

MINUTES OF A REGULAR MEETING OF THE ZION CITY COUNCIL HELD ON TUESDAY, AUGUST 21, 2018, AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 2828 SHERIDAN ROAD, ZION, ILLINOIS

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Mayor Hill called the meeting to order.

On call of the roll the following answered present: Commissioners Fischer, DeTienne, McDowell, McKinney, and Mayor Hill. A quorum was present.

Also present: Police Chief Steve Dumyahn, Fire Chief John Lewis, Public Works Director Ray Roberts, City Administrator David Knabel, Building & Zoning Director Richard Ianson and City Attorney Paula Randall.

Mayor Hill led in the Pledge of Allegiance to the Flag.

AGENDA CHANGES

It was moved by Commissioner Fischer, seconded by Commissioner McDowell to accept the City Council meeting agenda as presented. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

SPECIAL PRESENTATION/HOME RULE

Mayor Hill introduced Keri-Lyn Krafthefer from the City's law firm Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer. He stated Ms. Krafthefer would be presenting details of what home rule is and what the powers and limitations of home rule are. The presentation would be purely informational but following the presentation there would be a question and answer session with the Commissioners first and then the public. He advised that questions asked would not be open for a debate or to discuss opinions. Citizens would have an opportunity during Citizen Comments to speak for or against home rule. Ms. Krafthefer stated her law firm educates public officials, public bodies and other members of the public on different legal issues related to units of local government. They represent about 300 units of local government and about 50 municipalities. Right now home rule is a hot topic. She began by explaining "Dillion's Rule" which was first expressed in 1868 by an Iowa Supreme Court Justice. He stated that if a government is going to exercise a power, the power would have to come from somewhere. A rule has now originated that states if you want to exercise a governmental power, a law would have to be passed by State government that allows a public body to exercise those powers. When the 1970 Illinois Constitution was drafted a section was added that states units of local government shall only have powers granted by law. A special section was added referring to special units of government called "Home Rule". This was defined as any municipality with a population of more than 25,000 or other municipalities that have elected by referendum to become home rule units. As a home rule unit you may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate public health, safety, morals and welfare; to license; to tax; and to incur debt. This applies unless the General Assembly has pre-empted home rule (a law stating you cannot do something).

Home rule limitations:

- Home rule units cannot incur certain types of debt
- Define and provide for the punishment of a felony
- Only if provided by General Assembly law:
 - To punish by imprisonment for more than six months
 - To license for revenue or impose taxes upon or measured by income or earnings or upon occupations.

Ms. Krafthefer stated municipalities want to have the ability to provide property tax relief to their constituents. It is a tough thing in Illinois right now, especially when governments are called upon to provide increasing level of services while the State tries to take away some of the funds that are coming into the municipalities along with unfunded mandates that the State requires Cities/Villages to provide. Sometimes the reason municipalities want to become home rule is because they are trying to explore other options to get revenue into the City other than property taxes. Ms. Krafthefer presented a list of additional powers that home rule municipalities may exercise.

There are limits on the State's Regulation of Home Rule Power. The General Assembly may not deny or limit the power of home rule units:

- To make local improvements by special assessment

- To levy or impose additional taxes upon areas within their boundaries in the matter provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services

Home rule powers regarding governmental structure:

- (Subject to approval by referendum) to adopt, alter or repeal a form of government provided by law
- To provide for its officers, their manner of selection and terms of office only as approved by referendum or as otherwise authorized by law

The General Assembly may:

- Deny or limit the power to tax and any other power or function of a home rule unit not exercised or performed by the State
- Provide for the exclusive exercise by the State of any power or function of a home rule unit other than a taxing power
- Limit the amount (and require referendum approval) of debt to be incurred payable from ad valorem property tax receipts in excess of certain percentages of the assessed value of its taxable property: (if its population is 25,000 or less), an aggregate of one-half percent.

