as a rationale for how to look at this. The SS zone is really only this stretch of Northland Boulevard, and the Lowe's, which of course is a completely different animal, so it kind of was looking at, we didn't want to whole-heartedly change this district. The SS zone was created to kind of stop the retail area, kind of keep the retail uses around Tri-County and to have those creep into some of the other areas of the City, but still allowing a little bit more flexibility for the current uses we do have in that area.

Mr. Diehl: Thanks a lot.

Mr. Hawkins: Regarding the rezoning application denial, as Planning Commission discussed, we also discussed that it was critical that our Building Department make sure that we inform the applicant of the process so they're well aware of that. I just want to make sure that Council understood that that's something that I understand is going to take place as well.

And then in terms of the signage for the City in the right-of-way, Mr. Forbes, do we have to have a rational basis put into the code, or is it something that...?

Mr. Forbes: No.

Mr. Hawkins: We just have to be able to argue if someone challenges it.

Mr. Forbes: Right. My comment on that issue was, it's not anything that has to be incorporated into the code; it's just something that if the question were to come up, you would have to be able to articulate some rational reason why you did it. I think actually, if you look back when this concept first was presented at Council, you actually did it then. If you look back at the minutes, you'll see some of the reasons why you wanted to proceed with that type of a change, so it's nothing that has to be incorporated into the code, but you're right, if there's ever any kind of a challenge, it would be helpful to go back and show that yes, they thought about this; they talked about this, and that's why it was done.

President Vanover: Council, is there any further discussion? We're still in public hearing, so anybody else like to address Council on this matter, for or against? (None) We'll close the public hearing. Council you've heard the reading of this. This would be the first reading; we'll have another reading at our next meeting, unless you have some further discussion at this point.

Mr. Hawkins: We did first reading last time.

President Vanover: Oh, that's right. You're right. I forgot. This is the second reading so we are able to act upon it at your pleasure this evening.

Mr. Diehl motioned to adopt; Mr. Hawkins seconded. Mr. Shroyer abstained due to a personal interest in the zoning code. The Ordinance passed with a vote of 6-1, with one abstention (Mr. Shroyer).

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Ordinance 34-2016

AMENDING SECTION 155.036 AND ADOPTING SECTION 155.037 OF THE PROPERTY MAINTENANCE CODE AND DECLARING AN EMERGENCY

Mrs. Emerson moved to adopt; Mr. Diehl seconded the motion.

Mrs. Harlow: Have there been times in the past twelve months that we would have enforced this Ordinance?

Mr. Parham: In the past twelve months, I'm trying to see if I have my report...

Mrs. Harlow: Or the past twenty-four months. Something like that.

Mr. Parham: Mrs. Harlow, I want to say yes, in the past twelve months but I can't say for certain. I know that the last time we spoke about this, I had a list that showed about four of five property owners that had ranged from anywhere up to six occurrences of repeats that we had violations. And I probably would say yes, in the last twelve months. We have had, unfortunately with the gentleman who passed recently, with his number of properties, we've had repeat violations. I'm almost certain he was on that list.

Mrs. Harlow: And I know they get door hangers, and I know they get letters, and I know they get personal visits, correct?

Mr. Parham: Correct.

Mrs. Harlow: So every form of communication has been given to them before the hammer is lowered. Is that correct?

Mr. Parham: Yes, and at the same time, what we did, we checked to see, because right now it says the first violation is up to \$250 or thirty days in jail. I don't think anybody has ever spent thirty days in jail, but as we've checked, the best we could find in our records, the most anyone has ever been fined is \$150. So they haven't even been fined up to \$250. And what this proposes, is your second offense goes up to \$500, the third offense goes up to \$750, but even as it's up to \$250, no one has been, to our knowledge, been cited or fined the \$250.

Mrs. Ghantous: Who decides the amount of the "up-to", and what is that based on? So we were up to \$250, but you said most folks, the maximum folks paid was \$150. Who made and that decision, and what did they base that on?

Mr. Parham: I believe it's the judge, the magistrate, who makes the decision, and whatever his rationale is as he hears the particular cases that come before him.

Mrs. Ghantous: So, we could change this and it could still be \$150.

Mr. Parham: You can change it, and...

Mrs. Ghantous: If we vote to change it, the decision is still going to be up to that judge.

Mr. Parham: That's correct.

Mrs. Ghantous: And so it's still might only be \$150, that penalty.

Mr. Parham: Correct, but I think what this does, I would have to imagine the person who got \$150, probably didn't repeat it again because it may have gone up to the \$250 then, and what increasing it to the \$750 will do is hopefully to serve, more than anything else, a deterrent. Again as I think I stated last time, we're not trying to make money off of this; we're simply trying to make the problem go away. For a residential or resident owner, more than likely they don't want to pay \$250, and that's probably a financial hit to their pocket, but for a business that may have the ability to continue to repeat the offense, this \$250 may be a drop in the bucket for them to be able to continue to put the sign up when their sign is in violation. They're willing to pay the \$250, but that's the max we can fine them. So really it is determined by the judge, but I think it's more to serve as hopefully a deterrent to change the unwanted behavior.

