

NOTICE OF PROCEEDINGS
City Council of the City of Defiance, Ohio
Charles D. Beard Council Chambers
City Hall, 631 Perry Street, Defiance, OH 43512

REGULAR MEETING OF COUNCIL
TUESDAY APRIL 11, 2017
OPENING COMMENTS – 7:00 P.M.

PUBLIC HEARING: NONE

THIRD READING: AN ORDINANCE REPEALING ORDINANCE 7879 AND AMENDING RULE 6.1 AND RULE 12.1 OF THE RULES OF CONDUCT AND PROCEDURE

SECOND READING: AN ORDINANCE VACATING AN ALLEY IN CORWIN'S ADDITION

FIRST READING: AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH HELMS & SONS EXCAVATING, INC

FIRST READING: AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH LOOP ASPHALT SERVICES, LLC

FIRST READING: AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH WOOD COUNTY AND DECLARING AN EMERGENCY

STUDY SESSION: NONE

LIAISON ASSIGNMENTS	TIME	DATE	AGENDA
♣SEWER: KRUTSCH	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣STREETS & SIDEWALK: WAXLER	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣UTILITIES, GAS & LIGHTS: ORZOLEK	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣POLICE & FIRE: LUNDBERG	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣TRAFFIC COMMISSION: LEONARD, Mayor, Cereghin, Shaffer, Wilkins, Warner, Orzolek, Hancock, Krutsch	5:30 P.M.	2 nd Tuesday - APRIL 2017	NO MEETING
♣FINANCE: ENGEL	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣BUILDING AND LANDS: HANCOCK	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣WATER: LUNDBERG	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣ECONOMIC DEVELOPMENT: PIERCE	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING,
♣COMMUNITY INTERACTION: PIERCE	7:00 P.M.	Tuesday - APRIL 2017	NO MEETING
♣BOARD OF CONTROL MEETING: MAYOR, Leonard, Williams, Lehner	9:00 A.M.	Tuesdays and Thursdays	POSTED AT 631 PERRY STREET

Ordinance No. _____

AN ORDINANCE REPEALING ORDINANCE 7879 AND AMENDING RULE 6.1 AND RULE 12.1 OF THE RULES OF CONDUCT AND PROCEDURE

WHEREAS, the Rules of Conduct and Procedure presently allow citizens to address matters that are not on the agenda before consideration of matters for which time has been properly reserved by others; and,

WHEREAS, this practice is inherently disruptive to the orderly conduct of business and frequently introduces subjects of discussion without prior notice to the public in a manner that is inconsistent with the intent and purpose of the Ohio Open Meetings Act; and,

WHEREAS, Ordinance 7879 was passed on December 13, 2016, to eliminate this practice by amending the Council Rules to alter the General Order of Business and require all persons desiring to address Council in open public meeting to reserve time on the agenda; and,

WHEREAS, The Board of Elections has notified the Finance Director that a Referendum Petition was signed by a sufficient number of Electors to delay enactment of Ordinance 7879 and require the conduct of an election; and,

WHEREAS, Council believes a majority of those who object to the enactment of Ordinance 7879 do not object to the reordering of the General Order Business proposed by that measure but only to the proposed requirement that persons seeking to address Council reserve time on the agenda; and,

WHEREAS, Council finds that it is not in the best interests of the community to incur costs associated with the conduct of an election and further finds that the orderly conduct of business requires that the changes to the General Order of Business proposed by Ordinance 7879 be implemented without delay;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: Ordinance 7879 is hereby repealed.

Section 2: Rule 6.1 of the Rules of Conduct and Procedure is hereby amended to provide (deleted text ~~stricken~~, newly added text underlined):

Rule 6.1 Regular Meeting Agenda

Not later than 2:00 o'clock PM on Friday of each week immediately preceding a week in which a Regular Meeting of Council is scheduled to be convened, the Clerk shall publish an Agenda of all pre-arranged business to be entertained by Council. The agenda shall be formatted in accordance with this Rule:

A. **Caption:**

The Agenda shall be captioned as follows:

Notice of Proceedings
City Council of the City of Defiance, Ohio
Charles D. Beard Council Chambers
City Hall, 631 Perry Street, Defiance, OH 43512

B. **Date and Time of the Regularly Scheduled Meeting of Council:**

Immediately following the Caption, the Agenda shall recite the date and time of the next Regularly Scheduled Meeting of Council in the following manner:

REGULAR MEETING OF COUNCIL
Tuesday [Month] [Date] [Year]
Opening Comments–7:00 p.m.

C. **Notice of Pre-Arranged Business:**

All business scheduled to be taken up at the Regular Meeting of Council to be held on the date recited in accordance with Paragraph B shall be itemized in the following order and manner:

1. ***Public Hearings:***
A brief description of each Public Hearing to be conducted in fulfillment of a statutory or regulatory requirement or to comply with a provision of the municipal Charter or Codified Ordinances. The description shall identify the subject to be addressed and the person or organization that is to present information to Council introduce the subject.

