



BRUNSWICK CITY COUNCIL AGENDA

Brandon Lambert Ward 3	Kristy Piper At-Large	Tim Smith At-Large	Dennis Nevar Law Director	Carl S. DeForest City Manager	Ron Falconi Mayor	Laura Timura Clerk of Council	Nicholas Hanek Ward 2	Michael Abella Jr. Ward 1	Joseph Delsanter At-Large	Keith Kuczma Ward 4
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Administration Representatives

JANUARY 22, 2024

1. Prayer and Pledge of Allegiance
2. Roll Call of Members
3. Correspondence
4. Approval of Regular Council Meeting Minutes dated January 8, 2024.
5. Mayor’s Report:
 - (a) Proclamation in recognition of Medina Metropolitan Housing Authority's 70th Anniversary
 - (b) Motion to approve Mayor's recommendation to reappoint Lisa Jackson-Clements to the Volunteer Fire Fighters' Dependents Fund retroactive to January 1, 2024.
 - (c) Motion to approve Mayor's recommendation to reappoint Stanley Socha to the Volunteer Fire Fighters' Dependents Fund retroactive to January 1, 2024.
 - (d) Motion to approve Mayor's recommendation to reappoint Morgan Jones to the Medina County Health Board.
 - (e) Mayor's Update
6. Clerk of Council’s Report
7. Council Committee Reports:
 - Economic Development Committee.....Mr. Lambert
Economic Development Committee Minutes dated January 8, 2024
 - Services, Utilities, Technology & Cable Committee.....Mr. Smith
Services, Utilities, Technology & Cable Committee Minutes dated January 8, 2024
 - Finance Committee.....Mr. Hanek
 - Safety & Environment Committee.....Mr. Kuczma
Safety & Environment Committee Minutes dated January 8, 2024
 - Planning & Zoning Committee.....Mr. Delsanter

Parks, Recreation & Community Committee.....Mrs. Piper
 Building & Building Code Committee.....Mr. Abella

8. Other Committees, Boards and Commissions

(a) Committee-of-the-Whole Minutes dated January 8, 2024

9. Petitions from the Public on Legislation

10. Reading of Legislation and Action on Legislation:

a. 3rd Reading(s)

b. 2nd Reading(s)

RES. NO. 1-2024 - A resolution authorizing the City Manager to purchase liquid asphalt emulsion for the Service Department from Leader Machinery Equipment in an amount not to exceed \$40,000.00. - **2nd Reading** (Services, Utilities, Technology & Cable Committee, *Administration/Paul Magovac*)

ORD. NO. 7-2024 - An ordinance establishing Codified Ordinance Chapter 868 of the City of Brunswick Codified Ordinances relative to the license of Tobacco Retail Establishments - **2nd Reading** (Committee-of-the-Whole, *Administration/Dennis Nevar*)

c. 1st Reading(s)

RES. NO. 8-2024 - An emergency resolution authorizing the City Manager to enter into a one (1) year contract for property, automobile, inland marine, general liability, public officials liability, police liability, boiler and machines, crime coverage, cyber coverage, employment practice and umbrella insurance coverage. - **1st Reading** (To be brought from Committee-of-the-Whole, *Administration/Carl DeForest*)

11. City Manager's Report

12. Open Forum

13. Unfinished Business

14. New Business

(a) A liquor permit request from First Watch Restaurants Inc. at 3404 Center Road, Brunswick, Ohio 44212

15. Adjournment

ECONOMIC DEVELOPMENT COMMITTEE

January 8, 2024

IN ATTENDANCE: Chairman Brandon Lambert, Committee Member Joseph Delsanter, Committee Member Nicholas Hanek, Keith Kuczma, Michael Abella Jr., Kristy Piper, Tim Smith, City Manager/Safety Director Carl DeForest, Law Director Dennis Nevar, Community & Economic Development Director Grant Aungst, Service Director Paul Magovac, Street Superintendent Don Rediger, Clerk of Council Laura Timura, Assistant Clerk of Council Irene Jayapandian, News Media.

The meeting convened at 5:45 p.m.

Mr. Smith arrived at 5:47 p.m.

Mr. Abella arrived at 5:49 p.m.

DISCUSSION ITEMS:

Mr. Aungst explained that while 2023 was economically strong for the City, some challenges remain for 2024. The economic world is struggling with the next steps regarding what business will look like and where it is going. One of the most significant factors is Artificial Intelligence (AI). While Brunswick has displayed growth in many areas, AI will affect everyone. The changes in Brunswick will be slow and not overly noticed in the short term. In the longer term, there will be updates and changes at a much faster speed. In 2024, some businesses will come and go, and some will move on. The economy is extremely behind in having enough skilled people and entry-level workers in the workforce. The City needs to monitor food and fuel costs. Three-quarters of the City's economy is consumer-driven. There is a shift in Brunswick from manufacturing to more commercial.

Mr. Aungst revealed that the construction of the Market 42 building will begin in March. The Designated Outdoor Refreshment Area (DORA) is moving forward in the right direction. Brunswick Auto Mart has a new parts warehouse and an updated look for the main operations center. He detailed other businesses that would be coming to the City in 2024.

Mr. Aungst noted that there are new owners of Hickory Ridge Plaza.

Mr. Aungst announced that Baskets Galore, a business in the City, was named Entrepreneur of the Year by the Medina County Economic Development Corporation in 2023.

Mr. Aungst informed that most of the City's economic projects take multiple years to complete. The City is anticipating additional housing projects, additional school improvements, a new high school, a new fire station, new commercial developments, finalization of the DORA, new electric vehicle (EV) stations, and more.

Mr. Aungst divulged that finding coachable people who are willing to be trained is extremely difficult these days. Much time is being spent with the schools to promote workforce development, interviewing techniques, and other ways to get involved.

Mr. Aungst continued that the Administration is also working on Planning Code Update packets for the RFQ and new software for the Divisions of Building and Planning. The City is also continuing to work with NOPEC to assist the community and the City's stakeholders.