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Mrs. Ghantous: I get that part of it, but still if the judge is making the decision and the decisions that have been made in the past have always been on the low end, what's going to make that part of it change? Maybe nothing.

Mr. Parham: I guess that's always possible, but if the judge has the tool available to him he then has also the opportunity to influence the change, and if I don't mind paying the \$250 for my business in order to reap the benefit of whatever that violation is, I'll continue to do it. But when it gets to a point where it is something that I'm not willing to live with any longer I'll change the behavior.

Mr. Hawkins: I'll start by saying our Administration and our Building Department are very patient and very accommodating, sometimes maybe too accommodating and patient. I have some concern, and I referenced this previously, with regard to the change to the Ordinance in principal of further criminalizing the building code. My concern is more really with the time, the days of potential exposure that we would authorize either or magistrate or municipal court judges for Hamilton County to be able to impose, whether they did or not, as a legislature that's part of in the balance of separation of powers, something we have to consider. And then the practical application of, if someone was actually going to go do that, and lock somebody up over it, from a practical standpoint of Hamilton County Justice Center being overcrowded, I guess my question, and I guess this would be for Mr. Forbes, is there a means in which we can look at an Ordinance that creates, we keep it as an M-4, where it has exposure of thirty days in jail, but on multiple offenses of the same violation within a twelve month window, we escalate the exposure with a fine. My issue is the jail time that we're making these eligible for with a full M-3 and a full M-2, and so I would be open to compromising if we're able to structure that some way, much the way you have with an OVI. They're all misdemeanors of the first degree, but the fine goes up exponentially with each conviction.

Mayor Webster: The fine, but not the jail.

Mr. Hawkins: Right. Well, the exposure to jail, in that example of the OVI, goes up as well, but in this instance, that's my concern is that we're exposing residents in a twelve month window to essentially 180 days if they were to do this, not that a judge or magistrate has to go do that, but on principle, that seems... I have a problem with that in principle. I understand a big part of this in terms of where the Administration and Building Department probably coming from is to financially incentivize people to not continue to do this, but as we have it right now, we're giving a magistrate or a judge the authority, if someone gets a wild hair, to say... I've got a problem with that part of it. Not so much the financial side.

Mr. Forbes: We can look at that, but I can tell you, the way your code is right now, it states that a violation is a fourth degree misdemeanor with a fine of \$250 and up to thirty days in jail. The state law provides what the maximum penalties are for different degrees of misdemeanors, so I understand what you're saying, but if it remains as a fourth degree misdemeanor, the fine can't be any higher than \$250. In order to elevate the fine, the level of misdemeanor has to elevate with it, so it would have to go from an M-4 to an M-3, but when you do that to raise the dollar amount of the fine, along with that comes... the state law says a fourth degree misdemeanor, here's the dollar amount, here's the potential jail time; third degree misdemeanor it says here's the fine, here's the jail. I mean we can explore different ways to do it. When I drafted this, I can just tell you the theory was, it states it's a fourth degree misdemeanor. If you want to elevate any part of the penalty, you have to go up to a third degree misdemeanor. If you want to elevate that, you have to go to a second degree misdemeanor. We stopped there. We didn't go all the way up to a first degree misdemeanor.

Mayor Webster: Put them in the electric chair. (laughter)

Mr. Hawkins: I guess the question would be, and I understand that, I guess the question would be is it possible to do, as an unclassified misdemeanor where we can control all of that, essentially, and say hey, it's going to be exposure up to thirty days, it's going to be a \$250 fine. Second time around, exposure up to thirty days and a \$500 fine, and so on. If we did it as unclassified. And I don't if we have any unclassified misdemeanors in our code as it stands right now.

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Mr. Forbes: I suspect that we do somewhere in the code, but I will tell you I don't know the answer to that question as we sit right here, if you could do it as an unclassified misdemeanor. It's something that we can review, if that's what Council would like.

Mayor Webster: Point I'd just like to make is to my knowledge, no one has ever spent one minute in our jail as a result of a Building Code violation. Maybe we've had some situations where they should have, but they've never spent a day in jail, and I can't imagine the magistrate imposing that and I think what this does is gives the prosecutor, you were asking about, Mrs. Ghantous was asking about the magistrate only going up to \$150. At least the prosecutor can say okay, this is the third time this person's been on here this year, and this is a misdemeanor of the second degree and the fine can go up to \$750. I think if the prosecutor presents it like that, I'm sure that the magistrate is going to heed that and he's going to, I'm not saying he's going to go all the way up to \$750 but at least, I can't imagine he's going to levy the fine down in the fourth degree misdemeanor category. It gives us another tool to try to entice people to take care of their property and like Mr. Parham said, we're not trying to raise money. We sure as heck don't want to create prisoners in our jail, and no one's going to end up with time in jail as a result of a building violation. They might end up with a few less dollars in their pocket, but that's their own choice.

