

REGULAR MEETING – MARION COMMON COUNCIL – OCTOBER 3, 2017 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 3<sup>rd</sup> day of October, 2017 at the hour of 7:00 pm in the Council Chambers, City Hall.

On the call of the roll the following members were shown to be absent or present as follows:

Present: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner.

Absent: Batchelor.

The minutes of the previous regular meeting of September 19, 2017 were presented. On a motion by Luzadder, 2<sup>nd</sup> by Henderson, the minutes were approved as presented by a unanimous vote.

**COMMITTEE REPORTS:** Councilman Dave Homer told the Council, his first committee report, he'd just like to report the Ordinance Committee will be meeting once again. They're moving right along with the Minimum Housing Standard Ordinance. That date, once again, next Monday, October 9<sup>th</sup> at 4:30 pm in the 2<sup>nd</sup> Floor Conference Room and joining them will be Cindy Joyner (sp?) who works for the City of Ft. Wayne Code Enforcement.

Councilman Homer reported that the City Council Compliance Committee met this evening to address the issue of the TIF, the bond issues that they've been (inaudible) over the last several months and talking about. They had a good meeting. He appreciates Julie Flores, the City Controller, who was there and reported to them. He has a better understanding of some of those figures. Mr. Henderson and Mrs. Johnson had an opportunity to discuss and provide some information also to the group however there wasn't enough time so he'd just like to share some thoughts with the committee and hopefully some questions that he thinks Mr. Henderson has scheduled a meeting or is going to schedule a meeting to be a part of with Umbaugh and Associates. Over the course of the last several months, the Marion City Council Compliance Committee has been meeting to discuss the serious situation that exists with our TIF areas and current outstanding bonds. As the situation has unfolded, we have discovered that there are many missing parts to this equation. As a result, they would like to make a few recommendations for future discussions and a possible resolution. As they understand it, what has been presented, they believe they need to request the following and he's hoping that, somehow, they are able to do this. That the Marion Common Council Committee members should meet with representatives of the Marion Redevelopment Commission to discuss the oversight and resolution of the current problems that exist and the responsibilities of the commission as it relates to their duties regarding TIF. Responsibilities include monitoring all TIF areas, reporting to the Common Council in a timely manner and filing all the documents required by the DLGF. If it is impossible to come to some basic understanding or agreement with the commission, the commission should be dissolved and oversight should become the responsibility of the Compliance Committee, at this point, to oversee the TIF. Commit to working with the Auditor and the City Controller to help correct mistakes and it gave TIF areas and how they are reported. They cannot accept finger pointing. He believes that the committee has come to the conclusion, they discussed this tonight in the meeting, that there needs to be an independent bond counsel that has not been involved in TIF or bond issues with the City of Marion, to report objectively on our current problems facing the city with regards to our financial situation. They're wondering if this is something the city would be willing to commit to. They, as a committee, have found discrepancies in the figures that have been presented to them over this time frame, this time frame that those things have been requested as it relates to the bank balances, payments and amortization schedules. He thinks some of those things were answered this evening. No clear answers on the bond language as it pertains to a closed bond. They keep hearing that being used as well. If there is any possibility that they can rewrite the Dollar General Bond, pay it off and utilize the collection of the property tax for future General Fund needs, that would be great. That's just an option that was presented this evening. Investigate other TIF areas to see if they are performing as they should and are there other areas that (inaudible) question. If so, this should be reported to the City Council. Homer said he wants to move on to some things that raised some of the questions that he had with regards to Umbaugh and Associations. Mr. Henderson received a couple of emails and presented those emails to the committee members. As he read through those and they got to the point that they are this evening, he has not been in any of the meetings that Steve and Lynn..... His understanding is that Steve has attended four different meetings with the city. Mrs. Johnson has attended them recently with the City Attorney and also the City Controller. But there are some issues that he takes issue, well a couple of emails that were presented to