2. ***Matters of Public Interest***
A brief description of each subject to be presented with prior approval of the President of Council for the purpose of educating Council or the public about a matter of public interest that does not require legislative action. The description shall identify the subject to be addressed and the person or organization that is to introduce the subject.

23. ***Legislative Actions:***
The caption of each proposed Ordinance and Resolution to be considered shall be presented in full and the status of each item as a First, Second or Third reading shall be noted. A proposed Ordinance or Resolution that has been previously amended shall be identified as being before Council for a Second or Third Amended reading.

34. ***Study Session Items:***
A brief description of each subject for which ~~Council time~~ time has been reserved for the discussion of legislative proposals with respect to which no Ordinance or Resolution has yet been introduced. The description shall identify the subject to be addressed, and identify the Member of Council or municipal officer that is to introduce the subject for discussion.

5. ***Citizens' Concerns:*** Persons in attendance and desiring to speak to an issue that does not appear on the agenda shall be afforded an opportunity to address Council in accordance with Rule 12.1 (12).

Section 3: Rule 12.1 of the Rules of Conduct and Procedure is hereby amended to provide (deleted text ~~stricken~~, newly added text underlined):

Rule 12.1: General Order of Business, Regular Meetings

The general Order of Business at all Regular Meetings of Council shall be:

1. **Determination of the presence of a quorum:** The Clerk, or in the absence of the Clerk, President of Council or other presiding officer, shall record the names of the Members present and Members absent from the Meeting and determine the presence of a quorum. In the absence of a quorum, no action shall be taken except upon such matters as may be required to compel the attendance of absent Members or adjourn the meeting. In the event a quorum is present, the President shall announce that fact. Any Member may make a *Motion to Excuse an Absent Member* or Members following announcement of the determination that a quorum is present.

2. **Pledge of Allegiance** all persons in attendance shall stand and recite the Pledge of Allegiance to the Flag of the United States.

3. **Approval of Minutes:** In accordance with Rule 7.3(A), the President or other presiding officer shall inquire if any Member present desires to make a *Motion to Correct the Minutes*. If no such Motion is made, all proposed Minutes distributed to Council with the Agenda for the Meeting shall stand approved. If a Motion is made, Council shall proceed in accordance with Rule 7.3(B) before proceeding with other business.

4. **Specialization Reports:** Each Member shall be afforded an opportunity to report on activities undertaken within the area of subject matter specialization to which he or she has been assigned pursuant to Rule 8 and make such recommendations for further Council action with respect to such matters as he or she deems appropriate.

5. **Reading of Correspondence:** The President or other presiding officer shall announce the receipt of correspondence addressed to Council since the most

recent Regular Meeting and may read the communication, summarize the contents of the communication or make copies of the correspondence available to interested Members. The entire text of received correspondence shall be publicly read at the request of any Member.

6. **Council Concerns:** Each Member of Council shall be afforded an opportunity to comment upon any matter of public business or concern that is not on the Agenda and may, with approval of the President, request that such matter be referred to the Member designated to make inquiries into the subject pursuant to Rule 8 or to the appropriate Department Head for investigation or other action. Members desiring to be heard on a matter of Personal Privilege not related to a specific item of business on the Agenda may seek recognition at this time. Members desiring to be heard on a matter of Personal Privilege related to a specific item of business on the Agenda may seek recognition at this time or at the time the Agenda item is raised for discussion or other action.
7. **Reports of Administrative Officers:** The Mayor and each Department Head in attendance shall be afforded an opportunity to report to Council regarding the activities of his or her office and shall respond to such questions relating to departmental operations as may be presented by Members of Council.
8. ~~Citizen Concerns: At the discretion of the President or other presiding officer, any person in attendance may be recognized and permitted to speak briefly to a subject that is not on the published meeting Agenda. The presiding officer shall determine whether the subject raised is appropriate for discussion without prior advertisement of Council's intent to consider the matter presented. In the event the presiding officer determines that the subject is not appropriate for substantive discussion at the current meeting, the person raising the issue shall be informed of appropriate actions to be taken to reserve time for discussion of the issue on the Agenda to be published in advance of a future meeting. A determination by the presiding officer that the subject presented is inappropriate for discussion in the absence of advance notice to the public of Council's intent to consider the subject shall not be subject to appeal and the determination shall be binding on all other persons in attendance desiring to comment on the matter raised. A person granted the floor to address one or more issues not on the Agenda shall be accorded such time as the presiding officer deems appropriate, not to exceed five minutes. The time allowed may be extended by majority concurrence to a Motion duly made and seconded proposing that the speaker be granted additional time. All persons granted the floor to comment on issues that are not on the published Agenda shall comply with all standards of conduct and decorum established by these Rules.~~

Public Hearings: Persons who have pre-arranged to conduct a public hearing in the presence of Council shall be recognized and permitted to speak for the time allotted by the Agenda. Citizens, Members of Council, public officials and municipal employees desiring to comment upon each matter presented shall be recognized and permitted to speak in accordance with the standards of conduct and decorum established by these Rules. The time reserved for each presentation may be extended at the discretion of the presiding officer to accommodate such discussion. In the event more than one public hearing is scheduled for the same meeting, the hearings shall be conducted in the order in which they appear on the Agenda.
9. ~~Introduction of Persons Appearing Before Council~~ **Matters of Public Interest:** Persons who have pre-arranged to present a matter of ~~concern~~ public interest to the Council or to conduct a public hearing in the presence of Council shall be recognized and permitted to speak for the time allotted by the Agenda. Citizens, ~~administrative officials and~~ Members of Council, public officials and municipal employees desiring to comment upon each matter presented shall be recognized and permitted to speak in accordance with the standards of conduct and decorum established by these Rules. The time reserved for each presentation may be extended at the discretion of the presiding officer to accommodate such discussion. In the event more than one issue of public interest is scheduled for the same meeting, the subjects shall be entertained in the order in which they appear on the Agenda.
10. **Legislative Action on Ordinances and Resolutions:** Proposed Ordinances shall be read by caption only unless Council, upon Motion and concurrence of a majority of the Members present, determines that the entire text of the proposed

legislation shall be read. Ordinances assigned for third reading shall be disposed of prior to consideration of Ordinances assigned for second reading. Ordinances assigned for second reading shall be disposed of prior to consideration of Ordinances assigned for first reading. All Ordinances shall be disposed of before consideration of any Resolution.

11. **Study Session:** Presentation and formal discussion, deliberation and debate of matters requiring a concurrence of Council prior to preparation of legislation. The subject of discussion shall be introduced by the Member of Council or administrative official identified by the agenda. Citizens, Members of Council, public officials and municipal employees desiring to comment upon each matter presented shall be recognized and permitted to speak in accordance with the standards of conduct and decorum established by these Rules. The time reserved for each presentation may be extended at the discretion of the presiding officer to accommodate such discussion. In the event more than one proposed legislative initiative is scheduled for consideration, the subjects shall be entertained in the order in which they appear on the Agenda.

12. Citizen Concerns: At the discretion of the President or other presiding officer, any person in attendance may be recognized and permitted to speak briefly to a subject that is not on the published meeting Agenda. The presiding officer shall determine whether the subject raised is appropriate for discussion without prior advertisement of Council's intent to consider the matter presented. In the event the presiding officer determines that the subject is not appropriate for substantive discussion at the current meeting, the person raising the issue shall be informed of appropriate actions to be taken to reserve time for discussion of the issue on the Agenda to be published in advance of a future meeting. A determination by the presiding officer that the subject presented is inappropriate for discussion in the absence of advance notice to the public of Council's intent to consider the subject shall not be subject to appeal and the determination shall be binding on all other persons in attendance desiring to comment on the matter raised. A person granted the floor to address one or more issues not on the Agenda shall be accorded such time as the presiding officer deems appropriate, not to exceed five minutes. The time allowed may be extended by majority concurrence to a Motion duly made and seconded proposing that the speaker be granted additional time. All persons granted the floor to comment on issues that are not on the published Agenda shall comply with all standards of conduct and decorum established by these Rules.

123. **Adjournment.**

Section 4: All provisions of the Rules of Conduct and Procedure not expressly amended by Section 1, Section 2 or Section 3 of this Ordinance are ratified, confirmed and shall remain in full force and effect.

Section 5: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 6: This Ordinance shall be effective on the earliest date permitted by law.

Passed: _____, 2017

President of Council

Attest: _____, Clerk

Approved: _____, 2017

Mayor

ORDINANCE NO. _____

AN ORDINANCE VACATING AN ALLEY IN CORWIN'S ADDITION

WHEREAS: A Petition has been filed to vacate a platted but unimproved alley bisecting Lot 16 in and of Corwin's addition; and,

WHEREAS: The Planning Commission, by action taken in public meeting on March 20, 2017, unanimously recommended that the Petition be granted; and,

WHEREAS: The Law Director is of the opinion that the alley no longer exists as a matter of law but is also of the opinion the uncorrected plat depicting it as a lawful alley creates an unwarranted cloud upon the title to said Lot 16; and,

WHEREAS: A suitable vacation plat and survey has been prepared and filed with the City Engineer; and,

WHEREAS: The City Engineer has determined that there are no public or public utility facilities located within the right-of-way to be vacated; and,

WHEREAS: Council finds there is good cause to vacate the alley and that the vacation will not be detrimental to the general interest;

NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF DEFIANCE, THAT:

SECTION 1: The alley beneath the residence located at 222 Corwin Street and more particularly described and depicted by the Petition and Alley Vacation Plat now on file in the Office of the City Engineer is hereby vacated pursuant to and in accordance with §723.05 of the Ohio Revised Code.