Mrs. Harlow: I have two questions. When someone gets a misdemeanor on their record, what does that do for them as far as future employment? Do they have to list that? Do they, how does that impact someone who gets a misdemeanor on their record?

Mr. Parham: I'll let the attorney speak to the legal part of it, but before you do. As a part of what recently occurred, I think this year there is this "Ban the Box" and so you can no longer put the question on an employment application as to whether or not an individual has been convicted of a misdemeanor or a felony. So supposedly, and there may even be something to the degree that you can't ask the question, period, I believe.

Mr. Forbes: For public employers. So that would apply if you were seeking public employment. In private employment, it's up to an employer to see what it is they care about looking at and what they ask for on an application. There's still a potential with any kind of misdemeanor to have it expunged after a certain period of time, so that's a possibility.

Mrs. Harlow: Then my next question would be for a company that the owner is not on premises. Does it go back to the owner? Does it go back to the corporation? If it's a big box company, who is responsible? Is it the store manager? Who's going to be getting the misdemeanor?

Mr. Forbes: Well, I would have to look up that previous portion, because what I have here is just what you have in front of you on the penalty, but I believe what it says is it can be the property owner, the agent that's in control of the property; we have some flexibility on who actually gets cited.

Mr. Parham: I will say that one of the challenges that we face in this situation, and we faced this one I think very recently, if you have an out-of-state owner because we can't serve notice on that individual, and so we lose the opportunity. That's one of our biggest challenges, and that doesn't happen as often, but it has happened on occasion.

Mr. Forbes: And to that end, and I know we focused primarily here on the penalty section, but it's worth noting that the other provision that's being added, that's being proposed to be added, is to help address that very situation where you have an out-of-state owner. You may have difficulty serving a citation for a Mayor's Court appearance. The second part of what we're doing tonight also clarifies that we have the ability to proceed with a civil case, where you don't have to serve them to appear in Mayor's Court, it adds another opportunity to clarify beyond the Mayor's Court enforcement. We could also pursue a civil action.

Mrs. Harlow: Under item C, the refusal of occupancy permits, at what point in time does that enforcement jump in? Is it after the third offense, or could it be at any other point in time?

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Mr. Forbes: Again, that's part of why we added this clarification on the enforcement section. What this section says is, you don't have to do one first before you do the other. So if it makes more sense from an enforcement standpoint to take away an occupancy permit, then they would do that. The point here is that the Mayor's Court criminal path and any kind of other civil path are two separate paths, and they're both available to us at any time. You don't have to go down one before you go down the other. Again, this is to the point that the Staff and the Administration here, they go to a lot of lengths to work with property owners before they do any of this. So depending on the relationship that they have with the property owner and what the exact issues are, they don't have to have three Mayor's Court citations before we can go down this path. If that seems like the better path of enforcement, we can do that.

Mrs. Harlow: If we wanted to refuse an occupancy permit, do we have to go to court for that?

Mr. Forbes: No.

Mrs. Harlow: Someone is living on the premises, gotta do an eviction notice? What do you...

Mr. Forbes: We don't evict people.

Mrs. Harlow: So then how do you enforce the occupancy part of it?

Mr. Forbes: Right. This is not the, what this says is it's the refusal of an occupancy permit. It's not that we would be taking away an occupancy permit, but if someone applies for that occupancy permit and they're not in compliance with the property maintenance code, we don't have to issue one.

Mrs. Harlow: Okay. I understand that now.

Mr. Shroyer: I think I share most of the concerns voiced, especially Mr. Hawkins' concerns. I have some concern about labeling somebody with a misdemeanor conviction of a fourth degree, let alone a third or second, and giving them a criminal conviction to carry around basically forever unless they go through an expungement process over a property maintenance code violation, and the other thing that it seems like I'm hearing is if this legislation had been in place for the last ten years, we likely would have never used it anyway. Almost sounds like we're creating a sabre to rattle that we don't ever intend to actually use. I would have some trouble if we have to increase the jail time to increase the fine, I would have some trouble doing that.

Mr. Parham: I guess I'm a little puzzled. Mr. Shroyer, you said we would not have used in the last ten years; how did you arrive at that conclusion?

Mr. Shroyer: I believe Mrs. Harlow or somebody asked if we've had repeat offenders, and the most that we have ever fined somebody is \$150, and that, I assume is we may have fined folks multiple times \$100. But even the multiple offenders that we've had in the past, have they been fined the maximum under the current law?

