

REGULAR MEETING – MARION COMMON COUNCIL – JULY 5, 2017 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in regular session on Wednesday, the 5th 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, Smith, Cain, Henderson, Johnson, Batchelor, Luzadder and Brunner.

Absent: Homer.

The minutes of the previous regular meeting of June 20, 2017 were presented. On a motion by Councilwoman Deb Cain, 2nd by Councilman Don Batchelor, the minutes were approved as presented by the following vote. Aye: Smith, Cain, Henderson, Johnson, Batchelor, Luzadder and Brunner. Nay: None. Abstain: Miller.

COMMITTEE REPORTS: Councilwoman Lynn Johnson reported that the Compliance Committee met in the 2nd Floor Conference Room tonight at 5:00 pm. The Chair, Mr. Steve Henderson, and herself, with Mr. Homer absent, welcomed Council members Brad Luzadder, Deborah Cain, Alan Miller, Henry Smith and Jim Brunner. They welcomed the Mayor, the Chronicle-Tribune, WBAT, the News Herald, Mr. Eckerle, our County Auditor Mr. Bainbridge, Mr. Penticuff, Mr. Smithley, the President of the Redevelopment Commission, Ms. Flores, Chief Angela Haley, Janet Pearson, Mr. Batchelor, Mr. Stephenson and Mrs. Eckerle, along with WBAT's Andy McCord and they all welcomed Ms. Loren Matthes who is a partner with Umbaugh & Associates who has been helping them with a discussion and understanding of our TIF Districts. And, during that committee meeting, they had many questions for Ms. Matthes. She gave them a display and a power point presentation to help everyone understand what the TIF Districts are capable of doing. They discussed reviewing the neutralization forms and zeroing out and working with the base amounts on each property that is within a TIF and how that can be done and the options we have. They also discussed how to correct and change the TIF to suit our community and the possible options that we have and she (Matthes) said she would help them and work with them for that process. They also discussed abatements and how they affect the bottom line in our community and what we think we should look at while we are looking at abatements for our city. It was a very enlightening meeting with a lot of passion and a lot of enthusiasm and they're really proud to say that they are able to have a community that is drawing together to help solve the problems in the City of Marion. They plan to meet again, she believes their committee will meet again on July 18th at 5:30 pm and they welcome them all there at that time and she's really happy to be involved with such a nice City Council that's really is taking a lot of judicial precedence in making decisions, Johnson said.

Councilman Alan Miller told the Council that the City Council needs to make an appointment to the Utility Board. Doug Carl's term is expiring at the end of the month of July so he would announce this evening, he would ask the City Clerk to put the appointment on their agenda for the July 18th meeting. In the meantime, anyone wishing to serve on the Utility Board should pick up an application from the City Clerk's Office, fill it out, and they (Clerk's Office) would need that by the 13th, he believes, in time to get it in their packet for the July 18th meeting. This is to be a Republican appointment. They have to worry about political ballots on the Utility Board and Doug Carl was both a City Council and a Republican appointee to the board. They will make the appointment in two weeks and the applications need to be in the Clerk's Office by the 13th of July, Miller said.

UNFINISHED BUSINESS

GENERAL ORDINANCE NO. 5-2017 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 5-2017 by title only. An Ordinance of the Common Council of the City of Marion, Indiana amending General Ordinance No. 37-1989, as amended by General Ordinance No. 5-2016, regarding Park Rule 93.22 for the City of Marion, Indiana. Tom Hunt, City Attorney, told the Council he indicated at the last meeting the tweaks they were making to this Park Board Ordinance. Last year, when this was amended, the Meadow area was not yet in place and so they have added the Meadows as part of the Garden area and then they tweaked some of the language to prevent some of the things he thought the way it was written might create. So, they present to them tonight for 2nd reading and public hearing this amendment. He will take any questions, Hunt said. Councilwoman Deb

