

**MINUTES OF A REGULAR MEETING OF THE ZION CITY COUNCIL HELD ON TUESDAY, MAY 21, 2019, AT 7:06 P.M. IN THE CITY COUNCIL CHAMBERS, CITY HALL, 2828 SHERIDAN ROAD, ZION, ILLINOIS**

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Mayor McKinney called the meeting to order.

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

Also present: Police Chief Steve Dumyahn, Fire/Rescue Chief John Lewis, Building & Zoning Director Richard Ianson and City Attorney Eric Stach. City Administrator David Knabel and Public Works Director Ray Roberts were absent.

Mr. William Bremner led in the Pledge of Allegiance to the Flag.

**AGENDA CHANGES**

It was moved by Commissioner McDowell, seconded by Commissioner Holmes to accept the City Council meeting agenda as presented.

The vote on roll call was: Commissioners Fischer, aye; Holmes, aye; Frierson, aye; McDowell, aye; and Mayor McKinney, aye. Motion carried.

**CITIZEN COMMENTS**

Dennis Cusumano, Winthrop Harbor, stated he lives on the east side of the landfill. No one really knows what is actually in the landfill. The landfill accepts garbage from numerous communities and several other states. There could quite possibly be industrial waste, household chemicals, paint, ammunition, etc. as not everyone recycles materials properly. He asked the Council to think about what could happen in the future with the expansion.

Eileen Gillings, Winthrop Harbor, read comments on behalf of a resident who was unable to attend the meeting. The resident lives directly across the street from the last expansion. She is afraid for her family's health. The smell, debris and methane gas in the air reaches into her home. She worries what they are breathing. They cannot sell their home and move as the values are down. The landfill should operate reasonably and be held accountable. She asked before a decision is made the Council think about Residents health. If the property is annexed the hope is to demand improvements.

Mary Lou Hiltibran, Zion, stated on this Memorial Day she would like to express her gratitude and respect for those who lost their lives either in battle or as a result of injuries sustained while in battle. She thanked those who served and came back and those currently serving. Citizens specifically thanked Mr. William Bremner by a standing ovation. Mr. Bremner thanked the citizens for their honor and respect.

Terry Boone stated his comments are a continuation from the last meeting regarding the Rental Inspection Ordinance. He is adamantly opposed to the government going into tenant's homes without probable causes. He stated it is unconstitutional for the government to go on your private property without probable cause. The City is trying to enforce the ordinance under Police powers. Renters may deny the entry of the inspectors and he strongly recommends they exercise their rights and force them to get a warrant to enter. He stated property owners are being charged for the program and the cost must be passed on to the tenants. He asked that the Council revisit the program and determine its necessity and viability. He feels the program should be terminated. He and members of the Lake County Apartment Owner's Association would be happy to sit down with the Council and have discussions regarding the program.

Bill Tessin, Winthrop Harbor, stated he has lived on Kenosha Road for 28 years. He hopes the Council understands how important the decision is for the residents on the east side of Kenosha Road. The previous annexation permits that were allowed by the City of Zion and the IEPA allowed the landfill to build a berm along Kenosha Road that was supposed to block the odor, noise, debris and dust. When that did not work, they installed "perfume" machines. When that did not work, they brought in a state of the art machine to stop the odors but learned it cannot perform in freezing temperatures. He stated through all the attempts to control the issues, the residents still had to deal with dust, debris, noise, birds and declining property values. He has suggested ideas but they have fallen on deaf ears. He understands

Zion's budget issues and that the landfill can help with the issues. The landfill will continue to operate and continue to impact more lives. He asked that the Council not make any decisions until they have enough information to oversee the landfill and its operations. He asked them to be part of the team that supports the residents and to have control of the outcome.