Rules regarding campaigning:

- No advocating for or against any referendum with public funds.
- No advocating for or against any referendum on compensated time

Prohibited Political activities on compensated time:

- Attending political meetings or rallies
- Soliciting contributions or anything of value
- Conducting public opinion polls
- Surveying voters
- Assisting in polls on Election Day
- Soliciting votes
- Circulating petitions
- Distributing campaign literature
- Campaigning for or against a referendum question

Compensated time:

- Any time worked or counted towards any minimum work time, not including holidays or leave time
- Does not include paid sick or vacation time
- Public funds for advocating for or against any referendum is prohibited except for distribution of factual information

Off duty:

- Officials and employees can do or say what they want regarding a referendum; they can advocate for against a referendum provided they are not on municipal property or holding themselves out as municipal officials or employees

Elements of a successful referendum:

- Significant public trust in governmental officials
- Clear communication of intended use of funds
- Widespread informational campaign

Commissioner McDowell stated there are 177 State Legislators two of which are representing the Zion community. They may not even know about Zion. The advantage for citizens here is that they have elected the Council to represent them. They see the Council members in their community and rub shoulders with them on a daily basis whether it is in a store or at church or eating at a restaurant. The public will be giving broad powers to people they know and who are also affected by what the Council decides to do. He asked what remedy voters have for a future City Council who may want to add taxes. Ms. Krafthefer stated the voters have the ability to put a referendum back on the ballot to revoke home rule authority. Mayor Hill asked if they can pass a resolution limiting their own power. Ms. Krafthefer stated people operate with certain amount of ethics. The Council would be able to adopt a resolution stating the intent. She stated elected officials cannot say "If the resolution does not pass, we will do.....". They cannot threaten the public for not voting yes. Commissioner McDowell asked if they could share that home rule would be a benefit to so as to spread the burden by imposing a sales tax of 1.5% in lieu of raising property taxes. Ms. Krafthefer stated as long as the information put out are factual statements. Commissioner McDowell stated the City does not have any other tools for revenue and if home rule does not pass it is likely City services will be cut. Ms. Krafthefer stated the prohibition is not on what is said, it is the public funds spent on it. The City cannot send somebody out to say "Vote yes for the referendum". Employees cannot be sent out on company time to advocate for

home rule. Commissioner McDowell asked how home rule could impact crime free housing. Ms. Krafthefer stated there are special laws associated with crime free housing. The City would have the ability to adopt a plan but she is not sure what the interaction with the County would be. Commissioner McDowell stated there are so many loopholes making it difficult to enforce nuisance abatement. Chief Dumyahn stated there have been times when they have had to bring in the Attorney General. Commissioner McDowell stated home rule could help address the problem quicker. He stated it could also allow the City to move up on the list of eligibility to collect on properties with outstanding liens. Currently the City is owed over \$1 million in outstanding fees. It could also allow the ability to lower the levy. Commissioner DeTienne stated the City has reached the point of doing everything they can to cut the budget. He asked if home rule could provide any powers over the unions. Ms. Krafthefer stated no. Commissioner Fischer stated the presentation was very informational covering the ins and outs of home rule. The concept has been explored for years and believes it would be a positive thing for the City.

Mayor Hill stated when he ran for office he had no idea the City would be going for home rule authority. He sees more flexibility with housing and crime. There could be more revenue to get more officers. The City started with a \$400,000 deficit, in 2017/18, a \$750,000 deficit in 2018/19 there will be a \$1.1 deficit. A 1% sales tax increase would bring in an extra \$2.2 million. It would cover the deficit for the current year. The sales tax would not affect only residents, but out of town guests also. He promised the information is factual and is open to tell the truth. It will be up to the citizens to help the City try and move forward. He presented a list how the City has ended up in the budget crisis:

Nuclear Plant closing

Housing crisis of 2008

Twelve years of Police & Fire pensions increasing from \$1.2 million to 2.9 million

In 2009-2011 the City spent \$8 million of City funds for the Fielders

In 2012 the City was not able to cover operating costs and had to issue \$2.5 million in bonds but did not receive an increase in revenue. The annual debt service on the bonds is \$455,000 a year until 2022. The Fielders agreement obligated the City to pay taxes on the property at \$250,000 a year for 25 years. That would be \$6.2 million in taxes and the City would not even own the property. The City purchased the property for \$3.7 million which the City issued bonds for. The Fielders agreement was signed over objections of the attorneys. He stated 80% of the City's budget is salaries and benefits. There are no more operating expenses to cut and the City will not issue another bond for operating expenses. Residents have asked why the City doesn't bring in more business. There is a disadvantage when businesses see how much money is in a community. The City tries to get new businesses in every day. They do not have many choices and if something cannot be done there will be cuts in services like never seen before. He welcomed anyone to come forward with suggestions.

Questions from residents:

How much is given for Police and Fire Pensions and do they live in Zion.

\$2.9 million in pension and they do not all live in Zion.

Is there ever a time when home rule is automatic, and if so can it be voted out?

When population becomes over 25,000. Residents can vote it out by referendum.

What is the City planning on doing with the ballfield property?

Sell it and have it developed.

Is the City required to put out the negative points to home rule?

Positive or negative information can be put out as long as the information is factual.

Does home rule affect other taxing bodies?

No, it only applies to the City.

Does it affect TIF districts?

No

Will raising the sales tax make it difficult to bring in new businesses?

Surrounding communities have the same tax rate or higher.

Commissioner McDowell stated a 1% increase is not a significant amount. When people want to purchase locally they do not decide based on what the percent is here or in the neighboring communities. The sales tax is now 7% and will increase to 8%. The State increased their sales tax user fee but did not distribute money to communities.

Is the City willing to trim some of the fat out of the City?

The City has been doing that since 2008. There has been a reduction in all departments. Mayor Hill welcomes residents to come in and look at the budget.

The dealings with the current Council have been good and they have the best interest of the City, but what happens when the current Council is no longer in office?

Citizens can vote in people they can trust to be on the Council.

CITIZEN COMMENTS

Jason Ellis, Zion, stated he is a lifelong resident and he cares about the City. He feels the Council wants the best for the community but people are being taxed out of their homes and moving out of Zion. He stated he shops out of the community. Zion has the highest rated taxes in the Midwest. He stated the City says they have a \$1 million deficit so they need to cut their budget. There are places to cut. Since the power plant closed no one has admitted to being at fault for the deficit. Zion will end up as a bankrupt City.

Marquis Barnes, Zion, stated he just moved into his home a year ago and his taxes have already gone up \$1,000. What is he paying taxes for? A lot of people are leaving the neighborhoods. Mayor Hill stated the Assessor's office put together a pamphlet on where each taxpayer's taxes go. The City is only 13% of the tax bill and for the amount of money the City is collecting in taxes the residents get services (Fire & Police service and roads plowed and maintained).

Cynthia Corry, Zion, stated she has lived in Zion since 1983 and she hasn't seen any of the improvements that previous Mayors have said would happen. The deficit is not from the residents, it is from the mismanagement of the Council. The City should not punish residents and expect them to pay for the City's mistakes.

Denise Leer, Zion, stated she has been a resident for 53 years. She was at the last City Council meeting with the complaints about the flooding. She has not seen any employees cleaning the sewers. The sewers are blocked and she sees trees growing in some of them.

Clyde McLemore, Zion, invited everyone to come out to Salem Foods on August 25th from 4-7. They will be blocking off the parkway and putting up bounce house for the kids and there is no charge. They have gotten the schools involved and will be providing backpacks. He also invited everyone to attend a question and answer session on the subject of "Why black lives matter" on September 1 from 1-3. He thanked Director Roberts for the clean-up of the alleys.

CONSENT AGENDA

It was moved by Commissioner McDowell, seconded by Commissioner Fischer, that the Consent Agenda be approved as follows:

- (a) **APPROVAL OF MINUTES:** of a Regular Meeting held on August 7, 2018 at 7:00 p.m.; approval but not release of Closed Session Minutes of a meeting held on August 7, 2018 at 8:35 p.m.
- (b) **BILLS:** Vouchers 129923 through 130021 drawn on, Huntington National Bank, N.A.,
Total: \$468,240.25

Approved by omnibus vote as follows: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

ORDINANCE/SECOND AMENDMENT/WATER SUPPLY CONTRACT/LAKE COUNTY PUBLIC WATER DISTRICT

Administrator Knabel stated Lake County Public Water District provides the water supply to the City. In the original contract with the City, all annual payments charged for the Repair and Maintenance account were spread out over a nine month period. For book keeping ease they are requesting the funds be spread out over a twelve month period.

