

**SPECIAL SESSION -**

**LORAIN CITY COUNCIL CHAMBER - CITY HALL BLDG. -LORAIN, OH – AUGUST 9, 2021**

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President Arredondo called the Special Call to order at 6:04 p.m. Chaplain Mitchell Fallis led Council in the prayer and Pledge.

**ROLL CALL:**

PRESENT– 11 Messrs. Fallis, Dimacchia, Springowski, Henley, McFarland, Carter, Argenti, Moon, Carrion, Shawver, Thornsberry.  
ABSENT - 0 None.

**READING OF THE MAYOR’S SPECIAL CALL LETTER:**

*August 5, 2021*

*Dear Members of Lorain City Council,*

*Under the authority of O.R.C. Section 731.46, I am calling a Special Call of Council for Monday, August 9, 2021, to begin no earlier than 6 pm.*

*The Special Call will be held to consider an opioid settlement proposed for the State of Ohio, an ordinance levying special assessments for the Broadway Streetscape project and an ordinance approving the contract/replacement pages for the Codified Ordinances.*

*Sincerely,  
Jack Bradley, Mayor  
City of Lorain, Ohio*

**DISPOSITION OF THE MINUTES**

Moved by Mr. Fallis, supported by Mrs. Springowski, to dispense with the reading of the minutes from July 6, 2021 and July 19, 2021 and accept them as written. The motion carried unanimously.

**LEGISLATION – FIRST READING:**

Ordinance No. 128-21 a.) Introduced by Mr. Dimacchia, an ordinance authorizing the Mayor to accept the material terms of the OneOhio subdivision settlement pursuant to OneOhio memorandum of understanding and consistent with the terms of the July 21, 2021 National Opioid Settlement and to sign the OneOhio Subdivision participation form and declaring an emergency.

Moved by Mr. Dimacchia, supported by Mrs. Springowski, to suspend the statutory three reading rule.

AYES – 11 Messrs. Fallis, Dimacchia, Springowski, Henley, McFarland, Carter, Argenti, Moon, Carrion, Shawver, Thornsberry.

NAYS - 0 None. The motion carried.

REMARKS: COUNCILMEMBER CARTER: Where does that funding go once we receive it?  
MAYOR BRADLEY: At this point, that money would be used to fund certain specific programs that are outlined in the settlement agreement. They would actually assist people that have had problems with addiction to address the opioid crisis, treatment centers, etc. It does not go right into the General Fund; it has to be used for specific purposes that will be outlined in that settlement.

LAW DIRECTOR RILEY: The mayor and I have spoken multiple times about this settlement. He has participated in the discussions that have led to the place where we find ourselves today. I did attempt to have Shayna Sachs who is our lead counsel on the national front regarding these many lawsuits but she was not available for discussion tonight. This settlement is extremely complicated. I consider myself capable to understand complicated things, even this is a challenge for me. I sought out the assistance of the mayor today to try and help fill in some of the gaps in my understanding. I am not sure that we are able to give you a detailed analysis of what this settlement is all about – it is that complicated. This is the Ohio portion of a national settlement and is to be implemented through an agreement that was reached back in 2019. I think the mayor did attend the conferences with the AG’s office that led it to what is known as the OneOhio agreement. What we have under this plan of