Mr. Aungst disclosed that the Administration is working with the Medina County Commissioners and economic developers to form a land bank. The Medina County Treasurer is the only person who can decide whether Brunswick has a land bank. This is critically important for the health and well-being of the community.

Mr. Aungst stated that 2024 will be a very busy year for the City, from new development of residential, commercial, and industrial sites to internal implementations from any of the areas under the umbrella of the Division of Community & Economic Development. Change brings opportunity, and there are wonderful opportunities to grow Brunswick.

Mr. Delsanter inquired if there was an economic basis to support Brunswick's economic growth.

Mr. Aungst answered that companies in the commercial districts look at residents' salaries before planning to come to the City. The current numbers of the City highlight that people have a disposable income, which is encouraging to commercial businesses.

Mr. Smith asked for any updates regarding Hotshots Sports Bar & Grill, as they have been discussing opening in January.

Mr. Aungst responded that Hotshots needs to go through the Division of Building and the Chief Building Official needs to sign off on their occupancy permit.

Mr. Smith asked how Mr. Aungst felt about the new owners of Hickory Ridge Plaza.

Mr. Aungst answered that the owners have professionals cleaning up the plaza and are responding to the City's requests.

Mr. Kuczma inquired if any major restaurants are looking to come to Brunswick.

Mr. Aungst replied that most of the projects he oversees are confidential and cannot be discussed until something comes up. He continued that restaurants are a challenge, as they are a very expensive upfront investment.

Mr. Kuczma further inquired if Brunswick is a viable City for major restaurants to come to.

Mr. Aungst responded that it is now.

Mr. Hanek reminded that there are tools that the City provides to plaza owners to aid them in making revisions to their property. He added that major restaurant-oriented projects, such as Market 42, are coming into the City.

Mr. Lambert questioned what the fuel cost outlook for the City in 2024.

Mr. Aungst replied that there is a lot of volatility with foreign conflicts that may affect the prices. The United States is producing more fuel than ever before, so there is a lot of access to fuel, but this cannot be relied upon in the long term.

GENERAL DISCUSSION:

There was none.

ADJOURNMENT:

Being no further business, Mr. Hanek moved to adjourn at 5:59 p.m. Vote – 3 Ayes, 0 Nays.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Brandon Lambert", enclosed within a large, loopy oval scribble.

Brandon Lambert
Chairman

SERVICES, UTILITIES, TECHNOLOGY & CABLE COMMITTEE

January 8, 2024

IN ATTENDANCE: Chairman Tim Smith, Committee Member Keith Kuczma, Committee Member Michael Abella Jr., Nicholas Hanek, Kristy Piper, Brandon Lambert, Joseph Delsanter, City Manager/Safety Director Carl DeForest, Law Director Dennis Nevar, Community & Economic Development Director Grant Aungst, Service Director Paul Magovac, Street Superintendent Don Rediger, Clerk of Council Laura Timura, Assistant Clerk of Council Irene Jayapandian, News Media.

The meeting convened at 6:03 p.m.

DISCUSSION ITEMS:

- a) **RES. NO. 1-2024** - A resolution authorizing the City Manager to purchase liquid asphalt emulsion for the Service Department from Leader Machinery Equipment in an amount not to exceed \$40,000.00. - **1st Reading** (To be brought from Services, Utilities, Technology & Cable Committee, *Administration/Paul Magovac*)

Mr. Magovac explained that the liquid asphalt goes through the DuraPatch pothole machine. He continued that the machine takes the stone and liquid asphalt, mixes them, and sprays them onto the ground. From there, a stone will be put on top of it to create a chipseal, which will hold better than coal patching.

Mr. Abella moved Resolution Number 1-2024 to tonight's Council Agenda of January 8, 2024, for three readings. Vote – 3 Ayes, 0 Nays.

- b) **RES. NO. 2-2024** - An emergency resolution authorizing the City Manager to purchase a new Hitachi loader for the Service Department from RECO Equipment, Inc. in an amount not to exceed \$189,437.00. - **1st Reading** (To be brought from Services, Utilities, Technology & Cable Committee, *Administration/Paul Magovac*)

Mr. Magovac mentioned that this legislation is to replace a similar loader. The reason for the emergency and suspension of the rules is so that the City can order the loader in time.

Mr. Kuczma inquired what the current loader is that is being replaced.

Mr. Magovac responded that the City currently has a John Deere loader that will be replaced. The loader will be sold on GovDeals and is expected to sell for \$25,000.

Mr. Kuczma moved Resolution Number 2-2024 to tonight's Council Agenda of January 8, 2024, as an emergency with suspension of the rules. Vote – 3 Ayes, 0 Nays.

- c) **RES. NO. 3-2024** - An emergency resolution authorizing the City Manager to purchase a new X-treme 16 cubic yard box and a new X-treme leaf vacuum with wireless remote for the Service Department from Best Equipment in an amount not to exceed \$105,402.42. - **1st Reading** (To be brought from Services, Utilities, Technology & Cable Committee, *Administration/Paul Magovac*)

Mr. Magovac expressed that this equipment would aid workers' safety, as the wireless remote would allow them to stand at a safe distance from ditches. He added that this equipment may also decrease the number of Workers Compensation claims.

Mr. Abella moved Resolution Number 3-2024 to tonight's Council Agenda of January 8, 2024, as an emergency with suspension of the rules. Vote – 3 Ayes, 0 Nays.

- d) **RES. NO. 4-2024** - An emergency resolution authorizing the City Manager to purchase a new Ford F350 4WD pickup truck for the Service Department from Liberty Ford in an amount not to exceed \$50,925.00. - **1st Reading** (To be brought from Services, Utilities, Technology & Cable Committee, *Administration/Paul Magovac*)

Mr. Magovac explained that Liberty Ford, a local company, does not utilize state bids. However, the Administration was able to go through state bids to get a price quote. Liberty Ford's price was lower than the state bid. Because of this, the City can purchase directly from Liberty Ford.