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Cain said, okay, because we were talking about the consumption of alcohol, she means, we're talking about private parties, weddings, concerts. In the application, do they require that they have security to monitor the consumption of alcohol by a person? Hunt told Cain, there's no requirement that there be security. They do sign a waiver of liability and a (inaudible) agreement as part of their rental of the area. Cain asked, so what does that mean? Mr. Hunt answered, well that means if anything happens, they are responsible and we are not. But we don't require that there be security there so, technically speaking, you can have a wedding reception there without off duty police officers monitoring the situation. Cain asked Hunt, and he is confident the city is not going to be held liable for any....? Hunt replied, well, he's not confident in telling her that we won't get sued because if you have \$110 or whatever, you can sue anybody for anything but we require them to sign a hold harmless agreement and a release whereby they accept responsibility for anything that happens and agree to take the position of the city in the event we do get sued. Cain stated, she just wanted to, it's on city property so she wanted to make sure that we are protecting ourselves. Hunt commented, we are protecting ourselves. Cain said, someone drives off the property and is drunk and kills somebody that they don't come back to the city because they (inaudible). Mr. Hunt stated, but keep in mind that there is no circumstance under which we will be serving alcohol. You can rent, for example, the Garden House and have a wedding reception there and have your own bartender come in and provide alcohol. If you over serve somebody, that's on you and not us. We're not permitted to serve alcohol and we don't. Council President Jim Brunner said, and vice versa, just to follow that thought. If someone at that facility would serve someone under age and they would go out and kill four people, same thing there? Hunt told Brunner, yes. Councilman Alan Miller asked, is a bartender required or required under certain circumstances, a licensed bartender? Hunt told Miller, no, we don't but in order to be a bartender there, you do have to be licensed. Miller asked, but you don't require one? Hunt replied, no. Councilwoman Lynn Johnson asked Hunt, do you make suggestions to the people that are hosting those parties to make sure they have someone who, if they are inebriated, that maybe they should drive them home or something? Mr. Hunt told Johnson, well, we don't make suggestions. We don't point that out any more than we point anything else out but we do have a list of expectations that they receive. As he said, they sign a release, they sign a hold harmless agreement and he's quite sure Belinda (Hussong, Park Director) and her department folks point that out to people who are renting. If you notice the language of the proposed ordinance, it says "and private events previously approved by the board". That means that you can't just go in there and set up shop and hold a party. You've got to get permission to do it and in order to get permission, you must sign a hold harmless release agreement and the lease agreement whereby you agree to pay whatever the fee is and you abide by all the rules and you get a copy of those rules and they're explained to you. So yeah, to the extent that the rules are there, we do explain those to the folks but we don't sit down and try to explain every possible scenario that might come up. Johnson said, like Uber and taxis and things like that. Okay, just making sure. Being no further questions of Mr. Hunt at this time from the Council, Council President Brunner said this is a public hearing and asked if any in the audience would like to comment on General Ordinance No. 5-2017? If so, please come to the microphone. Tony Hendey – 1617 S. Nebraska Street, Marion – told the Council he was just trying to follow the logic of the situation and if there was a legal gap. It sounds like you are allowed to have a bartender but you're not requiring a license for that bartender. So that would be very interesting because the premise is that we're going to obey the law. He means, that's important. So that may be your refuge in not being prosecuted or having anything come back to the city. Of course we don't want that but that's just basically his question, is there a gap there? Could that happen and, at that point, would you have an unlicensed person there and that would fall back on the people that rented the facility, Hendey said. Mr. Brunner asked Mr. Stephenson if he could comment on that. Council attorney Phil Stephenson said, well, just because they're renting them the park, that doesn't preclude the police from, in any way, making any arrest that may be necessary. He means, not only just the bartender but if you have public intoxication (inaudible) or any other things. He's sure at that point, the police would do whatever their job is to exercise that authority. Councilman Alan Miller said, he's confused. He thought Hunt said that if you had a bartender, he had to be licensed. Hunt said that is what he said. Miller asked, so what is his (Hendey) question? Hunt replied, he's not really sure. If you have a bartender at a function such as a wedding, they're going to have to be licensed under Indiana law. But if he doesn't want to foot the bill and pay a bartender, he's still permitted to put bottles out on a table and folks can come up and help themselves. Miller stated, yeah, he just didn't understand his question. He said if you had an unlicensed bartender..... Hunt responded, you can't have an unlicensed bartender as he understands the

