

REGULAR MEETING – MARION COMMON COUNCIL – SEPTEMBER 5, 2023 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in regular session on Tuesday, the 5th day of September, 2023 at the hour of 7:00 p.m. in the Council Chambers, City Hall.

Before the prayer and Pledge of Allegiance, Council President Robin Fouce welcomed everyone to the Marion City Council meeting for September 5, 2023. She apologized for the air conditioning or lack thereof. They'll try to make this a really good, efficient meeting so they can move forward. If he would, Councilman Henderson lead them in prayer, Councilman Cowgill will lead them in the Pledge of Allegiance.

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

Present: Fordyce, Cline, Stodghill-Weeks, Henderson, Brunner, Cowgill, Cain, and Fouce.

Absent: Luzadder.

NEIGHBORHOOD SPOTLIGHT: Council President Robin Fouce said tonight, they are blessed to have Janet Bailey with First Light Child Advocacy Center in their Neighborhood Spotlight. Ms. Bailey, if she'll step to the podium, they welcome her. Press the red button and speak in the mike. Bailey said she is glad to be here. Mr. Cain, thank you for asking her. That was very nice. She's never talked in front of the City Council before so it's an honor. She is Janet Bailey and she's the Executive Director of the First Light Child Advocacy Center. They are coming up on their 20th year here in Grant County and she sees some old faces that she remembers and some new. Mr. Cline there, he's been with them all the way, she knows that, but they opened their doors actually February 16th of 2004 was their very first interview so they're coming up on their 20 years. What they do at the advocacy center is they are a part of the initial investigation so when an alleged call comes in that a child has possibly been sexually or physically abused or neglect, then they are called and they bring the children in to their advocacy center where they do a forensic interview. Sometimes what used to happen is these children would have to go to several different places in order to be interviewed and, as they can imagine, it's very hard on these children and sometimes they don't feel comfortable talking to some people and there's other times that they do feel comfortable talking and their center is one that, it's very neutral. It is not law enforcement, it is not DCS. So the children, when they come there, it's a very homey feeling when you come in. They're very comfortable. They make them as comfortable as possible. And she would encourage any of them to come and take a tour any time. They'd love to have them. But what they do then is there is one person in the interview room with the child. Sometimes it's herself, sometimes it's Stephanie Swain or maybe Abby Treon. Those are the two gals that work there. Stephanie is their Victim Advocate and Abby is just a forensic interviewer and kind of helps run the office and helps her. Their funding is through grants, donations, and fundraising so that's their three ways of running the place and they can imagine, donations have went down incredibly since the pandemic. So she would encourage any and all of them, if they can, to check them out and donate if they can. They have a wish list as well and if they have groups that maybe she could come and speak at then that would be good and they'd give out their wish list at any time and there's all kinds of things on there, a lot of things for the children. She looked before she came down here and since this time last year, they've had 539 kids. Since opening their doors, they've had over 10,000. Now, that's just unbelievable really but the children that they see and interview, the way that they do the interviews is there is a room to the back and that's called their MDT room and that's Multi-Disciplinary Team and the people that are sitting back there are law enforcement, DCS, prosecutors, whoever might need to talk or understand what the child is trying to say. But what they're trying to do is just do one interview. So they can sit back there, she wears a piece in her ear and they can speak through, just like this, just a microphone and they can ask their questions through that and then she can pose that to the child. Everything's recorded on DVD and so if that's needed in the court process then, there again, they're able to testify and get that in for the child. Sometimes the child doesn't even have to testify and, as they can imagine, that's a great thing for these kids. Are there any questions? She doesn't want to go over her time. Do they have any questions that she could answer, Bailey asked. Councilman Mike Cline said, first of all, thank you, Councilman Cain, for getting her up here. He was part of the Multi-Disciplinary Team for a bit and to hear these kids, the bravery of them to get there and tell their stories, to draw their pictures, it's a wonderful thing that they do. It's a great place and, if they do get a chance to go see it, go see it. The brochure doesn't do it justice to eyeballing the place. It's a great place and, if they have some spare change, donate it, please, Cline said. Fouce said, thank you. Do we have any further question or comment? They greatly appreciate the work that they're doing in the community. Their most

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NEIGHBORHOOD SPOTLIGHT Continued

precious commodity is the children and so they want to offer all the resources for their life experiences that differ that they can so she appreciates it. She was happy to hear that she (Bailey) accepted the invitation and they look forward to spreading the word in the community. One of the reasons she likes to do these things for the community spotlight is to make everyone aware of the different avenues of service that you can pursue here. She has a passion for child advocacy as she is a trained child advocate. She hasn't done that in quite a while because of other duties but so meaningful. It runs the gamut for her with emotion. They just really appreciate the work they're doing and want to spread the word about that. Does anyone have any further comment? Thank you so much, Fouce said. Ms. Bailey said, well she would just encourage anybody to come down and take a tour and she guarantees them, there will probably be a tear or two before they leave. And if they can find a line item in the City Council budget, put First Light on there. Fouce said, okay, they'll keep that in mind.

Council President Fouce said they'll go to approval of the minutes for August 15, 2023. She will entertain a motion if there are no comments or corrections. Councilman Brian Cowgill said, so moved. Councilman David Cain seconded. Fouce said it's been moved by Councilman Cowgill, seconded by Councilman Cain for approval of the August 15, 2023 minutes. Any question on that motion? Roll call please. Motion carried by the following vote. Aye: Fordyce, Cline, Henderson, Cowgill, Cain, and Fouce. Nay: None. Abstain: Stodghill-Weeks and Brunner.

CONSIDERATION AND RATIFICATION OF PRE-APPROVED CLAIMS – Council President Fouce said she will entertain a motion. Councilman David Cain said he so moves. Councilman Gary Fordyce seconded. Fouce said it's been moved by Councilman Cain, seconded by Councilman Fordyce for consideration and ratification of the pre-approved claims. Any question on that motion? Roll call please. Motion carried by the following vote. Aye: Fordyce, Cline, Stodghill-Weeks, Henderson, Brunner, Cowgill, Cain, and Fouce. Nay: None.

