

REGULAR MEETING – MARION COMMON COUNCIL – JULY 18, 2017 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 18<sup>th</sup> day of July, 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, Henderson, Johnson, Luzadder and Brunner.

Absent: Cain and Batchelor.

The minutes of the previous regular meeting of July 5, 2017 were presented. On a motion by Councilman Alan Miller, 2<sup>nd</sup> by Councilman Steve Henderson, the minutes were approved as presented by the following vote. Aye: Miller, Smith, Henderson, Johnson, Luzadder and Brunner. Nay: None. Abstain: Homer.

COMMITTEE REPORTS: Councilwoman Lynn Johnson said she had a committee report for the Compliance Committee that met tonight at 5:30 pm in the 2<sup>nd</sup> Floor Conference Room. The members of the committee were Steve Henderson, Chair, Dave Homer and Lynn Johnson. Others at the meeting were Brad Luzadder, President Jim Brunner and Henry Smith and the Chronicle-Tribune and Mr. Steve Smithley. The first order of the agenda was discussing the TIF and the Redevelopment Commission and the observations that Mr. Henderson has made. He gave them a list of 15 different observations to be discussed at this Compliance Committee meeting and asking the entire committee and asking the observers to enter into a solution or a correction or some sort of moving forward. Mr. Homer mentioned bringing together the committee and determining what kind of procedures to adhere to or to approach and the committee asked everyone for their opinions and they got various opinions but they all determined that there was something that should be done and that discussion is going to continue. There is also a discussion about the abatements and the impact of the abatements to the city with the commercial abatements and the personal property abatements, however, those things have been set aside for proper procedures and approaches and they had a motion to adjourn at 7:00 pm and it was seconded by Mr. Dave Homer and a decision to have a meeting again on the first Tuesday in August at 5:30 pm, same place, Johnson said.

Councilman Alan Miller said, not really a report, just an update. They may recall two weeks ago, as the Utility Board liaison to the Council, he announced that they needed to make an appointment to the board tonight and just to update them, they did receive two applications for that position, one for Charles Moon, who is here, and Doug Carl, who is not. Doug Carl is the current Council appointee to that. So, two applications for that. He told Council President Brunner he will turn the floor over to him to actually conduct business, discussion if there is any and a nomination. Brunner told Miller, yeah, that is coming up after their committee reports so they will continue on those at this time.

Councilman Dave Homer reported that two of the members from the Ordinance Committee met with city officials or Code Enforcement officials from Ft. Wayne on this past Friday. Mrs. Johnson and he met with some Code Enforcement officials out of the City of Ft. Wayne. He thinks Building Commissioner Jerry Foustnight and Kenny Hussong with Code Enforcement had actually gone to Ft. Wayne, had met with them and went through a number of things with the same officials. They invited them down to talk to them, they had questions. They talked about their Code Enforcement Ordinances and their operations. Obviously, a bigger city, they have their support staff is huge. They talked about demolitions and how they deal, specifically, with meth houses. They do immediate condemnation notice. They take it out of the hands of the County Health Department who normally are the ones that placard those buildings to keep people out after there's been a raid there reported by law enforcement. They're given a 10 day notice to repair, abate or demolish and all the appeals go to a hearing also, if they appeal it within that 10 day period. If they'll pay particular attention, he's given each Council member a packet of ordinances and paperwork that they brought along with them to share with them (Council). He would ask them to pay particular attention to the 2006 Indiana Code Unsafe Building Law which can be written as an ordinance and can be adopted in our ordinances but he would ask them to pay particular attention to that and read that thoroughly, if they would. It establishes the appeal process, uses the hearing officer. Where we send cases to the Board of Works, they hire someone separate, typically an attorney that's not associated with, has any association with the city whatsoever with that process and all their appeals go through that particular hearing officer then they make a decision. They tear the properties down and place liens. He

thinks we do some of that now and it goes on the property owner's taxes. There was some question about the Property Maintenance Ordinance. He knows that that issue has been raised about the Council adopting that particular ordinance. They've taken sections, actually they have not adopted the Property Maintenance Ordinance per se. They've taken sections out of that and placed them into their own local ordinances that they have in place and those are also in there. They established a commercial ordinance in 2009 that deals with abandoned, run down commercial properties which he thinks is critical. He thinks we have issues with that and how we deal with it. To be proactive and enforce the provisions of that commercial ordinance, which is also here for them to take a look at, it effects our ability to track an investment. It orders repair hearings. If no action then there's special assessment liens that are placed on those properties. He knows that the Board of Works hears some of those but he doesn't know to the extent the list on commercial properties. He knows there's an issue with that. There's currently a new state law that's being investigated that's been put in place. They're trying to figure out how to work that particular law. It's called an Insurance Set Aside Program for people who have problems and it deals specifically with properties that catch fire and are destroyed. We have a number of those that are sitting in the community now. What it does is it requires the insurance company to set aside a certain amount, he thinks a percentage, of the value of the property so that in the event the house catches fire then that money is used to demolish or can be recouped from their insurance. As they know, a lot of people have insurance, they take the money, it's done and they're gone and the house sits empty and we have no way other than to tear it down because it's unsafe and sometimes you can't go after the property owner. So that's something they're looking at. They're working with their legal, they're going to share that with us once they can figure out how to get the monies to the city. They also use CEDIT monies every year that are set aside for demolition in conjunction with their Unsafe Structure Fund. They're pretty self-sufficient, their department is through that but they're collecting monies much quicker than he thinks we are, if that's a correct assessment. They also have other issues, trees, rotting trees along the thoroughfares. Their Parks Department is responsible for all bad tree removal in the easements and they also have private property tree removal. If it's a danger to someone else's property, it could go down and damage somebody's property then, if it's reported to the city, they'll go out and take a look at it. They'll try to remediate that issue with the property owner. If it's not then they'll require them to take it down or the city will take it down. The commercial issue, the commercial ordinance and the tree ordinance are strictly complaint driven is how they try to address that. And he would just close to say the officials from Ft. Wayne were more than willing to help our staff with any changes or ideas as it pertains to Code Enforcement. He thinks they made that clear to them when they met with them in Ft. Wayne, to help make our mission better for our citizens. They will revisit, if necessary, for more questions if we have set up another time that we would like to meet with them and answer any questions we might have as we proceed. He thinks some of the ideas that were shared with us, he thinks we spoke just briefly upstairs about this, also falls in line with Councilman Smith's concerns, to give some of the control back to the Council in lieu of the Board of Works. Examples would be housing and property complaints, how we deal with demolitions, meth houses as well as the sale of city properties. So, you have this information in your packet. Their next meeting will be August 22<sup>nd</sup> at 5:30 pm and they'll continue this discussion and hopefully make further progress, Homer said. Councilman Alan Miller said, just one quick question. Would the Indiana Code in any situation supersede anything we would do locally? Homer told Miller, he means it could be used. It could be used (inaudible) a lot of cities and he's gone over this state statute and (inaudible) even talked to the previous Administration about adopting this Unsafe Building Law but it does, it also gives, he thinks the state probably supersedes but you can adopt this as an ordinance. They've (Ft. Wayne) actually adopted it and put in two sections of their ordinance that they'll see here that they have that deals with commercial property and so forth. Miller asked Homer, but you don't see any danger in us passing something that would contradict this? Homer replied, no. He thinks everything they put in pretty much follows this and the Property Maintenance Ordinance. And like he said, they've just taken bits and pieces out of that Property Maintenance Code and applied it to their situation and what works for them.

**COUNCIL APPOINTMENT:** Marion Utility Service Board – Council President Jim Brunner told the Council the next item on their agenda is the Council appointment to the Marion Utility Service Board and asked if there were any nominations. Councilman Alan Miller said, yes. As he had said previously, we have one from Doug Carl, one of the current Council appointments who has been on the Utility Board for 22 years, and Charles Moon. Mr. Brunner asked Mr. Stephenson what would be apropos? Should we have someone close the nominations? Should we just take a straw

poll? How should the Council proceed? Council attorney Phil Stephenson told Brunner, he thinks they would take a nomination from the two they had submitted and vote on them. Miller said, if there are no questions other Council members have about either candidate, he would nominate Doug Carl to be re-appointed for four years to the Marion Utility Service Board. There was no second to Mr. Miller's nomination. Councilman Dave Homer said, since we don't have a second on Mr. Carl, he would make a motion that we nominate Charles Moon. There was no second to nominate Charles Moon. Mr. Brunner told Stephenson, now help me out. He has two nominations but no seconds so help him out. Stephenson replied, well, they obviously both fail at this point. Anybody else could nominate anybody else they want to try to nominate, even though they haven't applied. Miller asked, do we repeat the call for additional applications and move it to the next agenda, the next meeting? Stephenson told Miller, the application is a request. They could certainly nominate anybody else they wanted to, even if they don't have an application for them. Obviously, they don't know whether they want to serve in that position or not. Miller said, he would move that he would repeat his announcement. We are still open to accept applications and will attempt to make an appointment at the next meeting of the Council which would be August 1<sup>st</sup>. Brunner stated, okay, so he guessed the way we leave that, Mr. Stephenson, is that we had two nominations, both failed to get on the agenda because we did not have a second so at this time Mr. Miller is asking that we look for more time for people to put their name in front of the Council. Is that correct? Stephenson told Brunner, that's correct. He thinks that it is up to the President as to how they proceed so if he wishes to proceed that way, he thinks that would be his decision. Brunner told Stephenson he couldn't hear him because for some reason his microphone is not working. Stephenson said, sorry. He said he said that he thinks that's the President's determination at this point as to how it's handled so if he wants to follow Mr. Miller's recommendation, he obviously can. Council President Brunner replied, he would say, at this point, we'll wait two more weeks to see if we get any more names to put in front of the Council.

## UNFINISHED BUSINESS

### GENERAL ORDINANCE NO. 7-2017 2<sup>ND</sup> READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 7-2017 by title only. An Ordinance of the Common Council of the City of Marion, Indiana, amending Marion City Code Chapter 153 (Zoning Ordinance) and providing for the effective date thereof. Zone 514 E. Stephenson Street, Marion from (R2) Medium Density Single Family Residential to (R3) Low Density Single & Multiple Family Residential. Sam Ramsey, Advisory Plan Director, told the Council, once again, this is (inaudible) Weesner. They're trying to get their property rezoned because, in '74, '73 some time, they were allowed to build a house or the current owner built a house. Either the city let them do it in non-compliance, they didn't get a permit, they don't know what happened that far back and they're trying to refinance their house and the bank will not let them because it's improperly zoned. They've got a duplex in a single family housing. The setbacks between the two are fairly similar. You just allow multi-unit housing in R3 (inaudible). Being no questions of Mr. Ramsey from the Council, Council President Jim Brunner said this is a public hearing and asked if anyone in the audience cared to comment on this ordinance. There was no response from the audience. Motion was then made by Councilman Brad Luzadder to suspend the rules on General Ordinance No. 7-2017. Motion was seconded by Councilwoman Lynn Johnson and carried by the following vote. Aye: Miller, Homer, Smith, Henderson, Johnson, Luzadder and Brunner. Nay: None. Motion was made by Luzadder to pass General Ordinance No. 7-2017. Motion was seconded by Johnson and carried by the following vote. Aye: Miller, Homer, Smith, Henderson, Johnson, Luzadder and Brunner. Nay: None.

### GENERAL ORDINANCE NO. 8-2017 2<sup>ND</sup> READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 8-2017 by title only. An Ordinance of the Common Council of the City of Marion, Indiana, amending Marion City Code Chapter 153 (Zoning Ordinance) and providing for the effective date thereof. Zone 834 E. 45<sup>th</sup> Street, Marion from (I1) Industry to (R4) Medium Density Single & Multiple Family Residential. Sam Ramsey, Advisory Plan Director, told the Council this is the property located directly east of Indiana Wesleyan's new football stadium. They are trying to demolish the storage units and put in more duplexes. That's the only industrial zone in that part of town and we could definitely use more residential in that area. Being no questions of Mr. Ramsey from the Council, Council President Jim Brunner said the Chair will now open this up to the general

GENERAL ORDINANCE NO. 8-2017 Continued

public. If anyone in the audience tonight would like to comment on this, this is a public hearing. Please step forward at this time if you care to make a statement. There was no response from the audience. Motion was made by Councilman Brad Luzadder to suspend the rules on General Ordinance No. 8-2017. Motion was seconded by Councilman Alan Miller and carried by the following vote. Aye: Miller, Homer, Smith, Henderson, Johnson, Luzadder and Brunner. Nay: None. Motion was then made by Luzadder, 2<sup>nd</sup> by Miller to pass General Ordinance No. 8-2017 and carried by the following vote. Aye: Miller, Homer, Smith, Henderson, Johnson, Luzadder and Brunner. Nay: None.

Council President Jim Brunner told the Council that exhausts their agenda for this evening. A reminder, the next time that the City Council will be meeting will be on Tuesday, August 1<sup>st</sup>, 2017 at 7:00 pm here in the Council Chambers.

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 7:30 p.m.