

REGULAR MEETING – MARION COMMON COUNCIL – APRIL 2, 2019 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 2<sup>nd</sup> day of April, 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, Brunner, Smith, Batchelor, Cain, Homer, Johnson, Luzadder and Miller.

Absent: None.

The minutes of the previous regular meeting of March 19, 2019 were presented. On a motion by Councilman Brad Luzadder, 2<sup>nd</sup> by Councilman Jim Brunner, the minutes were approved as presented by a unanimous vote.

COMMITTEE REPORTS: Councilman Steve Henderson said that they would like to have a Compliance Committee meeting two weeks from today at 5:00 pm in the upstairs room. Council President Alan Miller said that would be the 16<sup>th</sup> of April at 5:00 pm.

NEW BUSINESS

TIF ANNUAL REPORT – Steve Smithley, President of the Marion Redevelopment Commission, told the Council they have in their packet a report from them that is due by the 15<sup>th</sup> of April to the state. It's due to the Department of Local Government Finance and prior to that, they are required by statute to give a copy to them (Council) for review so that's what they have done. Really, the pages that he guessed would be of most concern are the first three pages, unless they want him to go into detail on the other 54 or whatever is there. It just shows the members of the Commission as of last year through December 31<sup>st</sup>. He guessed he should note that Dru McCoy is no longer a member as of year-end and Scott Murphy is no longer the Marion Community Schools' liaison. Dru has been replaced by Jacque Dodyk and the School Board has appointed Todd Nicholson to be a non-voting board member. So, from the list that they have there, there are two new people this year going forward. He guessed he should also, it says employees, none, they have no paid employees but they do have Mike Flynn as their Executive Director and Janet Pearson as the Assistant Director and Julie Flores is their Treasurer who are all city employees. Then, (inaudible) finances, it's just a summary of each of the TIF's, the revenues received and the expenses paid for each of the TIF's and they can see on the bottom lines, it's pretty much a wash. And then the breakdown, the Redevelopment expenditures, it's just a breakdown of that \$7,730,000 and change. He also has, not included in their packet but he had them put it in front of them this evening, is just a map, in case they've never seen that map. It highlights everything in green, that is tiffed, between all the 17 different TIF's that are in existence. Everything in green, in some way, shape, form or fashion, is in a TIF. He guessed he should note, he guesses he'll give a disclaimer, the existing Redevelopment Commission, the members on it now and for the last three years, have not granted any new TIF's. Any issues with TIF's that they are dealing with were granted by previous people on that commission. And there are several issues and he thinks they're all aware of what some of those are. Some of them, he thinks, might have been ill-advised, maybe should have been vetted a little better, given a little more thought. And then the other issue, one of the big issues they've had, is the way the taxes have been spread on these. Some of the values got zeroed out so the original values went away and so everything got tiffed. He can tell them, by state statute and state law, that is the sole responsibility of the County Auditor and every neutralization form that ever hits their desk says he attests to the accuracy of those and they are prepared, all of them have been prepared, not by the Redevelopment Commission but by the financial consultants for the city, originally London Witte then Umbaugh & Associates or a combination back and forth, have prepared all those forms and then are submitted to the Auditor and then they're spread. Obviously there were some mistakes made so going forward, he would like to assure them that this Redevelopment Commission is very cognizant of the fact that they've had issues and any new TIF's, which they all know they are considering a new TIF for CIE, that was designed to address a lot of the issues and concerns with previous TIF's and so they're going forward with that. Hopefully that'll get worked out in some way, shape, form or fashion but it means a good chunk of money for CIE to develop. He should remind them, that particular TIF is a \$3,650,000 request for TIF but it's a \$25,000,000 investment. So, it's incentive, additional capital on their part to do what they're wanting to do so whether that happens or not, he doesn't know but, if it gets to that point, they'll be back to give them more particulars and hopefully they'll address any concerns that they've had in