CONSIDERATION OF CLAIMS – Council President Fouce said they have yet to receive their required, ordained, scanned documents, vouchers and invoices and so does anyone have any comment on that? Have they looked at the claims? Do they have any question about, any comment on those claims? If not, she'll entertain a motion. Councilman David Cain said, he'd like to make a comment, Madam President. As a lot of them know, a lot of them have been actually on the campaign trail, knocking on doors and so forth. They've had two or three different comments to them and they ask them about the claims process and so forth. They've had two or three people that have actually called City Hall and volunteered their services to help out in any way possible and none of them have ever got, have never got a call back. So, he just wants to take off the table that the excuse is there's not time to process these claims and get those claims to them but they've had volunteers in the community that want to step up to the plate and volunteer. But they don't get a phone call back to take them up on that response. And so, that's his comment and if she's ready for a motion, he shall move that. Fouce said, barring no further comment, do we have any other comment regarding the claims? Cain said he moves that they table them. Councilman Brian Cowgill said he seconds. Fouce said it's been moved by Councilman Cain, seconded by Councilman Cowgill to table the consideration of the claims. Any question on that motion? Roll call please. Motion carried by the following vote. Aye: Stodghill-Weeks, Henderson, Cowgill, Cain, and Fouce. Nay: Fordyce, Cline, and Brunner. City Clerk Kathleen Kiley said the vote was 5-3. Fouce said, thank you, that motion passed.

COMMITTEE REPORTS – Council President Robin Fouce asked, do they have any committee reports? Had a lot going on this week. Anybody go to the Fly-In? Want to make a comment about it for them? Councilman Steve Henderson said he did attend the Fly-In and had breakfast and everything there. He thought it was very nice. He brought some people from out of town there. They really enjoyed the car show and the airplanes and being able to be up close and see everything. So, positive input from people from outside the city, Henderson said. Fouce said, thank you, councilman. Do we have any further committee reports? Councilman Brian Cowgill said, at the Board of Works this morning, they just swore in one young gentleman from the Marion Fire Department. He completed a year and that was the only thing on the agenda. Fouce said, thank you, councilman. Anyone else? She said she was fortunate to attend the annual AIM Conference in French Lick. It was a wonderful opportunity and she wants to try to set things up

COMMITTEE REPORTS Continued

for the future that the Council would attend. A lot of the cities had their Council there, their administration. They had several members of their Council, several members of their administration there. It's a good networking opportunity but also informative about legislation that's coming down for municipalities, particulars about budgeting for the Council, just the gamut of things that they all are faced with in this work that they do. And so, she appreciates that opportunity. She hopes that we, as a city and as a Council, will even do more to educate their servants so that they're prepared to do the work that they do at the highest level for the citizens of Marion. She wants to thank them for that opportunity. Also, there was an email going around. They had a schedule for the budget hearings and they submitted that early on. It did not materialize and so she, as she said, sent an email to the mayor, asking him would he want to speak and address the Council about the budget via the Budget Committee or at the 2nd reading, public hearing where it is the administration's budget, it is the mayor's budget, and so they wanted to hear from them. Ideally, they would have had their hearing process, hearing from the different departments like they've done in the past. They, unfortunately, are beyond that time frame and so she did want to extend that offer. She did not get a response so what they will do is schedule a Budget Committee meeting where the Budget Committee will review the budget and she wants to set that up, she thinks they set that up for the 12th, the 12th of September, which she believes is next Tuesday. No, that's the Executive Session. They will get a budget meeting scheduled and she'll send that to them but that will be forthcoming. The other piece of it will be they'll follow the first reading schedule that was posted, the 2nd reading and public hearing that was posted, and the third reading that was posted. They will adhere to that schedule for the 2024 Budget. Does anyone have any question or comment on that? Anyone on the Council? So she'll get that scheduled. She believes that is it for Committee Reports, unless someone else has something. Go ahead, councilman, Fouce said.

Councilman Brian Cowgill said he just wanted to kind of address the subject, this past Friday and then the time before that, when the mayor goes on the radio in the morning and talks about city business and everything, the last couple of times, he's seen fit to call certain members of the Council out, and he being one of them so he's not going to speak for anybody but himself, but he's saying that they are playing political games right now and everything. Well, they're not. And the reason, you know, just like, like with the claims process and everything, it was just a couple of months ago that it came up on we'd been paying \$2,000,000/year to a company that nobody in the administration, nobody could tell them who they were paying and what it was for. Well it turns out it was for the heating and the cooling. Surprise, surprise, it's hot in here tonight. So, you know, when he sees stuff like that going on, it has nothing to do with politics. He works very hard at this, he takes this seriously. He's not playing games here. You know, last week they went out to, had a thing out at Meshingomesia on the OKRA grants and the gentleman from the state, he believes it was the Vice-President or the Director of OKRA himself that talked about it. In the last two years, they've had hundreds of thousands of dollars that Grant County has gotten in OKRA grants, Upland, Gas City, Swayzee, wasn't anything from Marion but they're, you know, and what's good for Grant County is good for all of us. So, you know, they're working hard at trying to do what they can do. Mayor, he's welcome to say he has his opinion and he understands that and that's fine but he's not playing any games. He loves this town. He was born and raised here. He's trying to do his best on getting it back to the way it used to be. So for him, personally, it's not games, Cowgill said. Council President Fouce said, thank you, councilman. She appreciates his comment and his candor. As well, with the OKRA grant, not just tens of thousands but millions of dollars were shared and Marion missed that mark, and so, when we talk about we don't have dollars for certain things, we're not even applying for the grants and showing up. And even at that particular meeting, they had Upland, Jonesboro, Matthews, they had all those entities show up and their leadership and they did not have theirs there except for the members of the Council. And so, they have to do better at what they do for the citizens of Marion. It's their responsibility of leadership to do that. She concurs that, listen, this isn't a game, this is not political. They are trying their best to garner the dollars to go toward the things that the City of Marion needs for progress, for repair, for growth, to set up for sustainability. And so, she believes they all do that humbly. She, you know, she'll stop there because she doesn't want to keep going about it but he just kind of touched something in her when he said that. Even today, on the claims, they have an \$80,000 bill for legal. Councilman, was that \$80,000? Councilman Cain said \$82,000. Fouce said, \$82,000 for the lawsuit, she's assuming. So if it's a wrong assumption, she'll own that. But they want their dollars to go toward building a stronger Marion. Clerk, if she would, they're ready to proceed with Unfinished Business, thank you.