Mr. Kuczma asked if this vehicle was in stock or if it would have to be ordered.

Mr. Magovac answered that the vehicle would have to be ordered, which is why an emergency with suspension of the rules is needed.

Mr. Smith questioned if all of these items were planned in the budget.

Mr. Magovac replied that they were.

Mr. Kuczma moved Resolution Number 4-2024 to tonight's Council Agenda of January 8, 2024, as an emergency with suspension of the rules. Vote – 3 Ayes, 0 Nays.

GENERAL DISCUSSION:

Mr. Smith inquired about the City's salt inventory.

Mr. Magovac answered that the City recently ordered 300 tons of salt. He added that the Administration is making sure that the purchasing of the salt stays within the budget.

Mr. Magovac introduced Don Rediger as the new Street Superintendent for the City. He stated that Mr. Rediger has 22 years of experience.

Mr. Delsanter questioned what the timeline of the Magnolia Phase II Project is.

Mr. Magovac responded that the Administration is looking to bid out the project within the next month. All construction will be done during the summer when school is on break.

Mr. Delsanter asked how long the project is approximated to take.

Mr. Magovac informed that the project should only take about six weeks, but the longest possibility is two-and-a-half months.

ADJOURNMENT:

Being no further business, Mr. Abella moved to adjourn at 6:10 p.m. Vote – 3 Ayes, 0 Nays.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Tim Smith", written over a horizontal line.

Tim Smith
Chairman

SAFETY & ENVIRONMENT COMMITTEE

January 8, 2024

IN ATTENDANCE: Chairman Keith Kuczma, Committee Member Kristy Piper, Committee Member Joseph Delsanter, Nicholas Hanek, Brandon Lambert, Tim Smith, Michael Abella Jr., City Manager/Safety Director Carl DeForest, Law Director Dennis Nevar, Community & Economic Development Director Grant Aungst, Service Director Paul Magovac, Street Superintendent Don Rediger, Clerk of Council Laura Timura, Assistant Clerk of Council Irene Jayapandian, News Media.

The meeting convened at 5:59 p.m.

DISCUSSION ITEMS:

- a) **RES. NO. 5-2024** - An emergency resolution ratifying and approving the five (5) year agreement entered into with Stryker Sales Corp. for the provision of services to maintain emergency medical equipment utilized by the Division of Fire in an amount not to exceed \$105,513.75. - **1st Reading** (To be brought from Safety & Environment Committee, *Administration/Greg Glauner*)

Mr. DeForest mentioned that this resolution is to continue the maintenance of AEDs and other emergency medical equipment within the Division of Fire and the rest of the City. With this contract, the City would save \$35,117. The City obtained an agreement last year, and this legislation is to continue that contract for the next four years.

Mrs. Piper moved Resolution Number 5-2024 to tonight's Council Agenda of January 8, 2024, as an emergency with suspension of the rules. Vote – 3 Ayes, 0 Nays.

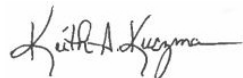
GENERAL DISCUSSION:

There was none.

ADJOURNMENT:

Being no further business, Mr. Delsanter moved to adjourn at 6:03 p.m. Vote – 3 Ayes, 0 Nays.

Respectfully submitted,



Keith Kuczma
Chairman



COMMITTEE OF THE WHOLE

January 8, 2024

IN ATTENDANCE: Nicholas Hanek, Joseph Delsanter, Keith Kuczma, Tim Smith, Kristy Piper, Brandon Lambert, Michael Abella Jr., City Manager/Safety Director Carl DeForest, Law Director Dennis Nevar, Community & Economic Development Director Grant Aungst, Service Director Paul Magovac, Street Superintendent Don Rediger, Clerk of Council Laura Timura, Assistant Clerk of Council Irene Jayapandian, News Media.

The meeting convened at 6:10 p.m.

DISCUSSION ITEMS:

- a) Discussion and motion to appoint Vice Mayor of Council

Mr. Lambert nominated Mr. Hanek to be appointed as Vice Mayor of Council, seconded by Mr. Delsanter. Vote – 7 Ayes, 0 Nays.

- b) Vice Mayor to choose Vice Mayor Pro Tem

Mr. Hanek selected Mr. Delsanter to be Vice Mayor Pro Tem.

- c) Discussion on Seat Assignments

Mr. Hanek informed that Council should email him of any seating change requests.

- d) Review of Council Rules 2022-2023 for any changes

Mr. Hanek noted that the Council Rules and any changes would be approved at the next meeting. He stated that one possible addition to the rules would be related to regular evaluations of the Council Clerk or City Manager.

- e) Discussion of Committee assignments

Mr. Hanek requested that Council email him their preferences regarding committees.

- f) Consider rescheduling 2024 Council Meetings with legal holiday conflicts (consider moving the May 27 Council Meeting to the third Monday, May 20, due to Memorial Day, Columbus Day, October 14, and consider moving the December 23 Council Meeting to the third Monday, December 16, due to Christmas).

Mrs. Piper moved that the May 27th Council Meeting be moved to May 20th and the December 23rd Council Meeting be moved to December 16th. Vote – 7 Ayes, 0 Nays.

- g) Goal Setting Session

Council decided that the Committee-of-the-Whole Goal Setting Session would be on Wednesday, February 7th, at 6:30 p.m.

Mr. Hanek noted that some food would be provided at no taxpayer expense and stated that anyone is welcome to bring food in. He added that the meeting would be about 2 hours long.

Mr. Hanek requested that Council reach out to him or the City Manager with any goals they would like to bring to the goal setting session.

Mr. Smith asked what type of ideas should be brought to the meeting.

Mr. Hanek clarified that Council can bring ideas regarding all aspects of the City, the committee structure, and ward issues. He highlighted that some problems he would bring up would be the intersection of Maxwell Boulevard and Laurel Road and the continuation of the Plum Creek Project. He added that these goals would be both long and short-term.