## TIF ANNUAL REPORT – Continued

the past. Any questions or anything? He means, it's a quick overview. They do this annually, but again, they have to submit this. There's actually nothing for them to vote on. It's just for their review, Smithley said. He said there have been questions in the past about whether there are excess funds in the TIF and they can see there are none. As they go forward and some of these TIF's develop, I-69 with the new Flying J going in and anything that develops behind that will certainly increase tax revenues that will, maybe at some point in time, generate that. University Plaza, (inaudible) front lots will all be filled in really quickly. There's Belle Tire, Afena Credit Union and all those that are paying taxes there plus the mall that's out there. It was a bean field. There are certainly pros and cons to TIF's and they want to be cognizant of that. They don't want to, at some point in time, when TIF's go away and as they start to mature out, that tax revenue will be coming back entirely to the city, at some point in time but not yet, Smithley said. Councilman Jim Brunner asked Mr. Smithley, is there anything happening with the mall right now? Smithley told Brunner, as far as the TIF goes, no, but he knows that the owners of the mall are starting to condo out sections of the mall. They're wanting to sell the Ruler's section to a separate investor. They're wanting to sell what was the Olive Garden building to another investor. They've talked about selling off Rose's, just that part of the building, and he knows they're talking about B-Dubs being sold to a separate entity so they'll start selling off so the mall will own that entire tract all themselves and will start selling off pieces to other investors. It's in a TIF but at this point, there's no request for any kind of financing or anything. Brunner then asked, and he's not heard anything about possibly partitioning some of that off, making it look like it did about 30 or 40 years ago? Smithley said he knows they put up a new wall in the main aisle way out there to section off the north end of the building but he doesn't know if it has anything to do with where they're going to go, make it a strip mall again. Brunner said he just wondered if he had heard anything and Smithley replied, no, nothing's come to the Redevelopment Commission, no. Councilman Henry Smith said, so the mall per se, they're talking about putting some kind of schooling in out there. Mr. Smithley told Smith, yeah, they have nothing to do with that. The owners, that's one of the proposals he thinks they put forward but whether that happens, he doesn't even know where that stands. He doesn't even know if that's a possibility. Now, he knows the owners are looking for a way to redevelop it, make it worth money and put businesses in there, to their advantage and to the community. Mr. Smith asked, by dividing it up into parcels, would that increase or decrease the value of that mall? Smithley replied, decrease it? Well, no. From his background as a commercial banker, values of commercial properties are based on revenues generated. Right now, it's pretty much empty. It's not generating a lot of revenue. Their hope is by sectioning it off and partitioning it out into, again, condos where everybody will own their own section and you put businesses in there and they go in and become a thriving business and generate revenues, the value of that part of the property will increase. So, in a perfect world scenario, at some point in time, however they do it, the mall will be occupied 100% again and things will turn around. Councilwoman Lynn Johnson said she has a question. Why is it we need the Five Points Mall (inaudible)? Have they not considered cancelling it out (inaudible)? Smithley replied, we can and what happens is, on the front end, it was done with financing but any new development, if something new would come in and redo the mall and it would increase value, there would be revenues generated and it would be a TIF that would pay for new roads in the area, infrastructure, but right now it's not really generating much of anything but there's also (inaudible) expense to infrastructure, roads, paving, street lights coming in and out (inaudible) because right now, it's all on the city's dime. Mrs. Johnson asked Smithley, well, would they consider suspending that until that something happens because actually, if they suspend that, then the revenues go into the taxing district as opposed to being (inaudible). Smithley said that would be true, yes, but there's also more than just the mall in that district. It's not just the mall. Johnson said, well it says Five Points Mall. Smithley told her that just identifies it but there are more properties than that in it. Johnson stated, but it says revenue of \$0.24 and it says zero expense. She doesn't understand why carrying that, if there's no revenue and no debt. Mr. Smithley said, you can certainly look at them. There's other ones to look at as well. He knows part of the TIF in North Marion includes the Water Works, the Marion city utilities, but it also includes Melt Solutions and the old Foster Forbes building and some other things and if those redevelop and we're going to have to put in new roads or anything in those areas.... Johnson said, well she thinks that could be addressed if that would be the case but, at this point, she thinks that it seems kind of cloudy to her because she's not sure where these revenues that are received from Five Points Mall are going. If there's only \$0.24, she's not really sure how that would work. She means, if it's in a TIF District.... Smithley told Johnson, that's a question he can't answer. Julie would have to answer that. Johnson asked, but why is it only \$0.24? She means, where's the property tax that is

TIF ANNUAL REPORT – Continued

in the TIF going and how is that being distributed? Are they paying other bills with that money? She's not sure. Smithley replied, again, that's a question Julie would have to answer.

Council President Alan Miller said he wanted to take a minute tonight to just welcome three special people to their Council meeting. He's not sure how many people they have that have served on the City Council that continue to come to meetings long after they're no longer serving on the Council. They have three former Council members here this evening. Let him go in order of seniority. Clayton Andrick. He told Andrick it's great to have him here with them. In the back row is Paul Thompson, Jr. and beside him is David Cain. So, it's nice to see these gentlemen still maintaining their interest in politics. Miller said, he's not sure, maybe the Cain's can answer this, whether they were the first husband and wife Council people ever. Councilwoman Deb Cain said she had no clue. Miller said he certainly can't think of anybody else in his lifetime where a spouse has succeeded a spouse. Councilman Jim Brunner said they have a Grant County historian (Ed Breen) sitting right back there who should be able to answer that question. Miller said, that's the anecdotal historian. He asked Breen if he remembers anybody. Very well, whatever. Gentlemen, good to have them here, Miller said.

GENERAL ORDINANCE NO. 6-2019 1<sup>ST</sup> READING

The City Clerk read General Ordinance No. 6-2019 by title only. An Ordinance amending Ordinance #19-2018 fixing the maximum salaries for police officers of the City of Marion, Indiana for the year 2019. Council President Alan Miller said it appears to be the Mayor. He told Mayor Alumbaugh, just for the sake of clarity, he assumes any comments he makes will apply to both of the ordinances. (Inaudible) they will, obviously would handle separately. Mayor of Marion Jess Alumbaugh told the Council, correct, Police Chief, Fire Chief, Deputy Chiefs, Assistant Chiefs is the issue. And since he was the only one in front of the State Board of Accounts when this issue came up, he thought he would address it first. He was in front of Pat from the State Board of Accounts and as he shared with President Miller, Pat said "Mayor, if you want to keep doing it the way you're doing it, we see no problem. Just make your language and action match and you can keep doing it the way you're doing it". And he said well, if we try to do it any other way, he's afraid the Police Chief and the Deputy Chiefs, Assistant Chiefs, the Fire Chief will take the financial hit. And so far, everything they've tried has been just exactly that. In fact, today, Steph Dorsey resigned. He's down to Captain now because he's taken a financial hit. So he came here to tell them today that they had a conversation with the FOP, President Brian Sharp, about a month ago. He assured him then that the union was behind the language he (Sharp) helped develop with Tom Hunt. That has since changed at about lunchtime today. Shazam. Surprise. He's here to tell them for the first time that if we don't do this and get this through for the Chiefs and the Deputy Chiefs and the Assistant Chiefs for our public safety, that's a disservice. They should not have to take a compromise or any kind of negative reaction to being promoted to these positions. They have language that was proposed by the FOP President and City Attorney Tom Hunt that they agreed would change that. Brought in Jordan Lamb, the President of the Fire Union, about two weeks ago perhaps. He (Lamb) agreed with him, said he didn't see any big deal, this is fine, they'll be good with this. He doesn't know where they stand now. It doesn't really matter because they don't need the Union's approval. What they need is them, the City Council, to approve this for the leadership of their Public Safety officers. So he's asking them today to listen to what Tom has to say and the proposal that was shared with Brian Sharp and approve this. At least take it to the 2<sup>nd</sup> reading. To do nothing is a disservice to the leadership of Public Safety, not just today's leaders but future leaders, Alumbaugh said. City Attorney Tom Hunt told the Council this issue has been ongoing since the 1990's. This is not anything new. This started in 1997 with the Police Department when the Chief and Deputy Chief were removed from the bargaining unit. Councilor Homer was Police Chief at the time and received the benefit of all the benefits that all Marion police officers received at that time and every Police Chief, Fire Chief and Deputy Chief of both departments since then have received these benefits. The budgets, every year, have included the funding for these benefits and every Council, including this Council, every year since the 1990's has approved these benefits. It just became a problem this year and he doesn't know why it became a problem this year other than the State Board of Accounts pointed it out a year ago. They did what they thought would be a solution to the issue. They came back this year and said, no, they actually have to amend the salary ordinance. So they proposed that as an amendment to the salary ordinance and now it apparently is a big issue with, at least, the FOP. And he thinks, perhaps,