Mr. Parham: I think her question was and I can be corrected if I'm incorrect, if I'm wrong here, but I think her question was, have we had the situation in the last twelve months. And I said I felt fairly certain that we have had this in the last twelve months. The only thing that we as the Administration can do is to send our folks out to enforce what the rules and the policies are. Then there's the judicial part of this, and the judge, the magistrate makes that decision as to what he is going to assess relative to a fine. Perhaps he did not have to go any higher with those individuals that received the \$150 citation or fine because they corrected the problem. It's very similar to the same situation we face with our Building Department in that when we're trying to work with the resident, and the resident doesn't work with us, then the Building Official is accused of not doing their job. And other times when we enforce it, then we're accused of being too heavy-handed. I imagine it's the same thing with the magistrate as he's trying to work with that individual, and not take it to the highest level of \$250. For whatever his rationale is, as I said to Mrs. Ghantous, I can't explain what his rationale was for reaching that conclusion, but perhaps maybe the reason we've never had to get to \$250 is because he

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assessed the first fine and they decided that was enough for them, and that they did not need to come back and repeat it again because they didn't want to pay any more than the \$150. So I think perhaps maybe if it had been in place before, if someone continued to push it, maybe it would have gotten to the \$250, but I wouldn't say that we've never had to, well I guess they didn't have to use it since they didn't take it to \$250. But, Gregg, do you recall whether that was a residential property or a business property?

Mr. Taylor: I believe it was residential but I'm not sure; it was a number of years ago.

Mr. Shroyer: But if we cited an individual as an M-4 multiple times, and each time he was fined something up to \$150, but not beyond that, if we had progressively increased to an M-3, and M-2, an M-1, with the associated penalties, then in essence if the magistrate is only going to fine him \$150 anyway, then he's convicted of an M-4 and paid a \$150 fine, convicted of an M-3 and paid \$150, convicted of an M-2 and paid \$150. I guess I just don't see where, I mean if we had a list of cases where we had multiple offenders that were coming in and paying the maximum \$250 fine on a regular basis, I'd probably feel better about the logic here. What I'm hearing, that's not what is happening.

Mr. Parham: I can't say, I'm not sure how you came to the conclusion that it was one individual repeatedly fined at \$150. I only know of one time a person was fined \$150. I don't know that they had a repeat, and then was only fined at \$150. I don't believe that is what occurred. Based on what you just described that each time they came back, they kept getting fined at only \$150; I don't know that that occurred. Only thing that I know is that we had a violation, the individual was fined \$150, and so the magistrate did not go up to \$250. I don't know if they repeated it after that. The problem we have right now, if you have to repeat it the most you can go is \$250. And perhaps they didn't repeat it.

Mr. Shroyer: I guess that's what I'm asking. Are we being limited by the current language in that we have repeat offenders that we're limited to a maximum of \$250? I guess that's the question. Do we have repeat offenders that we need an escalated deterrent to address those individuals?

Mr. Parham: The answer is, we do have repeat offenders, and I think that perhaps this is more targeted for addressing more of a business. It's an assumption; I hate assuming. I would have to assume that a resident is not going to want to continue to pay the \$150 or the \$250, or some fine amount, by repeating, because I can't imagine what advantage they're going to be receiving. If a business is inappropriately putting up a sign and it's in violation of the property maintenance code, they enjoy the benefits of the sign because people see the sign and people keep coming back, perhaps spending the money to generate enough income so that this \$250 or \$150 really doesn't make that big of a deal to them. Again, the purpose, as we saw it, is trying to create an opportunity as a deterrent from that repeating. I can't tell you, I understand what you're saying. I can't tell you that we've had repeat offenders.

Mr. Shroyer: Okay. Thank you.

Mr. Diehl: I think we're losing sight of the real issue here, and the real issue here is we want these people to fix their property. This is just a little encouragement for them to do that.

Mrs. Emerson: Just to kind of tag on what Mr. Diehl said, I don't understand why we're struggling with this so much. There's rules and laws out there that we're all expected to follow, and we all want a beautiful community. And these aren't first time offenders. These are people that repeatedly keep doing the same thing out of several warnings. So they should be held accountable for what they're doing wrong, just as if you were speeding or anything else. I mean once you've been corrected and you continue to do the behavior, there has to be some consequence to it; and if it's just the \$150, you have to give the judge or City Administration, somebody, some leeway to say, "Look. This is your third time of doing this. We fined you \$150 the first time. I'm done with it. You obviously aren't learning your lesson. Let's go to \$450" or whatever the limits are. So I mean I don't understand why there's such difficulty accepting these rules and laws and fines that go with them. People should be held accountable.

Mayor Webster: If someone just violates it as it is today, they get a fourth degree, charged with a fourth degree misdemeanor, so they're carrying that around for the rest of their life unless

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they have it expunged, so why are we concerned about them carrying around a second degree or a third degree misdemeanor? Why should we care about somebody that blatantly violates our laws and rules and regulations? Why in the hell should we care if they have to, they make their own decision. They wanted to blatantly violate the law, then they're going to carry around some conviction for the rest of their life. So we would like to have legislation in place to help us enforce the property maintenance code, and we think this would be a big deterrent to some of the repeat offenders.