MOTION ITEMS:

- a) Motion to appoint Clerk of Council, Laura Timura as designee for all elected officials to attend public records training as required by Section 149.43 and 109.43 of the Ohio Revised Code.

Mr. Delsanter moved to appoint Clerk of Council, Laura Timura as designee for all elected officials to attend public records training as required by Section 149.43 and 109.43 of the Ohio Revised Code. Vote – 7 Ayes, 0 Nays.

- b) Motion pursuant to Charter Section 3.11

Mr. Hanek tabled this motion, subject to future discussion.

REVIEW LEGISLATION:

- a) **RES. NO. 6-2024** - An emergency resolution selecting City of Medina Councilman Dennie R. Simpson to serve as a voting member on the Medina County 9-1-1 Program Review Committee. - **1st Reading** (Committee-of-the-Whole, *Administration/Carl DeForest*)

Mr. DeForest revealed that the City has to pass a resolution accepting the appointment of a City of Medina Councilmember to be on the Medina County 9-1-1 Program Review. Mr. DeForest noted that the Ohio Revised Code has recently been updated to require that five municipalities pass the same resolution for the Councilmember from Medina to be on the committee.

Mr. DeForest reminded that he is already on the board as the Chief Executive Officer of Brunswick, as it has the largest population in Medina County.

Mr. Hanek clarified that, as the largest City within Medina County, Brunswick automatically has a seat on the committee.

Mr. Lambert moved Resolution Number 6-2024 to tonight's Council Agenda of January 8, 2024, as an emergency with suspension of the rules. Vote – 7 Ayes, 0 Nays.

- b) **ORD. NO. 7-2024** - An ordinance establishing Codified Ordinance Chapter 868 of the City of Brunswick Codified Ordinances relative to the license of Tobacco Retail Establishments - **1st Reading** (To be brought from Committee-of-the-Whole, *Administration/ Dennis Nevar*)

Mr. Nevar disclosed that this ordinance is regarding tobacco retail licensing. The Administration is hopeful to enter into an agreement with the Medina County Health Department, which will act as the licensing agency to implement this program. The Division of Law has changed the effective date to September 1, 2024, so there is time to work with the health department to implement the program. Presently, the City is considering one license per every 750 residents based on the most recent census.

Mr. Nevar revealed that Mr. Aungst has been working with the County Auditor's Office to determine that there are 29 traditional tobacco retail establishments in the City. An additional 8-10 establishments in the City sell vape-type products, which are not licensed in the same way as traditional combustible products in the State of Ohio. One (1) Tobacco Retail License per 750 residents would result in 46 licenses. He advised that the Division of Law can amend the legislation to change the ratio of licenses to residents to be one (1) license per 1,000 residents if Council sees fit.

Mr. Lambert moved Ordinance Number 7-2024 to tonight's Council Agenda of January 8, 2024, for three readings with an amendment to change the ratio of Tobacco Retail Licenses to residents from one (1) license for every 750 residents to one (1) license for every 1,000 residents. Vote – 7 Ayes, 0 Nays.

GENERAL DISCUSSION:

Mr. Abella inquired if the school district has laid out any formal plans for the construction of the high school, particularly regarding any new entrances into the high school at Warren Drive.

Mr. DeForest replied that there have yet to be any formal plans.

Mr. Aungst noted that the school district has been working on Kidder Elementary School, Applewood Elementary School, the administration building, and the maintenance building. However, no formal plans for the high school have been presented to the Administration.

Mr. Abella stated that he is against any entrance on Warren Drive into Brunswick High School out of respect for the residents on that street.

Mr. Hanek added that he is very interested in seeing what the school district has planned regarding walkability. He advised that Council will have careful consideration and scrutiny regarding the plans.

Mr. Delsanter continued that the high school should look at the access points off of Center Road and consider traffic issues.

EXECUTIVE SESSION:

Mr. Delsanter moved to go into Executive Session to discuss the subject of pending or imminent court action, seconded by Mrs. Piper. Roll Call – Ayes – 7, Mr. Hanek, Mr. Lambert, Mr. Smith, Mr. Abella, Mr. Delsanter, Mr. Kuczma, Mrs. Piper. Nays – 0.

Mr. Lambert moved to adjourn from Executive Session. – Vote – 7 Ayes, 0 Nays.

The Committee-of-the-Whole reconvened.

ADJOURNMENT:

Being no further business, Mr. Delsanter moved to adjourn the Committee of the Whole Meeting at 7:01 p.m. Vote – 7 Ayes, 0 Nays.

Submitted Respectfully,



Irene Jayapandian
Assistant Clerk of Council

PROPOSED LEGISLATION



DATE: 1/22/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Paul Magovac

COPY: Mayor Ron Falconi

LEGISLATION: **RES. NO. 1-2024** - A resolution authorizing the City Manager to purchase liquid asphalt emulsion for the Service Department from Leader Machinery Equipment in an amount not to exceed \$40,000.00. - **2nd Reading** (Services, Utilities, Technology & Cable Committee, *Administration/Paul Magovac*)

BACKGROUND: This emulsion is one component that is used in the durapatch machine to be able to patch potholes throughout the city. This emulsion is a proprietary product that is a specified design for use in our machine.

PURPOSE AND EXPLANATION: Service Department has a Durapatcher which is a trailer mounted spray injection machine that will allow for the mixing of asphalt emulsion and stone to create an asphalt patch at the site of the pothole. This legislation will allow for the purchase of hot liquid asphalt emulsion which is delivered in bulk and stored in a heated tank that will be stationary at Streets West 130th Street yard.