settlement, if we choose to participate is \$804M which is divided among certain users. They are the State of Ohio, the local subdivisions – all those in Ohio who joined in this lawsuit and a foundation to be created which is to serve the same purposes the mayor outlined a moment ago, the abatement of opioid addiction problem that we face. The shares of the \$804M, respectively are 30% to the subdivisions, 15% to the State of Ohio, 55% to the State Foundation, which will then administer the distribution of those funds out pursuant to a very complicated plan. Our participation in that 30% share of \$804M and the settlement is one which requires the State of Ohio first to approve its participation and then if the state approves, then for the local jurisdictions to approve, that is what brings us here tonight. Ultimately, the funds would be disbursed over 18 years and distributed and funded based upon two separate concepts. Part of it is obligated, committed and is known as the base settlement amount. That portion of the settlement which is 55% of the \$804M is an amount which cannot be changed going forward. The remaining 45% is to be obtained by the State of Ohio or the local jurisdictions depending upon the actions that are taken that reduce the exposure of these big three distributors to future lawsuits. They are basically incentivizing payments; it is a carrot hanging at the end of the stick. If the state of Ohio passes legislation which protects these distributors from future lawsuits by local subdivisions, then these incentive payments are in term something the big three has to pay. Likewise, the more local subdivisions that agree to participate in this settlement, the higher that percentage rises, the remainder of these 45% incentivizing portion of the payment is to be paid in by the big three. It is 55%, generally speaking that is absolutely obligated to be paid and 45% is in the nature of an incentive. The incentive is to reduce the exposure of these drug distributors to future lawsuits. That exposure is reduced by the state taking action to eliminate their liability, i.e., a bar to further civil litigation and/or the local subdivision participant's way of releasing their claims. That is why the Ohio Association of Municipal Lawyers, Garry Hunter, is recommending that we join in this because the higher the level of participation, the greater the number of dollars that will be available to the State of Ohio and to the local subdivisions. Having said that, along with the material that you have tonight, there are some projections as to how much the City of Lorain would receive in the event that the participation levels are otherwise reached. If the incentivizing payments are obligated to be paid by the big three distributors. You will see in there that the payments can range to the City of Lorain as I read it, from approximately \$400,000 to \$600,000 under the base payment arrangement. It may go upward if the incentivizing portion of the overall settlement is paid in by the big three. That is one way in which the City of Lorain will be directly compensated and as the purposes for which those can be expended or otherwise restricted. They cannot be used just in General Fund, they have to be used to abate the problem that opioid drugs have created. Having said that, there is another level of participation and that is through the foundation. The foundation receives 55% of the \$804M. The foundation is to be constructed as a not for profit organization and pursuant to the settlement has a certain structure. That includes a board and the board is composed of different participants who are all designed in this settlement program to come from various places. The Governor gets to appoint, so on and so forth. That foundation oversees the distribution of money to some nineteen (19) regions in the State of Ohio. Those are outlined in the documents before you. They are broken into two classes, with eleven of those are considered rural regions and eight are considered urban regions. The settlement document requires that each region construct its own governance, which the settlement documents that I have do not explain that very well. It seems to me that each region would be one which has its own board of some type. The purpose of that is so the foundation, which is overseen by a separate board who is composed of those appointee for various purposes and from various sources, that those regions would have input to the foundation about how they think money allocated to them should otherwise be expended. In the documents before you, based upon this dual funding mechanism, base payments and incentivizing payments –depending upon the level of participation and the actions by the State to protect these three distributors', the amounts to be paid in and distributed to the regions is greater or lesser. I read the documents and I think the amounts range from \$18M to \$26M for the region that Lorain County is located in. Another source of dollars that the City

of Lorain may receive benefit from would be the dollars that are in the settlement to be distributed to the foundation to be created by the settlement agreement, which will be overseen by a board and which nineteen regions in the State of Ohio would receive funds based upon the request and the amount allocated to them through their own local regional board.

That is a general overview of how these things work. In terms of attorney fees, the mayor and I also discussed this and I am not sure that I have a full understanding of it. The attorney fees would be paid prior to monies coming to us, as I read the document; it is capped at \$1.95B from the overall national settlement. There is some language in the settlement document that is a bit confusing. I don't know whether our contract would have to commit us to pay an additional set of dollars over and above the money allocated to the local government attorney fees fund. Generally, reading it as it is written, I don't think we are further exposed to attorney fees beyond the amount set aside from the national settlement to be paid to those attorneys representing the local governmental entities.

COUNCILMEMBER CARRION: Thank you for the explanation; that make a lot of sense. You mentioned that Lorain, based on the estimated potential settlement amount, shows from the low end \$400,000 to a high of \$600,000. On that same sheet, it also shows an allocation for the county – Lorain County from \$1.8M to \$2.6M. Is Lorain included in that mix to receive any funding from that allocation as well? Or, is that a separate source of funds that excludes Lorain?

LAW DIRECTOR RILEY: I do not know the answer to that. It is a good question. I attempted to get an answer before coming down here today but I have not been able to do that. I do not know if Lorain participates in the county funding. I will follow up when I get an answer.

COUNCILMEMBER ARGENTI: I have two questions. The settlement has been reached with prejudice?

LAW DIRECTOR RILEY: The participation requires a release to be signed by those participating entities. So, we would file a release with prejudice, which means we could not sue them again.

COUNCILMEMBER ARGENTI: The major drug companies on this then are off the hook and done.

