

REGULAR MEETING – MARION COMMON COUNCIL – MARCH 5, 2019 – 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 March, 2019 at the hour of 7:00 p.m. 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: Henderson, Smith, Batchelor, Cain, Homer, Johnson, Luzadder and Miller.

Absent: Brunner.

Councilman Alan Miller told the Council, for their information, Councilman Jim Brunner is travelling with the Wildcat IWU men and women today so go Wildcats. They're in South Dakota and Iowa over the next few days.

The minutes of the special meeting of January 8, 2019 and the regular meeting of February 5, 2019 were presented. On a motion by Councilman Steve Henderson, 2nd by Councilman Brad Luzadder, the minutes of the January 8, 2019 meeting were approved as presented by a unanimous vote. Motion was then made by Councilwoman Deb Cain for the approval of the minutes of the February 5, 2019 meeting. Motion was seconded by Councilman Don Batchelor and carried by a unanimous vote.

COUNCIL APPOINTMENT: Marion Board of Zoning Appeals – Council President Alan Miller told the Council they have one appointment to make this evening. It was announced a couple of months ago or six weeks ago, the Marion Board of Zoning Appeals. They sought applicants, he announced that publicly, and they had one applicant and that is Charles Moon. He asked Moon to stand for people who may not know him. Just a word about appointing Mr. Moon to the Board of Zoning Appeals, he also happens to be a candidate for the 1st Ward City Council seat in the primary election. Should he be elected to the City Council, he would not be able to serve on the Board of Zoning Appeals. They offer his nomination tonight with a caveat that it may be for the rest of this year or it may be for four years, depending on the outcome of the election. He advised Mr. Moon and he is (inaudible) with that. If it be their will, he would entertain a motion to appoint Charles Moon to the Marion Board of Zoning Appeals. Councilman Brad Luzadder said he would make a motion that they approve Charles Moon as their appointment to the Board of Zoning Appeals. Motion was seconded by Councilman Batchelor and carried by the following vote. Aye: Henderson, Smith, Batchelor, Cain, Homer, Johnson, Luzadder and Miller. Nay: None.

There were no committee reports given at tonight's meeting.

NEW BUSINESS

RESOLUTION NO. 2-2019

The City Clerk read Resolution No. 2-2019 by title only. A Resolution of the Marion Common Council approving Order of the Marion Plan Commission. Heather James from Ice Miller, bond counsel to the city, told the Council she appreciates them having her this evening. Before them this evening is a resolution of the Council approving the order of the Marion Plan Commission. Now back in 2005, the State Road 18 West Economic Development Area was created and on February 25th, the Redevelopment Commission met and took action to amend that Declaratory Resolution and on the 26th, the Plan Commission met and took action to amend that resolution and they amended it to do two things. Number one, to expand the existing economic development and allocation area and number two, to add the CIE expansion project to the economic development plan for the area. Now, before them this evening, this resolution is doing one thing. It's simply determining that the action taken by the Redevelopment Commission and the Plan Commission conform to the plan of development for the city. They're not asking them to take any other action. Again, it simply states, this resolution states that what was done at the Declaratory Resolution and Plan Commission stages conform with the plan of development for the city. Now, assuming they adopt this resolution and they move forward with the process to amend the Economic Development Plan, the next step is to publish notice to let the public know that the Redevelopment Commission will consider a Confirmatory Resolution and at the Confirmatory Resolution stage, they simply confirm what was done on February 25th at the Declaratory Resolution stage. After that public hearing takes place and the Redevelopment Commission takes action then it comes back to them again, to the Council, to