IMPLEMENTATION SCHEDULE: Spring of 2024

FINANCIAL INFORMATION: FINANCIAL SUMMARY: Purchase to be split 50% between Road Improvement Fund #333 & Streets R&M Fund #117 - - - \$20,000.00 333-0474-56870 \$20,000.00 117-0420-55303

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
RESOLUTION NO. 1-2024

BY: Mr. Smith, Mr. Abella, Mr. Kuczma

A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE LIQUID ASPHALT EMULSION FOR THE SERVICE DEPARTMENT FROM LEADER MACHINERY EQUIPMENT IN AN AMOUNT NOT TO EXCEED \$40,000.00.

WHEREAS: The liquid asphalt emulsion is a component used by the Service Department in its Durapatch Machine to patch potholes on roads within the City.

WHEREAS: The liquid asphalt emulsion is a proprietary product that is specified for use in the Service Department's Durapatch Machine.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY RESOLVES:

SECTION 1: That the City Manager is hereby authorized to purchase liquid asphalt emulsion from Leader Machinery Equipment in an amount not to exceed \$40,000.00.

SECTION 2: That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____

2nd Reading _____

3rd Reading _____

ADOPTED: _____

AYES _____ NAYS _____

ATTEST: _____

Clerk of Council
Laure E. Timura

PROPOSED LEGISLATION



DATE: 1/22/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Carl DeForest

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 7-2024** - An ordinance establishing Codified Ordinance Chapter 868 of the City of Brunswick Codified Ordinances relative to the license of Tobacco Retail Establishments - **2nd Reading** (Committee-of-the-Whole, *Administration/Dennis Nevar*)

BACKGROUND: This Council recognizes that young people are particularly susceptible to the addictive properties of tobacco and nicotine and that youth who begin using tobacco and nicotine products are more likely to become lifelong users, reversing previous progress in the reduction of the overall tobacco use rate. This Council has the authority to protect life, health, and safety by requiring tobacco and nicotine retailers in the City to obtain and maintain a tobacco retailer license as a condition for engaging in the business of selling tobacco products.

A tobacco retailer license is an evidence-based strategy to reduce initiation to nicotine and tobacco through improved compliance with minimum legal sales age and other important sales regulations. A tobacco retailer license is a regulatory tool that further enables the City to monitor nicotine and tobacco sales, fund compliance efforts, and create effective penalty and suspension structures for repeated violations. Tobacco retailer license laws in other communities have been effective in reducing the number of illegal nicotine and tobacco sales to underage purchasers.

PURPOSE AND EXPLANATION:

IMPLEMENTATION

SCHEDULE: Three readings

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?

**ADDITIONAL
INFORMATION:**

1
CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 7-2024

BY: Committee-of-the-Whole

AN ORDINANCE ESTABLISHING CHAPTER 868 OF THE CITY OF BRUNSWICK CODIFIED ORDINANCES RELATIVE TO THE LICENSE OF TOBACCO RETAIL ESTABLISHMENTS.

- WHEREAS: This Council recognizes the health risks associated with nicotine and tobacco use and addiction, especially for young people.
- WHEREAS: US Food and Drug Administration data indicates that one in five Ohio retailers illegally sell nicotine and tobacco products to underage buyers.
- WHEREAS: Tobacco retailers may choose to concentrate near schools and in low-income neighborhoods.
- WHEREAS: Tobacco use is the foremost preventable cause of premature death in the U.S., causing a half million deaths annually, and has been responsible for 20.8 million premature deaths in the U.S. since the first U.S. Surgeon General's report on smoking in 1964.
- WHEREAS: This Council recognizes that young people are particularly susceptible to the addictive properties of tobacco and nicotine, and that youth who begin using tobacco and nicotine products are more likely to become lifelong users, reversing previous progress in the reduction of the overall tobacco use rate.
- WHEREAS: This Council has the authority to protect life, health and safety by requiring tobacco and nicotine retailers in the City to obtain and maintain a tobacco retailer license as a condition for engaging in the business of selling tobacco products.
- WHEREAS: A tobacco retailer license is an evidence-based strategy to reduce initiation to nicotine and tobacco through improved compliance with minimum legal sales age and other important sales regulations.
- WHEREAS: A tobacco retailer license is a regulatory tool that further enables the City to monitor nicotine and tobacco sales, fund compliance efforts, and create effective penalty and suspension structures for repeated violations.
- WHEREAS: Tobacco retailer license laws in other communities have been effective in reducing the number of illegal nicotine and tobacco sales to underage purchasers.
- WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That the Chapter 868 of the Codified Ordinances titled “Tobacco Retailer Licenses” is hereby established to read as follows:

“868.01 DEFINITIONS.

(A) Definitions. For the purposes of this Section, the following definitions shall apply:

- (1) “Applicant” means the applicant for a license under this Chapter, including any person or entity that holds an interest in the applicant.
- (2) “Compliance Check” means the system utilized by the Licensing Agent to investigate and ensure that those authorized to sell Tobacco Products are following and complying with the requirements of this Chapter. Compliance checks may be conducted by the Licensing Agent, the City of Brunswick and/or other units of government or designated agencies for educational, research and/or training purposes, of for investigating and enforcing federal, state and local laws pertaining to Tobacco Products.
- (3) “Distribute” means giving, providing, or delivering Tobacco Products.
- (4) “Educational Facility” means any public or private educational facility, including, without limitation, child-care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, junior colleges and universities, trade schools, tutorial services and commercial learning centers.
- (5) “Electronic Smoking Device” means any device that may be used to deliver any aerosolized or vaporized nicotine or any other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic Smoking Device includes any component, part, or accessory to such a device, whether or not sold separately, and also includes any substance intended to be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic Smoking Device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
- (6) “Licensee” means the holder of a valid Tobacco Retailer License or Temporary Event License.
- (7) “Licensing Agent” means the City of Brunswick or its duly authorized designee.