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alcoholic beverage laws. Stephenson said, you could if you're violating the law. His comment was simply that (inaudible) preclude the police from making any arrest that might be necessary. Being no further questions or comments from the public, motion was made by Councilman Brad Luzadder to suspend the rules on General Ordinance No. 5-2017. Motion was seconded by Miller and carried by the following vote. Aye: Miller, Smith, Cain, Henderson, Johnson, Batchelor, Luzadder and Brunner. Nay: None. Motion was then made by Luzadder, 2nd by Miller to pass General Ordinance No. 5-2017. Motion carried by the following vote. Aye: Miller, Smith, Cain, Henderson, Johnson, Batchelor, Luzadder and Brunner. Nay: None.

NEW BUSINESS

GENERAL ORDINANCE NO. 6-2017 1ST READING

An Ordinance creating the Motor Vehicle Highway Fund – Allocated (200) and renaming the current Motor Vehicle Highway Fund (201). This item of business was withdrawn from tonight's agenda.

GENERAL ORDINANCE NO. 7-2017 1ST READING

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 the first rezone before them today is a duplex that's located at 514 E. Stephenson Street. It was constructed in '74. He doesn't know where the misstep was with the people building it or the city allowing them to do it without having to get a variance because a duplex is not allowed per our zoning code currently and now the Weesner's happened to have move into that. Nobody told them when they were purchasing it that it wasn't zoned properly and now they're trying to refinance their house and the bank won't let them. So, he's just trying to correct a (inaudible) at some level. They don't know, it was 40 years ago. There was a favorable recommendation from the Plan Commission to get this rezoned so they're just trying to get their situation resolved, Ramsey said. Councilwoman Lynn Johnson asked Mr. Ramsey if there are other units around there that are comparable to this one. Ramsey told Johnson, he doesn't believe so. It looks like a house, looking at it. It's hard to even tell it's a duplex. The entire area is residential. It's just zoned R2 instead of R3. They don't plan on changing it at all. They're just trying to get in compliance so they can refinance their house, Ramsey said. Councilman Alan Miller said he just has a procedural question. He told Ramsey it appears they have General Ordinance No. 7 and No. 8 but they're both merged and written in one document. Miller was told there are 2 ordinances. Mr. Ramsey said, that was just a letter stating that there was a favorable recommendation from the Plan Commission. Councilman Brad Luzadder asked Mr. Ramsey if this is going to affect anyone else in this area that would need to be notified? Ramsey told Luzadder they notified all the surrounding property owners before the Plan Commission meeting. No one came and spoke for or against the Weesner's petition. It's not changing anything. He would say it doesn't affect property values in the area at all. The only people it's going to affect is the Weesner's property. Their property is the only one getting rezoned. Luzadder asked, would this need to go before a 2nd reading and public hearing? Ramsey replied, yes. Being no further questions from the Council of Mr. Ramsey, motion was made by Councilman Don Batchelor to pass General Ordinance No. 7-2017 to 2nd reading and public hearing. Motion was seconded by Councilman Steve Henderson and carried by the following vote. Aye: Miller, Smith, Cain, Henderson, Johnson, Batchelor, Luzadder and Brunner. Nay: None.