President Vanover: Well, and then drawing on Mrs. Emerson's illustration of moving violations, if you willfully do it and get stopped, depending on what the mileage overage is and the speed zone, those carry different penalties, and also there is an accumulative factor that if you haven't learned your lesson the first time or the second time, once you accumulate in Ohio, it's what, 12 points in a one year period, then they take your driving privileges. So to me, it may be, it might not be apples and apples, but it's a willful decision to break a law, whether we call it an Ordinance or a law, it's the code. We are a nation of laws, and I agree. I understand the frustration. It is the magistrate's option to pass sentencing. The state, the ORC, says okay these are the limits, and you can play within that set of limits, but to go beyond that, to increase one or the other, then it's a hand-in-hand requirement. So I'm much in the same feeling as Mrs. Emerson and Mr. Diehl are that this is a willful decision and as we were talking before the meeting, when I started school, my dad made me a promise, a deterrent, that if I got in trouble at school, whatever I got at school I'd get twice at home. Well, I didn't test that theory because I knew he would hold up his end. It would be my end taking the punishment. So yeah, there are just people out there that don't want to obey the rules, and to you and I, \$150 might be a big thing. To a business, it may not be, and again, it may be cheaper to pay the fine than to correct, apply for more signage or whatever, so that's where I'm at.

The Ordinance passed with a 5-2 vote, with Mr. Hawkins and Mr. Shroyer voting no.

Ordinance 35-2016

PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$2,640,000 REAL ESTATE ACQUISITION BOND ANTICIPATION NOTES, FIRST (2016) RENEWAL, BY THE CITY OF SPRINGDALE, OHIO IN ANTICIPATION FOR THE ISSUANCE OF BONDS, PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH NOTES AND DECLARING AN EMERGENCY.

Mrs. Ghantous motioned to read by-title only; Mr. Shroyer seconded. The vote was 4-3. Per Mr. Forbes, the vote would had to have at least 5 affirmative votes to dispense with the full reading of the Ordinance. Mrs. McNear read the remainder of the Ordinance.

Mr. Hawkins motioned to adopt; Mr. Shroyer seconded.

Mr. Parham: In response to Mr. Hawkins' request, essentially in 2016, I think on January 28th, the City decided to purchase the former Sheraton Hotel, as well as to demolish that building. At some point shortly thereafter, Council adopted legislation very similar to what you're reading here this evening that allowed the City to in essence borrow the \$2.6 million in order to pay for the acquisition and the demolition of that building. The plan was to have the building demolished, have the property re-graded, and subsequently sold. Unfortunately, that has not happened. That will not happen prior to the conclusion of this year. There is a closing date requirement in the current legislation of December 31st, 2016. Since we're not going to hit that date, we are then required to roll the note, if you will, re-borrow the money in essence so that what this legislation does is to permit us just to roll that note so that next year we will enter into the same plan, which is to, we've already acquired the property. We're going to tear the building down and we're going to sell the property, and then the proceeds from the sale of the property will then go back towards paying off this debt, but we are obligated to pay the first debt off. The closing date is December 1st of 2017 for the new note.

Mr. Diehl: I just have one question. I don't want to know what happened in the past. I don't want to know what happened now. I just would like to know when the residents of the City of Springdale can expect to see that hotel down.

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Mr. Parham: Mr. Diehl, I would love to say to you and the residents of the City of Springdale that by X date the building will be down. Unfortunately, we have made attempts on several occasions through our legal staff as well as through our team, to request that the contractor at least sits down at the table with us so we can figure out that date. At this point, we've not received a response back from them, and so until we can engage them to set a date on which they're going to, first of all, return to the site, and second of all, once we sit down and have that conversation, we then hope to be able to identify a date in which they will have the building down.

Mr. Hawkins: I'm just making sure I understand in terms of my math is correct. So the interest due at the time of the re-issuance of the note is \$79,000?

Mr. Parham: The current interest that we pay for first one is \$54,560. We have an estimate right now of \$76,472 that we will have to pay when we close on this particular one for next year.

Mayor Webster: In response to Mr. Diehl's question, Mr. Parham is exactly right. We have not been able to get the contractor back to the table to sit down and talk to us. What they have told us is that their heavy equipment now is tied up on two other projects, and that it's going to be first they said February and now they're saying spring before either one of those two pieces of equipment are available for them to come back on site. And once they get back on site, they're saying they would still need their full 100 days, which is, I don't believe that's going to happen. I don't believe it's going to take them 100 days once they get back on site, because a lot of the work has already been done.

Mr. Diehl: So the answer to my question is, we don't know.