SECTION 2: The City Engineer is directed to record a copy of this Ordinance together with the Alley Vacation Plat, approved survey and such other documents as may be appropriate to demonstrate vacation of the alley in conformity with Revised Code §711.39. The City Engineer is further directed to certify all costs incurred, including, without limitation, any sums due the surveyor for preparation of the description and plat, to the Finance Director for payment in accordance with Section 3 of this Ordinance.

SECTION 3: The Finance Director is directed to pay all costs and expenses incurred by the municipality incident to the conduct of proceedings upon the Petition from funds deposited with the Petition and to refund any remaining balance of the deposit to the Petitioner.

SECTION 4: It is found and determined that all legislative acts pertaining or relating to the enactment of this Ordinance were taken in public session and that all deliberations of Council, including all deliberations of the committees of Council, that affected or influenced any such legislative act, were conducted in public session duly convened in conformity with law.

SECTION 5: This Ordinance shall be effective on the earliest date permitted by law.

Passed: _____, 2017

President of Council

Attest: _____
Clerk of Council

Approved: _____, 2017

Mayor

Ordinance No. _____

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH HELMS & SONS EXCAVATING, INC.

WHEREAS, The City Engineer employed objective rating criteria to identify the streets to be resurfaced in the administration of the annual pavement maintenance program; and,

WHEREAS, Helms & Sons Excavating, Inc., submitted the lowest responsive and responsible bid to perform the work;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Administrator is authorized to award a contract to Helms & Sons Excavating, Inc., to repair and resurface all pavement sections identified by the bid solicitation in substantial conformity with the designs and material specifications therein recited, at the unit prices and on the contractual terms established by the bid received on March 28, 2017.

Section 2: The Finance Director is authorized to pay the base bid price of \$118,276.42 and all other costs incurred in accordance with the authorized contract from appropriated funds allocated for expenditure by Line 403-901-5-2-980-874 of the 2017 annual budget.

Section 3: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 4: This Ordinance shall be effective on the earliest date permitted by law.

Passed: _____, 2017

President of Council

Attest: _____, Clerk

Approved: _____, 2017

Mayor

Ordinance No. _____

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH LOOP ASPHALT SERVICES, LLC.

WHEREAS, The City Engineer has developed plans and specifications for the installation of a driveway affording access to the municipal garage at 1441 Quality Drive; and,

WHEREAS, Loop Asphalt Services, LLC submitted the lowest priced responsive and responsible proposal to perform the desired work;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Administrator is authorized to award a contract to Loop Asphalt Services, LLC to install 8,100 square feet of stone base and asphalt concrete surface on municipal lands located at 1441 Quality Drive in substantial conformity with the designs and material specifications recited in the March 20, 2017, quotation numbered 4945 and now on file in the office of the City Engineer.

Section 2: The Finance Director is authorized to pay the base bid price of \$37,671.00 and all other costs incurred in accordance with the authorized contract from appropriated funds allocated for expenditure by Line 591-538-5-2-980-880 of the 2017 annual budget.

Section 3: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 4: This Ordinance shall be effective on the earliest date permitted by law.

Passed: _____, 2017

President of Council

Attest: _____, Clerk

Approved: _____, 2017

Mayor

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO CONTRACT WITH WOOD COUNTY AND DECLARING AN EMERGENCY

WHEREAS, The City of Defiance and City of Napoleon have maintained a contractual relationship pursuant to which each community provided building inspection services to the other on an as needed basis; and,

WHEREAS, The City of Napoleon no longer employs a qualified residential building official and has contracted for performance of necessary inspection services by building officials employed by Wood County, Ohio; and,

WHEREAS, State regulations require the City of Defiance to have arrangements in place to provide inspection services in the event properly certified municipal employees are not available;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Administrator is authorized to contract with Wood County, Ohio, for the performance of building inspection services on properties located in Wood County by municipal personnel upon request of Wood County and for the performance of building inspection services on properties located within the City of Defiance by employees of Wood County upon request of the City of Defiance. The City Administrator is further authorized to file said contracts with the Ohio Department of Commerce and such other State officials as may be deemed appropriate.

Section 2: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 3: This Ordinance is declared to be an emergency measure necessary to preserve the health, safety or welfare of the community for the reason that immediate execution of the authorized contracts is a legal prerequisite to continued operation of the Division of Building Inspection. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: _____, 2017 _____

President of Council

Votes in Favor of Adoption: _____

Votes Opposed to Adoption: _____

Attest: _____, Clerk

Approved: _____, 2017 _____

Mayor