them and the first one is dated Tuesday, May 17, 2016 from Loren Matthes who is with Umbaugh to Tim Eckerle reference the GM TIF and he'd like to read that email. It says, "I assume Julie, (assuming this is Julie Flores) is referring to the over \$2,000,000 of incorrect GM TIF payments to the city and not just the payment of the \$370,000-some owed to GM. I cannot she believe she sent that email to Tammy. This is a big can of worms to open up if the other taxing units get wind without a strategy in place and I don't think Tammy and Roger are going to figure out how to do it. We're planning to discuss with her and the Mayor when we go up there for a meeting on Friday, especially since the city does not have \$2,000,000 of excess funds to pay back other taxing units. There really is no way to go back and figure out the impact of different assessed value on tax rates, budgets and circuit breaker to actually recalculate because different budget decisions could have been made for several years. They would probably have to just find a reasonable way to allocate the funds but I think that the city currently has the funds to allocate because the city most likely used the erroneous GM TIF distributions to pay other bonds and obligations. The city needs to be extremely careful on how this all gets portrayed and rectified. Signed, Loren". Councilman Homer said his questions to Umbaugh would be, reference that letter, why was this correspondence between Loren Matthes and Tim Eckerle regarding the TIF problems and why not was it shared with the city? What was the reference to the big can of worms? If everything seems to be going along like we do and the TIFs are operating properly, what is the big can of worms would be his question. Was there a strategy discussed and what was the strategy? Why wouldn't Roger, he assumes Bainbridge, figure out how to do it? She suggested he probably can't do it. He's the Auditor. Was there any correspondence between the city, Umbaugh and the Auditor on how to correct the mistakes? If not, why not? Assuming the meeting took place between Umbaugh and the City Controller and the Mayor on May 20<sup>th</sup>, what was discussed? What and where were the erroneous payments made to pay other bond obligations and why would the city need to be careful on how all of this gets portrayed and rectified if there aren't issues? On June 15<sup>th</sup> of 2016, another email that was a correspondence between Tim Eckerle and Loren Matthes requesting help from Umbaugh to correct another mess. Was Roger Bainbridge contacted and what was the request and was it honored at that time? Was Bob Swintz contacted and did he respond to the city's request? Was it ever determined whether there were software errors, which they suggested? If so, were they corrected? Why were base values being incorrectly reported? How were the GM TIF monies spent in 2014 and 15? Was someone ordered or told to use that money for other obligations? Is the LOWW software insufficient, that the county uses, or not functioning properly? According to Umbaugh and Associates, they have been incorrectly adjusting base values for years, that they monitor and re-correct constantly. The DLGF is aware and this falls on deaf ears. Was the city informed that LOWW has systemic tax software problems and that all of the 2012 Marion TIF distributions may be incorrect? Did they not talk about 2012 TIF this evening? Maybe that's been corrected, he doesn't know. Did Tim Eckerle help in identifying large taxpayers in TIF areas, and if so, did this help get an idea of the magnitude of the problems? In this same email, it was suggested not to share any of this information with the news media. Why? Were any strategies developed to address the problems? If so, what were they and, if not, why not? Why wasn't any of this information shared with the City Council when they started this process of going through these TIF areas? Is what Umbaugh reported to them the ramifications on the city's revenues and future budgets in the report that they gave them? Yet none of that was discussed with them prior to the report given to them by Umbaugh. Were the older TIF databases provided in order to get verification and correct base values? This would be a question for the Controller, Auditor, London Witte and Manatron, according to Umbaugh. After the June 16<sup>th</sup> email, were there any further discussions regarding the information shared? Now, these are just questions he has regarding these emails which he thinks are critical in this process that they're going through and it may not, it may not be anything but if they're suggesting that we have real issues with these TIF areas and they may not be calculated correctly, what are we doing about it? They've asked questions. They have to work together with the City Administration and with the County Auditor to get these things corrected. These are the things, the questions that were raised with him as he looked at these emails. They've had these emails for probably at least three or four weeks and they have not said anything about the emails. He apologizes but these questions are important to him. He doesn't know about the other Council members but when they talk about TIF and the time that they spent and the time that they've had meetings and nothing was ever given to them and then it raises the question on why Umbaugh, instead of talking to the city, and maybe they have, he doesn't know, they can respond to that. The questions, he'll leave them with the President of the Council, he can share those with Umbaugh. Maybe they have answers to all of it, he doesn't know, but none of these things have come up, there's been no suggestions on how they fix it. He hears the Auditor

saying it's the city's fault, they don't report. The city's saying it's the Auditor's fault because we're not, you know, it's just back and forth. Our finances depend on whether these things are correct or incorrect. There's no question. He appreciates the fact that Julie came tonight, brought those figures to them but we have other TIF Districts that they'd like to look at, go through, find out whether we're paying correctly, whether too much money is (inaudible) we can grab some of that money that may be ours to use for our budget, for our needs for the city. So, that's basically what they discussed this evening, and again, he'll leave these questions with him (Brunner). Hopefully a meeting can be set up, he (Brunner) can talk to Umbaugh and ask them these questions. He thinks they deserve answers to those things and if anybody on the Council would like a copy of those emails, he has some copies here. He'd be glad to share. Thank you, Homer said.