GENERAL ORDINANCE NO. 8-2017 1ST READING

The City Clerk read General Ordinance No. 5-2017 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. 45th Street, Marion from (I1) Industry to (R4) Medium Density Single & Multiple Family Residential. Sam Ramsey, Advisory Plan Director, told the Council this rezone at 834 E. 45th Street, which is the storage unit complex directly east of the Indiana Wesleyan's new football stadium. Mr. Preusz is looking to upgrade from storage units and put in some duplexes, possibly very small apartment buildings down the road. He just wants to

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spruce up the area. This is the only industrial zoned parcel for half a mile, three quarters of a mile from around this. It's all residential, it's all right next to the campus. This is one of the few areas that we need more residential around. We've got people moving out of town. This is one of the few places (inaudible) into it. Susan Reese is on the Plan Commission and she said this is one of the few places.... They struggle to find people houses when they're trying to move in. Once again, it got a favorable recommendation from the Plan Commission unanimously. Councilman Alan Miller asked Ramsey, is he (Preusz) tearing down part of the rental properties then, the storage units? Ramsey told Miller, yes, they're going to take the storage units out and put duplexes in in their place. Miller commented, that'll be a nice addition to the Indiana Wesleyan neighborhood. Council President Jim Brunner asked Ramsey, is this directly to the south of the new football stadium? Ramsey told Brunner, straight east. Being no further questions of Mr. Ramsey from the Council, motion was made by Miller to approve General Ordinance No. 8-2017 on 1st reading and send it to 2nd reading and public hearing. Motion was seconded by Henderson and carried by the following vote. Aye: Miller, Smith, Cain, Henderson, Johnson, Batchelor, Luzadder and Brunner. Nay: None.

Council President Brunner said, before they adjourn this evening, if Mr. Alumbaugh would please come to the microphone. He told the Mayor he has talked to a number of people today and they knew that he would be seeing him soon so he'd like to do this publicly. He has received a number of thank you's for the outstanding show that the city helped put on last night on the 4th of July so congratulations on an outstanding evening. He's sure he (Alumbaugh) had a good time also. Brunner then asked Alumbaugh if he cared to comment at all about the committee meeting that they had today? He'd hate to not allow him to have something to be said because a lot of these people were not at that meeting. Mayor Alumbaugh told Brunner, well the news media was there. It was good to see most of our news media there to cover this. It was an opportunity for us as a City Council and an Administration and Redevelopment Commission. Steve Smithley is back there, he's the President of that, he was there, to have dialogue from Umbaugh & Associates. Loren, Loren's been doing this for a long time and she took time to come here and discuss with us how TIF works and her thoughts on TIF and tax abatement and tried to really enlighten us, have a better understanding of it as a City Administration, City Council and Redevelopment Commission. And, the news media was there and they were allowed to ask questions too so he's sure they'll read about it in the papers tomorrow, well the Chronicle tomorrow and then the News Herald probably next Thursday. And the radio, his station, for one, was there, he told Brunner, so he's sure they'll be talking about it in the morning. He's just thrilled that they all took time to be there. This is how government should work. We should come together and have dialogue and figure out ways to do it together. Instead of one elected official thinking they've got all the answers, let's have dialogue and get the right answer, not just one person's version of what's right and he's just real pleased to work with them because they've been very accommodating to him during his time as Mayor. So kudos to them and to the Redevelopment Commission for investing their time because they're busy too but it took a couple of hours before this meeting and they sat there together and had dinner together, guess you could call it we broke bread, and then we had dialogue about how we see the city moving forward, and in the end, TIF and tax abatement will be your call. He will promise them he will not slam ideas that he has or organizations, businesses that he has in front of him and tell them they have to do this. He'll tell them what they think, give them their opinion and then let them do their jobs as elected officials to make the decision they think is right for the City of Marion moving forward. But he just really appreciates the way everybody was so respectful this evening and treated Loren Matthes with great respect, hard questions but great respect and great dialogue and, in his opinion, this is how city government should work moving forward. So, thanks to the Council too, Alumbaugh said. Mr. Brunner thanked the Mayor and said thanks also to Mr. Henderson and Mrs. Johnson for helping put that together. He thought it was a wonderful spent 90 minutes to almost a two hour period that they had a chance to dialogue with a number of very important people in our community.

Being no further business to come before the Council, on a motion by Luzadder, 2nd by Johnson, the meeting adjourned. Time being 7:31 p.m.