It was moved by Commissioner Fischer, seconded by Commissioner McDowell, that an Ordinance (18-O-32) be passed authorizing a second amendment to the water supply contract with the Lake County Public Water District. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried. Ordinance passed.

ORDINANCE/REGULATIONS/CERTAIN UTILITY FACILITIES/RIGHT-OF-WAY

Administrator Knabel stated the State has recognized that right-of-ways for wireless utility companies have become a much more sought after commodity. The State has recommended that an ordinance be adopted that allows local municipalities to set forth regulations in order to comply with the Act.

It was moved by Commissioner McDowell, seconded by Commissioner McKinney, that an Ordinance (18-O-33) be passed establishing regulations of the installation of certain utility facilities in the right-of-way in order to comply with the Small Wireless Facilities Deployment Act. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried. Ordinance passed.

ORDINANCE/ECONOMIC INCENTIVE AGREEMENT/LITTLE CAESAR ENTERPRISES, INC & 2340 SHERIDAN ROAD, LLC

Administrator Knabel stated the agreement is for the construction of the Little Ceasars restaurant that will be taking place in the old Taco Bell building. It is a Corporate Lease, as Little Ceasars will be leasing the facility not owning it, but will be doing all the construction. He stated the lease contains standard language for the TIF agreements with a slight difference. Typically the grant only goes to the property owner because it is their property being improved, but in this case because Little Ceasars is putting all the money into the project. It will be a dual party reimbursement so that Little Ceasars gets the benefit of the reimbursement since they will be putting all the money into the property. Most TIF agreements come from mature TIFs that already have funds in place that have accumulated. The agreements contain standard language that has the City fronting the money and requiring a clawback period where part of it is forgiven over time to be sure the City gets a return on their investment. Since Little Ceasars is putting out all the money up front the City is not putting out any out of pocket money. They will be reimbursed with the money that comes into the TIF over time. He is asking that parts of the standard language be amended to say "The greater of the increment that is generated on the specific project or the annual TIF revenue until the \$150,000 is reached". He is also recommending reducing the clawback from ten years to five.

It was moved by Commissioner Fischer, seconded by Commissioner McKinney that an Ordinance (18-O-34) be passed approving the agreement as presented on page 4 part 2, with the addition of a greater than fifty percent of annual revenue or the increment from their project and on page 5 section 4, amending the period for the clawback from ten years to five years with the amounts suggested accordingly. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

ORDINANCE/AMENDING ZION MUNICIPAL CODE/SECTION 34-16/AMBULANCE CHARGES

It was moved by Commissioner McDowell, seconded by Commissioner DeTienne that an Ordinance (18-O-35) be passed amending Section 34-16 "Ambulance Charges" adding (a)(6) Non-Emergency service calls (invalid assist) and (c) Non-Emergency special service fee. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

SPECIAL USE PERMIT/3355 SHERIDAN ROAD

A memo (18-DOC-60) was received from Director Ianson requesting approval of a Special Use Permit for an indoor climate controlled self-storage facility located at 3355 Sheridan Road as petitioned by JSM Venture, Inc. Docket 18-Z-5. At a meeting held on August 2, 2018, the Planning and Zoning Commission recommended approval with conditions; contingent upon approval of the Plat of Survey. Director Ianson stated the facility will be approximately 650 rental units ranging from size 5'x5' to 10'x30' totaling 68,500 net rentable space of lockers, along with ADA compliant leasing counter and moving supplies.

It was moved by Commissioner McKinney, seconded by Commissioner DeTienne to grant a Special Use Permit for an indoor climate controlled self-storage facility at 3355 Sheridan Road to JSM Venture, Inc., and that an ordinance be prepared accordingly. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

VARIANCE/ELEVATION/LOT LINE CHANGE/3355 SHERIDAN ROAD

A memo (18-DOC-61) was received from Director Ianson requesting a variance from Section 102-61(b) of the Zion Municipal Code to change the north elevation and lot line as the front yard, with east and west lot lines corresponding as the side yards and the south lot line as the rear yard for better access as petitioned JSM Venture, LLC, 3355 Sheridan Road, Zoning Docket 18-Z-6. Planning and Zoning Commission recommends approval contingent upon approval of the Plat of Subdivision.

It was moved by Commissioner McKinney, seconded by Commissioner Fischer to grant a variance from Section 102-61(b) of the Zion Municipal Code to changes the north elevation and lot line as the front yard, with east and west lot lines corresponding as the side yards and the south lot line as the rear for JSM Venture, LLC at 3355 Sheridan Road, contingent upon approval of the Plat of Subdivision, and that an ordinance be prepared accordingly. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

TEXT AMENDMENT/ZION MUNICIPAL CODE/BUILDING PERMIT FEES

A memo (18-DOC-62) was received from Director Ianson requesting a text amendment from Sections 10-9(x) and 10-9(y) of the Zion Municipal Code to exempt Not-for-Profit Community Organizations from customary permit fees. He stated recently he and Commissioners McKinney and McDowell met with Not-for-Profit Community Organizations regarding waiving City building permit fees. The reasoning is that they operate on grants and donations and those funds do not cover permit fees. Since implementing the permit fees on these organizations, their assistance to the community has dropped approximately 80%. Mayor Hill stated in October, 2015, the Council passed a text amendment ordinance so they would not have to make a decision on everyone that wanted their permits waived. He stated the ordinance stated that civic, church and service organizations shall pay 50% of ordinary and customary permit fees. He stated this amendment has them moving backwards. Commissioner McDowell stated the amendment would not change what not-for-profit fees would be for permits. He stated it would only apply to Community Service Organizations that come in and do projects for residents that cannot afford it. Mayor Hill stated a policy will need to be established to exempt the particular organizations. Attorney Randall stated the Community Service Organizations could be included with the governmental (taxing) bodies that are currently exempt from ordinary and customary permit fees.

It was moved by Commissioner McKinney, seconded by Commissioner McDowell to approve a text amendment from Sections 10-9(x) and 10-9(y) of the Zion Municipal Code to exempt Not-for-Profit Community Service Organizations from customary permit fees, and that an ordinance be prepared accordingly. The vote on roll call was: Commissioners Fischer, aye; DeTienne, nay; McDowell, aye; McKinney, aye; and Mayor Hill, nay. Motion carried.

REQUEST FOR WAIVER/RAFFLE MANAGER'S FIDELITY BOND

A memo (18-DOC-63) was received from Clerk Spooner regarding a request for waiver of the raffle manager's fidelity bond requirement from Assistance in Healthcare in Zion. The organization has submitted a raffle application requesting permission to conduct a raffle for fundraising purposes. The applicant is requesting a waiver of the

manager’s fidelity bond. She stated that, per the Zion Municipal Code, only the City Council can waive the bond requirement.

It was moved by Commissioner McDowell, seconded by Commissioner Fischer, to waive the raffle manager’s fidelity bond requirement, as requested by Assistance in Healthcare, per their application to conduct a raffle for fundraising purposes. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

ANNOUNCEMENTS

September 1	6:30 p.m.	Zion’s Queen Pageant
September 2	8:15 p.m.	Jubilee Days Fireworks
September 3	8:00 a.m.	Mayors’ Prayer Breakfast
	10:00 a.m. - 6:00 p.m.	Jubilee Days Arts & Crafts Festival
	1:00 p.m.	Jubilee Days Parade
September 4	7:00 p.m.	Zion City Council Meeting

CLOSED SESSION

It was moved by Commissioner Fischer, seconded by Commissioner McDowell that the Council recess to Closed Session at 9:10 p.m., pursuant to 5 ILCS 120/2 “Open Meetings”, for the discussion of personnel and collective bargaining. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

It was moved by Commissioner McKinney, seconded by Commissioner McDowell to reconvene the Regular Council meeting at 9:47 p.m. with all members present. The vote on roll call was: Commissioners Fischer, aye; DeTienne, aye; McDowell, aye; McKinney, aye; and Mayor Hill, aye. Motion carried.

ADJOURN

There being no further business to come before the Council at this time, it was moved by Commissioner Fischer, seconded by Commissioner McKinney, and unanimously approved the meeting be adjourned at 9:48 p.m. Motion carried.

City Clerk

Approved September 4, 2018