UNFINISHED BUSINESSAPPROPRIATION ORDINANCE NO. 13-2023 2ND READING AND PUBLIC HEARING

The City Clerk read Appropriation Ordinance No. 13-2023 by title only, an Ordinance of the City of Marion, Indiana, appropriating certain funds for the City of Marion, Indiana and providing for the effective date thereof. From the General Fund to City Council Miscellaneous Contractual Services the amount of \$34,483.92. Robin Fouce, Council President, told the Council they had their meeting, their committee meeting regarding this. This is for paying the legal fees that they incurred to defend themselves as a Council. So if anyone has a comment, they're welcome to that, otherwise, she'll entertain a motion on that. Council attorney Martin Harker said, public hearing, public hearing. Fouce said, oh she's sorry. They'll open this to public hearing, she apologizes for that, they will open this to public hearing. They can step to the mike, they have three minutes to speak, in favor of or against. Please state your name, your address and stick to the topic of General Ordinance 13-2023. Mayor of Marion Jess Alumbaugh told the Council, boy he's glad this is a public hearing, gives him a chance to respond. You guys have about half of what we owe in legal fees. Our money is drawing interest from the Old Y case, about \$20,000/month. They're waiting on the Appeals Court to give a final verdict. He doesn't regret what they did. They're going to come out well ahead of what they spent once this verdict's rendered. They're complaining about that \$80,000. They have almost \$35,000 right now in legal fees. Fouce said, Mayor, this is about Appropriation Ordinance 13-2023. Alumbaugh said his point is, it's the same thing. It's legal fees. And theirs isn't drawing any interest. Fouce asked, do we have anyone else that wanted to speak? Going once. Deb Cain – Center Township Trustee, also citizen 4622 S. Carey Street – told the Council they need to pass this because, as one administrator said, you have to have a band-aid, you can go to just a person. If you need a surgery, you go to a specialist. You guys needed the specialist to make sure you're doing what you needed to do for the constituents of Marion. Thank you, Cain said. Fouce asked, do we have anyone else that wanted to speak during this public hearing regarding General Ordinance, Appropriation Ordinance 13-2023? Going twice. That closes the public hearing for 13-2023. Is the suspension of the rules appropriate for this particular...? So she would entertain a motion for that, if they care to do so, and then a motion on the actual ordinance. Councilman David Cain said, Madam President, he moves that they suspend the rules on Appropriation Ordinance No. 13-2023. Councilman Brian Cowgill said he would second. Fouce said, motion by Councilman Cain to suspend the rules on General Ordinance, Appropriation Ordinance 13-2023, seconded by Councilman Cowgill. Do they have any question on that motion? Roll call please. Vote was as follows: Aye: Stodghill-Weeks, Henderson, Cowgill, Cain, and Fouce. Nay: Fordyce, Cline, and Brunner. City Clerk Kathleen Kiley said the vote was 5 to 3, it passes. Fouce said, 5 to 3, that passes. Now she'll entertain a motion on Appropriation Ordinance 13-2023.... Council attorney Martin Harker said, Madam President, Madam President, that does not pass. The suspension of the rules, that does not pass. It takes 2/3 so 5 to 3 is not sufficient. They need a motion to pass it on to 3rd reading. Ms. Fouce said okay, they'll take a motion on this. That did not pass for the suspension of the rules so it would possibly go to a 3rd reading, based on this vote. Cain said, Madam President, he moves that they pass Appropriation Ordinance No. 13-2023 to 3rd reading. Councilman Cowgill seconded. Fouce said a motion's been made by Councilman Cain, seconded by Councilman Cowgill to pass Appropriation Ordinance No. 13-2023 to a 3rd reading. Any question on that motion? Roll call please. Motion carried by the following vote. Aye: Stodghill-Weeks, Henderson, Cowgill, Cain, and Fouce. Nay: Fordyce, Cline, and Brunner. Fouce said, Clerk, will she say the result? Kiley said, 5 to 3, 5 in favor, 3 against. Fouce said, so, Appropriation 13-2023 will pass to 3rd reading, thank you.

APPROPRIATION ORDINANCE NO. 12-2023 2ND READING AND PUBLIC HEARING

The City Clerk read Appropriation Ordinance No. 12-2023 by title only, an Ordinance of the City of Marion, Indiana, appropriating certain funds for the City of Marion, Indiana and providing for the effective date thereof. From the Municipal Wheel Tax Fund to its Miscellaneous Contractual Services account the amount of \$353,980. Mike Graft, Head of Engineering, told the Council, so, what they have before them obviously they had a committee meeting and they had a favorable recommendation from the committee. They passed, a while back, because of the legal advertising, this couldn't happen until today. Obviously the Wheel Tax is money that they're getting from the county. They just need to put it into action. And he doesn't know, he'll defer to counsel, but since the time that they talked last, at \$353,980, they have received another \$55,245.14. So he doesn't know if it's appropriate to amend it or they just come

APPROPRIATION ORDINANCE NO. 12-2023 Continued

back again and add to it. It's whatever their pleasure is. He's just letting them know that that money's coming in and they'll probably get a little bit more before the end of the year as well. So, he's good with staying with the number but if they want to amend it to add that number because it's in the account now, that's up to their purview, Graft said. Council President Robin Fouce told Graft, thank you for letting them know. How often is that drop? It's like two or three times a month? Graft said he thinks it's just once a month, yeah, and they're kind of behind, he means, so they're in to September. They're probably getting like two months back so it's like a month delay. Fouce said, so, she'll defer to Council. She'd like to see them deal with what's before them today and then, in the future, they'll have other and they'll do it that way, if that's okay. Graft said, that's fine. Fouce asked, that won't impede anything, will it? Graft told Fouce, no, absolutely not, no. Fouce asked, do we have any questions for him? Councilman? Councilman Mike Cline asked Graft, when he said, he's sorry, he couldn't tell where she was pointing. Fouce told Cline, go ahead. Cline asked, when he said, you know, put this into action, what does that mean, and he may have a follow-up. Graft told Cline, that's fine. So, put it into action is, and he's got some, by Council President Ms. Fouce, he has some streets. They sent them in an email, he wasn't sure if they all got the email, but he has some print outs for them that they can pick up after the meeting. So the streets that they'll see that are labeled 2023 paving remaining, this money will go to those, those part of the streets. Cline said, okay, so speaking, if he may, okay, so kind of a follow up, how does this effect Ordinance, what is it, 14 that's on the table....? Graft said, it's two different things. Cline said, two different things, okay. Graft said, yeah, the Ordinance 14 is \$500,000 that they're requesting to go for Community Crossing as their matching funds. So that's two different items. And to go with what Mr. Henderson had said in the past, this number, from here on, from the future out for 2024, this will be used for their matching money so they won't have to ask. They'll be able to use their General Fund budget, Local Road and Streets, CCD, and this Wheel Tax to go after the maximum amount that they can get from the state. Cline asked, is the Community Crossing money at risk? Fouce told Cline, they're not talking about Community Crossing, they're talking about.... Cline told Fouce, well he just wanted to see how much we can get for paving. Fouce said, right now, they're talking about this ordinance so we want to stick to that, thank you. Graft said, thank you. Councilman Steve Henderson said, that was pretty much his question so he answered it, thank you. He beat him. Fouce said, do we have any further question? Councilman? Councilman Gary Fordyce asked Graft, are all these roads on the list that he sent them on the email, is that just the Wheel Tax or is that going to be other monies? Mr. Graft told Fordyce, no, it's remaining funds that he has that he hasn't allocated out of his budget because he has \$500,000 allocated out of his budget to apply for Community Crossing as well. Fordyce said, so not all of these are going to come from the Wheel Tax. Graft replied, no, because he's using some of the Wheel Tax as a matching part of the Community Crossing as well. Fordyce said, thank you for that clarification. Ms. Fouce said, thank you. Do we have any further question or comment? Barring none, she will entertain a motion. Councilman David Cain said he moves that they.... Graft said it's a public hearing. Cain said he stands corrected. Fouce said this is their public hearing portion for Appropriation Ordinance 12-2023. Please step to the podium, state your name and address and your position on this appropriation ordinance. Paul F. Thompson, Jr. – 1204 North Manor Drive, Marion – told the Council, and since they're talking about money for streets, this Council passed a couple of other ordinances where people were not allowed to park in front of their houses and they've been parking in the yard, which was another ordinance that was passed, but he'd like to see some of this money spent in the alley areas where people cannot park on the streets, like 5th Street, 6th Street, 7th Street. Those narrow streets are awful hard for emergency ambulances and fire trucks to get down and if you go down some of these alleys, they're a mess and there should be a special appropriation for alley repairs in these areas where you cannot park on the street. 4th Street's a good example. That's a state highway now and those alleys are in very bad shape and need some help. Mr. Graft has done a wonderful job on our city streets but he needs additional money and he's sure that there's probably grant money available if there's somebody smart enough in the group that we're dealing with today to write a grant. These other small communities have grant writers and we should have some. If we don't, let's appropriate some money for grant writers. He thanks them for their time, Thompson said. Ms. Fouce said, thank you, Mr. Thompson. Does he have an opinion on this ordinance? He wants, certainly, dollars to go towards some necessities. Is he in favor of them approving this appropriation ordinance? Thompson said, he is. He's having trouble hearing her too. Fouce said, she apologizes. Is he in favor of them..... Thompson said, most certainly. Every little bit that's done is done for the City of Marion and the taxpayers. Thank you. Fouce said, thank you, Mr. Thompson. Do we have any other further public

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APPROPRIATION ORDINANCE NO. 12-2023 Continued

comment? Going once, going twice, this concludes their public hearing portion. They will now have any further comment from the Council. Graft said, if he might, he might be like stepping over David, he's not sure what his motion would be but, if they could suspend the rules, that would be great. He's not sure if that was going to be his motion but... Fouce said, that would be her (inaudible). So, on Appropriation Ordinance 12-2023, she would entertain a motion for suspension of the rules, if it's so desired. Mr. Cline said, so moved. Councilman Henderson seconded. Fouce said a motion's been made by Councilman Cline, seconded by Councilman Henderson for suspension of the rules on Appropriation Ordinance No. 12-2023. Is there any question on that motion? Roll call please. Motion carried by the following vote. Aye: Fordyce, Cline, Stodghill-Weeks, Henderson, Brunner, Cowgill, Cain, and Fouce. Nay: None. Fouce said, suspension of the rules passed. Now she'll entertain a motion on passing Appropriation Ordinance 12-2023. Cline said, so moved. Fouce said it's been moved by Councilman Cline, seconded by Councilman Henderson for approval of Appropriation Ordinance 12-2023. Is there any question on that? Roll call please. Motion carried by the following vote. Aye: Fordyce, Cline, Stodghill-Weeks, Henderson, Brunner, Cowgill, Cain, and Fouce. Nay: None. Graft said, thank you very much. He's going to leave these up here, just in case they didn't get the email and they want to look at the streets. Fouce said, new business, please.

NEW BUSINESS

RESOLUTION NO. 7-2023

The City Clerk read Resolution No. 7-2023 by title only, a Resolution of the Common Council of the City of Marion, Indiana, approving statement of benefits for real property improvements in economic revitalization area for Mason Village Inc, Marion, Indiana. Council President Robin Fouce said, welcome. They're here for the proposed tax abatement for Mason Village. They had a meeting on this, a Development Committee meeting, with a favorable recommendation to the Council for this particular abatement. An updated abatement schedule was sent out. Correct? Mr. Everett said that's correct. Fouce said, and if they have any questions on that, she'll let him (Everett) talk if he wants to share anything with them, they'll entertain questions from the Council and then they'll move forward with the proposal. Jacob Everett, Interim Director of the Grant County Economic Growth Council, told the Council, yeah, it's good to be with them this evening. As President Fouce said, they met with the Development Committee a couple of weeks ago. Mr. Marcuccilli could not be here tonight so he apologizes for that. They all probably are familiar with him. He is the developer and owner of Mason Village out on the west side of town. He's looking to construct some additional units out there. The city has traditionally worked with him over the years on tax abatement to support those additional rental units. He's supportive of, you know, all types of housing. We need housing in this county and in the state. The more we can do to support affordability of those units is great so he's supportive of this tax abatement. They've tried to structure this abatement a little differently than in the past. As he explained to them when he was here with Agricor a couple of months ago, the way the tax abatement functions is a little bit quirky in Indiana and in order to effect the type of abatement that they're trying to do, they have to kind of artificially inflate the abatement percentages. So, the simplest explanation he can give them as to why the abatement schedule is in front of them the way it is is because it effectuates a 50/50 split of the taxes over five years. So it looks like it's a 79% abatement, which is conceptually true, but what that equates to is a bottom line 50/50 split of the maximum tax he would pay at the tax cap. Historically, you all have used more of a declining schedule so the last one you all did for this developer started at 100%, went to 85%, 66%. Instead of that, they're proposing a flat 79% every year for five years, which again effectuates a 50/50 split of those projected taxes. He's happy to answer questions or explain that further. They were just trying to come up with a little different structure that worked a little better and made a little more sense, given kind of the tax rate structure in that district, Everett said. Ms. Fouce asked Everett, would he share how many, if he recalls, the units (inaudible)? Everett said, yeah, it's eight units, yeah, and again, he's driven out there, he knows some of the other folks have as well. He thinks they do a pretty good job maintaining the properties and, yeah, again, we need all types of housing. You know, this tax abatement, in his opinion, it ultimately gets passed along to the tenants so they're helping keep that affordability in place. You know, obviously, the more taxes he pays, the higher rent he's going to have to charge so this just kind of helps encourage the development of the units and hopefully keeps the rents down just a hair. Fouce said, thank you. Do we have any further questions from the Council? Again, this got a favorable

RESOLUTION NO. 7-2023 Continued

recommendation from the Development Committee. Councilman Fordyce? Councilman Gary Fordyce said, Jacob, thanks for being here, he appreciates his information. He thinks it needs to be known that the area that he's planning on developing these new eight apartment units, there's a condemned house on that property that he has purchased and is going to remove and acquire that property and he's incurring the expenses to demo that house and build these brand new, eight units. So he thought that was something that needed to be known. He's getting rid of a dilapidated structure and blight and building eight, brand new apartments, Fordyce said. Fouce said, thank you, councilman. Do we have any further comment? She's excited about Mason Village and their expansion. It happens to be in her district but our challenge in Marion is housing, good viable housing, and this will help with that. These are, she believes, furnished homes. Everett said they are. Fouce said, the upkeep, etc., has been really good. He takes care of his properties. He's been a long standing business person here in the community and they want to encourage and support good business here in Marion. Barring no further comment, she will entertain a motion. Mr. Everett said, could he ask one question, Madam President? Can she confirm for him that the estimated dates on the SB-1 before them, those were updated late last week, he wanted to make sure they're voting... Mr. Marcuccilli's asked to push his construction dates into next year, just given the kind of the uncertainties with interest rates and construction costs and all that so, instead of starting this year, he's looking to start next year. That was the most recent update he sent to the city but that was late last week. Is that what they have? Okay, thank you, Everett said. Fouce asked, so does that answer his question? Everett said, yeah, he just wanted to make sure they were, they had in front of them what they were requesting which is the July '24 start date. Thank you, he said. Fouce said, barring no further comments or questions, she would entertain a motion on Resolution 7-2023. Motion was made by Fordyce to pass Resolution No. 7-2023. Councilman Jim Brunner seconded. Ms. Fouce said a motion's been made by Councilman Fordyce, seconded by Councilman Brunner to pass Resolution 7-2023. Is there any question? Barring no question, roll call please. Motion carried by the following vote. Aye: Fordyce, Cline, Stodghill-Weeks, Henderson, Brunner, Cowgill, Cain, and Fouce. Nay: None.

RESOLUTION NO. 8-2023

The City Clerk read Resolution No. 8-2023 by title only, a Resolution of the Marion Common Council regarding approval of new allocation area created within the Marion Consolidated Economic Development Area. Heather James from Ice Miller told the Council, so, as she thinks they're all aware now, this is the final step in the TIF process. They met with the Redevelopment Commission earlier today, they held their public hearing and adopted their Confirmatory Resolution, which confirmed what they had already done at the Declaratory Resolution stage. So this is simply the final step in the TIF process to create the new allocation area. As a reminder, they are doing a couple things and those things include expanding the original Marion consolidated area by adding a couple of parcels where the American Resources Corporation Project is located, designating that company as a designated taxpayer so that they can capture the TIF generated from the depreciable personal property, and also adding the construction of the American Resources Project to the Economic Development Plan for this area. So this, again, is the final step in that TIF process to create the brand new allocation area. Council President Robin Fouce said, thank you. Do we have any questions? This did come out of committee with a favorable recommendation. As she said, RDC and EDC met today regarding that, passing that. They had a public hearings, etc., and so, if they have no further questions, she will entertain a motion for Resolution 8-2023. Councilman Mike Cline said he'll move it, Councilman Gary Fordyce seconded. Fouce asked Cline, he's moving or he moved it? Cline said, so moved. He forgot the magic words all of the sudden. Fouce said a motion's been made by Councilman Cline, seconded by Councilman Fordyce for Resolution 8-2023. Any question on that motion? Roll call please. Motion carried by the following vote. Aye: Fordyce, Cline, Stodghill-Weeks, Henderson, Brunner, Cowgill, Cain, and Fouce. Nay: None. Fouce said, thank you, that passes.

GENERAL ORDINANCE NO. 7-2023 1ST READING

The City Clerk read General Ordinance No. 7-2023 by title only, an Ordinance authorizing the City of Marion, Indiana to issue its "Taxable Economic Development Revenue Bonds, Series 2023 (American Resources Project)" and approving other actions in respect thereto. Heather James from Ice Miller told the Council, me again. So, this is actually the final step in the entire process from an approval perspective. So they met with the Redevelopment Commission earlier today and the Redevelopment Commission adopted a resolution pledging the TIF to the repayment

GENERAL ORDINANCE NO. 7-2023 Continued

of the bonds. The Economic Development Commission also met earlier this evening and held their public hearing. There were no comments at the public hearing and they adopted their resolution requesting the Council to take action by passing the bond ordinance before them this evening. So, this ordinance describes the financing for the American Resources Project, it approves the substantially final form of the bond documents, and it approves the parameters around the financing. So, a maximum principal amount of \$46,500,000, a maximum bond term of 25 years, and then it has things such as the payment dates and denominations of the bonds and the redemption provisions, and also the maximum interest rate. So, if they chose to introduce this ordinance this evening, then she will come back on September 19th for them to consider adoption of the bond ordinance. If they feel comfortable suspending the rules to consider adoption this evening, then there would be no more public approvals necessary, they would be bound by the parameters in this ordinance, and they would look to work with the developer to set a closing date. She's happy to answer any questions that they have about the financing, the ordinance, or anything else, James said. Council President Robin Fouce said, thank you. Procedurally, does this have to go to 2nd reading and public hearing? Council attorney Martin Harker said, he believes so, he doesn't know why it wouldn't. Ms. James said, if that's a local rule. Fouce said, yeah, it has to go to 2nd reading and public hearing but, at that point, there is an option to suspend the rules and pass it during that 2nd reading and public hearing. James said, understood. Fouce said, so what she would say about this, they kind of covered it. They had really good conversation in their Development Committee and with the Council and everyone can chime in if don't feel they had adequate conversation. Typically, this would go to committee first but she believes she covered that when she talked to and explained to them about the parcel transfer and so forth. So, maybe this one time, they'll go ahead and be happy to entertain this first reading and get any feedback from the Council, if they care to have that. Otherwise, she would entertain a motion on the first reading, Fouce said. Councilman Gary Fordyce said he has a question. Heather, he noticed on Ordinance No. 7-2023, he sees that that's going to increase the property \$79,000,000 of the assessed value (inaudible) from the improvements in that area. Is that correct? Ms. James told Fordyce, yes, an increase of, that's right, that's the amount that she was given, yes. Fordyce asked, and then that's with the investment? James said, yes, that's with the investment. That's once they're done with their.... Fordyce asked, from the developer and the bonds? James said, from the developer, yes. Fordyce asked, just from the developer? Ms. James said there's not any additional funds that come from the bonds. Fordyce said, no, he means the assessed value, there won't be any more assessed value than.... James said, so the increase in the assessed value is what will generate the TIF, which will be used to repay the bonds. Fordyce said, and then on, he thinks that Baker Tilly told them in the last meeting it was going to increase the TIF that's currently at \$1,000,000, \$1,100,000 to \$2,400,000 per year? James told Fordyce, well, the Baker Tilly folks are here so she won't speak for them. There will be an increase and only 80% of the TIF is pledged to the repayment of the bonds and the additional, the other 20% will be retained by the Redevelopment Commission so that they can use that for capital improvements. Fordyce said, and it says that the city shall issue bonds in a total collected principal amount not to exceed \$46,500,000 for 25 years. Is that the, he means, he understands that's the maximum amount. Has there been an amount determined on how much we're going to issue in bonds for that construction project? James replied, yeah, well, it's not yet been, they haven't finalized a Bond Purchase Agreement but her understanding is they are right at that level. Fordyce said so the developer's right at needing the \$46,500,000 to complete the project. James said, correct. Fordyce said, and he has the financing to start the project. He's sure that there's a letter of intent or some evidence that he's already got the \$200,000,000-some to start the project. James stated, well, they've already started. So just to be clear, there's no cash infusion into this project. Fordyce said he understands that but there has to be something from the developer that he's putting into the project besides the TIF money. Ms. James said, right because the TIF is not actually cash infused at all. It's simply that he'll, they developer will be paid back over the life of the bonds with the TIF that's pledged to the bonds. Now, to the extent that they do not deliver and they do not increase the assessed value to the amount they anticipate, the risk is completely on the developer to do that. There are no other city funds pledged to this financing. So if that TIF isn't sufficient then they simply do not get paid back. Fordyce said, okay, he appreciates that. Because it says the company reasonably anticipates that the estimated cost of the project is \$280,485,000. So, is that with the \$46,000,000 in TIF? They're going to pledge \$234,000,000 of their money for the project? James said, yes, inclusive of the TIF. Fordyce said, \$234,000,000 of their money? Do we have any evidence or guarantees from the finance company or bank that they've already got that money ready to go? James said, no, in this scenario, they don't typically look for guarantees

GENERAL ORDINANCE NO. 7-2023 Continued

because, again, they're buying their own bonds and onus is on them to deliver. Fordyce said, but they're buying, it's going to be \$46,500,000. James said, correct. Fordyce said, and they're saying it's going to be a \$280,000,000 project. James told Fordyce, well the folks from the company are here if he'd like to.... Fordyce said, yeah, he's just saying, he means, normally on a TIF, isn't it a "but for" on TIF when we have to use a TIF to complete a project and we need the TIF to do the project because it's not going to be finished unless we do the TIF. The "but for" is for the developer and.... James said, the "but for" is that but for the incentive, there would not be an increase in assessed value and that finding was already made at the Redevelopment Commission level when they adopted the Declaratory Resolution. Fordyce said he wasn't at that meeting, he was just curious. It's just questions that he has. And then on the other, there was, we're not allowed to increase the property tax on that for a duration of the bonds he thinks it says. James said she's not sure what exactly he's referring to. Fordyce said, it says, it would be on the Trust Indenture between the City of Marion and his is blank. It's on page 3, paragraph 3, (inaudible) that the issuer's collection of the TIF may be limited to the operation of I.C. 6-1.1-20.6 which provides taxpayers with tax credits for property taxes attributable to the different classes of property in an amount that exceeds certain percentages of the gross assessed value of the property. The issuer may not increase its property tax levy or borrow the money to make up any shortfall due to application of the tax credit. James said, right, so that means that the city cannot put a property tax back up on this and pay this with property taxes. It means that the only pledge, the only security for these bonds, is the TIF. Fordyce said, he's sure it's the Redevelopment Fund or Baker Tilly. Who makes the decision of the percentage that is promised for the TIF? James replied, the Redevelopment Commission. Fordyce said, the Redevelopment Commission. Is it normal to do 80% of the TIF Fund to pay back the bonds because he couldn't find anything or see anything on that from the TIF's that they have issued previously (inaudible) 80/20. Ms. James said she would say it really depends on the community. In many communities, it's 100% pledge because it takes 100% of the TIF to make the deal (inaudible) for the math to work. In some communities, they have lots of developers coming all the time and asking for incentives and there's a lot of competition so in those communities, she'd say 70% or 80% is more standard, 80% probably as a starting place. So, in this deal, considering that property has not had much happening there for some time, she thinks that 80% is, she was pleasantly surprised with 80% frankly. Fordyce said, yeah, he was too. He was just wondering how they came up with that computation, whether there was a formula. James said it was a discussion with the developer about what the gap was and how much TIF would be needed to fill that gap. So there's no need to pledge 100% if they only need 80%. Fordyce replied, sure because the majority of that TIF out there is coming from Café Valley. They've got a TIF right now that's \$1,000,000, which the majority of that area is.... Ms. James said, so, they're carving, they've carved it out and created a brand new allocation area so only the parcels where the project is located will be generating the TIF and only that TIF is pledged to this financing because it's a brand new area. Fordyce said, okay. And they took the TIF from the 18, Highway 18 area, and moved it out there, didn't they? From CIE? James said, they, yes, they, no, they didn't take the CIE. So they talked about doing that and then decided against it so they only took out the TriEnda, the TriEnda allocation area, yeah, the parcels from that area. Fordyce said, so they didn't remove the CIE, Highway 18? James said, no, they considered it and then decided that that's something they would consider doing at a later time. Fordyce said, and then the Trustee is going to be solely the Redevelopment Commission that's going to....? James said, no, the Trustee is a Trustee Bank and she thinks that they decided on Old National to serve in that role. So Old National will actually hold the funds and then will make the debt service payments to the developer and pay out any bond proceeds. Fordyce said, okay, so it'll come all from, because he noticed on the Trustee, it was the Marion Redevelopment Corporation or Marion Redevelopment Commission. James said, so the Trustee is actually a Trustee Bank, so they'll see blanks still in the documents, especially in the bond form, because they don't fill those out until closer to closing. But the Redevelopment Commission is not serving in a Trustee role. Fordyce said, okay, okay, great. He was just reading, trying to read through all this and it gave him a headache. He's been trying to read it since Thursday. The only other issue that he has, one of the other issues, he'll get through this as quick as he can, the Bond Purchase Agreement, on the front page, he thinks she said in there that it was for October 1, 2023 and he's seeing a date of September 1, 2023 on that front page. Down on paragraph c, you'll see on the front page, it says financing and covenant agreement dated as of September 1, 2023, financing agreement, that will represent. James said, yep, so, they have substantially final versions of the Trust Indenture, the Financing Agreement, and the Bond Purchase Agreement and they date those documents as of the first date of the month that they'll close in

GENERAL ORDINANCE NO. 7-2023 Continued

so that's a moving target, depending on when the closing gets scheduled. Fordyce said, so that will change because most of this was left blank anyhow on the Bond Purchase Agreement. James said, yep, and they'll notice in the Trust Indenture, there's a bond form and that has a lot of blanks but that's the form that they'll use. They'll pull that out of the Indenture when it's time to draft the closing documents and utilize that to draft the actual bond. Fordyce said, okay, he appreciates it very much. The only other thing was, he's sorry, the only other thing was that the bankruptcy and the solvency, if the company files bankruptcy and is insolvent on the cost of the (inaudible). It's on page 9 of their Financing and Covenant Agreement. He was just curious what would happen if that takes place. James said, sorry, she just needs to look at what he's referencing. Fordyce said, he's sorry, Financing and Covenant Agreement between American Resources and the City of Marion, Indiana, page 9, on a bankruptcy or insolvency of the company. James said, well, if they are failing to generate the TIF then they're not going to be paid back, right? So if they go bankrupt and they're no longer generating additional (inaudible) because they're not paying their taxes or what have you, then they will stop receiving any bond payments. Fordyce asked, and what happens to the bonds they've already issued to them, because he sees that they're in \$1,000,000 increments. Ms. James said, they are, so they could look at, at that time, if they could defease them or see if they could pay them off early. It would just really depend on the timing of when that occurred. Otherwise they would remain outstanding but they could go through the process to get them defeased. Fordyce said, okay, and just one last question he's got. All of her (James) fees, this is important to him, all of her fees and Baker Tilly's fees, that comes out of the sale of the bonds, they get reimbursed for all of that. It doesn't come out of taxpayer money or city's money, correct? James told Fordyce, correct, it comes out of bond proceeds. Fordyce said, thank you very much. That's all he has. Ms. Fouce said, thank you. Do we have any further question? One of the reasons they have committee meetings is to really work that out. She appreciates his questions and comments today, they have them on record but one of the reasons they have committee meetings is to get through all of that stuff so when they come into a Council meeting, they have a quicker process but she certainly appreciates his questions and comments, councilman. And correct her if she's wrong, the gist of this is the financing through this agreement, they are responsible for their own investors and the city bears no financial obligation relevant to this TIF. So that's the gist of this deal. Again, it's \$46,500,000 is the cap on that bond. Is cap the right word? James told her sure. Fouce said, cap on that bond and so they want to make sure they're clear about that. Do they have any further questions, otherwise she will entertain a motion. Councilman Mike Cline said, Madam Chairman, Madam President he should say, he's going to move they pass General Ordinance 7-2023 to 2nd reading and public hearing. Councilman David Cain seconded. Fouce said a motion's been made by Councilman Cline, seconded by Councilman Cain to pass General Ordinance 7-2023 to 2nd reading and public hearing. Any question on that motion? Roll call please. Motion carried by the following vote. Aye: Fordyce, Cline, Stodghill-Weeks, Henderson, Brunner, Cowgill, Cain, and Fouce. Nay: None. Ms. Fouce said, so they'll have that on the 19th, clerk, they'll have that on for the 19th. Thank you. Ms. James said, thank you very much. Fouce said, safe travels.

MARION CITY COUNCIL TO VOTE ON LIT RESOLUTION AND ORDINANCE – Council President Robin Fouce said, the last piece of fun they have for today. City Clerk Kathleen Kiley said, well, do they? Marion City Council to vote on LIT resolution and ordinance? Are they doing anything on that? Fouce said she doesn't know, they need to talk about it. They got, just last minute today, some information about the LIT Ordinance and the validity of it. The County Council did pass a tax restructuring for the LIT Ordinance, pardon her, and there were a couple of procedural things that were, came to sight that weren't done appropriately and so the question is from the DLGF, which is the governing body, is that a valid ordinance or because of the procedural things or mishaps, is it not? And so, they have yet to hear from DLGF on that, however, there have been several mishaps in terms of notification, posting the public notice, as well along with the actual ordinance being posted with the public notice. Her understanding is that needs to be done from the Auditor of the county when they put out the notice for that, as well each taxing unit, when they're going to vote on it, would put out a public notice and a copy of that ordinance with that original (inaudible). So from that standpoint, they pretty much could say not 100% but it is not a valid ordinance and that possibly the county would need to take an action next year as the deadlines have been missed, and she's not legal counsel, this is the information that she's garnered. She sent an email out to them as recent as late this afternoon, the information she got from the County Attorney, and so she'll have their counsel speak on that, Attorney Marty Harker, and then if they all have any

MARION CITY COUNCIL TO VOTE ON LIT RESOLUTION AND ORDINANCE Continued

questions or comments, she will welcome them, Fouce said. Council attorney Martin Harker told the Council there appears to be some difficulty with the way this is, LIT Ordinance has been presented. Someone in the audience told Harker to speak up, they can't hear him. Harker asked, is that better? Alright. There appears to be some difficulties with the procedural requirements. The Local Option Income Tax process is cumbersome by design and requires multiple rounds of notice, initially by the County Council in our situation, and then by each member of the Tax Council which are all the fiscal bodies in the county. So, they said that there have been some additional procedural missteps made. He doesn't believe any Council so far has published notice appropriately so he thinks going forward would be a problem and, due to the way the statute is written, it has to be brought back up, he's sorry, it cannot be brought back up for a year so he doesn't know how both the county and the city could go forward. They are waiting for DLGF but, given what's occurred so far, he's not expecting DLGF to give any kind of favorable recommendation so far. So, in his opinion, it probably shouldn't be voted on tonight, Harker said. Fouce said, thank you, council attorney. She got an email from him, Councilman Cline, oh she's sorry, Mrs. Eckerle, they welcome her tonight, Mrs. Eckerle, from the library but she wants to hear your comments about, your thoughts about it, but she wanted to acknowledge Mrs. Eckerle. She didn't return an email but she had her at heart for this evening, Fouce said. Councilman Mike Cline said, thank you. Well this just in, Gas City earlier tonight took no action on the advice of its legal counsel. So, they did nothing which is basically the same as a no and, you know, he thinks they should either take no action or just give it a flat no, either one. To him, from what he sent them all this, it amounts to redistribution of money with the county being the biggest beneficiary, coming at the expense of smaller county towns, school systems, libraries, township trustees. It also defunds the Economic Growth Council and he would hope that we're in favor of economic development around here and to take away one of their major tools just flies in the face of that. Anyway, he thinks they should either just totally pan it or not take any action at all, thank you, Cline said. Fouce said, thank you, councilman. Any further comment? Councilman Cowgill? Councilman Brian Cowgill said, Mr. Harker, his question is, and he agrees with Mr. Cline and him and everybody said it too, he would vote no on it just because of the way it's all went. Should they vote on it just so that they did their job of voting it in the time frame? Does that matter? Harker told Cowgill, no, not really. They are not required to even vote on it. In order for this to pass the Tax Council, there must be affirmative votes from a sufficient number of members from the Tax Council. So, if no vote is taken then those votes are not cast in favor. So, doing nothing is the same as voting it down, Harker said. Fouce said, Councilman Henderson? Councilman Steve Henderson asked, does anybody know, since this is going to be a no and if they turn that down, what happens to their funds for next year? Are they reverted back to same program that they have? Ms. Fouce told Henderson they stay the way it is until it's restructured, and so, to get it restructured, they have to adhere to the particulars of that process, which wasn't done. Not only from the county, there was no directive given to the taxing units, Marion, Gas City, Jonesboro, to say this is the process, the county's voted on that, this is the process, you need to send out a notice with the ordinance attached, which is different. A lot of public notices don't go out with an attached ordinance to it. But, like was said, it's cumbersome for a reason. So, it would remain as it currently is until next year, if they decide to reintroduce it. And she doesn't know that they have a vote to take, to be honest. They are not in compliance with the posting requirement and so it's not a vote. What are they voting on if they didn't comply with the requirement but she will defer to the consensus of the Council for that, that's her opinion. With this particular LIT tax restructuring, it's tricky, in her opinion. Listen, she serves constituents that benefit from the gamut of things, economic development, funding for township trustee, the library, the use and the benefit and the necessity of a sustainable library, the high school, the schools in their community, they all, and so, to defund those without a plan, she's troubled with that as a representative of other people. You know, she has to be honest. This restructuring that they got, fiscally for Marion looks good but what would it cost them in hindsight? And so, that's her thought about it but they're here to talk about are they going to vote on this or not. Do they have any further comment from the Council? Councilman David Cain said, Madam President, agreeing with Mr. Cline, they have three options tonight. One, they take no action, which is basically a no vote. One, that they make a motion, they have the ability to vote it down with a no vote. Or they make a motion to pass it with a yes vote. It sounds like nobody really wants to pass this but that's not him to say. But if they take no action, and Gas City has already taken no action, and if they take no action, time is going to run out. There's nobody else in the county that has enough, there won't be enough votes generated by the remaining entities, which would be Sweetser, Upland, Van Buren, there's not enough votes. Once Gas City has taken a stance as no action, if we

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MARION CITY COUNCIL TO VOTE ON LIT RESOLUTION AND ORDINANCE Continued

take a stance as no action, it dies at that point. He just wanted to make that clear, Cain said. Fouce asked, do we need a motion for no motion? Councilman Cline said he moves they adjourn. Fouce said, they'll get to that, councilman. Cain said, Madam President, she needs to ask for a motion and then if nobody says anything, it dies. Fouce said, if she could get the opportunity, does anyone want to entertain a motion regarding this Marion City Council vote on LIT resolution and ordinance? Going once, going twice, okay, she will entertain a motion for adjournment, Fouce said. On a motion by Cowgill, 2nd by Cain, the meeting adjourned. Time being 8:16 p.m.