- (8) “Person” means any natural person.
- (9) “Premises” means the location to which any License or Temporary Event License issued under this Chapter has been issued.
- (10) “Public Place” means any area in which the public is invited or permitted, including, without limitation, any public park or playground, but excluding any public right-of-way.
- (11) “Purchaser” means any person who obtains or attempts to obtain a Tobacco Product.
- (12) “Religious Institution” means a church, synagogue, temple or building which is used primarily for religious worship and related religious activities.
- (13) “Sale”, “Sell” or “Sold” means transferring, or offering or attempting to transfer, a Tobacco Product for money, trade, barter, exchange or other consideration.
- (14) “Temporary Event” means an event open to the public, whether on private or public property, that is temporary in nature.
- (15) “Temporary Event License” means a license issued by the Licensing Agent or its authorized designee for the sale of Tobacco Products at a Temporary Event.
- (16) “Tobacco” or “Tobacco Product(s)” means: (a) any product containing, made of, or derived from tobacco or containing any form of nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff or snus; (b) any Electronic Smoking Device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; (c) any component, part, or accessory of (a) or (b), whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, or pipes. Tobacco Product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
- (17) “Tobacco Retailer” means any individual, firm, partnership, joint venture, association, joint stock company, corporation, unincorporated business entity, or any other group acting as a unit that owns a business where Tobacco Products are

available for sale, including the employees thereof. Tobacco Retailer, as used herein, includes any manufacturer, producer, distributor or wholesaler of Tobacco Products. Tobacco Retailer does not mean the employees or agents of an owner of a business where Tobacco Products are available to the general public.

- (18) “Tobacco Retail Establishment” means any place of business where Tobacco Products are available for sale, whether or not the business is open to the general public, whether pursuant to a License or Temporary Event License issued pursuant to this Chapter.
- (19) “Tobacco Retailer License” or “License” means a license issued by the Licensing Agent or its authorized designee for the sale of Tobacco Products pursuant to this Chapter.

868.02 LICENSE REQUIRED/APPLICATION.

- (A) License Required. No Person, Tobacco Retailer or Tobacco Retail Establishment shall sell, offer to sell or distribute any Tobacco Product without first having obtained a License or Temporary Event License from the Licensing Agent.
- (B) Application. An application for a License or Temporary Event License to sell or distribute Tobacco Products must be made on a form provided by the Licensing Agent. The application must contain the full legal and doing business as name of the Applicant, the location of the Premises or Temporary Event, the Applicant’s business address, phone number and email address, the name and social security number of each and every person(s) holding any interest in the Applicant (if the Applicant is not a natural Person), confirmation that the Applicant and all employees of the Applicant have completed the Instruction Program as required herein, and such additional information as may be required by the Licensing Agent. If the Licensing Agent determines that an application is incomplete, the application will be returned to the Applicant with notice of the deficiency and the requisite information necessary to make the application complete.
- (C) Term. The term of any License issued pursuant to this Chapter is for a period of one (1) year commencing on the first day of September up to and including the last day of August. Any License issued after the first day of September will expire on the last day of August and remain subject to the full, non-prorated License fee regardless of the date of issuance. Any Temporary Event License issued pursuant to this Chapter shall be valid for no more than five (5) days during the calendar year in which it was issued.
- (D) Violation; Suspension; Revocation. Any License or Temporary Event License issued under this Chapter may be suspended or revoked as follows:

- (1) Any Licensee that violates any provision of this Chapter, or any other federal, state or local law relative to the distribution or sale of Tobacco Products, shall be subject to the penalties prescribed in this Chapter and/or Codified Ordinance Section 636.19.
- (2) A previous violation of any other federal, state or local law relating to the distribution or sale of Tobacco Products that occurred within the previous thirty-six (36) months shall be considered a prior violation when determining any penalty under this Chapter and/or Codified Ordinance Section 636.19.
- (E) Transfers. All Licenses or Temporary Event Licenses issued under this Chapter are valid only with respect to the Licensee and for the Premises or Temporary Event location for which same was issued. The transfer of any License or Temporary Event License to any other Person, Tobacco Retailer, Tobacco Retail Establishment and/or other Premises (or other Temporary Event location) is prohibited with the exception that the change in ownership of a Licensee shall not be deemed to constitute a transfer of a License or Temporary Event License.
- (F) Display. All Licenses or Temporary Event Licenses must be posted and displayed at all times in plain view of the general public of the Tobacco Retail Establishment or at the Temporary Event location. Failure to properly display any License or Temporary Event License issued pursuant to this Chapter is a violation hereof.
- (G) Renewals. The renewal of a License issued pursuant to this Chapter shall be subject to the same application process as provided hereinabove. The request for renewal must be made at least thirty (30) days prior to the expiration of the current License. The issuance of a License pursuant to this Chapter is a privilege and does not entitle the Licensee to the automatic renewal thereof. The failure to timely renew and/or the denial of the renewal of a License previously issued pursuant to this Chapter shall result in the revocation thereof. Temporary Event Licenses shall not be subject to renewal.
- (H) Instructional Program. As a condition of the issuance of a License or Temporary Event License pursuant to this Chapter, the Licensee shall complete and ensure that all employees complete an annual training program pre-approved by the Licensing Agent related to the legal requirements for the distribution or sale of Tobacco Products. Documentation evidencing compliance with this requirement is a condition precedent to the issuance of any Temporary Event License, License or renewal thereof.

868.03 DENIAL OF LICENSE/TEMPORARY EVENT LICENSE.

- (A) The Licensing Agent shall deny an application for a Temporary Event License, License, or renewal thereof, in the following circumstances:

- (1) The Applicant is under the age of 21.
 - (2) The Applicant has been convicted of any violation of a federal, state or local law relating to the distribution or sale of Tobacco Products within the previous five (5) years.
 - (3) The Applicant has had a License or Temporary Event License issued under this Chapter revoked within the previous two (2) years.
 - (4) The Applicant fails to provide the information required on the application or provides false, incomplete or misleading information.
 - (5) The Applicant is prohibited by federal, state or local law from distributing or selling Tobacco Products.
 - (6) The Applicant is delinquent on the payment of any fee, tax or penalty imposed by this Chapter or any other provision of the Codified Ordinances.
 - (7) The maximum number of available Licenses under this Chapter have been issued.
 - (8) The Premises is not in compliance with the proximity requirements contained in this Chapter.
 - (9) The Applicant has been found to have been distributing or selling Tobacco Products without a License or Temporary Event License issued pursuant to this Chapter on two (2) occasions within any twelve (12) month period.
- (B) In the event a License or Temporary Event License is mistakenly issued or renewed, the Licensing Agent may revoke same upon the discovery that the Applicant was ineligible under this Chapter. In such event, the Licensing Agent will provide the Licensee with notice of revocation along with information as to Licensee's rights of appeal consistent with this Chapter.
- (C) If a License or Temporary Event License is suspended or revoked pursuant to this Chapter, the License fee is deemed forfeited and non-refundable.