Mayor Webster: Right. At this point, we don't know. Worse case, it would be 100 days from the spring when they come back. Now spring lasts for 90 days; March 21st is spring and it lasts all the way until June 20th. Now if there is anyone on Council that wants to make a motion that we file a lawsuit against them and start spending a lot of legal fees on doing that, I'm sure Mr. Forbes will be more than happy to trot down to the courthouse tomorrow to file a lawsuit or file a claim of liquidated damages. There's probably several legal means we could take. I think if you stand back and realistically look at it, what are going to buy yourself? By the time you get this thing to court, after you've already spent the legal fees, you're going to be looking at spring.

Mr. Diehl: I don't think anybody's looking in that direction.

Mayor Webster: Okay. Well, that's the other alternative, so it's not like we're happy about it. We're just as perplexed as you folks are. We're just as perplexed as the residents out there. Two questions I get asked throughout the City; that's one of them.

Mr. Diehl: And we already know what the second one is. (laughter)

Mr. Shroyer: Did the contractor supply a performance bond?

Mr. Parham: Yes.

Mr. Shroyer: Will we be able to, assuming there's a 100 day time frame, would we be able to deduct the number of days the site wasn't available to them and start the clock?

Mr. Parham: Well, that was the logic that we used when we finished with the second contractor who removed the asbestos. We sent them (O'Rourke) a letter. We identified the day in which they first entered onto the property. We identified the day that they departed the property, and then we calculated what the total days were, subtracted that amount, and said from this point forward, the property is now yours, and we begin to count those days and here's the end date in which you're supposed to be completed. They responded by sending us a letter that says essentially no, they are required to have all of their days and that, as the Mayor indicated, that they would be back in the spring. Now I don't know if spring is March 21st or if spring is the day before June that they finally return. But we've had discussions relative to what are our options? The performance bond process seems to be a more grueling process that is more of an issue for us than if we simply, when they return if you feel that you've been wronged

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you have the ability to assess liquidated damages, and that's a process that would go through perhaps an arbitrator or a court. There are arbitration opportunities in the contract.

Mr. Shroyer: We don't just get to take their performance bond?

Mr. Parham: No. I wish.

Mayor Webster: We wish it was that simple.

Mrs. Harlow: the reason for them pulling off site was because of the remediation that had to be done for the asbestos. Is that correct?

Mr. Parham: Yes ma'am.

Mrs. Harlow: And how long did that take?

Mr. Parham: The contract called for the project to conclude on August 31st. When we first approached them after we had awarded the bid to them, because we knew about this just before the bid date, we requested that they give us a cost to remove the asbestos. Their response came back with something that I just didn't think was acceptable because it would have cost us about \$250,000 to remove this amount of asbestos, where the whole contract is \$587,000, and plus their plan of attack was not reasonable. They wanted to treat every part of the lower level as if the asbestos was in every part of it, when actually it was only in two sides and in some walls on the two sides. It is what we now see out there. So we rejected that, and we then decided we needed to put together specification and get somebody in to take care of it. We went through the process of specifications; the second contract end date was the end of September, I do believe. They finished it much quicker than the end, well, just short of the end of September. I believe they started around the first of September and finished around the third week. It took them like fifteen days to finish it. As I said last time, we've gotten a clean bill of health from the Ohio EPA, and so I would probably suggest to you that maybe the process started sometime in early August to get to the end of September, that they then had to leave site, but at this point they've refused to return.

Mrs. Harlow: I don't know why we would have thought it would have been easy to knock the building down. Nothing about that building has been easy. That building has been a thorn in everybody's side for the last twenty-five years. I do understand that if they had to take their equipment off site because of unforeseen issues that were not their issues, that they were our issues that had to be dealt with, with the asbestos removal. I understand that. And I understand they had other jobs that were already in the pipeline where their equipment was needed. My question is, is there any room in the Ordinance that we passed or the contract that was signed with them for any changes in their pricing because of the delay, or is there any, I know that there's supposed to be like an end date for the project and all of that, but what about financial penalties or whatever if the building is not down by the time that it was supposed to... Do we have an end date on our end for the money, is my question. Or do they have an end date on their end for the contract?

Mr. Parham: Let me see if I can respond to what I think I've heard, two concerns of yours. One is we recognize in any construction project, there are changes that occur that were unplanned and unexpected, and with those, we then have to request of the contractor to perhaps perform that service that wasn't originally planned. With that comes cost. In this instance, we tried to do that with the asbestos. We couldn't agree on that. But we do recognize, perhaps, maybe there is something that is owed to them because they had to put the fencing around the property. They brought their piece of equipment out. They couldn't finish; they had to take it out, not to their fault, and so we recognize there is opportunity that we may owe additional dollars for those sort of events. At the same time, when we speak about liquidated damages, that is the means I think you're speaking of, in which we set a date; if you do not meet that date, we can begin to assess, and I believe the liquidated damages in this agreement, is \$1,000 per day for each day that the project is not complete.

Mrs. Harlow: I'm sorry I'm not making myself very clear. I guess my question is, are agreement with them – does it have an end date as far as, if we've not been able to give them

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the property and have them do the work and it's not a done deal by a certain day, do we have to go back out and rebid the project at a later date?

