

REGULAR MEETING – MARION COMMON COUNCIL – AUGUST 18, 2020 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 18th day of August, 2020 at the hour of 7:00 p.m. in the Council Chambers, City Hall.

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

Present: Luzadder, Cowgill, Fouce, Batchelor, Cain, Fordyce, Henderson and Cline.

Absent: Brunner.

The minutes of the previous regular meeting of August 4, 2020 were presented. On a motion by Councilman Gary Fordyce, 2nd by Councilman Steve Henderson, the minutes were approved as presented by a unanimous vote.

Council President Deb Cain told the Council she's going to just kind of roll the Committee Reports and any other Council discussion into one since they don't have anything on the agenda and she hesitated to cancel the meeting for that so they will just open the floor for discussion on whatever's on anyone's mind. They can start with Committee Reports then they can move forward with that.

Councilman Brad Luzadder said the Rules and Ordinance Committee met this evening to go over Council Rules and updating the current ordinance that is in place for the City of Marion City Council as they move forward. Each of the Chairs tonight submitted descriptions and information for their specific area. He's got a few that he's going to type up and send to each of the members. He will also send it to their legal and have him put the legalese with it and as per request of the Chair, they will put off their next Rules Committee meeting until after the budget process has taken place. And so that next date has not been set yet so they'll play that by ear especially since they're going to hit the ground running with the budgetary process.

Council President Cain said, at this time, she just wanted to say something before she opens the floor to Mr. Cowgill and Ms. Fouce. She has just been pleased and was very appreciative of their initiative from the Grant Writing Committee to undertake the grant that they ran with and ran for and that they accomplished in just a few weeks. And so, she will let them take the floor but she just wanted to express her appreciation for the time that they spent, the work that they did towards this in helping their emergency employees that had to work through this COVID, time of COVID. And so she will let them take the floor. Councilman Brian Cowgill said he'll let Ms. Fouce talk about the thing that they're trying to accomplish right now. First and foremost he wanted to say the Mayor has been great with this. He's been on board from day one. He has helped them out. He has approved of this 100%. He knows how important our city employees that are dealing first hand, you know, hand to hand with this COVID and the Mayor has been more than gracious to us and he does appreciate that. Councilwoman Fouce will talk about what they're currently doing. The other thing that they talked about with the Mayor, and again he was on board with this too, was the Council members, they don't have computers or phones or anything to do Council business with. They are currently having to use their own personal devices for it and with legal, the way the system is, they need their own to do that. So they have went after or are going to go after money and try to get all of them their own systems that they can work with that'll be strictly for Council, that they don't have to use any of their personal business for or anything. And that will be no money out of the city money, the General Fund, anything, any matching. It's a reimbursement thing where we would get them, the city will pay for it and then they'll get reimbursed every dime, every dollar for it. So hopefully, here in a month or so maybe we can have that and they're also getting like a big screen thing where it'd be easier for the audience members to see when we're doing like a power point or something like that. They're basically getting it up to date. He means, our system here is how old? Old old. He means, has it ever been updated that he's (Luzadder) been on? Luzadder said no. Cowgill stated, yet 16 years. It's at least 20 years old so it's time. It needs updated. They said they wanted to get it updated in time for Debbie (Goodman, Deputy Clerk) to take over so Kathi's (Kiley, City Clerk) going to have to do it the hard way. Kiley said, Debbie's had to do it the hard way. Cowgill told Kiley, he knows, he's just teasing her. But, so they're excited about that. Anything they can do to help the city, help employees, help the Administration, help the Council without having to spend any money out of the city's budget is huge. The money is there. If we don't use it, we lose it. And there will probably be a round two. If we don't use this money then chances are we wouldn't get offered any money in round two because you didn't even use the money in the first round and he is

never going to let money go to waste. If there's money, free money there, he's going to take it every time. So, just for Council's knowledge, we will have, hopefully, get some nice, up to date equipment and our systems updated too. Councilwoman Robin Fouce said it's been a pleasure to work with Councilman Cowgill and Mayor Alumbaugh. They're working on getting our first responders and essential workers some money for their risk in the time of pandemic, their exposure to the community, to individuals. People are contagious. This disease is rampant in our community and we have first responders that go out every day and they're subjected to that, just in the line of duty, and that exposure not only goes to the employee but it goes and extends to their family that they go home to daily. And so, through the CARES Act, there is compensation defined under Hazard Pay and Hazard Pay would afford us, the City of Marion, the opportunity to in addition to their salaries, to compensate them for the added risk, the hazard, as they are working really in hazard duty daily. And so they're working closely with Mayor Alumbaugh to see if they can do that. They've gotten approval. They have to still cross some t's and dot some I's and verify that we are doing and making a sound process of distribution. Those funds are granted to us through the CARES Act. If we don't use them then what would that mean for our future funds that we would have privy to? And so, what a great use, in her opinion, to boost our first responders and those that are at great risk. The other side of it, they will do it in phases. The first part is to take care of the first responders and essential workers so that would be Maintenance, Fire Department, Police Department and Transportation, initially. The second part of that would be what he (Cowgill) talked about in terms of getting the Council automation to perform the responsibilities of our jobs because of the open door, she's not going to call it the right thing, help her somebody. Someone said the Open Door Law. Fouce said, okay, because of the Freedom Act. She was looking for that word but all of it kind of goes together. It's important that we have company or city, we do city business on city property and so this act affords us, because we are in a pandemic and we have to have Zoom meetings, we have to have different things and we have to conduct business ongoing, it affords us the opportunity to acquire some equipment through that and we're planning to do that. That'll be like the second phase. The first phase will be the people and employees, which she is so excited about that. Then the second phase will hopefully be the Council and what their needs are in terms of the equipment. And kind of what he said, keeping in mind that if there's another Stimulus Act that passes, which she anticipates that to some degree, there potentially will be other funds that are allocated to municipalities and so they would have other things. We don't know how long we're going to be in a pandemic and so what we're proposing is from this date back to March 1st. So say we're in a pandemic for another six months then that new stimulus would perhaps afford us to do some ongoing maintenance or care or contribution. But that's good stuff to talk about in the future. Certainly, Mayor Alumbaugh deserves accolades as well as the Council in support of that, Brian Cowgill and Madam President. Councilman Cowgill said, just to follow up too, the money that was allocated, we got \$909,000 is what the City of Marion, what we ended up getting total. So, what's left, we'll get with the Mayor and see what other things. There's six criteria you have to fall under in order to get that. Council President Cain said, thank you. Thank you very much for your time spent and also for looking into this and wanting to assist the first responders and the Transportation Department and the Maintenance who had to come in and double clean, triple clean everything. She appreciates it. Councilwoman Fouce said, if she could also say, we did do a lot of research to substantiate this, to verify that it is an expenditure that will not come back on the city, that it's a valid expenditure. They may have seen in the paper where Michigan, specifically Detroit, their Mayor ordered, he did an emergency order for hazard pay and they were compensated likewise and so we're doing kind of the same thing that they're doing. And so, just to let them know, she talked to AIM, she talked with their legal counsel. We did a lot of research to see that, we talked with counsel here to see that we are aboveboard and that we'll be doing something sound for our city and it'll be a good thing all the way around. We did get a pre-approval from the Federal saying that, based on what we've identified we wanted to expend it for, that it was a reimbursable expense. Councilman Brad Luzadder said, when they had their Zoom meeting with Mr. Edwards with the Transportation Department, he doesn't know if the Council members remember that we had spoken about making sure that our drivers are safe and when he spoke with Mr. Edwards, our drivers are Plexiglassed in and protected while driving the vehicles. He knows that he discussed one of the drivers in New York who was coughed upon by a passenger and he succumbed to COVID. Mr. Edwards stated that our buses are not equipped that way and so bravo members for doing that. Any time we can lift up our first responders, our police and fire, as well as the needed workers, that's awesome. So, kudos to you all, thank you. Mr. Mayor, thank you, Luzadder said.

Council President Deb Cain reported that the Board of Works did meet. Ms. Fouce and she were in attendance on the Zoom. One of the items that came in that was the Springhill Addition. These are going to begin being, she doesn't know how to put it, the residents are going to start working towards becoming their own homeowner of their property and that's exciting news that they are working towards that. They did also give a report from the Building Department and they're getting some further information on where they are in their budget and also in their blight and what homes that they are preparing to begin taking down. So, she also wanted to pass out the Budget Calendar. That has gone out to the department heads. She did move Community Development per their request because they would not be able to be there on the day that she had them scheduled so they have been moved to September 1st. She also added some notes because we have a budget hearing on a City Council night so City Council would meet September 1st. That is not going to be a Council meeting, that is a department budget hearing. Okay? So City Council meeting will be scheduled for Wednesday, the 2nd, if there's an urgent item, agenda item. If there are none then by August 26th, we will cancel that meeting. And we will hold our regular scheduled Council meeting for September 15th. It will not include the first reading of the budget because she wanted to, if we had items in City Council, she wanted to be able to separate those and have enough time in their first reading of the budget. So the first reading of the budget will be September 22nd and it will be scheduled as a special meeting. She'll make sure that Mrs. Kiley and Mrs. Goodman get a copy of that. Does anybody have any questions on that? She tried to be a little more specific for us to be able to see that. Cain said if they have to meet on Wednesday, the 2nd, it will be at the regular 7:00 p.m. time.

Council President Cain said she sees the Mayor is here and she would like to invite him to the podium if he would like to just give them any update or any further discussion. Anything he'd like them to know for tonight? Mayor of Marion Jess Alumbaugh said, well really, thanks to Brian and Robin for the work they're doing for the hazard pay. He wanted to thank them publicly now. They've met several times, they're meeting again tomorrow morning to try to finalize this. What he would challenge this Council to do, he doesn't know who they want to appoint but how many of them have seen Ronnie Morrell's scooters around downtown and throughout Marion and even out at Indiana Wesleyan? It's a big hit in this community, especially for their younger crowd. When he says younger, he means 30's, early 40's, on down. It's not just the high school and college kids riding those, it's adults as well. He would encourage the Council to work on adopting an ordinance that will fit the City of Marion, probably have others out there they can mimic to some extent, but he really encourages whoever they put in charge of that to work with Ronnie Morrell. This guy's, he's an up and coming young businessman and we need to work with him to help him be successful but he thinks it's something we probably should do now instead of later. We just need to police it a little bit. Councilman Mike Cline asked Alumbaugh, what is he proposing the ordinance say? Alumbaugh told Cline, that's you guys' call. It's your call but you guys can do your research. They've done it before with the landlord thing. That was well researched, we used Ft. Wayne as a model. He says we, the Council members that were part of that. He knows Deb (Cain) and Dave Homer were and they used that as their model. He thinks you find one that you think fits what Marion's should look like and you kind of emulate that but he thinks it's time we do that and he really encourages the Council to have some people take the lead on that and make that happen. But please include Ronnie. He's a terrific young man and he's an up and coming young businessman. We want to encourage these young business people to keep investing, Alumbaugh said. Mrs. Cain told Alumbaugh, thank you, good suggestion. So we will do that. Councilman Brian Cowgill asked Alumbaugh, how does that exactly work? He means, because he sees them like all over the place. Alumbaugh replied, and that's why he said they should reach out to Ronnie first, have a sit down with him, whoever your Council puts as a committee for this and then start researching some of the cities that have done it well and then work with Ronnie, just say hey, here's what we're thinking, what's your, any pushback on this and just work together to put something in place that puts a little more control over it and some restrictions perhaps but not too much because right now, it's a really popular thing with their young citizens. Cowgill said, no, he means like do you use like a credit card thing to rent them? Alumbaugh told Cowgill that's what his understanding is, you can just scan it. He means, we've seen it in South Bend when they're up there for the AIM Seminars. They scan bicycles, jump on it, ride, drop it off at the next place they stop, somebody else may be waiting, grab it and take off and it just continues. You just scan it and go. So that's what most of these people are doing, scan and go, and he saw Ronnie as he was leaving the office this evening to head home before this meeting, he was getting them prepped for this evening. He had them all lined up there next to the (inaudible) and ready to do business again tonight and he thought he probably should encourage them to work on an

ordinance, for his (Morrell) safety and the citizens. But, yeah again, whoever they select, include him in it because they really want to encourage this kind of forward thinking. City Clerk Kathleen Kiley asked, can they go anywhere in Marion or do they have to keep them downtown? Alumbaugh told Kiley he doesn't know. He did see Torri Williams on Facebook riding one though and apparently she slammed into a wall because she'd never done it before. Kiley said, well she saw two people going down in front of her house and she knew that they were those scooters but she thought they were supposed to keep them downtown because she didn't know. Mr. Cowgill said he doesn't think they have to keep them downtown because he had lunch at La Charreada's the other day over on the By-Pass and there were five people in there and had all five scooters outside there. Alumbaugh said he knows he had one put in the river and that's really, he thinks there's only been two negative things in all this time so far that have happened and he was able to retrieve it. It had GPS so he could identify where it's at. And the more they talk to Ronnie, the better feel they'll get for what they're trying to accomplish because he (Morrell) just came to him (Alumbaugh) early on and he said when he first took them out there, he was worried about liability and he thinks that's something, as a Council, they should also share that concern and they want to protect Ronnie as well and make sure they're helping him be successful but within reasonable means here. They have to have some protective measures for his people, people riding and also the citizens that are out on the streets and sidewalks as these scooters go by. Mrs. Cain asked, so does he have his last name on the scooter? Alumbaugh told Cain he doesn't think so. It's got a brand name on it that he's seen. They're all over IWU too. He's seen them on the campus there. Cain said, yeah she saw one leaning against a tree at Indiana Wesleyan when she was walking but it wasn't one of theirs so she was wondering if it was.... Alumbaugh asked, it's not one of Ronnie's? Because he went out there to see them about it. He knows he met with Dr. Wright and some of the leadership there and they were considering it. Cain said, so maybe it was one of his. Alumbaugh stated, he hasn't heard of anybody else in town doing that yet so... Cowgill asked, Ronnie's are all black, aren't they? The Mayor replied, again, he doesn't know what all he has. He's not familiar enough with what he's doing. He just came to him when they started seeing them downtown on the square. They met, he thinks it was at the Abbey and they had a discussion and he (Alumbaugh) said his only concern is liability issues so he (Morrell) put it to rest for a little while and now they're back out and there's certainly a lot of enthusiasm across this community about these scooters, especially, again, with the younger crowd and we're an aging community so we want to encourage these young people enjoy being a part of this. So whatever they can come up with, they'll do a good job, they'll get the right community to kind of emulate and come up with a good ordinance that works for Ronnie and for the citizens. Councilman Brad Luzadder said, Madam President, he just looked at his colleague and the Ordinance Committee would be willing to take this on and move forward. They'll contact Ronnie and then they'll report back to the Council with the information. Councilwoman Robin Fouce told Luzadder, let them know how that ride goes, him and his colleague. Luzadder said, he's expecting Don (Batchelor) to be in front and he'll hold on as they go along. Cowgill commented, he just wants to be there to see it. Luzadder said it'd be like an elephant on an ant's back. Councilman Don Batchelor said he'd just like to commend you guys for taking the bull by the horn and moving this thing forward. Hats off to you guys, working with the Administration, the Mayor's Office. He really appreciates the job they are doing and with the eagerness that they have shown.