868.04 LICENSE/TEMPORARY EVENT LICENSE FEE; FINES.

- (A) No License or Temporary Event License shall be issued under this Chapter until the appropriate, non-refundable License/Temporary Event License fee is paid in full.
- (B) The fee for a License (or renewal thereof) under this Chapter shall be a minimum of \$600.00 payable to the Licensing Agent. The Licensing Agent shall have the

authority to adjust the License fee as deemed necessary, but in no event shall the License fee be less than \$600.00. The fee for a Temporary Event License under this Chapter shall be a minimum of \$150.00 payable to the Licensing Agent. The Licensing Agent shall have the authority to adjust the Temporary Event License fee as deemed necessary, but in no event shall the Temporary Event License fee be less than \$150.00.

- (C) License/Temporary Event License fees and fines collected pursuant to this Chapter shall be for the benefit of and payable to the Licensing Agent and shall be used to fund tobacco retail licensure compliance and enforcement measures, including, but not limited to, issuing Licenses/Temporary Event Licenses, administering the licensing program, tobacco retailer education, tobacco retailer inspection and compliance checks, documentation of violations and appellate proceedings. Funds may also be designated for other tobacco control, prevention and education programs as determined by the Licensing Agent.

868.05 NUMBER OF LICENSES.

- (A) The total number of Licenses issued within the City shall be limited to one (1) License for each ~~one thousand seven hundred fifty~~ (1,000~~750~~) residents of the City, as established by the most recent Federal Decennial Census. Notwithstanding the foregoing:
- (1) Any Person or Tobacco Retailer lawfully engaged in the operation of a Tobacco Retail Establishment that is in full compliance with all applicable law as of the effective date of this Chapter shall be entitled to a License subject to full satisfaction of the requirements of this Chapter; and
 - (2) City Council shall have the authority, as part of a duly approved Development Agreement as otherwise required by the Codified Ordinances, to authorize the Licensing Agent to issue additional Licenses, subject to full satisfaction of the requirements of this Chapter, to any Applicant that proposes the construction of a new, single-tenant commercial/retail structure.
- (B) The Licensing Agent shall maintain a list of all applications for Licenses which, if issued, would exceed the maximum number of licenses permitted pursuant to this Chapter. In the event of revocation and/or non-renewal of a License, the Licensing Agent may proceed with the processing of applications on file in the order in which they were received.
- (C) There are no maximum number of Temporary Event Licenses that may be issued by the Licensing Agent pursuant to this Chapter.

868.06 PROXIMITY REQUIREMENTS.

- (A) No License/Temporary Event License shall be granted under this Chapter to an Applicant that is located (or Temporary Event that is located) within 1,000 feet of any existing Licensee, as measured from the nearest property lines of each respective property. This restriction does not apply to any Applicant that holds a state tax license to sell Tobacco Products at the same Premises for at least one (1) year prior to the effective date of this Chapter.
- (B) No License/Temporary Event License shall be granted under this Chapter to an Applicant that is located (or Temporary Event that is located) within 3,500 feet of any Educational Facility, Religious Institution or Public Place, as measured from the nearest property lines of each respective property. This restriction does not apply to any Applicant that holds a state tax license to sell Tobacco Products at the same Premises for at least one (1) year prior to the effective date of this Chapter.

868.07 COMPLIANCE WITH CODIFIED ORDINANCE SECTION 636.19.

- (A) All Licensees shall comply with the requirements of Codified Ordinance Section 636.19, which is incorporated herein by reference, as same may be amended from time to time.

868.08 COMPLIANCE CHECKS AND INSPECTIONS.

- (A) The Tobacco Retail Establishment for which any License/Temporary Event License is issued pursuant to this Chapter shall be open to inspection by the Licensing Agent during regular business hours. The Tobacco Retail Establishment shall be subject to not less than two (2) unannounced compliance checks per License year (or during any Temporary Event) which may include, without limitation, checks to verify that the Tobacco Retail Establishment:
- (1) Maintains and properly displays the License/Temporary Event License to distribute or sell Tobacco Products; and
 - (2) Does not permit sale to persons under the age of 21.
- (B) Unannounced follow-up compliance checks of all non-compliant Tobacco Retail Establishments shall be conducted by the Licensing Agent within three (3) months of any violation of this Chapter.
- (C) The results of all compliance checks shall be published annually and made available to the public by the Licensing Agent.

868.09 PENALTY.

Notwithstanding any other penalty that may be imposed by applicable federal, state or local law, including, without limitation, those penalties prescribed by Codified Ordinance Section 636.19, any Person, Tobacco Retailer or Tobacco Retail Establishment that violates any provision of this Chapter or any provision of Codified Ordinance Section 636.19 shall be subject to the following penalties:

- (A) For a first violation, a fine of \$500.00.
- (B) For second violation within a thirty-six (36) month period, a fine of \$1,000.00 and a License/Temporary Event License suspension of thirty (30) days.
- (C) For a third violation within a thirty-six (36) month period, a fine of \$1,500.00 and License/Temporary Event License suspension of sixty (60) days.
- (D) For a fourth violation within a thirty-six (36) month period, a fine of \$2,000.00 and License/Temporary Event License revocation.