Mr. Parham: No ma'am.

Mrs. Harlow: Okay, that's what I want to now. Do we have a firm dollar amount from them, no matter how long the project is going to take to get done?

Mr. Parham: We've given, we set the date. The date was August 31st.

Mrs. Harlow: I'm sorry. I'm still not making myself very clear. The terms of the agreement that we have with them, I understand it was \$573,000.

Mr. Parham: \$587,000.

Mrs. Harlow: \$587,000.

Mr. Parham: Yes.

Mrs. Harlow: Okay. So that's what we're going to pay them as soon as they knock that building down and clean the land. So is there any possibility that our Ordinance that we passed or the contract that we signed with them is going to expire before this happens?

Mr. Parham: No ma'am.

Mrs. Harlow: I'm sorry it took me a long time to go around the barn, but that's what I'm trying to ask.

Mr. Parham: The contract is not going to expire, but there are other parts of the contract that we also recognize. As I talked about earlier, if there are additional costs that they incur, we are responsible, for the most part, for those costs. If they do not meet the deadline, then there is an opportunity that they are responsible for liquidated damages.

Mrs. Harlow: Understood.

Mr. Parham: But there is no expiration of the contract. We've entered a contract that they're going to take the building down and we're going to pay them for taking the building down.

Mrs. Harlow: So I guess when you guys get to sit down with them, then a demolition date will be set and they will have a certain number of days to clear the property and to get their work done from that point forward.

Mr. Parham: That is our intention.

Mrs. Harlow. Okay. Thank you. Sorry if I was kind of confusing the issue.

Mr. Parham: It's okay.

Mayor Webster: it's a confusing issue, but we've still got a good contract. Now once they come back, and let's assume they come back in March 1st and they start the work. They're going to claim that they still want their 100 days, which is what the original contract is for, so we probably will say let's get the building down. Then once they get the building down, then addition to the \$587,000 that we contractually owe them, they're going to claim that we owe them more money for putting the crane up and taking it down, demobilization and mobilization again. And they're going to claim, like Mr. Parham said, they've had to rent this fence for six extra months or whatever, so they're going to have all kinds of additional things they're going to throw on there. In our defense, we're going to say yeah, but we turned the site back over to you on September 15th or 20th or whatever date that was, so you owe use \$1,000 per day in liquidated damages. Okay, so where is that going to end? That's going to go to an arbitrator and to thresh those things out. So that's the kind of issues we're dealing with here, and as Mr. Parham said, I think it was even more than \$250,000. I think it was more like \$400,000 that they

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wanted to clean up the whole mess, and so I think what's happened here is they grossly under bid the work. Their bid was \$150,000 less than the other bidders. So after the bids were open, they realized that they grossly under bid it, so I think when this additional contamination was discovered, then they saw an opportunity to get their money back, and we said no. That's not going to happen. So when they failed to give us a decent bid, then we had to stop the presses, rewrite specs, go after and bring in the contractor which was \$114,000. So we got it done for a lot cheaper than what they wanted. But in the meantime, that gave them an excuse to pull their equipment off, demobilize everything, and work on some other jobs that they had in the pipeline. So it's a two-edged sword. They've got some legitimate charges against us, upcharges, and we've got some legitimate charges against them, and we'll have to submit all that to an arbitrator once this project is done. But, an answer to Mr. Diehl, who started this conversation, we don't know at this point. All we know is they've told us they'll be back in the spring and they want their 100 days.

The Ordinance was approved with a vote of 7-0.

Ordinance 36-2016

AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO A CONTRACT WITH DONALD W. WHITE TO SERVE AS MAYOR'S COURT MAGISTRATE FOR THE CITY OF SPRINGDALE, OHIO, AND DECLARING AN EMERGENCY

Mrs. Harlow motioned to adopt the Ordinance; Mrs. Emerson seconded.

Mayor Webster: I'll just speak once here in favor of all three of the Ordinances you have in front of you today. This is all of our folks that run our Mayor's Court: our magistrate, our prosecutor, and our public defender. I know we've had a lot of discussion today about our magistrate; I still think we've got an outstanding magistrate even though he hasn't fined anyone \$250. I think, and we buy into this concept that the thing that the court is there for is to make sure people comply and we get the property improved. It's not a revenue generator. And so I think he does a good job of that, and I think our prosecutor and our new public defender also do a good job, and I get nothing but compliments on the professionalism of our Mayor's Court, and I'm proud of these three individuals, and I would urge a yes vote on all three.

The Ordinance passed with a vote of 7-0.

Ordinance 37-2016

AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO A CONTRACT WITH SETH S. TIEGER FOR PROSECUTING SERVICES FOR THE CITY OF SPRINGDALE, OHIO, AND DECLARING AN EMERGENCY

Mr. Diehl motioned to adopt; Mrs. Emerson seconded the motion. The Ordinance passed with a 7-0.