## UNFINISHED BUSINESS

### APPROPRIATION ORDINANCE NO. 2-2017 3<sup>RD</sup> READING

The City Clerk read Appropriation Ordinance No. 2-2017 by title only. An Ordinance of the City of Marion, Indiana, appropriating certain funds for the City of Marion, Indiana, and providing for the effective date thereof. From the General Fund #101 the amount of \$682,850.00 to Fire Department Salaries account the amount of \$250,000.00 and to COIT Bond Payment account the amount of \$432,850.00. Purpose: To provide for funding of anticipated salary expenditures for remainder of 2017. Julie Flores, City Controller, told the Council this is money, the COIT Bond, they felt needed to be paid out of the General Fund where the COIT monies are deposited and not out of TIF where it's typically been paid from. Also, the Fire Department needed additional money to get through the rest of the year. That's the amount they determined they needed for the rest of the year. The sheet on the back shows where we have the funds to get the additional appropriation. Councilman Brad Luzadder asked Mrs. Flores, for next year, are they anticipating making those adjustments so that they don't have to come back like this? Flores told Luzadder, yes, the Fire Department, last year, in 2016 for the 2017 budget, they didn't feel like the figures were correct. They missed some, she believes it was specialty pays that they missed when they gave them their figures as well as they weren't sure the impact of the station closing, if that was going to have an impact. She's not sure that it has but they certainly didn't have enough in the Fire Department to cover this year. That could be due to the salary ordinances being passed after the budget was passed. And then the COIT Bond is in the General Fund to be paid next year. Luzadder asked, so there's going to be monies to take care of the firefighters this next year without having to reshuffle funds around? Flores answered, yeah, if they'll look at the budget, the budget's quite significantly more this year than it was in 2017. Luzadder stated, well he knows they increased the police and fire for equipment. Flores replied, right and also the salaries. Being no other questions for Flores, motion was made by Luzadder to approve Appropriation Ordinance No. 2-2017. Motion was seconded by Homer and carried by the following vote. Aye: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner. Nay: None.

### GENERAL ORDINANCE NO. 9-2017 3<sup>RD</sup> READING AS AMENDED

The City Clerk read General Ordinance No. 9-2017 by title only. An Ordinance fixing maximum salaries of Appointed Officers and Employees of the City of Marion, Indiana for the year 2018. Julie Flores, City Controller, told the Council this is the 3<sup>rd</sup> reading and asked if there were any questions. Being no questions from the Council, motion was made by Luzadder, 2<sup>nd</sup> by Homer to pass General Ordinance No. 9-2017 as amended. Motion carried by the following vote. Aye: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner. Nay: None.

### GENERAL ORDINANCE NO. 10-2017 3<sup>RD</sup> READING

The City Clerk read General Ordinance No. 10-2017 by title only. An Ordinance fixing maximum salaries of Elected Officials of the City of Marion, Indiana for the year 2018. Julie Flores, City Controller, told the Council this is the 3<sup>rd</sup> reading on this ordinance. There are no increases for elected officials. Being no questions from the Council, motion was made by Councilman Alan Miller to approve General Ordinance No. 10-2017. Motion was seconded by Homer and carried by the following vote. Aye: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner. Nay: None.

### GENERAL ORDINANCE NO. 11-2017 3<sup>RD</sup> READING

The City Clerk read General Ordinance No. 11-2017 by title only. An Ordinance fixing maximum salaries of Police Officers of the City of Marion, Indiana for the year 2018. Julie Flores, City Controller, told the Council this is the 3<sup>rd</sup> reading and she will answer any questions they may have. Being no questions from the Council, motion was made by Miller, 2<sup>nd</sup> by Luzadder to approve General Ordinance No. 11-2017. Motion carried by the following vote. Aye: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner. Nay: None.

