

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

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 5th day of December, 2017 at the hour of 7:00 pm in the Council Chambers, City Hall.

Before the prayer was given, Councilman Brad Luzadder asked for a moment of silence for Jim Duncan who served our city for more than 20 years on the Board of Works and Public Safety.

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

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

Absent: Cain.

The minutes of the previous regular meeting of November 21, 2017 were presented. On a motion by Councilman Alan Miller, 2nd by Councilman Steve Henderson, the minutes were approved as presented by the following vote. Aye: Miller, Smith, Henderson, Johnson, Batchelor and Luzadder. Nay: None. Abstain: Homer and Brunner.

COMMITTEE REPORTS: Councilwoman Lynn Johnson told the Council she had a committee report for the Code Enforcement Committee. They had a short meeting to review the results of a meeting that Mr. Foustnight had with the City of Ft. Wayne Code Enforcement group and how they operate and how they apply the Uniform Building Code for the unsafe buildings in their community and how they combine their efforts with the entire community team to take care of the blight and the unsightly properties in the City of Ft. Wayne. That was very informative. Mr. Foustnight gave a thorough review of what Cindy said, her name is Cindy Joyner, in Ft. Wayne. They have not set any policies at this point, however, they are rewriting some code and they are in the process of Landlord Registration review and they're trying to get some results here with revising code and they're in that process and they're going to have another meeting next week at 4:30 pm on December 11th, Johnson said.

Councilman Brad Luzadder said he had the privilege last night of attending the Adult Education Graduation Ceremony for Marion Community Schools out at Ivy Tech, the HSC and GED Program. Seventeen members of our community went through the Adult Education and received their diploma last evening. It was really great to see the excitement on some of the young people's as well as the senior adults who went through the program. It was nice to hear some of their stories of how they had had that opportunity for success. It was really neat, if they've never seen one of their graduations. He asked that hopefully next year that our members are invited. The only reason he was there is because they had him sing. He only gets to sing or preach, that's about it. Anyway, it was really nice. The Chancellor was out there from Ivy Tech as well as Aaron Vermilion, the Marion School Board President. It was really an awesome evening for those people with their diplomas, Luzadder stated.

Being no further Committee Reports, Council President Jim Brunner said he would need a motion tonight to get General Ordinance No. 16-2017 on their agenda. Motion was made by Luzadder, 2nd by Councilman Don Batchelor to add General Ordinance No. 16-2017 to the agenda. Motion carried by the following vote. Aye: Miller, Homer, Smith, Henderson, Johnson, Batchelor, Luzadder and Brunner. Nay: None.

GENERAL ORDINANCE NO. 16-2017 1ST READING

The Deputy Clerk read General Ordinance No. 16-2017 by title only. An Ordinance to vacate public utility easements. Jason Miller thanked the Council for adding them to the agenda. He said he is from Randall Miller & Associates, 145 E. 3rd Street, Marion. He is here this evening representing James Matthews, Inc. Jeff Harris could not be here this evening due to a prior commitment. The property in question is located at 1001 N. Baldwin Avenue. It's formerly the General Tire parcel. In the petition for the vacation, they'll find Exhibit A, which they believe clearly shows the location of the public utility easements. They're requesting to vacate three of these easements shown on the former General Tire parcel, 12' off of the entire north side, 5' off of the west side and 12' off of the south side of that property. These easements were created when the parcel was split off back in 1987. Back then, the Subdivision Ordinance required that in a parcel that was split off, these utility easements were created around the perimeter of those parcels. While that was good intentions back at that time, it was extremely cumbersome and problematic. When you were to

