

REGULAR MEETING – MARION COMMON COUNCIL – JANUARY 5, 2021 – 7:00 P.M. – ZOOM MEETING

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 5th day of January, 2021 at the hour of 7:00 p.m. by virtual means through Zoom meetings.

Council President Deb Cain said, for the City Council, she wants to thank them. For the first two meetings, their City Council attorney remains as Marty Harker, their new Vice-President is Brian Cowgill. Welcome Brian. They will start with prayer. She's going to ask Mr. Luzadder if he'll lead them in prayer, and Mr. Luzadder, if he would remember Councilman Don Batchelor. He is not doing well. He is on strict bed rest right now. He was hoping to be able to at least just log in for the 7:00 pm meeting but she received a notice from his family that he is not, he is not doing well tonight and he is having a hard time concentrating and being aware of his surroundings. So if they could put a special prayer out for him, also if they could pray for Mr. Henderson's mother and her health situation and for answers on her medical condition. Also pray for Mr. Henderson, he is exhausted with everything that has been going on this last year, Cain said.

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

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

Absent: Batchelor.

The minutes of the regular meeting of December 1, 2020 were presented. On a motion by Councilwoman Robin Fouce, 2nd by Councilman Brian Cowgill, the minutes were approved as presented by a unanimous vote.

COMMITTEE REPORTS: Councilwoman Robin Fouce told the Council she was fortunate to attend the Board of Works meeting this week. She'd like to give a brief report on that. Congratulations to the newly elected President, Alex Huskey, and welcome to their meeting. They hope they'll be having him at many more. Also congratulations to Dana Gault, the newly elected Vice-President and they are so grateful that she's here today and any of the other members of the Board of Works. The Board of Works had the best, concise meeting she ever attended, and she says that in a good way. They discussed a couple of things. Of course, they paid their bills and President Huskey expressed, just one of her notes, that he was looking forward to Board of Works and City Council liaison collaborating on another level and so that would be really good for their city. Typically, the liaison has not been active and she just thinks good things can come out of that when they all get together and work together and communicate. They had a couple of questions about the resolutions that they'll be visiting tonight and so she probably was a bit confusing when she answered. Beg your pardon, Fouce asked. She continued and said, the main concern, well one of the questions was will the bills still be processed and paid on time and, you know, their answer to that is yes. Once they get into the resolutions, this is a public hearing so if there's any other concerns, at the pleasure of the President, please feel free to state those. That's it. Thank you guys for coming and they're looking forward to an awesome 2021, Fouce said.

UNFINISHED BUSINESS

GENERAL ORDINANCE NO. 18-2020 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 18-2020 by title only, an ordinance concerning the construction of additions and improvements to the sewage works of the City of Marion, Indiana, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said sewage works, the safeguarding of the interests of the owners of said revenue bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith. Council President Deb Cain said, welcome Mr. Binkerd and they also have two other people from the Utilities, welcome Robin (Shrader) and Pat (Pinkerton). She'll let him have the floor, Cain told Binkerd. Chuck Binkerd, Executive Director of Marion Utilities, told the Council, thanks once again for allowing them to address the Council regarding this issue. As they all are well aware, they've been talking about long term control plan projects for several years now and certainly, most recently, in the last few months they've been talking about it quite a bit. So they're moving into a second phase of projects, major projects, that are going to require funding so the ordinance that they have before them this evening for presentation for second reading and public response is just that, an ordinance to allow them to sell bonds, revenue bonds, to take care of

GENERAL ORDINANCE NO. 18-2020 Continued

the funding for these projects. So they're looking at bonds in an amount not to exceed \$11,000,000 according to the ordinance. They do have some funds on hand to add to that so, depending on how the bids come out, they should be funded with no problem. So \$11,000,000, not to exceed that amount, and a period of time not to exceed 22 years is written into the document. So they're working with their consultants and as they get final numbers on their projects, they'll be able to nail some of that down and the ordinance language allows them the flexibility to input that information as they solidify that. So, that's what they've presented. Again, this is a second reading so they're certainly happy to take any questions or add any additional information that they might be interested in, Binkerd said. Council President Cain said, okay, this is a second reading and is also the public hearing. She'll hear from the Council first and then open the floor for public input. Is there anything from any Council members, Cain asked. Councilwoman Robin Fouce said, Madam President, last meeting she requested to talk with Chuck and Chuck was gracious to give her a call and she just wanted to make note of that and thank him for that. Mr. Binkerd said, might he also, Madam President, that they're also asking the Council at this time to consider suspending the rules and passing this ordinance on this evening, if at all possible. Mrs. Cain said, okay, they'll take that into consideration. Is there anybody from the public that would like to have a comment? They would have three minutes to speak. Give your name and address at the time of speaking. There was no response from anyone. Cain said, okay, seeing none, she will take a motion. Motion was made by Councilman Brad Luzadder to suspend the rules on General Ordinance No. 18-2020. Motion was seconded by Councilman Brian Cowgill and carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Cain, Henderson, Fordyce, Brunner and Cline. Nay: None. Motion was then made by Luzadder, 2nd by Cowgill to pass General Ordinance No. 18-2020 and the motion carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Cain, Henderson, Fordyce, Brunner and Cline. Nay: None. Mrs. Cain said, thank you. Thank you, Mr. Binkerd. That passes the ordinance and it is now in their hands. Mr. Binkerd replied, thank you all so much. They appreciate their support and their trust in them and they will continue to be good stewards of what they've entrusted them with and they'll keep them advised as things go and give them progress reports as the projects begin to go into force. Councilman Gary Fordyce said, thank you Chuck. He appreciates his hard work and dedication to the City of Marion. Cain said, Mr. Binkerd, also, she sent him an email but she just wanted to also give verbal appreciation for the basket that he gave Council. Binkerd told Cain, absolutely. They just wanted them all to know that they appreciated them and they're sorry that they weren't able to welcome them to their normal Christmas gathering. But obviously they all understand the circumstances there. They just wanted them all to know they hadn't forgotten about any of them and just to say thank you for all their (inaudible).