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approve the expansion of the area. So, she understands that there was some concern that the Commissioners have not yet assigned the jurisdiction of the parcels that they're adding to the area. Before they consider this resolution, she would ask that a motion be made that the 6th Whereas paragraph be updated to change the language from "the Grant County Commissioners assigned territory" to "it is anticipated that the Commissioners will assign territory". She wants them all to know that the statute does not require that the Commissioners meet and take any action prior to them (Council) taking this action and also that, after the Commissioners meet, they again have the opportunity to consider this because they go to the Redevelopment Commission next and then back to them again to approve the expansion of the area. So, all they're doing tonight is agreeing that what has been done by the Redevelopment Commission and the Plan Commission conform to the plan of economic development for the area and they will be back before them again after the Commissioners have had a chance to consider their resolution assigning jurisdiction for them (Council) to approve the expansion of the area. Anything related to the bonds is not being covered by this resolution today and will instead be covered on March 19th when they provide them the documentation related to the bond financing. She's happy to answer any questions, Ms. James said. Council President Alan Miller told James, (inaudible) him again the paragraph 6, the exact.... James said, certainly, "whereas, it is anticipated that the Grant County Commissioners will assign". Miller said, and while they are talking about editing changes, for members of the Council, they may have discovered that apparently the document (inaudible) to prepare the resolution was designed for a Third Class City and not a Second Class City. So the titles of the people signing this are different. On page 2, the signature of the Presiding Officer should be changed to President. Right below it on the left, Clerk-Treasurer he assumes should be changed to Controller. Council attorney Phil Stephenson said, Kathi (Kiley, City Clerk) can sign it. Miller asked, comments? He guessed comments first of all on the change in language, the editing, whether they accept the explanation, prepared to move forward with a vote on it this evening? The alternative, of course, would be tabling it for two weeks. He's open to comments. Councilman Luzadder said he sees no reason to put off. They're making a simple change and it's not like it's not going to come back before them. He told Miller, so as far as the resolution goes, when he is ready, he is ready to make a motion. Just whenever he is ready. Miller said, yeah, sure. Other comments from other Council members? Councilman Steve Henderson asked James, can she tell him, because of the Redevelopment Commission not having an Oak Hill School System representative there, does that create a legal problem or not? Ms. James told Henderson, she's sorry, she doesn't understand his question. Mr. Miller told James, they have a City Redevelopment Commission that she appeared before. James asked, oh, and the non-voting member was not present? Miller replied, no, (inaudible) from the Marion schools. We are dealing with an annexation process that's in the Oak Hill Schools. The question, he guessed, was whether there needs to be a non-voting member, even though it's a city commission. He has no opinion on whether it needs to have an Oak Hill (inaudible). James stated, no, she doesn't know. There's no legal issue with that person having not been present at the Redevelopment Commission. Henderson said, well, we don't even have a person assigned to that right now and that leaves one of the taxing units out of the bargaining table. Luzadder commented, Oak Hill currently doesn't receive anything anyway. The only money they receive is what CIE has donated to them. Mr. Henderson said, but they are the school district. Councilwoman Deb Cain said, but they don't receive any money. Henderson replied, they are still the school district. Luzadder told Henderson, when it became our property under the TIF, they were not the school. They've (CIE) donated to Oak Hill as well as Marion Community Schools. They have taken care of all the school systems in that area. Ms. James said they're welcome to attend the public hearing on the 19th and speak to anything that they'd like to address. Henderson replied, okay. He's just making the point that there is nobody representing Oak Hill School System and the property is in Franklin Township and it is Oak Hill School District, it's not Marion Community Schools. Council President Miller said, let him clarify. Does this come back before the Redevelopment Commission at some time? James told Miller it comes back to the Redevelopment Commission for a public hearing on March 19th and, subsequent to that, it comes back to the Council. Miller stated, perhaps in the interim, between now and then, either Judge Hunt or Mr. Stephenson could look into the legality of whether they do in fact need an Oak Hill representative. It seems odd to him to have a non-city representative on the Redevelopment Commission. City Attorney Tom Hunt told the Council, the Redevelopment Commission is an entity of the City of Marion. Oak Hill is in the county. There is no provision under Indiana law for a county entity to participate in a city governmental organization, such as the Redevelopment Commission. The Redevelopment Commission's statute clearly states where their members come from and who appoints them and there

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is nothing that says that the county school districts get to participate in the Marion Redevelopment Commission. That's just not in the statute. And as Heather said, they certainly are welcome to come to the public meetings and express their opinion but they have no right to participate in the Marion Redevelopment Commission. Councilman Henderson asked, so when this got into the city, should that have been changed to Marion Community Schools? Would that have helped that situation or can that be done? Hunt answered, well that's a matter of aligning where the school district boundaries are and that has nothing to do with the Redevelopment Commission and the conduct of Marion City Government. And you can have school districts that include parts of Marion. That was true when he was a kid. There were friends of his that lived in the north part of Marion that went to Oak Hill but that's all about school districts. It has nothing to do with the Redevelopment Commission. So, if somebody from Oak Hill wants to come and speak to this, probably their best opportunity is to come to the Commissioners' meeting but they have no right to participate in the Redevelopment Commission because the statute doesn't appoint people from out of the county, Hunt said. Miller told Henderson he guessed he would have two weeks (inaudible) information and they will leave it at that.

Councilwoman Lynn Johnson asked Ms. James, would she be kind enough to explain to them one more time exactly why they have to make this preemptive decision? It just seems a little preemptive to her. Ms. James told Johnson, sure. She would say that it's, in her opinion, not preemptive as the statute, there's nothing in Indiana law that requires that the Commissioners act prior to this action. So, she's not sure why she (Johnson) has the opinion that it's preemptive because, again, after the Commissioners act, they still, as the Council, have the final say. So, you know, they're going through the process. They're (Council) taking this step and then the Redevelopment Commission will meet again and then they'll (Council) meet again and have the final step after the county has acted. So they are still in control and have the final word, James said. Being no further questions or comments from the Council, motion was made by Luzadder to pass Resolution No. 2-2019 and the motion was seconded by Councilwoman Cain. Council attorney Phil Stephenson told the Council they need to amend the resolution before they pass it. Mr. Luzadder apologized and said he thought when the President went through the language that that would do it. It says, on paragraph 6, whereas it is anticipated that the Grant County Commissioners will assign this certain territory as amended for passage of Resolution No. 2-2019. Motion was seconded by Cain and carried by the following vote. Aye: Henderson, Smith, Batchelor, Cain, Homer, Johnson, Luzadder and Miller. Nay: None. Council President Miller said, Mr. Berry, stand up. Everybody know Steve Berry, the founder and CEO of Central Indiana Ethanol? It's good to have him here. Jeff Harts. He has other members of his management team with him. Welcome, he looks forward to working with them in the coming weeks.

Before the meeting adjourned, Councilwoman Deb Cain told Council President Miller on the list of committees and liaisons..... Miller said, her name is left off, his apologies. It should reflect that Mrs. Cain and Mr. Henderson are both on the Redevelopment Commission, not just Mr. Henderson.

Being no further business to come before the Council, on a motion by Councilman Dave Homer, 2nd by Councilwoman Lynn Johnson, the meeting adjourned. Time being 7:20 p.m.