Ordinance 38-2016

AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO A CONTRACT WITH JUSTIN BARTLETT FOR PUBLIC DEFENDER SERVICES FOR THE CITY OF SPRINGDALE, OHIO, AND DECLARING AN EMERGENCY

Mr. Diehl motioned to adopt; Mrs. Emerson seconded the motion. The Ordinance passed with a 7-0.

Old Business

Mrs. McNear: We spoke last meeting about the Ohio Checkbook and there was a request that Jeff reach out to the cities who are on Open Checkbook for feedback for usage. There has been low usage for the cities that he spoken with. The City of Montgomery is one

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in particular that we wanted to speak with. Jeff did reach them late today. The input that we did receive is that they weren't sure what the number is, but they've contacted their IT department to pull the information on the usage. So we have three weeks until the next meeting, so hopefully well have more to report at that time. I do have one other thing too. Last meeting we were also talking about people fixing up their houses and some people didn't have the means to do so, and sometimes SOS would help as well. I did mention a company called PWC, which is People Working Cooperatively. This is an organization that does help the elderly as well as people who have financial issues. There's an article in the Tri-County Press today. I just wanted to give out the information. They can be reached at 513-351-7921, or you can visit them at their website at pwchomerepairs.org.

New Business - none

Meetings and Announcements

Mr. Diehl: The Finance Committee will meet on November 28th at 4 o'clock in the afternoon to discuss the 2017 budget.

Mrs. Harlow: Planning Commission will meet on Tuesday, December 13th at 7 pm in these chambers, and OKI has cancelled their December meeting and their January meeting will be held on the 12th of January at 10:30 am.

Mr. Thamann: Just a reminder about the Tree Lighting Ceremony that's going to be held November 28th at 7 pm here at the Municipal Building. We will have the first graders here from Springdale Elementary singing carols. Also, Santa Claus will be here and there will be some treats and refreshments to follow the Tree Lighting Ceremony.

Mrs. Harlow: I would like to let everyone know that the Spruce Up Springdale Committee will have a January meeting, and we'll get with you on the dates on that. What we'd like to have would be some representatives from the different districts that might want to sit on the committee, and I have had four people, including Mrs. Meghan Sullivan-Wisecup who wants to sit on it out of District 3. So if you have people in your district that you know want to be active in that, please ask them to sign up to be a representative from the district and we'll get back with you then on a meeting date in January.

The other thing that I wanted to let you know, was that I was over at the Princeton Closet, and Ms. Wider was telling me that 71% of our students are on either free or reduced lunches, and they're always in need of food over there for the students. So if anybody during the Holiday Season can grab a couple extra cans or take anything over that would help the students, that would be appreciated. And one of the things that would be helpful to take into consideration is microwaveable food, because there are quite a few families that are living in a hotel and they don't have access to a kitchen. They only have access to a microwave. So I told her that I would make sure that we made that announcement.

Mayor Webster: I was just going to reiterate my plea before about participation in SOS, and we do have fourteen families out there that need to be adopted, so if you find it in your heart to do so, please help us out.

Communications from the Audience - none.

Update on Legislation Still in Development

Mr. Hawkins: As you review your internal memorandum, item number one was addressed with Ordinance No. 33-2016, which passed with a 6-0 and one abstention vote. Item number two was addressed with Ordinance No. 34-2016, which passed with a 5-2 vote. Item number three was addressed with Ordinance No. 35-2016, which passed with a 7-0 vote. Item number four was addressed with Ordinance No. 36-2016, which was for the magistrate. Ordinance No. 37-2016 was with regard to our city prosecutor, and Ordinance No. 38-2016 was with regard to our public defender, all of which passed with 7-0 votes. All other matters were forthcoming for legislation.

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Recap of Legislative Items Requested for Next Council Meeting

Mr. Hawkins: An Ordinance authorizing a preliminary Ordinance with the State of Ohio Department of Transportation for the State Route 4 Urban Paving Project from Cameron Road to Interstate 275 and declaring that an emergency.

An Ordinance authorizing the Mayor and Clerk of Council/ Finance Director to enter into an agreement with company "Project Solutions" related to job creation and retention incentives and declaring it an emergency.

An Ordinance authorizing the 2017 fee schedule with CT Consultants Inc. for engineering services and declaring that an emergency.

An Ordinance authorizing the Mayor and Clerk of Council/ Finance Director to amend the agreement with Wood & Lamping LLP for legal services to the City of Springdale and declaring that an emergency, as well as several Ordinances and Resolutions confirming the mayoral appointments and Council appointments for various boards and commissions.

Adjournment

Mr. Hawkins moved to adjourn. Mrs. Emerson seconded the motion and Council adjourned at 9:28 p.m.

Respectfully submitted,

Kathy McNear
Clerk of Council/Finance Director

Minutes Approved:
Tom Vanover, President of Council

_____, 2016