Council President Deb Cain said, okay, they are now moving on to the next order of Unfinished Business. Before they do that though, Mr. Luzadder, he is speaking on the next five ordinances and she was wondering if he would allow her a few minutes to make some comments. Councilman Gary Fordyce said he thought there were six. Councilman Brad Luzadder told Cain, Madam President, she has all the right in which to speak freely as President. Mrs. Cain said, well she wants to make some notes here and also maybe will help also with the Board of Works and some questions that they had. They are conducting their City Council meetings in a different way in format in this pandemic of COVID-19 but as this format as virtual meeting, it needs to still be viewed as a Council (inaudible) Council Rule adhered to meeting and not a conference call. Saying this, let her explain what she means by that statement. Persons approved to address the Council outside of the public hearing time in a Council meeting will make that request in writing to City Clerk and/or the President of the City Council while providing their opinion, the topic and backup documentation. So, that request is then approved and placed on the agenda and all other persons attending the meeting are public attendees who, if they choose, can give a verbal (inaudible) and statement regarding their stance on an agenda item (inaudible) the Council. The public hearing portion is not a Q & A. It's just verbalizing a stance on an agenda item. And she's not giving these instructions outside of normal rules or changing how they conduct the meetings. She's just taking the time to re-inform many who are new as a public attendee because they have many new ones here tonight and new Council members. So, but for tonight's meeting, she also wants to take and respect everyone's time and because the next five ordinances are basically the same general theme but adding the pre-approval for purchases and services acquired so she asks those that desire to speak on their status with a general statement regarding all five ordinances, that they speak just one time and everyone will be allocated with three minutes to give their statement and not

additional time (inaudible) someone else. They do not have that in their format. When an ordinance is up that you have a direct or specific notation of that specific ordinance and not a repeat of what you just said, that is acceptable. Otherwise, we will have your one statement regarding your overall stance on every ordinance in our written meeting minutes for review and discussion at the next meeting. So in saying that, let her provide an overall statement of all the ordinances and then another statement specific to an ordinance just as an example to help clarify her instructions. So, her general statement would cover all five of the ordinances. So these ordinances are key steps to insure that we provide transparency for the public. It's a statement that was campaigned on by many and promised by many to follow. So as a Council, we have an opportunity to make sure that all spending is an open book to the public, as it should be, and as both the Administration and Council have also stated multiple times, this is not our money but the taxpayers' and so we must take, we need to take these steps to get to that level of transparency. We are adding a level of accountability to begin opening the doors of that transparency communication. She really appreciated Mr. Alex Huskey's statement in the most recent Board of Works meeting when he stated that he would like to see a better line of communication between the Board of Works and the Council. Making that conservative effort will eliminate questions and concerns. And this begins that line of communication as well as increasing the transparency in spending. She does not see this as a delay in paying bills as each account within the budget is restricted. This is insuring that those restrictions are held to and that there's no, that there's, there's a requirement for additional spending outside those restrictions. The ordinances have added the parameter (inaudible). The interpretation of that meaning is approval before something is purchased or a contract is finalized and put in place for service. The Council will have that pre-approval. The normal business process steps for a purchase or obtaining a service is to submit a requisition for approval. The approval then is given, the product or service is then ordered or bought or finalized. The pay invoice is then prepared and submitted to (inaudible) for approval. It is approved and the payment is made. The ordinance is adding the requisition for a desire, for a purchase desire or a service that is wanted, to have approval by the Council before it transpires. Thus, when the time that the invoice goes directly to the Board of Works, since the Council has already approved the purchase or the service, payment for the service and that invoice has that approval and can be approved by the Board of Works. This insures that the Council has say over legal expenditures that are needed other than the City Legal Counsel who is already on the payroll to lend legal advice (inaudible) the work. The Council is aware of a large purchase before it is bought, ordered and paid for or a service rendered and will have full understanding of the need. This is keeping the standard of accountability high. The need for these guidelines is very apparent from the past Administrations and unfortunate as it is even today with the hot topic of excessive spending on a lawsuit, without providing notification of anticipated prior spending to the City Council in open communication. So, this is one step to get us stepping in the right direction of accountability of the public taxpayers money and as she stated, these changes within the procedure is to insure that transparency in spending and as for the Council who has funding, spending fiscal oversight responsibility, that oversight as we are charged with that duty. So that would be something that she would say for every ordinance as we look at it but she's going to make that statement one time. Now, for the first ordinance that we are going to hear, her statement would be specific on that ordinance and so this would be an example of a specific point on that ordinance is the Cumulative Capital Development, which is the first one on the agenda. Mr. Luzadder has requested to address the Council as the Chairman of the Rules Committee. So, this ordinance has not been updated since 1989 and there were new Indiana Code sections added since that date, was not included in the original ordinance. This ordinance also states the purpose to protect the public health, welfare and safety in emergency situations. So she feels then that we need to spend out of this fund in those times of emergency situation and at no other time and only by approval of the Council by, after declaration that the public health, the welfare and the safety is in immediate danger declared by the Mayor. So, the ordinance states and she thought appropriately so that the funds stay in the account which means they cannot be moved out or spent otherwise. So, the process for the next ordinances, the speaker is Mr. Luzadder, the Chairman of the Rules Committee, as the presenter of each ordinance and then the floor will be opened for Council response and then the public will have their opportunity to make a statement with an allotment of three minutes. So Mr. Luzadder, we'll go forward. Mrs. Kiley, does she want to read the first general ordinance that is going to be presented to them, Cain asked.

GENERAL ORDINANCE NO. 22-2020 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 22-2020 by title only, an Ordinance establishing a Cumulative Capital Development Fund (Amends General Ordinance No. 38-1989). Brad Luzadder, Rules Committee Chairman, told the Council, as this came to our committee out of the Budget Committee, there are minor amendments that have been made with updating of the dates, '18, '19 and 2020, a, b and c. There was an update for section four under number two, under e, the Cumulative Bridge Fund was added, as well as k for Cumulative Park and Recreation Building Fund was added as well. Under section five, there was italicized text for better understanding. And then under section six, section added for the request from the budget meeting. So those are the only sections in which we have updated and so he would present that for the second reading. Council President Deb Cain said, thank you, she will take comments from the Council members. Councilman Mike Cline said, yeah, Madam President, if he may. Cain told Cline, yes, please. Cline said, thank you. Let him just start out by saying improving communications with the Board of Works shouldn't mean taking over the board's job and this just seems to him, and he talked with several, a bunch of people experienced in Municipal Government, past and present, and said tell him where's he's wrong, tell him, talk him out of this and this is a recipe for gridlock. The Board of Works has filled this role for better than 100 years. He sent them all a copy of minutes from 1905. It's worked. The system is not broken, it may have changed. There's some discussion about discretionary spending with spending limits. That seems to be a prescription for gridlock. This just seems to him like a power play that's not, that doesn't in the long term make sense and if the Council wants to throw its weight around for the budget, and that's our job, we should do it at the budget hearings and then when we approve the budget, we're telling the executive this is the money we're approving, you spend it. You told us how you were going to spend it and you spend it the way you said were going to. It's up to the Executive Branch to spend the money we give them. He just thinks it's not responsible, it's not good government and he thanks you, and he encourages people to vote against this, all six (inaudible), Cline said. After a long pause, Mrs. Cain said, okay hearing nothing further from the Council.... Councilman Jim Brunner said, (inaudible) legal question. Just so it's on the table, if we go through this whole vote tonight and in a couple of weeks, (inaudible) Mayor of the city then have the right to veto (inaudible)? Cain told Brunner, any time he does not sign an ordinance or a resolution, that is a veto. Brunner told Cain, say that again please. Cain stated, any time he does not sign an ordinance or a resolution, that is his veto. Cain said, okay, hearing nothing further from Council members, she will take comments from the public. If you are on Zoom, please raise your hand so she knows that you want to speak. Okay, she has one hand raised by Karen Arland. If she will give her name and address and then she has three minutes. Thank you very much, Cain said. Karen Arland – 60022 Holly Thorn Place, Carmel, Indiana – told the Council she's here at the request of Tom Hunt. With regard to Ordinance No. 22-2020, there are specific statutory requirements for establishing, reestablishing or amending a Cumulative Capital Development Fund. This ordinance does not follow any of those procedures. Those are statutorily required, failure to do so means that the fund cannot be approved. Therefore, this ordinance is not a valid ordinance if you adopt it and needs to follow proper statutory procedures. With regard to all six ordinances, it is our view that they are an unlawful attempt for the Council to exercise the executive powers of the city (inaudible) contravention of 36-4-4-4 and the separation of powers provision in the Indiana Constitution, Arland said. Mrs. Cain said, thank you. Mr. Huskey, if he can un-mute, and then he may speak. Give his name, address and he has three minutes, thank you. Alex Huskey told the Council, thank you for this opportunity to speak. He said he lives at 3103 S. Carey Street, Marion, Indiana. As we look at these ordinances, he appreciates the direction that she gave early on and he certainly has a healthy respect and appreciation for the Council's desire to offer the citizens of Marion greater transparency in regard to financial matters. And he appreciates the fact that what we're trying to do is make sure that we are fiscally responsible as a community. He would just ask, unfortunately at the time that all of this became known, he was in the process of transitioning a college campus into a virtual environment, which was a very challenging time for us, but we're there now and we're, he thinks, holding our own. But his point simply is this. He thinks Karen Arland made some valid points but he would ask that as we try to become more collaborative, as we try to work more with the City Council, that any action be taken on this be delayed until we can have some very open and transparent conversations so that we all understand what's being done and there is no confusion as to the roles and what's being done. So, that would be his only request tonight is that we really work well together and that we do the business of the citizens of Marion well, together, Huskey said. Council President Cain told Councilman Fordyce she's going to mute him because his dogs are overriding some of the audio. Cain said, okay, is there anyone else? She said Mrs. Flores is here in the Council Chambers. She told Flores if

GENERAL ORDINANCE NO. 22-2020 Continued

she could come up to this other mike so that the microphone on the camera can pick her up, she'd appreciate it, thank you very much. Name, address, Cain said. City Controller Julie Flores – 1040 Long Branch Court, Gas City, Indiana – told the Council, on this ordinance, she wants to remind everyone that currently the CCD Funds are used by Mike Graft for street improvements. The other thing she will say is it's such a (inaudible) to have rates per \$100 of assessed valuation. Per Indiana Code 36-9-15.5-6(b), (inaudible) maximum levies. There is no (inaudible). Councilwoman Robin Fouce said, Madam President, would she please repeat what she said? It's kind of muffled to her. She doesn't know if anyone else really heard it but it was kind of just muffled. Cain asked Flores, would she mind taking her mask off? Flores said, okay, she's sorry Ms. Fouce. Currently the CCD funds are used by our Engineer, Mike Graft, for street improvements and per Indiana Code 36-9-15.5-6(b), the maximum levy (inaudible) is five cents so the rates that you have under section three (inaudible). Mrs. Cain said, okay, so the street improvements is part of this fund. The rates that are listed are taken, are just left. We did not change those rates. Those are on the original 1989 ordinance so we will look up that. Mr. Harker, she knows he's been making notes of that, she appreciates that. In response to Mr. Huskey, we definitely can set a meeting, a Budget Committee meeting, next week and speak to all of the Board of Works in that setting and have a good discussion regarding these ordinances, if that is the Board of Works wish. If that is what you would like to do, you can send her that email and she will get that scheduled. We can do that later this week or move it to next week at any time. In response to Ms. Arland, Cain said she would appreciate it if she would send written documentation of her comments and responses. Mr. Graft, she sees he has his hand raised. She will give him the floor now for public hearing for three minutes, thank you. Mike Graft – 2402 W. Kem Road, Marion, Indiana – told the Council, as Julie mentioned, the CCD money has typically been kind of allocated to the Engineering Department for street usage. As they all know, we try to go after Community Crossing every year and we have very limited funds to use to go after a 50/50 match. If the CCD Fund is held just for emergency situations then that's going to greatly reduce our ability to get a match, possible. He's not saying it's a guarantee that we can get it but we ask for it so that's something to consider when you're looking at holding those dollars. He's spoken to a couple of vendors. He thinks that there is some question on how long the process will take. If he's got to pave a street or we have emergencies, how will that be handled and what will the process be because there isn't anything that he does that's under \$5,000 in a typical day that he operates on so certainly has some questions on how the actions by the Council will be used to determine (inaudible) funds will be given. He doesn't want, the vendors that he has have second supplier vendors that they use that they've got to pay for and if some of this is drawn out, he might lose some of his good vendors, so, just a couple of concerns. He thinks that CCI that they talked about is kind of the same concern as far as typical usage has been for streets. As everybody knows and as he's discussed with on many occasions, the funds that we've gotten from the state have diminished over the years and every dollar that we can get for those funds from the state is pretty precious. So, you know, to think that we may not have those funds, he's getting ready for the next round of Community Crossing, to go after that grant. He's going to need to know where the funds are and if those funds are going to be available in order to process, Graft said. Council President Cain said, thank you Mr. Graft. In response to the statement about emergency situations, that has been in this ordinance since 1989. In the committee meeting, Rules Committee meeting, it was stated that that's what this said originally and we did not change that statement (inaudible) that statement because of how it was previously set to be managed and maintained. And also, she does want to inform everybody they will have another meeting on these. They can meet with anybody, answer any questions between meetings, first reading to second reading, second reading to third reading. There's always time for anyone to get in touch with anybody on the Council. If we present an ordinance and you have questions, please come to us at those times so we can work through those concerns and questions. We're asked to do that when ordinances and resolutions are presented to us. We're asked can you not ask questions and give concerns and comments before. So, we had these first readings on December 15th and that was quite a while ago. We could have been able to have these discussions earlier. She just wanted to make that clarification, and also, we can also have a discussion on this and his concerns, Mr. Graft. And we can amend these ordinances before approving them on the third reading, Cain said. Cain asked, any other? Seeing no other public comments, is there any additional responses from Council members? Councilman Cline said, yeah, Madam President, if he may. He just lost his place, good heavens, he apologizes. He moves we table General Ordinance No. 22-2020 for the time being, until we can have a full meeting with the Board of Works and legal counsel from the city and our own. Motion was seconded by Councilman Gary Fordyce and carried

GENERAL ORDINANCE NO. 22-2020 Continued

by the following vote. Aye: Luzadder, Cowgill, Fordyce, Brunner and Cline. Nay: Fouce, Cain (said she understands the request. We offered to have a Budget Committee hearing was declined. We've offered to have that open discussion. She says no.) and Henderson.

GENERAL ORDINANCE NO. 23-2020 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 23-2020 by title only, an Ordinance establishing a Cumulative Capital Improvement Fund (Amends General Ordinance No. 32-1965). Brad Luzadder, Rules Committee Chairman, told the Council, again, this comes to the Rules Committee out of the Budget Committee and so, being brought forward to us. The CCI funds dating back (inaudible), we could not find, through our information was in the early '60s. The ordinance moving forward is set up for the land easements, the right of ways as Mr. Graft pointed out in the last ordinance, so the discussion is for the Council in which to work with the City Controller and the Administration to move forward with this ordinance. Council President Deb Cain said she is ready for any comments. The revenue, she understands, comes from the Capital Improvement Fund of the state for city tax funds and any other funds. She had that written down (inaudible). But anyway, it does state improvements to land, buildings, easements, right of way and the purchases of that. So that does state that. As we said, the addition is for the pre-approval and she understands that Mr. Graft has concern about delay and in emergency situations, we can also call an emergency meeting. That is not a problem. We can call those if we need to. And she understands we could also have further discussion between now and the third reading, if it passes to such, before that. She'll also entertain some questions from Council members at this time before we open it to the public. Councilman Mike Cline said, yeah Madam President, everything he said before, he reiterates. Cain said, okay, is there anything from the public then? There was no response. Cain said, okay, seeing none, she will take a motion. Motion was made by Cline to table General Ordinance No. 23-2020. Motion was seconded by Councilman Jim Brunner and failed by the following vote. Aye: Fordyce, Brunner and Cline. Nay: Luzadder, Cowgill, Fouce, Cain and Henderson. Motion was then made by Councilwoman Robin Fouce to pass General Ordinance No. 23-2020 to 3rd reading. Motion was seconded by Luzadder and carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Cain and Henderson. Nay: Fordyce, Brunner and Cline.

GENERAL ORDINANCE NO. 24-2020 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 24-2020 by title only, an Ordinance establishing regulations regarding spending of the Economic Development Income Tax Fund. Brad Luzadder, Rules Committee Chairman, told the Council the next ordinance, again, comes to us out of the Budget Committee, looking for the EDIT funds. There was no original ordinance as we went through the budget to look at the largest items and in order not to cause any hiccup in moving forward with it, pretty self-explanatory with the funds as it in part is for economic development projects. And this Council was the ones that asked for funds to be increased (inaudible) and was saddened that money wasn't done with for public safety, which was the reason in which we moved forward on the original increase. So, this is to try and help transparency as we move forward, Luzadder said. Council President Deb Cain said, okay, she'll take comments from the Council members. Councilman Mike Cline said, what he said, he so meant. Cain said, okay, like the previous ordinance that was, she could not find a written ordinance like we had in these other ordinances which were from 1989, '65. Council is establishing the spending of the funds received from the income tax that is deposited into this EDIT Fund from the LOIT Tax. As Mr. Luzadder stated, the Council approved for the increase of these taxes, anticipating that the funds would go to first responders. The funds were not spent as we anticipated and the Council was not made aware of that situation until the spending and payments were already finalized so the Council is requiring pre-approval before purchases and contracts are signed under specific stipulations. As an example, stipulations in this ordinance allows for the spending on the retirement of bonds, lease payments on capital projects, and economic development, just to name a few. So, anything else from Council members? Councilwoman Robin Fouce said, Madam President, if no one has a comment, she'll make a motion that they pass Ordinance No. 24-2020 to 3rd reading. Cain said, okay, we need to do a public hearing. Fouce said, oh, she apologizes, okay. Cain said, that's okay and then she'll put her motion back on the floor. Mr. Cowgill? Councilman Brian Cowgill said, this is kind of where, the situation is where he sees where these ordinances, that we need to put these into effect because (inaudible), that was supposed to go towards public safety and it didn't. It went towards the lawsuit instead. There needs to be some type of accountability of where

GENERAL ORDINANCE NO. 24-2020 Continued

this stuff is supposed to go. On the same token, he wants to make sure these are legal, these ordinances. That's why he wants to have meetings between this reading and the third reading because it's just everything needs to be done right. There's got to be some accountability (inaudible), Cowgill said. Cain said, in response to the legality of these ordinances, and she will bring those notations and also she will get back in touch with the two State Board of Accounts personnel that we, that Mr. Harker and she had video conferences with regarding these ordinances to verify that what we are adding into the ordinances for the pre-approval is legal is the word that you used and that it was verified and confirmed by them. But she will take that into consideration again and she will get those comments in writing. Even though she has them, she doesn't have them with her tonight but she will get them to them. Any other comments from the Council? Fouce said, Madam President, with respect to what Councilman Cowgill said, we're fortunate to have with us today our attorney, Marty Harker, and she wondered if he had any words to lend to the legality of or the challenges that have been brought up in terms of legal? Council attorney Martin Harker said he looks forward to reading Ms. Arland's opinion (inaudible). He made a few more comments but was unable to be heard on the recording. Cain said, okay now we'll move on to public comment. She sees Mrs. Flores would like to begin. She's moving up to the mike now. City Controller Julie Flores said, thank you. In section one of the ordinance, it says 2411 is the fund to be used. This is (inaudible). The State Board of Accounts assigns our numbers to us and the fund number for EDIT is 444. Section two, draws from the county (inaudible), says that funds from the county will go to the EDIT Fund. There are two draws that you get from the county (inaudible) certified shares or County Option Income Tax which (inaudible) the Local Option Income Tax that gets deposited in the General Fund. These (inaudible) General Fund. The second (inaudible) are Economic Development Income Tax. It gets deposited into the EDIT Fund. Currently we use the EDIT Fund to supplement the health insurance (inaudible) \$500,000 a year of that money to go to the Insurance Fund to help offset (inaudible). She will let them know, right now as we speak, she didn't print off the fund reports yet but the Insurance Fund is in the positive for the first time since she's been here and for probably the first time since, she looked it up one time, 2007. So, those dollars in the EDIT Fund do help with us getting the Insurance Fund back to a (inaudible). And she would also like to comment that she went back and looked at the minutes because it's been said before the additional appropriation (inaudible) was to be used for public safety. There is nowhere in those minutes that said that. The public safety, there is a separate public safety LOIT, .25% she believes. So, she just wanted to say that, thank you, Flores said. Mrs. Cain said, thank you. In response to using funds from this account for other things, it is very appropriate to ask for, to come before the Council for an appropriation to move funds. Okay, seeing no other comments, she will, oh, Mr. Flynn from the Board of Works is coming to the mike. He can push that little red button in front of him. Brian Flynn – 4315 S. Adams Street, Marion, Indiana – told the Council he is the immediate past President of the Board of Works, Public Safety and he stands before them tonight opposed to all of these ordinances (inaudible). This statement is not specific to the ordinance they are discussing now but it applies to all of them. He believes this is not necessary (inaudible). One of the functions of the Board of Works is to approve (inaudible) spending. We (inaudible), we ask questions, we get verification. It's not a rubber stamp. We do due diligence on these. He just thinks that this is adding another layer, it's unnecessary. The Board of Works has welcomed the City Council liaison. She can come, that person can come, they can ask questions (inaudible). They can communicate with us. And, since his appointment to the Board of Works, not one time has there been questions about (inaudible). The City Council also gets the same documents (inaudible) prior to us approving it. You have the same opportunity (inaudible) to ask questions, to get verification. They're bringing it to us, they're bringing it to (inaudible). It's unclear to him, that if these proposals are adopted, what will change? We're already getting the information and he doesn't know what you're going to do with the information (inaudible). He knows that Madam President (inaudible) requested (inaudible) previous years the documentation from Accounts Payable. He hopes that she has shared that with the rest of the Council (inaudible) that they would have done differently had they had the information beforehand. Cain told Flynn he has 10 seconds. Mr. Flynn said, a quick review of the last two Accounts Payable dockets show 13 to 14 expenditures over this \$5,000 threshold that the City Council (inaudible). Council President Cain said, Mr. Flynn, she's sorry, his time is up, three minutes. Flynn said, he urges them, postpone these. Cain said, thank you. Okay, seeing nothing further, she'll put the motion back on the table from Ms. Fouce and she needs, she has a second from Mr. Cowgill. The motion is to move it to 3rd reading. Roll call, Mrs. Kiley, Cain said. Motion carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Cain and Henderson. Nay: Fordyce, Brunner and Cline.

GENERAL ORDINANCE NO. 25-2020 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 25-2020 by title only, an Ordinance establishing regulations regarding spending of the General Fund. Brad Luzadder, Rules Committee Chairman, told the Council, again, placed before him by the Budget Committee into the Ordinance Committee, the spending of the monies that are there, again, not meant to stop things moving forward. In fact, there are exclusions for this, as the police and fire we know are going to be needing monies quite often. He thinks the whole light of this is to get it out in the open. We talk about having transparency, well let's do that. Let's have the conversations and let's be open, honest and truthful. It's not where the Council asked for something and then it's not given. This is meant for the city to move forward and as he stated in the last meeting, former Council members he has spoken with and they (inaudible). So this Council is moving forward with it and so hopefully we'll have some open and honest communication as they're moving forward. So, as presented by the Budget Committee from the Rules, Luzadder said. Council President Deb Cain asked, okay, any Council members comments? There was no response from the Council. Cain asked, okay, any public? She's going to give time for Mrs. Flores to make it to the podium. City Controller Julie Flores said, first of all with this General Fund ordinance, (inaudible). She will respect her (Cain) statement of no questions (inaudible) but she thinks it's not fair for the office that needs to administer these ordinances not to have some (inaudible). She'll just give them an example (inaudible), if we would have gotten the bill on a Friday, the 18th, you were not meeting until tonight to approve that. The Board of Works meets before you, they met yesterday, so a bill that came in on Friday, the 18th, you (inaudible) until tonight and would not get paid and approved until (inaudible). The other thing she would say is (inaudible) put these all under the General Fund (inaudible). They have contracts with the Economic Growth Council, our software people, the county. She could go on and on about the (inaudible). Under section four, you talk about grant money. You cannot (inaudible) and there's never an excess of funds in the grant funds. (Inaudible) spent before we receive the funds (inaudible), Flores said. Mrs. Cain told Flores, in response to the statement about her having bills that need to be paid today, paid in the past and we were not meeting until today. As she stated earlier in her general statement about all the ordinances is that these, these would already have, the expenditures would already have been approved because you would know that you're anticipating to purchase an item or that you are anticipating to have a contract. She knows that Mr. Graft made the statement about emergency situations and we are going, she is going to organize, set some meeting times so that we can have detailed discussions on those and get some insight and input from him to understand a little bit more about what he is referencing so we understand that. So, we are going to do that. She's been making notes and we'll address all of these questions and concerns before our next meeting. Anything further from the public, Cain asked. Councilwoman Robin Fouce said, Madam President, she makes a motion that they pass Ordinance No. 25-2020 to 3rd reading. Motion was seconded by Councilman Brian Cowgill and carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Cain and Henderson. Nay: Fordyce, Brunner and Cline.

GENERAL ORDINANCE NO. 26-2020 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 26-2020 by title only, an Ordinance to create an Insurance Fund for the purpose of paying a 10% retainage fee when necessary and the additional audited increased cost which occur between budget preparations. Brad Luzadder, Rules Committee Chairman, told the Council this is only for an amendment and the only amendment that was brought forward out of the Budget Committee to the Rules Committee would be the removal of the Board of Works (inaudible) same procedure as all city disbursements and replaced with the City Council. Council President Deb Cain said, and this ordinance has not been updated since 1996, and yes, that is the only change. Any other Council comments? There was no response from the Council. Cain asked, anything from the public? Give time for Mrs. Flores to make it to the podium, Cain said. City Controller Julie Flores said, so this is amending Ordinance No. 1-1996. At that time, the city was (inaudible) insured, not self-insured so these things may have worked back in 1996, however, they don't work now. Section one says the health care reimbursement will be deposited into the fund and be used for additional cost of high claim experience. We do not have any health care reimbursements. Section two talks about insurance audits. She doesn't know what that is. The only insurance audit (inaudible) so that they can determine rate we will be charged. Section three talks about claims signed by the Controller and approved by the City Council. Anthem deducts our claims every Friday (inaudible). There's not anything to be signed. Section four says monies accumulated in excess shall stay in the insurance fund for future costs. She will repeat that this is the first time since she's been here that (inaudible) a positive figure so there are no excess

GENERAL ORDINANCE NO. 26-2020 Continued

funds. Again, you talk about how it's going to work. Right now we budget \$20,000 per employee. This gets transferred to the Insurance Fund (inaudible) year. The employee deductions for premiums get deposited into the Insurance Fund bi-weekly, actually it's withheld (inaudible). And then claims are paid weekly from the Insurance Fund, Flores said. Cain told Flores, thank you. In response to the misstatements in the ordinance, we did not touch the language at all. We did not change any of the statements in this ordinance. The only thing that we did was take out the word Board of Works in the same procedure as city disbursements. That's the only thing that we took out of this ordinance. The ordinance is exactly as it was written in 1996. Mrs. Flores made a comment but could not be heard. Cain said, okay so we need to relook at the language of the whole ordinance and review it because we didn't touch the language. This initial language, this is exactly how it was written in 1996 and it's not been updated. So that's one thing then that we need to definitely do is look at the whole ordinance and amend it. Councilman Jim Brunner said, Madam President, with that being said, he thinks we need to table this one. One of the Council members said second but could not determine which member it was. Mrs. Fouce said she didn't hear what was said. Cain said, okay, Ms. Fouce, does she mean from Mrs. Flores? Fouce said, no, who made the motion and what it was. Cain said Mr. Brunner made the motion to table the ordinance and the motion was done by Mr. Fordyce. And Mrs. Kiley, we'll take the roll call, Cain stated, which was as follows: Aye: Fordyce, Brunner and Cline. Nay: Luzadder, Cowgill, Fouce, Cain (said, no because we can amend it) and Henderson. Motion was then made by Councilman Brian Cowgill to pass General Ordinance No. 26-2020 to 3rd reading. Motion was seconded by Fouce. Councilman Brunner said, point of order. We have a comment from the President of this Council that this needs to be tabled and she's voting the other way. Cain told Brunner she did not make that comment. Brunner told Cain, yes, she did make that comment. Cain said she said what we can do..... Brunner asked, do we have anybody taking minutes? She made that statement, this (inaudible) needs to be tabled. He's sorry, she said that. Mrs. Cain replied, no, she said this needs to be amended and we need to have that discussion between, we can have that discussion. She did not say tabled, she did not say that word. Brunner asked, do we have anyone here taking minutes? Cain said, it's recorded and she can play it after. She can't stop it in the middle of recording. Mr. Brunner told Cain, well she said this probably needs to be tabled was the words she used, not amended. Cain said, Mr. Brunner, she never used the word tabled. Brunner said that's why he said yes, he would make a motion to table this ordinance and now all of the sudden, she's changed her mind. Cain said she said we need to look at this ordinance and update the language. Mrs. Fouce stated, point of order, we have a motion on the floor, Madam President. Council President Cain said, and we need to make a roll call please. Motion to pass to 3rd reading then carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Cain and Henderson. Nay: Fordyce, Brunner and Cline.

GENERAL ORDINANCE NO. 27-2020 2ND READING AND PUBLIC HEARING

The City Clerk read General Ordinance No. 27-2020 by title only, an Ordinance establishing a Rainy Day Fund (Amends General Ordinance No. 41-2008). Brad Luzadder, Rules Committee Chairman, told the Council, as brought out of the Budget Committee to the Ordinance Committee, and Rules, this is an update from 2008 and is looking at an amendment to it, an amendment being made in section four, to stabilize the city's budget during times of economic downturn, may be used for operations of the city or any of its departments, including salaries, wages, capital improvements, maintenance, supplies, equipment, or other like expenditures. And then all expenditures and appropriations must be pre-approved by the City Council. So, self-explanatory. Should simply be to be used in emergency times and to transparency, open with proper dialogue with the Council, Luzadder said. Council President Deb Cain said the last ordinance was written in 2008. As we stated before, this does not hold up invoices. It's for pre-approval of anticipated expenditures. The funds in the Rainy Day was used for the lawsuit, which in the Rainy Day funds states in the original ordinance, which we did not change that language at all, it's used for the operations of the city during the times of economic downturn. So, she'll take comments from the Council at this time, Cain said. There were no comments from the Council. Cain said, seeing none, she'll take public comment. Let Mrs. Flores make her way to the podium. City Controller Julie Flores said she is handing out the Fund Reports for December. They balanced the books yesterday. Cain said she (Flores) is indicating she's handing out the Fund Reports, that they were not in the packet. Councilwoman Robin Fouce said, Madam President, how can we get a copy of those? Those that are in Zoom? Flores told Fouce she believes Deb Goodman emails those to them. She gives them to her. Pardon her if

GENERAL ORDINANCE NO. 27-2020 Continued

she's wrong. Is that how they've been getting them? Cain said, yes, that is how they've been getting them before now. Flores said, so as soon as she sees Debbie. They just balanced the books yesterday. Cain asked Ms. Fouce if she heard that. Fouce replied, no, it's not really audible. Cain said, okay, what she said is that she will get that to Mrs. Goodman, as we have received in the last months, to be sent electronically. Fouce said, okay, she thanks her. Mrs. Flores said, so the way the money gets in the Rainy Day Fund is if we have excess (inaudible) at the end of the year. We (inaudible). That hasn't been done for several years because we need to have at least 15% of cash reserves (inaudible). We have never, since she's been here, had enough money, enough cash reserves to even send to the Rainy Day Fund. When we came in 2016, cash reserves were 1.5%. Last year, in 2020, we had 10% cash reserves. Today, in the General Fund, we have 17% cash reserves. So, she thinks we are doing very well. You talk about transparency and accountability, she thinks that's very accountable. Like she said, the Insurance Fund is positive for the first time in a very long time. So, she thinks we're doing a very good job. The cash at the end of this year is 72% more than we had at the beginning of the year so, again, (inaudible) pat ourselves on the back but (inaudible). So, in section four of the Rainy Day Fund Ordinance, section b, expenditures and appropriations must be pre-approved by the City Council. She will remind them that (inaudible), Flores said. Councilman Brian Cowgill said he would like to make a motion they pass General Ordinance No. 27-2020 to 3rd reading. Motion was seconded by Fouce and carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Cain and Henderson. Nay: Fordyce, Brunner and Cline.

Council President Deb Cain said, thank you, Mr. Luzadder. That was a load of ordinances that he brought to them from the Rules Committee and she has made notations from the comments made. We will set up a Budget Committee meeting, which means that the full Council is the committee, and so those will be set up and we will invite the Board of Works and Mr. Graft and we anticipate to receive a written opinion from Mrs. Arland and then we will also invite Mrs. Flores. We need to keep in mind that these ordinances can be amended and rewritten before the third hearing, if there is need to be as Mr. Harker stated. Just a final comment from her, personally, just something that's been on her mind. We're now in the new year of 2021. In 2020, she was reprimanded for scheduling caucuses and Executive Sessions because that meant that the meetings were held, according to the reprimands, were held behind closed doors outside the public hearing and she took those comments from people and looked at those and thought, okay. So, now on a few occasions during Council meetings, the Mayor has asked that the Council members get in touch with him on a regular basis and meet in his office. She just wanted to let the Council know that she will not be meeting one on one in scheduled meetings in an office, as the public is not included and is not an open door, public meeting. Now, once this pandemic is over and City Hall is open again, employees will probably see her in the hallways as she has before and stick her head in the door and say hi, how are you doing, how's your family? But, that's, she can't do that now with City Hall closed. But, please keep in mind that the business we conduct in City Council, the no votes, the new ordinances, new resolutions, they in no way or fashion should dictate personal feelings about a person. It's business and sometimes there are different views and opinions. We don't always agree. We don't agree between Council members. We don't always agree on issues. And it's just like in extended families or even in your marriage, you don't always agree on something and when you don't, does that mean you respect them less or love them less and it doesn't. So that's the same for her in regards to the Mayor. Just because she doesn't agree with the Mayor does not mean that she respects his position any less, she does not. And she doesn't respect him as a person any less, she does not. She just doesn't agree on the subject and she respectfully chooses to move on to the next thing on the plate and she doesn't hold grudges. She doesn't hold grudges with anybody that she doesn't agree with on the Council and she moves forward and she respects who they are. So, that's just her personal comment in regards to those requests that have come to them from the Mayor, Cain said. Are there any other closing remarks for the good of the order? Do they have anything they want to bring up? Councilwoman Robin Fouce said, Madam President, thank you. We've had quite a long meeting and she appreciates everyone that participated today, agree or disagree. Because we don't know how long we will be having the pleasure to meet by Zoom, she would beckon someone to get the audible system fixed. It is very different and when they speak in the mikes, other than hers, Madam President, they come across muffled. Anyone else, let her know if they're having that same experience. But it's important that when we are able to hear and clearly understand what's being said, aside from the camera, what's being said in the mike. And she missed several comments that were, everybody's comment is important, agree or disagree, so she doesn't know. Is there anyone else that is not

) |

hearing or does she need to go to the doctor? Mrs. Cain said, no, Mr. Luzadder is shaking his head yes. Councilman Mike Cline said he agrees. City Clerk Kathleen Kiley said her too. Cain said she is hoping, now she did record it. She doesn't know if her recording will pick it up any better so that is being done and she hopes that it did pick up better so that when she puts that out on the Google Drive where she puts everything else for the Council to access, that they can hear better. And also she is hoping that very soon, her anticipation she would hope would even be as early as February that we can meet in person. The Council, we have the ability to actually spread out a little bit more in this room than what we do now. We could even spread out to the table that faces us and then have anyone speaking in the public, they can be on the side of the room at another location away from members. So, we can look at some different ways to possibly get in to person because it does make it easier, she understands that. Fouce said, but aside from meeting in person, if the event or situation arises in our future that we need to resort to this, and she's sure this won't be the last time, we need some better mikes and so, you know, that's kind of what she's saying that for. She can appreciate what she said but we need better equipment or a tune up on the equipment that we have. Just her suggestion, thank you, Fouce said. Mrs. Cain said she knows that Danny (Robinson, IT Director) said that he increased the volume of the microphones in this room. But also, she sits pretty close to hers. She knows some of the other speakers do not sit as close and she doesn't know if hers carries because she is also the host and it's reading that from her computer. She doesn't know but maybe she can have that discussion with Danny, Cain said.

Being no further business to come before the Council, on a motion by Brunner, 2nd by Cowgill, the meeting adjourned. Time being 8:36 p.m.