LAW DIRECTOR RILEY: It is only a settlement with three (3) companies. They are identified in your material. It is not a settlement with all those who entities – drug pharmaceutical companies, drug manufacturers, this is a settlement only with three companies. They are Amerisource Bergen, Cardinal Health and McKesson and the three distributors. This settlement is overseen by Judge Polster who is a federal court judge in Cleveland. You may have read already there have been different settlements with Cuyahoga County, Summit County and separately pending lawsuits by Lake and Geauga County. It is an extremely complicated set of issues. I am not an attorney who can say to you that I understand all the parts and pieces of this. I am here to give you as much information as I can.

COUNCILMEMBER ARGENTI: The second question is with the timing of the disbursement. Our roughly \$400,000 to \$600,000 would be dispersed over an 18 year period. Is that correct?

LAW DIRECTOR RILEY: There are two basic portions of the settlement dollars, the base payments and the incentivizing payments. As I read the document, all payments are primarily front loaded in the first two years. If the participation level reached is at 95% or greater, the monies can flow as early as this year. It is front loaded by that I mean the majority of it is to be paid in the first two years and the balance over time.

Moved by Mr. Dimacchia, supported by Mrs. Springowski, to pass the ordinance.

AYES – 11

Messrs. Dimacchia, Fallis, Springowski, Henley, McFarland, Carter, Argenti, Moon, Carrion, Shawver, Thornsberry.

NAYS - 0

None. The ordinance passed.

Ordinance No. 129-21

c.) Introduced by Mr. Fallis, an ordinance levying special assessments for the improvement of Broadway from West Erie Avenue to 10<sup>th</sup> Street by constructing a concrete sidewalk,

drainage and curbing and handicap ramps together with the necessary appurtenances and declaring it an emergency.

Moved by Mr. Fallis, supported by Mrs. Springowski, to suspend the statutory three reading rule.

AYES – 11 Messrs. Fallis, Dimacchia, Springowski, Henley, McFarland, Carter, Argenti, Moon, Carrion, Shawver, Thornsberry.

NAYS - 0 None. The rule was suspended.

REMARKS: COUNCILMEMBER FALLIS: Is this a new assessment?

AUDITOR SHAWVER: This is part of the original assessment. We had to wait for the total project to be completed and we just actually paid one of the last bills at the end of May because of the unexpected problem with the vault at 610 Broadway. That extended the project quite a lengthy time. This assessment goes hand in hand with the notes that were rolled over for the streetscape and we are expecting to go to a bond when that matures in December. We just rolled that over in June. It was only for six months time and then we will roll over the entire cost in a bond. These amounts were given to the property owners quite a while ago. They are aware and were informed by mail and had a time to object and they did not. This is just the formality of putting the assessments on the parcel numbers.

COUNCILMEMBER FALLIS: I think we received \$1.5M from NOACA and the property owners along Broadway are paying their assessment of \$560,000 and the city pitched in the rest of it. It has improved downtown and obviously spurred private investment. Glad to see we are wrapping this up.

Moved by Mr. Fallis, supported by Mrs. Springowski, to pass the ordinance.

AYES – 11 Messrs. Fallis, Dimacchia, Springowski, Henley, McFarland, Carter, Argenti, Moon, Carrion, Shawver, Thornsberry.

NAYS - 0 None. The ordinance passed.

Ordinance No. 130-21 c.) In Introduced by Mrs. Springowski, an ordinance authorizing a contract with Walter Drane (American Legal) and approving the current replacement pages of the Lorain Codified Ordinances and declaring it an emergency.

Moved by Mrs. Springowski, supported by Mr. Dimacchia, to suspend the statutory three reading rule.

AYES – 11 Messrs. Fallis, Dimacchia, Springowski, Henley, McFarland, Carter, Argenti, Moon, Carrion, Shawver, Thornsberry.

NAYS - 0 None. The rule was suspended.

Moved by Mrs. Springowski, supported by Mr. Dimacchia, to pass the ordinance.

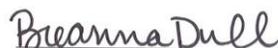
Moved by Mr. Fallis, supported by Mrs. Springowski, to suspend the statutory three reading rule.

AYES – 11 Messrs. Fallis, Dimacchia, Springowski, Henley, McFarland, Carter, Argenti, Moon, Carrion, Shawver, Thornsberry.

NAYS - 0 None. The ordinance passed.

**ADJOURNMENT:**

Moved by Mrs. Springowski, supported by Mr. Dimacchia, to adjourn the meeting. The motion carried unanimously with Mr. Dimacchia voting “no.” The meeting adjourned at 6:25 p.m.

  
DEPUTY CLERK OF COUNCIL

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PRESIDENT OF COUNCIL

Accepted on: September 7, 2021