GENERAL ORDINANCE NO. 6-2019 Continued

he doesn't know where the Fire Department Union stands. But, the point he wants to make to them is that the money has been in the budget every year since the 1990's to pay for these benefits. Some of them may have been contacted in the last few days. He has reason to believe they may have by police officers who have told them that they're attempting to amend the Collective Bargaining Agreement. That is just plain false. It's an uninformed opinion. They're not trying to amend the Collective Bargaining Agreement. There's no mention of the contract in any way in this salary ordinance. All they're trying to do is equalize the benefits that the Chiefs and Deputy Chiefs receive so that it's on the same level as regular police officers and regular firefighters so that if they are asked to move up to a Chief's position or a Deputy Chief's position, they don't have to take a major hit. He's talking about multiple thousands of dollars a year in benefits that these folks give up to take these positions. Ask Phil Sheridan, he's here tonight. He was a Deputy Fire Chief, wonderful, wonderful contributor to the Administration in the Fire Department but he had to go back down because he couldn't afford it. This is not a question of adding money to the budget. As he said, the money's already there. All they're being asked to do tonight is to satisfy the State Board of Accounts' request that the language in the salary ordinance track what they're trying to do in terms of paying these folks what they're worth. It's a question of doing what's right and, as the Mayor eluded, they've already lost every Deputy Chief in this city. They don't have Deputy Chiefs anymore. They've asked for demotions. Now, the Mayor mentioned that he met with the Fire Department Union Members and they appeared to be on board with this. Hunt said he wasn't in that meeting. He was in a meeting a month ago on March 5<sup>th</sup> with Brian Sharp and his concern was that they not use the word "contract" in the language. He took that language out. He sent him an email two hours later, asking him whether or not this language was appropriate. He told him it was, they drafted the ordinance and made the change. It's identical to the highlighted amount that he showed him (Sharp) and today they learned, for the first time, that they're opposed to that. Hunt told the Council he's heard a number of them say, this winter and early spring, that one of their biggest priorities is Public Safety. He's here to tell them tonight, if they really believe that, this is their opportunity to prove it. Give these Chiefs and Deputy Chiefs what they're entitled to have and that's nothing more than any other fireman or any other police officer receives in this community. They can't get quality people to move up to administrative positions and expect them to give up thousands of dollars a year. It's not going to happen. And all they're doing tonight, once again, is not spending more money because the money's already there. They agreed at last budget season to fund this budget with this money. They did it a year ago and they've done it for 25 years. All they're asking them to do is modify the language that simply says that the money that is already there will be used to pay these Chiefs and Deputy Chiefs the same benefits that everybody else gets. And that's all they're asking. He'd be happy to answer any questions that they have, Hunt stated. Councilman Henry Smith asked, if it's only the language, what is so bad about this that it cannot be passed then? Mr. Hunt told Mr. Smith he wished somebody would tell him, he doesn't know, he can't answer his question. He doesn't understand why, for 25 years, this has never been an issue with anybody until this year. He's got his own opinion about it. Smith asked Hunt, could he give him an example of why some of them backed out of it? Can he give him an example of why some of the officers backed out? Hunt told Smith, he doesn't know. He didn't learn about that until about 10 minutes of noon today and he talked to Brian Sharp. He's sorry, he can't tell them whether it was before or after lunch but he spoke with him, he couldn't tell him. So, he's not sure what their position is. Hunt said, oh, he's sorry, did he misunderstand his (Smith) question? Why did they step down? Smith said, yes. Hunt replied, for money. Smith said, okay, how are they losing money from (inaudible) to the next level? Hunt said, Police Chief Haley computed roughly that she would lose approximately \$7900 in benefits if this were not to pass. It includes everything that all the other Marion police officers are getting – holiday pay, longevity pay, sick pay, flex pay, the whole bit. The flex pay, by the way, is afforded to every single employee in this building, not just public safety officers. But she would stand to lose about \$7900. The other Assistant Chiefs are comparable to that but not quite as much. And so that's the reason why they've decided to step down. Smith said, so primarily what he's (Hunt) saying is that she would lose \$7900 of benefits, not money. Hunt responded, yeah, well benefits but it's stuff that she now gets that she no longer gets. Smith said, and so she doesn't get this now? That's what he's saying? Hunt answered, not today because it was stopped as of the first of the year, he believes. That's why Deputy Chief Kenworthy, and today Deputy Chief Dorsey, asked for a demotion. Smith said, okay, so basically speaking, all they have to do, he's talking about, is the wording of it? Mr. Hunt told Smith, yes sir. There's no money involved here. The money's already in the budget. That money has been appropriated every year for at least 25 years and it's there.

GENERAL ORDINANCE NO. 6-2019 Continued

All they have to do, according to the State Board of Accounts, is simply say in the salary ordinance that the Chiefs and Deputy Chiefs get benefits comparable to line officers and line firefighters and that's it. It's a pretty simple fix. Smith asked, so if this goes to the 2<sup>nd</sup> reading, is there any way that all this can be worded to where (inaudible) as an example (inaudible) of exactly what it's saying? Hunt asked Smith, does he mean in terms of what the benefits are? Smith replied, yes. Hunt stated, well he thinks they already know what the line officers and firefighters get in terms of benefits, and so, the Chiefs and Deputy Chiefs would get the same benefits. He means, they tried to avoid putting the exact benefits in the salary ordinance because it gets a little cumbersome and they thought that if they just simply said they get the same thing that everybody else gets, that would be the easiest way to do it and what they all get, the other line officers and firefighters, they get the holiday pay, they get the longevity pay, they get sick pay, vacation sell-back pay and the flex pay and all they're proposing is to change the language so that the Deputy Chiefs and the Chiefs get the same thing everybody else gets. And to him, it's a matter of fairness. It's a matter of doing what's right, it's a matter of making it attractive for top quality people to want to take the position to advance to administration. Otherwise, there's no incentive for them to do that, Hunt said. Councilman Smith said he can understand that. Councilwoman Deb Cain told Hunt he mentioned that the concern was the wording. In the first ordinance, it said "will receive the following bargaining unit benefits" and he lists those. And so the new wording just says "will receive the same benefits afforded to all regular Marion, Indiana police officers". So is the concern, maybe, that for the administration, the city administration, to determine what these benefits are, that then they have to go to the contract to refer to it, to reference it and then give those benefits to where maybe, along the lines of what Mr. Smith was saying, put the specifics in there. Maybe it might be cumbersome but it might cover the bases to where you define them in a separate handbook that's totally, there's nothing comparing to the contract and you don't have to refer to it. Hunt told Cain he thinks that's an excellent question. She's referring to the first draft of this ordinance? Cain said yes. Hunt said, that's what they tried to do and they got all kinds of pushback from the two unions. They didn't want them to do that because they said they were trying to change the contract, which is not true. So they changed that language, rather than be specific, to this language to appease them and then he found out at noon today that now they're backing off of that. He'd be happy to list these in the ordinance but they got a lot of feedback, a lot of pushback he should say, from the two unions about that because they felt somehow they were trying to change the contract. They have never, from day one, tried to change the contract. It is clear in both contracts that neither of the Chiefs and none of the Deputies are in the bargaining unit. That's clear and that's been clear for 25 years. All they're trying to do, again, is give these folks in administrative positions the same benefits that everybody else gets and, if they'd rather they list them specifically, he'd be happy to do that, he'd be happy to offer that amendment, but they didn't do it, they withdrew it and did this because that's what he was told a month ago they were happy about and now they're not. Cain stated, okay so, the first one said will receive the following benefits, bargaining unit benefits. So he took out that wording. Hunt stated, they didn't like the words "bargaining unit benefits". Cain said, so he took out the wording. So she's just wondering if he speaks with them, if they would be willing to let him list them because (inaudible) employee handbook, she knows the one from working at Indiana Wesleyan, it stated that an employee that worked this many years, if you worked five years, you got five vacation days. After five years, you got seven and then 14 years, you got this many vacation days. And your sick time accumulated along this line. She was just wondering if maybe that would be something that should be..... Mr. Hunt replied, well here's the thought and he thinks maybe the Mayor needs to go to law school because this is a very lawyerly comment that he just made. The note that he passed to him is something a lawyer would have thought of. He (Alumbaugh) says with every negotiation session and new benefits given would have to come back and amend the salary ordinance in order to change this for the Chiefs and Deputy Chiefs and he takes it by that he is saying that, if we just leave it like it is tonight where we say they get the same thing everybody else gets then they don't have to keep coming back every time and change it and he thinks that's a good point. Mayor Alumbaugh said, but let him add, Mike Flynn sent this up to him, he handed that to him. Mike negotiated for the State Police for years so he's very familiar with how contract language is done with unions. He just wants to say this. He really thinks we're over thinking this. We answer to the State Board of Accounts. This is where the problem existed. The State Board of Accounts told him they have no problem with it, just change the language to match their actions and they can keep doing what they've always done. So, whatever small changes they need to make, their blessing is on it. All they have to do is pass it through them with the language change, they said, and get the City Council to approve it and that's what

GENERAL ORDINANCE NO. 6-2019 Continued

they're here to ask them to do. He doesn't think, this isn't that difficult of an issue to deal with. They're fine if we just change the language (inaudible). They put their blessings on it. They said just get it changed to match their actions and they're good to go. So again, he doesn't think they need to over think this thing. Mr. Hunt said, and to follow up on that, the reality is this is a decision they (Council) make. They don't need the union to weigh in on it. They really have nothing to say about this. It's a question of whether or not, since they've already appropriated the money, whether or not they want to amend the language to tell the State Board of Accounts how they're spending that money. And the Mayor is right, it's as simple as that. Council President Alan Miller said, yeah, let him make a comment. This has not obviously been reported publicly and he thinks the public deserves to know that about three or four weeks ago, the Vice-President of the Council and himself met with Mr. Hunt, with the Mayor and Mr. Flynn, to propose an alternative proposal for resolving this issue. Basically it was built around in lieu of all of the benefits that are specified, involved a \$6500 salary increase for all the Chiefs and Deputy Chiefs and it was rejected. So it's not like the Council has been sitting here, waiting for somebody else to make the first move. He said Mrs. Cain sort of touched on the thought of negotiating individual contracts with the Chiefs and Deputy Chiefs and that did not seem to be acceptable, nor did the salary increase seem to be acceptable. A caveat of that proposal was (inaudible) the salary increase, they would keep all of their vacation time that they have accumulated as well as maintain the current pension plan that they have. So, they did that with the knowledge of the Council. He was honest when they met with the Mayor and Mr. Flynn and Mr. Hunt that he did not know whether the entire Council would approve it or not but it was rejected out of hands. So, at least there was an ultimate proposal made. He realizes Chief Haley said she would lose \$7900 without the benefits and that would come up short of the salary proposal that they were proposing. Some of the other Chiefs, it would have been an increase for them. It would have moved the base salary for the Police and Fire Chiefs into the lower \$60,000's. It would have set their salaries at about \$62,000. So, for information only. Like he said, it's never been reported. It's not intended to be. It was a private meeting, it's not an illegal meeting that they were having with the Administration. But it was a proposal that they put forward and it was rejected, Miller said. Mr. Hunt replied, well they acknowledge that and the one problem, he believes, the Chiefs have with that is that not allowing them the same benefits throws them back into the handbook which has significantly lower benefits and significantly less vacation time and that sort of thing. And so, to him, his interpretation of what they want is that the benefits are more important to them, the vacation time and that sort of thing is more important to them than putting it into the salary. Councilwoman Lynn Johnson said, if he doesn't mind, she'd like to weigh in a minute. She thinks that maybe the reason they decided not to take those benefits is because they were too low, because according to her calculations, once you take out all of the taxes and everything they would have to pay, they would have to make \$11,000 more on their contract and that would put it up to around \$66,000 apiece as the salary. And then they would be comparable (inaudible). So, if you had an \$11,000 increase, automatic, to the Chiefs and then each one as a graduated scale for each Deputy and then (inaudible), that may be the indicator that they were looking for because if they were having to be held to..... How long does it take to get the employee manual changed if that were to be changed? If they were able to automatically change their pay scale, she doesn't think that would be in conflict and she thinks that would cost us probably, just for the Chiefs alone, about \$400 a pay period to us to start and then maybe adding in the different Captains and Assistants. That might be a good solution here so that they retain the dollar value, because it's all value and exchange. So if you have a value that exchanges for, say, an additional \$11,000 (inaudible) and then they get to take out the taxes and everything that is withheld from their pay, they're going to net probably around an extra \$400 a pay period apiece and if they do that then this would probably be equal and fair to the comparable benefits that they receive. And then they'd have the additional benefits that are in the employee manual. And she doesn't know how long it takes to change the city employee manual but we would consider maybe doing that because, you know, their Chiefs do work 24/7. She means, she really doesn't think their pay is comparable to their position or their responsibilities and then they could be designated as a different scale in the employee manual and actually have the employee manual stating how many people you are over or how many people you (inaudible) leadership or how many people report to you and then scale the management in the city according to their responsibility and record the people that actually report to that position and if that position is named Chief or that position is named Captain or that position is leadership then the employee manual should actually designate the pay scale or actually the benefits for that (inaudible) and that should be in the employee manual and then maybe if we can get their pay scale set then change the employee manual so it maybe takes effect next year and that

GENERAL ORDINANCE NO. 6-2019 Continued

might be the way to handle this because actually (inaudible). Mayor Alumbaugh said he guessed he has a question for this Council. Are they adamant against just changing the language to match the action that the State Board of Accounts requested? They (State Board of Accounts) said just get them to do that and they're good to go. Is this Council adamant about not doing that? Just changing the language, not going through a whole bunch of other changes but changing the language which is what they came up with, the change that Brian Sharp came up with, that they think would suffice the State Board of Accounts, be a very simple change, and then keep doing what they've always done. Councilwoman Cain asked Alumbaugh, so does he know what the State Board of Accounts statement would... She means, are they.....? Alumbaugh told Cain, they were good if we kept doing it exactly the way we were. They just needed to make the language match the action because the language and the action did not match. So what they've been doing for all these years was fine with them, as long as the language and the action matched. They didn't say they were doing anything wrong. They said just make the two merge, they should have to match. Cain asked, did they give him an example of what they would like to see in the wording? Alumbaugh responded, it was very simple, it was a quick meeting and to the point. He said just make sure that what they're doing actually matches the language and it doesn't right now so they proposed language that did and they keep doing what they've always done and now today, they've come back with another proposal with a slight change that Brian Sharp had recommended and he doesn't think the State Board of Accounts would have any issues with it. It would be a simple fix. Mr. Miller told the Mayor, if he may interrupt for a minute, he thinks he may be out of order by attempting to, what he would say, survey the Council about what they likely are thinking. He would just suggest that Council members do not need to acknowledge his question. Alumbaugh apologized for that and said that was the State Board of Accounts directive, just a very simple fix is what he told him. Just get the language and the action changed to match and Council's approval. Miller stated, they understand that but for him to conduct an informal survey of their thoughts on that, that's probably not..... Councilman Henry Smith said he's just wondering, all this language, has anybody come forth and said this is an example of what they want? Hunt told Smith, they did not tell them. They did not give them sample language to use. All they said was what they're doing is paying the Chiefs and Deputy Chiefs the same thing that everybody else gets by way of benefits. Their salary ordinance doesn't say that. If their salary ordinance is amended to say that they get the same thing, they're (State Board of Accounts) happy with that. Smith said, okay, so they need an example of what will make everybody happy. So far, the only thing said is make the language agree with what is said over here so they need an example of what will equalize the language as well as the money. Hunt said, that's what the ordinance tonight does. He's not concerned about making the unions happy because they don't have a say in this. Who has a say is the State Board of Accounts and them (Council) and the State Board of Accounts simply said what they're doing is fine, they're paying the Chiefs and Deputy Chiefs the same thing by way of benefits as everybody else but their salary ordinance doesn't say that. So if they amend their salary ordinance to say that they get the same thing everybody else gets, they're fine with that and that's what that language says. Councilman Steve Henderson told Mr. Hunt he said that they've been doing this for 25 years and Hunt said yes. Henderson asked, can he tell him why the State Board of Accounts was able to pull something up and say this was wrong? Hunt told Henderson, he doesn't know, he'd have to ask them. They discovered it last year. They raised it as a point that they needed to address. They thought they addressed it. They didn't like the way they did it. They came back this year and said they need to have this passed through the Council by changing the salary ordinance and that's why they're here. They're doing what they asked them to do. Why they never raised it until 2018, he has no clue. There have been some comments out there that this was an issue created by this Administration. That is just patently false. This has been the way business has been conducted since 1997 for the Police Department and for a number of years prior to that for the Fire Department. So, he doesn't know why they didn't catch it. Councilman Dave Homer asked Hunt, how long has it been since they've known about this problem? Hunt told Homer, January of 2018. Homer asked, and he said the State Board of Accounts were the ones that caught this problem? Hunt replied, they said, in January of 2018, does he know how the audits work? They come in, they do their audit and then they have an exit conference and they point out various things that they think you need to change. In January of 2018, one of the points they made was that their Chiefs are being paid benefits that are not, while they've got the money in their budget, it doesn't say in their budget that the Chiefs are entitled to those benefits. So if they say in their ordinance that the Chiefs are entitled to those benefits, they're okay with that. And that was the first time they brought it up and they tried to change it in a way that they weren't in agreement with and they came back this January

GENERAL ORDINANCE NO. 6-2019 Continued

and said no, that doesn't work, they've got to actually change the salary ordinance. And so, that's what they've done. Homer said, isn't it true though that really who caught the audit in the audit was a PERF audit in 2016 and the city was aware of it? Hunt said, he's not aware of that. Homer asked, okay, so he doesn't know if the PERF audit caught that in 2016? Mr. Hunt answered, he's not aware of that. Homer said, and that there was information shared amongst the Administration about this problem? Was he aware of that? Hunt stated, if he could be more specific, Mr. Homer, tell him who they spoke to. Mayor Alumbaugh said, yeah, he's trying to recollect that conversation. He doesn't know who his source is. He can suspect but he doesn't know. Homer said, Julie. He doesn't see Julie here tonight. Alumbaugh said she's home with the flu. She went home. Hunt said, she's sick. He told Homer, tell him who his talking about so they know who they're dealing with. Can he tell him? Homer said, yeah he can tell him. Hunt said, tell him. Homer said, yeah, it was an email between Julie, the City Controller, and Mike Flynn and it was caught in a PERF audit in 2016. Was he aware of that? Hunt asked, about this Chief benefits payment? Mr. Homer answered, exactly. And then, after they knew about it since 2016, in June as a matter of fact since the people in the Administration were aware of it.... Hunt asked Homer, does he have the email? He'd like to see it. Homer said, yeah, he's got emails here but he'll be glad to provide him copies of it. Hunt said, yeah, he'd like to see them. Homer said, he'll get those for him. Hunt responded, okay, good. Homer told Hunt he needs to see them. Hunt asked Homer, and where did he get them? Homer said they were forwarded to him. Hunt asked, where did he get them? Homer said, they were forwarded to him. Hunt said, he heard him say that. Where did he get them? Homer replied, from right here, somebody in City Hall. Hunt asked, who was that? Homer told Hunt he's not going to tell him that. Hunt stated, okay, so they're dealing with unknowns then. Thank you, next question. Homer said, they're not dealing with unknowns. Hunt asked, another question? Homer said, they're not dealing with unknowns, sir. Hunt told Homer, well if he won't tell him, he can't answer. Homer told Hunt, and then, not only that, did he set up an Executive Order, in other words, did he write an Executive Order? Hunt said, in January of 2018.... Homer said, correct, to circumvent the Council? They didn't know about it. Mr. Hunt answered, no, it wasn't done to circumvent the Council because they didn't think they had to come to the Council until the State Board of Accounts told them they did. Homer told Hunt, sir, you have an internal problem. He's just telling him, he has an internal problem. Hunt told Homer, well, he's running for Mayor and that's his opinion. He's entitled to it. Homer replied, no, that's not his opinion. A point of order was called by Councilman Brad Luzadder and Council President Miller said, yeah, gentlemen, this conversation.... He told Homer if he has specific questions for the Judge, ask them. Hunt said, he'd be happy to answer them. Councilwoman Johnson said her question is just basically pretty simple. She told Hunt it just seems that these two ordinances that he presented tonight, #6 and #7, okay, so they have #1 and #2, #3 and #4, she's not sure what #5 was but these are now #6 and #7 and basically it appears to her that this ordinance, #6, and Ordinance #7 are actually all the same. This is the third time she's seen this language. It's the third time she's seen this salary ordinance suggestion. It hasn't really changed. She's not really sure, is she not reading this right? Mr. Hunt told Johnson, #6 and #7 are the same except one is.... Johnson said, no, she's saying #1 and #2, #3 and #4, #6 and #7 are just all similar. Hunt said, they submitted ordinances originally and they continued to work to change the language so that they could get the support of the FOP and the Fire Union. Johnson said, so the last language is the same as this because all they've done is taken out "contract". That's all they took out? Hunt responded, yeah, took out the word "contract". Mrs. Johnson asked, out of all of them? They've all changed the same way? Hunt told Johnson, that's fair, yes. Johnson said, so, they're all the same and he's presented them to them, this is the third time. So, if they have an issue about this, it doesn't mean that they've been ignoring this. They are concerned about this as well but they're not sure why these things were not accepted by the Police Chief and the Fire Chief, why they have to have these benefits, why is it they can't make a change that they can accept? That's just, all their language change here is just the same. So all of them are saying, she is saying on behalf of several of her fellow Councilmen that these changes need to be more specific and just separate them from anything that would actually conflict with their Collective Bargaining system. Anything at all. A different kind of benefit, a better benefit, she doesn't know, a larger benefit, something there that just separates them and makes them special and this puts them in a better position. And they can say yes, they want to be the Chief because they have these benefits, (inaudible) hard and they want to do a good job for this city. Hunt said, first of all he doesn't think, and if he said it he apologizes but he doesn't think any of them said that they felt they (Council) were ignoring this issue. He doesn't think that was ever said. Johnson commented, well, the perception (inaudible). Hunt replied, no, he doesn't think he said



GENERAL ORDINANCE NO. 6-2019 Continued

that and he doesn't think anybody in the Administration felt that. This has been an issue that they have taken time on because they've been trying to get the support of the two unions and so they've changed the language various times. And they don't feel that they (Council) have dragged their feet because that's never been an issue. The issue is whether or not they have the language that everybody can live with and they're not trying to change the Collective Bargaining Agreements. All they're trying to do is say let's pay these people in administrative positions the same thing that everybody else gets, the same thing that Mr. Homer got in 1997 when he was Chief of Police. Johnson told Hunt, she can understand that reasoning but actually these people don't deserve the same thing everybody else gets, they deserve more. Hunt told Johnson, he doesn't disagree with her and he would suggest that's a time for the budget hearing. Johnson said, that's fine but she didn't say, she didn't imply that he implied that they were ignoring this. She meant that by his sense of urgency, his sense of urgency should have probably preceded these things two months ago. So, he probably should have had more sense of urgency two months ago. She's not sure why this hadn't been changed correctly and why they are getting another ordinance that is just as similar to the last two ordinances that they received for each position, the Fire Chief (inaudible) and the Police Chief. That's all she's saying. They're all kind of confused here. Council President Miller stated, just to clarify, all the papers shuffling, the first ordinances that were on their agenda, the City Administration pulled. They resubmitted them, he pulled them. And this is the third set, just so they're all on the same page. But he thinks what they're all thinking is, even though the language has been adjusted, the intent and the impact is not. Councilman Steve Henderson said he's just a little confused because he (Hunt) said he doesn't care about the unions but then he says that they changed the language to match up with the unions. So, they either care about the unions or they don't care about the unions. He's confused here. Hunt told Henderson, he thinks he misunderstood what he said. What he said was they worked with the unions early on. That's why it's taken them until April to get to this point. They knew about this in January when the State Board of Accounts said they've got to have the Council to change the language. They have been working with the unions since that. When they found out recently that the FOP apparently is opposed to this, that's when he said they don't need their approval because they don't. This is a matter between the Administration's proposal and their (Council) approval and the State Board of Accounts acknowledging that the language in the salary ordinance meets what they're actually doing and in fact have been doing for 25 years. And as he said before, it's only become an issue because it's in this year. Henderson said, so it's his understanding, by reading what the State Board of Accounts had written in their report, that this would have never come up had it not been for the Executive Order written. According to what it says in the report, this is how they found that. They found the Executive Order there, without City Council approval. Hunt replied, no, they found it last year and then they decided last year, in order to satisfy that, because they thought they understood them to say they could do that, to just change it, because the money was already there. They already appropriated the money. The money was there last year, the money is there this year and so they thought that they could change it by simply saying they're going to change the employee manual to say that the Chiefs get what everybody else gets. The State Board of Accounts said no, they've got to have that in a salary ordinance, not the employee manual, and that's what they said this year. It wasn't because of the Executive Order. It was because of the way they went about doing it and they said they can't do it by the employee manual, they've got to do it through a salary ordinance. Henderson said, so he's of the understanding that there's a separation of power between the Administration and them, the Council, is that correct? Hunt replied, yes. Henderson asked, okay, so if the money is already in the budget, it's already been approved, why do they need to approve them spending it? Hunt told Henderson, they agree on that but that's what the State Board of Accounts told them a year ago and that's why he thought that they could do this by amending the employee manual. Henderson said he doesn't see any reason why they can't just go ahead and give them the money. They've already approved it, it's in the budget. Hunt told Henderson, he's with him, he agrees, but the State Board of Accounts doesn't. Mr. Henderson stated, the State Board of Accounts addressed the Executive Order. That's why this language has to be in there, to correct the Executive Order. So if they rescind the Executive Order, take it out of there, get rid of it, they are in the clear. Hunt said, no because they're back to square one. They're going to come back next year and say they still haven't changed the language of the salary ordinance. Their mandate, the State Board of Accounts mandate that they must follow is change the language of the salary ordinance. That's why they're here tonight. Mr. Miller stated, let's agree, gentlemen, that they are of different opinions on this. Let's move on. Council attorney Phil Stephenson told Miller, he might add, Mr. Hunt is correct. The statute says the Controller can only pay out what is in the salary

GENERAL ORDINANCE NO. 6-2019 Continued

ordinance, no matter what's in the budget. It has to be within the salary ordinance (inaudible) so it has to be included in the ordinance. Council President Alan Miller stated, it is his sense that they are getting very close to having adequate information to know what they want to do with this matter but he will give Mr. Brunner an opportunity, he has not spoken, and Mr. Batchelor, if he wishes to say anything, and Councilman Luzadder before they call for a motion. Councilman Jim Brunner told Hunt he wants to be sure he is hearing correctly. He believes more than once he has said that the General Ordinance #6-2019 will not cost the city any more money. Did he hear that correctly? Mr. Hunt told Brunner, that is correct, the money is there. Brunner asked, if it's not going to cost them any more money, how are they going to pay the Chiefs and the people that are not receiving the money that they would like to have? Who's going to pay that money? Where's that going to come from? Hunt answered, it's going to come from the budget. It's been appropriated. It's there. Brunner said, okay, so what he's saying is General Ordinance #6-2019 does not cost the city any more money. Hunt said, not one penny. Brunner stated, but because they're going to redo the wording to make the auditors happy then the money will be allowed to be given to them. Hunt replied, yes. Councilman Don Batchelor said the question he has is real simple. If this is passed on to the 2<sup>nd</sup> reading then would not that be a public hearing, 2<sup>nd</sup> reading, and the general public would get a chance to weigh in on this matter? Hunt told Batchelor, he believes that's correct. Batchelor said, okay, so going back to a statement that he (Hunt) had made previously, so then would not the unions have an opportunity to weigh in on those? Hunt replied, just like anybody else. Councilman Brad Luzadder said, he would say that emotions are extremely high tonight. It's probably not a good idea to vote on this this evening. He would make a recommendation, if they do, that the Administration does what the Council members have asked and outline it through. He does like Mr. Batchelor's comment about putting it so the public may weigh in on it. Another suggestion would be move it over to a committee, let the committee look at it and then bring it back with language that would be appropriate, that would be suitable for everyone. He thinks the biggest part about the State Board of Accounts, finally the General Assembly gave them teeth and when they say to do something, now you have to do it or there's a penalty and there's a punishment. Up to that point, there hasn't been and so this has been, other issues have been just swept and not taken care of and so it's been easy in which to do that. Well now, their feet are to the fire and they must do something about it and do it the right way as it should have been done a long time ago. So instead of kicking the can down the road and continuing to go, he thinks they should do the right thing and get it in place, get the language correct in which is suitable for the members, bring it up for a vote and, Mr. President, he says let it fly. It's totally a nine member vote. Miller said, he says Mr. Luzadder or anyone, he would call for a motion. He needs a motion, a specific motion and he would now call for that motion. Motion was made by Councilman Jim Brunner that they move General Ordinance No. 6-2019 to 2<sup>nd</sup> reading and public hearing. Motion was seconded by Councilman Batchelor. Councilwoman Deb Cain asked, is it too late to ask a question? Miller told her yes. Cain said, no, she means of Mr. Stephenson. Miller stated, oh yes, Mr. Stephenson she can, yeah, sure. Did she need clarity before he calls for a vote? Cain asked, may she? Miller said that's what the question should be directed at. Mrs. Cain said it is. Miller told her to proceed. Cain stated, so if they move this to 2<sup>nd</sup> hearing so that it's a public hearing so they can hear from a lot of people and they're still not satisfied with the outcome, can they put it in committee so that they can have more detailed discussions? Stephenson told Cain, they can't put it in committee after they've approved the first reading. They have a right to amend it at any time up until final passage. Luzadder said, but they could stay on the 2<sup>nd</sup> reading and not move it on to 3<sup>rd</sup>, is that correct? Stephenson said that's correct. They could certainly, at that point, move to delay, after the public hearing, they could move to delay the 2<sup>nd</sup> reading until they talk about it more or whatever it is they want to do and then bring it up at a later time. Mrs. Cain said, okay, so if they went that route, can they call a special meeting like they did with the contractors and invite certain people, she means specific people? Mr. Stephenson said they can call a special meeting whenever they want to, for any purpose. Councilwoman Johnson asked if she may ask just one question. Miller told her if it relates to the motion, not commenting on the subject matter. Johnson said, okay, thank you. In reference to the motion, so if they pass this through right now tonight to 2<sup>nd</sup> reading then they can actually go to that, listen to what the public has to say and then they can (inaudible) themselves, suspend it, basically, and go back into a special meeting? Is that what she hears them saying? Mr. Stephenson said, after they have the public hearing, they would have the right to pass it at that time if they wanted to or they would have the right to defer it, or of course, they could vote it down. So those are really the three options at that point. Miller asked, so they do not have to vote if they have a public hearing? Stephenson said that's

GENERAL ORDINANCE NO. 6-2019 Continued

correct. Miller asked, can they only defer it for two weeks or is there a time, does it have to come back at the next meeting? Stephenson told Miller, yeah but they can turn around and defer it at the next meeting. Councilman Luzadder told Miller he doesn't have to place it back on the agenda. He has that right, sitting in that chair. Stephenson said, he would think, Mr. Miller, what he would probably do at that time, if he wanted to do it, he would in fact put it on the agenda but it might be an agenda a month away, for example, giving them time to talk about whatever they want. Mr. Miller asked the Council, everybody clear? They have a motion and a second on General Ordinance No. 6-2019, to approve it on first reading and send it on to 2<sup>nd</sup> reading and public hearing. Motion then carried by the following vote. Aye: Henderson, Brunner, Smith, Batchelor, Cain, Luzadder and Miller. Nay: Homer and Johnson. Motion was then made by Brunner to pass General Ordinance No. 7-2019 to 2<sup>nd</sup> reading and public hearing. Motion was seconded by Batchelor and carried by the following vote. Aye: Henderson, Brunner, Smith, Batchelor, Cain, Luzadder and Miller. Nay: Homer and Johnson.

GENERAL ORDINANCE NO. 7-2019 1<sup>ST</sup> READING

An Ordinance amending Ordinance #20-2018 fixing the maximum salaries for firefighters of the City of Marion, Indiana for the year 2019. This item of business was passed to 2<sup>nd</sup> reading and public hearing – see above under General Ordinance No. 6-2019 for the vote.

Council President Alan Miller said he probably should have announced to the audience this evening, two weeks ago they had announced that the 2<sup>nd</sup> reading on the bond issue for Central Indiana Ethanol would be heard tonight as well. That has been deferred to the next meeting of the Council on the 16<sup>th</sup> of April. He doesn't think anybody showed up with the expectance to be handling that this evening but that's why it's not on the agenda. It was deferred for another meeting.

Councilwoman Deb Cain said, just a reminder that the airport is going to be here on the 16<sup>th</sup> to present the award that they received for the Aviation School and they have a short video about the school that they're going to show.

Before the meeting adjourned, Councilman Jim Brunner asked if there's a reason that these folks here who they need to hear from don't have microphones. Council President Miller said, yeah, Mr. Stephenson really needs a microphone. City Clerk Kathleen Kiley said she thinks Danny (Robinson, IT Director) is working on them. They keep buzzing. Danny, she thinks, has been working on them. People come in here and have other meetings and they keep unplugging them and moving things around and then they're screwing them up. Brunner asked the Mayor if they can make a request to somebody in the building that, by next Tuesday, Mr. Stephenson and Mrs. Kiley can actually..... He thinks at one time they actually had a microphone, did they not? He was told they did. Mr. Miller said they don't need to discuss that tonight and asked for a motion to adjourn.

On a motion by Cain, 2<sup>nd</sup> by Brunner, the meeting adjourned. Time being 8:13 p.m.