Council President Deb Cain said she knows that they received an email from the Fire Department on the Cumulative Firefighting Building and Equipment Fund and she just wanted to let them know that Mr. Harker and she have met a couple times already and they are researching how that fund is, first of all, if it would even be something that they could do. When, if they felt they could implement it, how it would be implemented, the structure that it would be and the timeline, if they felt that it could be done. They want to get all their research put together first before she brings it back to the Council to a committee. She wants to make sure that it's something that they can do because there's a lot of Indiana Codes that they've got to look at and review and research first before they even say this might be possible. Cain then said that Mr. Harker brought to her, sent this to her. It is a case that Fishers, Indiana, City of Evansville and Valparaiso, they have a case vs. Netflix, Hulu, Dish Network, Corp., and Dish Network, LLC and it's because, she hopes she gets this right, Mr. Harker, she read it three times. Because they provide video services, any city that has video recordings, they should receive a stipend and it's not happening. She'll let Mr. Harker give them a little bit more details. Council attorney Martin Harker told the Council he's read it once. It's an interesting lawsuit that has been brought by four other prominent municipalities in our state through the Indiana Commercial Court, which is a system

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that is set up to manage Class Action Lawsuits, which they are seeking with this. Currently, cable providers, under Indiana law, are required to pay franchise fees on a quarterly basis because they use, he thinks the statute refers to part of the public right of way and under the Indiana Utility Regulatory Commission's statute, they are required to register as a franchise and to pay those fees. Those fees go to the 600 municipalities and taxing units across the state and those four cities that are serving as Plaintiffs felt that they were being shortchanged revenue and they are seeking to recover both the future revenue in requiring the Defendants to pay those franchise fees going forward but also trying to collect past revenue, which he's sure that is something that is calculable sufficient (inaudible) and certainly for ourselves to resolve the matter. It's very strange that municipalities are initiating this (inaudible) and it's not coming through the Indiana Utility Regulatory Commission itself. That is, just raises a red flag of some sort, he's still not quite sure what yet. But, he would have thought that the State Utility Regulatory Commission would have gone to bat for the cities and not require the cities to have to pursue this but the cities took it on themselves and are pursuing it and they are pursuing it on behalf of all the municipalities in the state. It was filed on August 4th and it was just announced on the news yesterday so he hasn't been able to find too much about it but he is certainly looking forward to, certainly from a municipal revenue standpoint, seeing what's out there. This is a significant step for the municipalities to take, taking on defendants the size of Hulu and Netflix, Disney, ATT, and Dish Network. So, it's obviously a fair amount of revenue that they're going after and so they'll just have to keep an eye on it and monitor it to see what becomes of it. There are a couple different things that can arise from this. First obviously would be the defendants in the case, Netflix, Hulu, just complying, with or without a court judgment, or there could be legislation that could arise the next session to specifically address this. The General Assembly may come to the rescue and resolve this issue one way or another because it is apparently sufficiently vague for other large, powerful cities to pursue this. They think that they're entitled, not just they are but the other remaining municipalities are entitled to this revenue. So, it's a significant dispute between a private industry and government over revenues to be disbursed. So, it will have a big outcome whenever it is reached, Harker said.

Being no further business to come before the Council, on a motion by Luzadder, 2nd by Batchelor, the meeting adjourned. Time being 7:35 p.m.