### GENERAL ORDINANCE NO. 12-2017 3<sup>RD</sup> READING

The City Clerk read General Ordinance No. 12-2017 by title only. An Ordinance fixing maximum salaries of Firefighters of the City of Marion, Indiana for the year 2018. Julie Flores, City Controller, told the Council, just to address Councilman Luzadder's questions, in 2017, the salaries for the Fire Department were \$2,600,000 and in 2018, it's \$2,700,000 so they've increased that. In 2017, overtime was \$140,000, 2018 it's \$350,000. So they hopefully won't have to come for the additional appropriation next year. Being no questions for Mrs. Flores, motion was made by Luzadder to pass General Ordinance No. 12-2017. Motion was seconded by Homer and carried by the following vote. Aye: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner. Nay: None.

### APPROPRIATION ORDINANCE NO. 3-2017 2<sup>ND</sup> READING AND PUBLIC HEARING AS AMENDED

The City Clerk read Appropriation Ordinance No. 3-2017 by title only. Budget for the City of Marion, Indiana for the year 2018. Julie Flores, City Controller, told the Council this is the public hearing on the budget. Just, in summary again, the General Fund increases were the COIT Bond is now being paid from there, the police and fire salaries fixed. She thinks that police and fire repair maintenances were moved from the MVH and they're also paying Mr. Spitzer out of the General Fund. He has been being paid out of Unsafe Structure which they didn't feel like that was fair to Jerry (Foustnight, Building Commissioner) so that's why the General Fund has been increased. She will answer any questions they might have on the 2018 Budget. Being no questions from the Council, Council President Jim Brunner said this is a public hearing and asked if anyone from the audience cared to comment on this item. There was no response from the audience. Before a motion was made, Councilman Alan Miller asked if they can suspend the rules on the budget or does that need to go three readings? Council attorney Phil Stephenson told Miller, they're on the 2<sup>nd</sup> reading. They can still suspend and go to the third right now. Motion was then made by Miller to suspend the rules on Appropriation Ordinance No. 3-2017. Motion was seconded by Luzadder and carried by the following vote. Aye: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner. Nay: None. Motion was then made by Miller, 2<sup>nd</sup> by Luzadder to approve Appropriation Ordinance No. 3-2017 as amended. Motion carried by the following vote. Aye: Miller, Homer, Smith, Cain, Henderson, Johnson, Luzadder and Brunner. Nay: None.

Council President Jim Brunner said, before they move on to New Business, he thinks it would be apropos at this time, as he sits here this evening and sees our Fire Chief and our Police Chief in the audience, after what this country has gone through in the last 48 hours, he thinks sometimes we forget what a perilous job they and their people undertake on a daily basis. So, as a spokesman for this Council, he told the Fire Chief and Police Chief to please pass on to their employees how much they are valued, how much they are loved and how much they care about them and pray for them. Just thank you for what you do, Brunner said.

### NEW BUSINESS

Mayor of Marion Jess Alumbaugh told the Council, as they know, Linda Wilk is the person behind the Marion and Grant County battle against domestic violence and they may already know that this is Domestic Violence Month. He notices some of them are wearing the purple ribbon. They're available for those of them who do not have them. They have them up in the Mayor's Office, they can pick them up tomorrow if they'd like. Stop in when they have a chance. They should be wearing those throughout this month to support those people who have suffered from domestic violence and help to prevent that in the future. He said he has a proclamation here that he is going to read, declaring this Domestic Violence Month. He read, "Whereas, a national awareness campaign began in 1981 to raise awareness about the issues of domestic violence, and, whereas, in 1989, the U.S. Congress passed Public Law 101-112

designating October of that year as National Domestic Violence Awareness Month, such legislation has been passed every year since, and whereas, over the years, while communities across the nation have chosen to commemorate this initiative in various ways, the theme surrounding the activities were the same, mourning those who have died because of domestic violence, celebrating those who have survived and connecting those who work to end violence, and whereas, domestic violence traumatizes victims, endangers children, harms families and threatens communities, and whereas, in 2016, the Marion Police Department reported 110 reports of Domestic Battery in which 14 included strangulation and 14 rape calls, and whereas, the Flannery-Keal Home, a program of Hands of Hope, a division of Family Services, was a safe haven for 124 women, two men and 75 children in 2016, and whereas, Hands of Hope's crisis hotline answered 272 crisis calls and 110 information calls about domestic violence in 2016, and whereas, during Domestic Violence Awareness Month, the Marion Police Department, City of Marion and Hands of Hope renew our commitment to prevent domestic violence and hold accountable the perpetrators of these crimes and bring hope and healing to those who have been impacted by them, and whereas, Hands of Hope is implementing prevention initiatives throughout Marion and Grant County to foster respectful relationships that have a positive impact on the health and public safety of our communities, and whereas, the City of Marion remains dedicated to increasing public awareness and understanding the domestic violence and teen dating violence in accord with Hands of Hope, a division of Family Services, Inc., and, now therefore, I, Jess Alumbaugh, the Mayor of the City of Marion, Indiana do hereby proclaim the month of October, 2017 as Domestic Violence Awareness Month". He said he appreciates Linda Wilk's work and he'd like to hear everybody here give her a round of applause. The Mayor told the Council, if they would like, he can respond to Councilman Homer's remarks a little bit, if he (Brunner) would entertain that. Council President Jim Brunner asked, can we do this real quickly, since Linda is up there? Does she want to give herself a little plug, he asked Wilk. Mrs. Wilk replied, yes, thank you very much. She appreciates the opportunity. She passed out a couple of activities that are taking place this month. Purple Thursday is October 19<sup>th</sup>, if they could wear purple that day and support Hands of Hope financially by doing that. The vigil is October 26<sup>th</sup> at St. James Lutheran Church. And she just wanted to thank everyone that's willing to wear ribbons and she just wanted thank law enforcement who have always done that for her and just quickly tell them that that impacts victims greatly. She's had victims tell her how much that makes them feel empowered by someone wearing ribbons, especially law enforcement. So she just greatly appreciates and thanks them for all that they do.

Mayor Alumbaugh told the Council he just wanted to quickly address Councilman Homer's remarks. He feels like a lot of what he was asking, as he mentioned maybe these things have already been discussed, he feels like a lot of it has been discussed but most of it was with two Council people, Councilman Henderson and Councilwoman Johnson. He thinks they've probably had some discussions with him (Homer). Another thing is if he would just come to him if he has questions before they meet in public, come to him and ask him those questions, the City Administration. They'd be glad to sit down and have a discussion and try and answer them, might be able to hook him up with a phone conference call with Umbaugh and Ice Miller. They've done that with these two, with Steve Henderson several times. He's been on the phone with them. So if he would just pay that respect and come to them first, let's have a talk and they'll try to get him the answers so they don't speculate. Would that be alright with him, he asked Mr. Homer. Councilman Dave Homer told Alumbaugh, sure. He thinks, with all due respect, he understands where he's at but it doesn't sound to him like they've (Henderson and Johnson) got the answers, at least in the discussions that he's had with them and the meetings they've been in with and this constant battle about who is going to meet with Umbaugh, when are we going to do that and the fact that there's been some tension there between both sides. He thinks it is somewhat of an affront though, personally, that someone we hired to do some financial information for us is speaking in these terms in an email to Mr. Eckerle and none of these things, that he's aware of, have been discussed in terms of what the big can of worms are, erroneous TIF payments, those kind of things. Those things are kind of a red flag. Alumbaugh asked Homer, would it be helpful to him if he had a chance to talk to Ice Miller and Umbaugh directly? So far, it's just been Steve for the most part and Mrs. Johnson. Homer replied, he doesn't care. He can go with Mr. Brunner. His understanding is he was going to have a meeting, they agreed to have a meeting with Umbaugh. Sure, he'll go. Alumbaugh stated, they have another meeting coming up. Yeah, they want to get this all straightened out too. He (Homer) can hear some of the concerns they had, probably in more detail, and figure it out. Steve knows some of the conversations they had. He was there on a conference call in Mr. Flynn's office with himself and some others and he

heard some of the concerns that were aired, some of the things he's (Homer) talking about now. So, he thinks they have to have dialogue and conversation to get the right answer but if he could try to come to him first, he would really appreciate that, and show him his concerns and maybe they can get him connected and maybe find some answers before they come to the City Council. He's not sure of that but they can sure try, Alumbaugh said.

Being no further business to come before the Council, on a motion by Homer, 2<sup>nd</sup> by Luzadder, the meeting adjourned. Time being 7:40 p.m.