Any Person, Tobacco Retailer or Tobacco Retail Establishment found to be selling Tobacco Products without the License/Temporary Event License required under this Chapter shall be subject to the following penalties:

- (A) For a first violation, a fine of \$1,000.00.
- (B) For a second violation and each subsequent violation within a thirty-six (36) month period, a fine of \$2,000.00 per occurrence and ineligibility for a License/Temporary Event License for a period of three (3) years.

Additionally, in the event that the Licensing Agent determines that it is probable that any Person, Tobacco Retailer or Tobacco Retail Establishment has violated any provision of Codified Ordinance Section 636.19, the Licensing Agent will report same to the Division of Police for review of possible charges thereunder.

868.10 SEVERABILITY.

The provisions of this Chapter are severable, and if any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstances are held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such a ruling shall not affect the other parts of this Section that can be given effect.

868.11 NOTICES; APPEALS.

In the event that a violation is issued or a License/Temporary Event License is denied, suspended or revoked pursuant to this Chapter, the Licensing Agent shall inform the Applicant and/or Licensee in writing to be sent by certified mail, return receipt requested, to the address of the Applicant/Licensee as contained in the application. Such notice shall provide that the Applicant and/or Licensee shall have a right to appeal any such decision directly to the Licensing Agent, which appeal shall be in writing, contain all operative facts in support of such appeal and be filed with the Licensing Agent within thirty (30) days of the date of the notice. The determination of the Licensing Agent shall be considered a final order.”

SECTION 2: The provisions of this Ordinance shall be effective and enforceable as of September 1, 2024.

SECTION 3: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____
2nd Reading _____
3rd Reading _____

ADOPTED: _____ AYES _____
NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura

THE CITY OF BRUNSWICK

PROPOSED LEGISLATION



DATE: 1/22/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Gia D'Amico

COPY: Mayor Ron Falconi

LEGISLATION: **RES. NO. 8-2024** - An emergency resolution authorizing the City Manager to enter into a one (1) year contract for property, automobile, inland marine, general liability, public officials liability, police liability, boiler and machines, crime coverage, cyber coverage, employment practice and umbrella insurance coverage. - **1st Reading** (To be brought from Committee-of-the-Whole, *Administration/Carl DeForest*)

BACKGROUND: Our current insurance policy will expire on January 31,2024. We must enter into a new contract to insure equipment, property, buildings, etc. from February 1,2024 through January 31,2025.
Love Insurance Agency obtained proposals for this coverage.

PURPOSE AND EXPLANATION: To provide insurance coverage for equipment, property, facilities, etc. effective February1, 2024.

IMPLEMENTATION SCHEDULE: As soon as allowed by law.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY: Total not to exceed estimated costs of insurance +/- net additions/deletions = \$368,971.

The liability, crime & cyber insurance policy covers the period of February 1, 2024, through January 31, 2025, and at an original total premium of \$333,971. The total premium amount includes 1) an annual premium of \$299,721 for various insurance coverage pertaining to property, employer, employee, vehicles, etc, and 2) an annual premium of \$34,250 for crime and cyber coverage.

An additional premium amount not to exceed \$35,000 is also requested for prorated premium adjustments for City property removed from and/or added to coverage during this policy year, which would result in additional premium amounts due from the City.

In order to be paid, expenditures must also be covered by sufficient Council appropriations. Expenditures will be posted to the respective fund and department based on the items or persons being insured. Total not to exceed estimated costs of insurance +/- net additions/deletions = \$368,971.

**RECOMMENDED
ACTION:**

One Reading	Yes
Two Readings	No
Three Readings	No
Emergency	Yes
Suspension of Rules	Yes

If emergency or suspension of the rules, why the request?

The current policy expires January 31, 2024. The new policy must be in effect February 1, 2024.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
RESOLUTION NO. 8-2024

BY: Committee-of-the-Whole

AN EMERGENCY RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A ONE (1) YEAR CONTRACT FOR PROPERTY, AUTOMOBILE, INLAND MARINE, GENERAL LIABILITY, PUBLIC OFFICIALS LIABILITY, POLICE LIABILITY, BOILER AND MACHINES, CRIME COVERAGE, CYBER COVERAGE, EMPLOYMENT PRACTICE AND UMBRELLA INSURANCE COVERAGE.

WHEREAS: The City utilized the professional services of Love Insurance Agency to obtain proposals for property, automobile, inland marine, general liability, public officials liability, police liability, boiler and machines, crime coverage, cyber coverage, employment practice and umbrella insurance coverage;

WHEREAS: The annual premium for the lowest and best policy is \$333,971.00 for the package, which amount includes crime and cyber coverage premiums in the amount of \$34,250.00; and

WHEREAS: An additional premium not to exceed \$35,000.00 is necessary to account for potential prorated premium adjustments for City property removed from and/or added to the policy.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY RESOLVES:

SECTION 1: That the City Manager is hereby authorized to enter into a one (1) year contract from February 1, 2024 through January 31, 2025 at an annual premium in an amount of \$333,971.00 for the package, which amount includes crime and cyber coverage premiums in the amount of \$34,250.00, effective February 1, 2024 for the following insurance: property, automobile, inland marine, general liability, public officials liability, police liability, boiler and machines, crime coverage, cyber coverage, employment practice and umbrella coverage.

SECTION 2: An additional premium not to exceed \$35,000.00 is hereby authorized to account for potential prorated premium adjustments for City property removed from and/or added to the policy.

SECTION 3: The Finance Director is authorized to issue a warrant for payment of the insurance coverages upon receipt of a proper invoice from the City Manager.

SECTION 4: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, and for the additional reason that the previous policy and liability insurance coverage expires on January 31, 2024. Therefore, the same shall be in full force and effect from and after its passage by the required number of votes or from the earliest time allowed by law.

PASSED: 1st Reading _____

Rules Suspended: AYES _____ NAYS _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura