

As amended

SPECIAL MEETING – MARION COMMON COUNCIL – OCTOBER 13, 2020 – 7:00 P.M., CITY HALL

The Common Council of the City of Marion, Indiana met in special session on Tuesday, the 13th day of October, 2020 at the hour of 7:00 p.m. in the Council Chambers, City Hall.

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

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

Absent: None.

NEW BUSINESS

GENERAL ORDINANCE NO. 14-2020 1ST READING

The City Clerk read General Ordinance No. 14-2020 by title only, an Ordinance of the Common Council of the City of Marion amending 2020 Salary Ordinance for Firefighters. Council President Deb Cain told the Council before she speaks on this ordinance, she does want to talk to the Transportation employees who are here. They put these three ordinances together based on the Mayor's comment on Tuesday night that there is a new regulation given out that the Transportation is not eligible for these funds. She just wanted them to know that they were eligible under the first meetings that they had with the Mayor. If they hadn't been delayed multiple months, they would have had to accept their ordinance at that time and honored it and paid them. That does not mean that they are letting this go. She wants to make this promise that they are investigating that statement. They are looking into it to insure that he, what his statement is factual or not and then they are still going to move forward. They are as important as the first responders. They had to be on the streets. They had to pick up the people that needed to get to the hospitals, that needed to get to their doctor appointments, that had no other transportation. They were there for them. They risked their lives to do that and their family so she just wanted them to know that is a promise that she is making. As they can see that she is taking steps to take care of the first responders and the City Maintenance in this so please know that her word is her word. She wanted to thank them for being here tonight. Okay, an ordinance for the firefighters. Okay, what this says, in essence, is that we received \$909,950 for CARES Act. According to, for the firemen, it's going to be \$270,000 that would be paid. They have listed who will be paid and the Controller shall pay these funds from any source available, including but not limited to remaining funds from the year 2020, federal funds received from the CARES Act, or by additional appropriation in the year 2021 if the previous two options are insufficient. The Controller shall pay the funds to the employees within seven days of the passage of this ordinance. So they are here to vote on that ordinance. This is first reading. It will need to go to 2nd reading and public hearing which would be on the 20th. City Clerk Kathleen Kiley said it can't be on the 20th, they can't advertise it by then. They could suspend the rules on a salary ordinance, she believes, on an amendment to the salary ordinance. Mrs. Cain said, thank you. That's the question she was going to ask her before the meeting. And the votes it takes? Does it take just a majority? Mrs. Kiley said she believes that's correct. Council President Cain asked, any comments from Council? Being no comments or questions from the Council, motion was made by Councilwoman Robin Fouce to accept General Ordinance No. 14-2020 as written and suspend the rules. Motion was seconded by Councilman Brian Cowgill and carried by the following vote. Aye: Luzadder (said, before he votes, is it...? Mrs. Kiley said, suspension, that's what she put down, suspending the rules.), Cowgill, Fouce, Batchelor, Cain and Henderson. Nay: Fordyce, Brunner and Cline. Motion was then made by Fouce, 2nd by Cowgill to pass General Ordinance No. 14-2020 as written. Before the roll was called, Councilman Mike Cline said he had a quick question, if he may. Did he miss something about any discussion? Cain told Cline, she said she'll take discussion. Cline said, okay, he missed it. He's sorry, he missed it, his bad. He didn't hear it. Motion then carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Batchelor, Cain and Henderson. Nay: Fordyce, Brunner and Cline.

GENERAL ORDINANCE NO. 15-2020 1ST READING

The City Clerk read General Ordinance No. 15-2020 by title only, an Ordinance of the Common Council of the City of Marion amending 2020 Salary Ordinance for Appointed Officers and Employees. Council President Deb Cain told the Council, again, this is for the two city employees that had to come in and clean the building every day and so it's for \$10,000, and again, she'll take comments and or suspension of the rules motion and a vote. Councilman Mike Cline said he would have said this earlier, he just missed it. So this counts for him for all three of the ordinances. It appears

GENERAL ORDINANCE NO. 15-2020 Continued

some on the Council apparently are unconcerned that the Mayor, and not the City Council, has control of the CARES Act money and he's got the documentation here if anyone wants him to read it to them. And there are some on the Council apparently unconcerned that the guidance from the Treasury Department and the Office of Management and Budget clearly says that across the board compensation is not covered by the CARES Act and that any so called Hazard Pay has to be directly connected to COVID-related activity, such as mitigation, and that information is readily available online at the Indiana Finance Authority site if anybody is interested. And if this money does somehow come from the CARES Act, it will leave basically a pittance remaining in the CARES Act money to cover the cost of any further COVID-19-related needs, such as protective equipment for the employees and to face a situation that has no clear ending, no clear ending in sight. And some on the Council, in an effort to spend money, regardless of where it comes from, if you read the ordinance, clearly are willing to abdicate any right to claim to be efficient stewards of our money. He just wanted to throw some facts into this if anybody is interested, Cline said. Councilman Brian Cowgill said he just would like to make a comment. Regarding worrying about PPE, he doesn't know if everybody is aware or not but the firefighters have been asked to reuse their mask that's already been used and contaminated so he doesn't see where that concern with the PPE is there and they now have six confirmed cases of firefighters that have tested positive with this since last week and they have like 10 in quarantine at this point. So he believes that their first responders lives and safety, he doesn't put a price on it, he's sorry, Cowgill said. Councilwoman Robin Fouce said, just in response to what Councilman Cline said. She begs to differ that they all have the city's interest and their first responders and essential workers interest at heart. Albeit the Administration, she thinks, would be who he would ask those questions to. Where does a park bench fit into this? Where does a truck fit into this when they have lives at stake? We're in an uncharted territory now with several of their firefighters inflicted with COVID-19, having exposed their families to that and they don't know, how do we manpower? We have so many things that support this and so obviously, you know, she supports it, she helped author it and she just begs to differ with those statements. Councilman Gary Fordyce said he'd just like to back up Mr. Cline on this. It's not that he doesn't think that the firemen and the maintenance and the transportation and policemen don't deserve the Hazard Pay, that's not the point. The point is the way that these ordinances are written and if it does deplete the CARES Act Fund from any of your protection of gear that you will not get because this is what this will do or take it from different other funds and accounts that they don't know where they're going to take it from if there's not enough left in this. He thinks that they're going to run into a legal issue with these ordinances and it's going to end up in court. That's his personal opinion but he agrees with Mike on the CARES Act and who can spend that money and who's authorized to. That's the only reason that he's voting the way he's voting. He believes they're going to have a big issue with these ordinances. They're going to get vetoed and then they're going to end up fighting it in court, Fordyce said. Councilman Jim Brunner said he would like to back up what Mr. Cline said and that is he is really concerned that they are walking into another YMCA situation where they'll be sitting there a year or two years from now and they will be hearing about how much money it has cost them to go to court to try to get these ordinances okayed. He thinks they have to be stewards of the money, that they have been entrusted to do that as their job. The Mayor has already told them more than once that he feels that he has the authorization to do what he is doing. If they go 100% against the Mayor, they'll probably end up in court and he would just like to know where that money is going to come from, Madam Chairman. Councilman Steve Henderson said, in the past, they raised taxes with the LOIT that they did last year. That generated \$1,400,000 that only got used on the YMCA and didn't get used for the purpose that they raised it for. Just so we know, we have money coming in that wasn't accounted for that we raised taxes. We put on the burden of the taxpayers for other things. So, this doesn't hurt his feelings a bit if it has to come out of that LOIT fund. Councilwoman Robin Fouce said, Madam President, one more statement. The people have to matter. When is it that they are going to have the people matter? Over a bench, over a car, over a lawsuit, over this. They (inaudible) spend millions on a lawsuit with no oversight but they want to nitpick when it comes to compensating people. The people matter. Their families matter. They appreciate them. They want to see about them. They want to do that legally. There's no one sitting here that is supporting this feels that they're doing this and it's going to come back and they're going to find themselves in a Y situation. Heaven forbid, she thinks in hindsight they would do some things differently that they found themselves in the Y situation. But, fortunately for her, that was before her but what she will say, lastly, they matter. Thank you. The people have to matter, Fouce said. Councilman Don Batchelor said as he glances around the room here, he sees all of their first

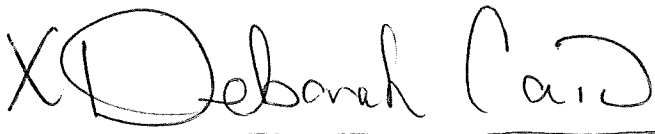
GENERAL ORDINANCE NO. 15-2020 Continued

responders and stuff around the wall, he has always wanted to provide and protect the folks that protect them and each one of these individuals have put their life on the line, serving in the office in which they have been sworn to do and he doesn't know why it's so difficult for them to tap dance around the situation and instead of taking it head on. If you're in favor of it, and we're worried about a lawsuit. He knows we're not worried about a lawsuit. He doesn't want to hear that word anymore. Okay? But he thinks they need to do the right thing for their employees that put their life on the line, not only them, their families also. You know, how can they sit down here and justify not doing the right thing about their employees? And he hopes they can go home and go to sleep on it too but they won't have a good night's sleep, he promises them, Batchelor said. Councilman Brad Luzadder said, as a member of this body, he has sat in this chair and he's never in his life thought about equipment over their people. As a son of a former police officer, he knows what it's like when your dad leaves the house and may not come home. We're in a terrible situation that many of their first responders have taken it on the chin a number of years. They have had their insurance premiums increased. In a time in which we're being given essentially free monies from the federal government, he doesn't see a reason why they couldn't extend that to the people who are doing the protecting of us. And as his colleague, Mr. Batchelor, has said, there have been a number of them who have championed the red and blue lines and he's going to stand with his first responders because he knows that when he needed them, they came to his need and he thinks it is an egregious act from this Administration to grandstand that we are not in a dictatorship, we are a democracy that is voted on by the people. And he will stand with his first responders in protection of our people and he cannot believe that our first responders are being asked to reuse personal protective equipment, and if so, our firefighters have caught this on the job and they need to be fully compensated all the way through. And so for each of you who have protected his family, protected his way of life and allowed him to live in the Land of the Free, he will stand with you, the brave, and he will always lift them up and this is a great opportunity for this body and for this city to push forward for their first responders. And so, he will continue moving forward and will support this 100%, Luzadder said. Council President Cain said, thank you, thank you everyone. She said Mr. Henderson said that we had voted for a tax and our stipulation and our conversation with the Administration at that time was that it was supposed to go to first responders and it went to pay the lawsuit. We (inaudible) the money out of the Rainy Day Fund to pay the lawsuit. The comment is what price can you put on justice is what the Mayor said. Well in her opinion, what price do you put on saving lives? You can't put a price on saving lives. You can't put a price on your family's lives because you came out to save our lives. You can't put a price on that. Mr. Cowgill and Ms. Fouce did their study, they talked with the representatives from the CARES Act funds themselves directly with them. You guys are compensated in the CARES Act fund. That was not a question in the beginning at all. We didn't have that doubt for the first. Then we received an unexpected listing of expenses of monies that were spent, not on PPE equipment, not on your equipment that you can wear as you leave your buildings and get in your vehicles to go to accidents or to go to fires or to go on emergency calls. It was on picnic tables for the public parks, a picnic table. How is that going to save you guys from getting COVID? It was on a fogger to spray the air in the public parks, an ATV to pull the fogger. It was on essential equipment for lifeguards when we don't even have that park open. She just doesn't understand it. And then they find out they have to reuse their masks? It's sad, it's just sad and that's why she's campaigning for this, that's why she is behind this and she appreciates the comments of Mr. Batchelor, Mr. Luzadder, Mr. Henderson, Mr. Cowgill and Ms. Fouce. She'll consider a motion now for Ordinance No. 15-2020, Cain said. Motion was made by Councilman Cowgill to suspend the rules. Someone from the audience said something but was unable to be heard on the recording. Mrs. Cain said no, this is not a public hearing. The person in the audience said, but they're asking when will it be so they'll know that they have an opportunity to say anything? Cain said, if this doesn't pass, the first ordinance they passed and it's in effect. They'll send it on for the Mayor's signature. This ordinance for the city employees, that's in consideration right now. City Clerk Kathleen Kiley said she has motion to suspend, she doesn't have a second. Councilwoman Fouce said she said second. Motion to suspend the rules then carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Batchelor, Cain and Henderson. Nay: Fordyce, Brunner and Cline. Motion was then made by Cowgill, 2nd by Batchelor to pass General Ordinance No. 15-2020 and motion carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Batchelor, Cain and Henderson. Nay: Fordyce, Brunner and Cline.

GENERAL ORDINANCE NO. 16-2020 1ST READING

The City Clerk read General Ordinance No. 16-2020 by title only, an Ordinance of the Common Council of the City of Marion amending 2020 Salary Ordinance for Police Officers. Council President Deb Cain told the Council this is the same ordinance. It's for \$290,000. The total will not, will not take all the money out of the CARES Act at this point of all three. She'll take any comments. Councilman Mike Cline said he's not going to go through the whole thing but he's going to ditto what he said before. He will reiterate that this is not about the great job our first responders do or the appreciation we have for them. But a thought about having to reuse masks and such, yeah that's wrong, that's dead wrong but if we spend the heck out of the CARES Act and don't leave a lot in there, we may be asking folks to reuse a lot more than masks. So, those are his thoughts, Cline said. Councilman Brian Cowgill said it's going to leave like \$300,000 left after paying for this. The PPE equipment that they're talking about, it won't even come close to touching that. They could buy enough to last for two years. So, you know, he doesn't understand that they're worried about depleting money when it's not going to be depleted. They still have tons of money left to purchase whatever they want but let's show, golly man, he means, you know, their insurance has climbed. Their insurance premiums doubled the day after the election so, you know, it's time that they show these people that they care, Cowgill said. Motion was then made by Cowgill to suspend the rules for General Ordinance No. 16-2020. Motion was seconded by Councilman Steve Henderson and carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Batchelor, Cain and Henderson. Nay: Fordyce, Brunner and Cline. Motion was then made by Cowgill, 2nd by Henderson to pass General Ordinance No. 16-2020 and carried by the following vote. Aye: Luzadder, Cowgill, Fouce, Batchelor, Cain and Henderson. Nay: Fordyce, Brunner and Cline. Mrs. Cain said, okay, those three ordinances passed. They'll send it up for the Mayor's signature. He has 10 days to sign it and if he does not sign it, that's a veto and they'll come back to override the veto. Councilwoman Robin Fouce said, Madam President, can they insure that he gets this timely? How do they do that? City Clerk Kathleen Kiley told Fouce it'll be signed by Deb tonight. It'll be taken over there tomorrow. Now whether he's there tomorrow, she doesn't know, she doesn't keep his schedule but they will take it to his office.

Being no further business to come before the Council, on a motion by Luzadder, 2nd by Batchelor, the meeting adjourned. Time being 7:29 p.m.



Presiding officer (Deborah Cain)