GENERAL ORDINANCE NO. 16-2017 Continued

add property to a previously split piece of property, those easements would then remain. They would not be relocated to the new exterior of the parcel, like they're doing here. There's an agreement between Arby's and James Matthews to provide a land swap, if you will. Arby's is interested in constructing a new building on the General Tire parcel and therefore, Matthews Buick, James Matthews Inc., would then acquire the former and currently Arby's facility. However, the existing Arby's is 0.8 acres in size. The General Tire parcel is only 0.37 acres in size. Arby's wants to have the equivalent size of property, therefore, they are then going to add four feet to the north and 141 feet to the west to create that 0.8 acre parcel for the new Arby's which is located at the current General Tire parcel. So, as they see on the exhibit, there are three easements that were created. The only way to develop the Arby's parcel the way they intend would be to vacate these three parcels, which is the subject of the petition this evening. There are no existing utilities inside these three easements except for the utilities serving the former General Tire building which has been recently demolished. So these utilities would then be removed as a part of the Arby's development and for new services to the future Arby's, new utilities and any necessary easements would be created with each individual utility company as part of the coordination and approval of that development. So they are requesting the ordinance be passed on to 2nd reading and public hearing and he would be more than happy to answer any questions the Council members may have, Miller said. Councilman Alan Miller said, just for information. The 935 N. Baldwin Avenue property (inaudible), is that the Raintree Plaza? Jason Miller told Councilman Miller he would assume that that would be inside the Raintree Plaza. He would assume that's the Pizza Hut parcel. Councilman Miller asked, is there a road, there's a road between the old General Tire. J. Miller replied, that's correct. That is Raintree Drive. It was platted in, he believes, 2000. It goes a couple hundred feet back to the west. It does not go all the way to Butler Avenue. A. Miller said, so it is a platted street. He assumed it was probably just a drive in to the (inaudible). J. Miller stated, no, it was platted in 2000 and in discussions with Mike Graft, City Engineer, as a part of this transaction, they will be connecting into Butler Avenue, Raintree Drive, and that was the intent when Butler Avenue was extended north, however, due to some INDOT issues, it did not happen. But now, the intent would be to extend Raintree and provide that connection. Councilman Miller told J. Miller, he did say there were no utilities involved in this and J. Miller told him that's correct. A. Miller said, he assumes they still have to get all the utilities to sign off. J. Miller replied, they will. Notice will be sent to the utilities for them to provide comment for the next meeting. Councilman Henry Smith told Jason Miller, as he understands, they're going to tear down the old Arby's building. Miller told Smith, that is correct. Smith said, and they're going to build a new one where General Tire was and Miller said that is correct. Smith asked, how far off from the road, that road there? Miller asked, the road on the south being Raintree or the By-Pass? Smith stated, Raintree. Miller responded, in the petition, Exhibit B-1, is a site plan showing the proposed Arby's development. He did not prepare this, he is not the engineer representing Arby's. He doesn't know that he can even read that dimension. If he had to estimate, he's going to say it's approximately 25 feet north of the right-of-way of Raintree Drive. Smith asked, so traffic would be coming off of Raintree, the By-Pass or both? Miller said, it's planned for both. The primary access would be off of Baldwin Avenue. Smith asked, okay, and what would be the size of the building (inaudible)? Miller answered, 2,400 square feet. Smith stated, okay, he's talking about from south to north. Miller said it is, he doesn't know that he can read that dimension. Again, he didn't prepare this specifically so he doesn't know that specific answer. Smith asked, okay, so how much land is from the north of the building up until Matthews? Councilman Steve Henderson stated, 130 feet. Mr. Miller said, well 130 feet is the total parcel dimension, north-south. From the building to the north, probably 65 to 70 feet, roughly. Smith said, so in other words, are they planning on doing something with that south side of Matthews' property? Putting something new in there or just become part of their existing.....? Miller told Smith he can't comment on that. He does not have any knowledge of any plans that Matthews would have for the current Arby's property. He does know that after Arby's constructs the new facility, they would then tear down the existing building but any future plans, he can't comment on that. He doesn't have any knowledge of what Matthews' plans would be. Councilwoman Lynn Johnson said this is just a technical question. She told Miller the ordinance that he mentioned that was in place in 1987, how is it that he changed that ordinance and what changes did he make to that ordinance or is it just a natural change because of the change of the property? Is that ordinance still in place? Mr. Miller told Johnson, no, not to his knowledge. It is a Subdivision Control Ordinance that is, it's a City of Marion Subdivision Ordinance that Sam Ramsey, the Plan Commission Director, would oversee. When that changed, he doesn't know that answer. He does know that, today, when they do a split, inside the city, those utility easements are

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no longer required. Johnson asked, so in this process, he's going to notify the title company when this all becomes deeded and titled? Miller replied, yeah, so they are providing an alta nsp's land title survey which is ultimately the highest level of survey that they can provide. The title company is involved intimately. They provided him a title commitment. They are performing the survey based on the title commitment and then the title company would then issue a title policy off of his survey. Johnson said, and the appropriate easements will be with the new building. Miller told her that is correct. And he guessed he would defer her to Sam on the timing of when that changed. He thinks it was in the early to mid-90s. The county was under the same type of ordinance and they no longer require it there either. Mrs. Johnson added, right, and just when the laws changed and the ordinance changed and now we can apply those laws and ordinances to this property. Mr. Miller told her, correct and this is the specific reason why the ordinance was changed. When you want to add property to a previously split property, you now have an easement in the middle of something that nobody can do anything with. Johnson commented, and that's to accommodate growth and development and change. Miller commented, correct. Being no further questions from the Council of Mr. Miller, motion was made by Councilman Alan Miller to approve General Ordinance No. 16-2017 on 1st reading and send it to 2nd reading and public hearing on December 19th. Motion was seconded by Councilman Dave Homer and carried by the following vote. Aye: Miller, Homer, Smith, Henderson, Johnson, Batchelor, Luzadder and Brunner. Nay: None.

Before the meeting adjourned, Council President Jim Brunner asked if anyone else had anything to come before the good of the City of Marion. Councilman Homer told the Council, as a liaison to the Main Street Board, he just wanted to make an announcement on an event that's going to take place this weekend. It should be a lot of fun. It's the first time an event like this has been put on by Main Street. It is Saturday, December 9th from 5:00 pm to 9:00 pm and Sunday, December 10th from 1:00 pm to 6:00 pm. All the activities that he'll mention here will be down between 3rd Street and, technically all of it will take place pretty much between 3rd Street and 5th Street. There will be carriage rides from the Centrum. They'll be able to take a carriage ride on Saturday night down to the train station where they will be greeted there by the Hoosier Shakes group. They'll come out, they're going to perform a skit for the people there on the carriage rides and then return back down to the Centrum. Trolley rides will take place on the west side of the square. They've gotten use of the Trolley 85 from the City of Wabash and they will be taking trolley rides with a group of girl scout carolers from downtown, back and forth to Matter Park and through the lights. So people will have an opportunity to do that. There will be carolers, dancers, performers, food, fun, free movie inside the Design Co. which will be the "Miracle on 34th Street" and more. There will be a community choir, holiday pop up shops, and art galleries inside the Centrum. From 5:00 pm to 9:00 pm, they'll start, hopefully with the work with the County Commissioners, he thinks they're going to be able to light the huge evergreen on the northwest corner of the courthouse lawn on Saturday night. Mayor Jess Alumbaugh will kick off the CSA caroling through downtown, followed by hot chocolate, cookies and ornament making at the CSA studio. Also, food and holiday pop up shops and art galleries at the Centrum Mall, which he doesn't know if most of them know has been purchased by the Marion Housing Authority. They have changed the name to The Event Center so activities will be taking place there. Also, "Miracle on 34th Street" at Marion Design Co. will be shown at the old Salin Bank downtown at 3rd and Washington. There will be two open fire pits to make smores. They have two groups doing that. Carriage rides down Washington Street to the train depot. 6:00 pm, Faith in Motion performs in the Centrum. From 6:00 pm to 10:00 pm, trolley rides through the Walkway of Lights. Also, two other activities taking place on Saturday night downtown will be from 7:30 pm to 9:30 pm will be the Marion Civic Theater's Charles Dickens' "A Christmas Carol" and then also at 7:30 pm to 9:30 pm, the Marion Philharmonic's Christmas Jubilee at the First United Methodist Church. He's not ever attended that but somebody said it is a beautiful performance, a place to see Christmas music performed by the Philharmonic. On Sunday, December 10th, from 1:00 pm to 6:00 pm, they'll still have the smores over an open fire at two locations, food, pop up shops, art galleries at the Centrum. At 1:30 pm, there's a (inaudible) community choir on the courthouse square, singing Christmas carols. Christmas carols and holiday crafts at the Marion Public Library from 1:00 pm to 4:00 pm. Again, the movie will be shown at Marion Design Co. From 1:00 pm to 6:00 pm, pictures with Santa and gift-wrapping for donations and a hot chocolate bar located at 4th and Washington Street. From 2:00 pm to 4:00 pm, Marion Civic Theater's Charles Dickens' "A Christmas Carol". From 4:00 pm to 6:00 pm, Classic Voice featuring Dave Homer, performing classic rock and Christmas carols, a dessert bar. Homer said they want people to come downtown. It should be a great event,

two full days of things for people to do. There will be a sign up for giving away 10 turkeys during those two days to be given away free, five per night. So, there will be plenty to do downtown. They're excited about it. The committee has worked hard to get it set up and he thinks they'll build on that for next year. For those of them who remember what it was like downtown during Christmas time, he thinks they're just trying to build the downtown up. So they're excited about it. They think it will be a lot of fun. Council President Brunner said, update on weather. We're supposed to have snow flurries, just a few flurries, Saturday night which will put everybody in the mood and Sunday, it's supposed to be nice and sunny so it should be a good weekend. Councilman Alan Miller told Homer the only thing he didn't mention was the clever name of the event. Homer said, that's right, Miracle On 3rd and 4th Street. That was one that Aletha Dunston, the former Plan Director, at one time came up with the idea and somebody brought that up. So, that is the name of the event, Homer said.

Being no further business to come before the Council, on a motion by Homer, 2nd by Smith, the meeting adjourned. Time being 7:25 p.m.