Cal Snyder, Winthrop Harbor, referred to the Host Agreement. A month ago it was mentioned that homes within 1500 feet would be protected under the home value protection agreement. One of his homes is on the west side of Kenosha Road right next to the landfill. He met with Officials and was told that not all the homes on the west side would be protected. He was told if a home was purchased after 1995 it would not be protected. He stated he is receiving mixed messages and someone is not telling the truth. The Council should refrain from voting on the Host Agreement until they can get all the facts. If the expansion does go through the homeowners will need protection.

Kerry Johnson, Winthrop Harbor, stated she worked on her garden this past weekend and the air smelled good until the wind changed and it smelled like rotting garbage. She thought about having to deal with the stench for the next 40 years. She appreciates the effort the Council has made to understand what the residents are going through but she knows it's all about money. Records of complaints are non-existent and citations are not issued and nothing changes. Other communities dump their garbage in Zion's landfill and pay money to Advanced Disposal to do so. Everyone gets money from the landfill. The Lake County Health Department and IEPA are supposed to be protecting the residents.

Joe Mabbit, Winthrop Harbor, stated he lives on the east side of the landfill. He chose to attend a charity golf outing at Shepherd's Crook this past weekend knowing the air would smell bad but he cannot choose if he would like to deal with the horrible smell at home. There have been over 1,000 complaints filed since 2015 but none have been reported to the IEPA until last year. He spoke with someone from the IEPA and was told they delegate the problems to the Lake County Health Department. The IEPA says nothing is going on and there are no violations. They claim to have no knowledge of the number of complaints or that the Zion landfill even exists. Residents should not have to deal with the landfill issues and if the expansion goes through they will have to deal with it for another 40 years.

Shawn Collins, Attorney (for the people across from the landfill), asked the Council vote as if they were not receiving any money from the landfill. He is asking the Council to help protect the residents. He understands the City cannot resist taking the money from the landfill. There will be millions of dollars for many entities if the expansion goes through. He questions who the people go to for protection when everyone who should be protecting them is taking money from the landfill.

### CONSENT AGENDA

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

- (a) **APPROVAL OF MINUTES:** a Regular Meeting held May 7, 2019 at 7:00 p.m. and approval but not release of Closed Session Minutes of a meeting held on May 7, 2019 at 7:35 p.m. and approval but not release of Closed Session Minutes of a meeting held on May 7, 2019 at 9:10 p.m.
- (b) **BILLS:** Vouchers 132045 through 132174 drawn on Huntington National Bank, N.A., Total: \$435,274.61
- (c) **PROCLAMATION:** Memorial Day, May 27, 2019

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

### ORDINANCE/ANNEXATION AGREEMENT/SOUTH OF RUSSELL ROAD/WEST OF KENOSHA ROAD

Commissioner McDowell stated he appreciated all the comments from residents at the meetings. The citizens made reference of government protection. He takes it very serious and believes that the City's role is to be the first line of defense. He stated Advanced Disposal has other options besides the City of Zion but this is the easiest option. If the annexation does not go through with the City, Advanced will move on to their next option and expand the landfill without Zion. The annexation is the first step in the process. Some of the concerns will be addressed at the siting

hearing. His opinion is the appropriate step is to move forward with the annexation and address the concerns. He stated there is a disconnect clause that states if the siting application is not approved the property will automatically be disconnected and Advanced will have the option to pursue other options. There are two parts to the disconnect. The first part is failure to approve the siting application by the City of Zion. If certain issues are not addressed this may happen. The second part would be if the application is denied for other than City of Zion concerns, it could also be an option to disconnect from the annexation. He recommends removing that clause from the annexation agreement because it is not dependent on the City of Zion. It is dependent on the applicant's ability to gain the approval of the IEPA. He would like to see page 6, Sec. 10.B, (reasons for disconnect) of the annexation agreement removed. Jerry Callahan, attorney for Advanced Disposal stated he does not have the authority to remove items from the agreement. It was a condition that the company insisted on. He represents the company but does not make their decisions. Commissioner McDowell stated he objects to this language and would like to know how to address the issue. Mr. Callahan stated he would need to speak to someone with authority within the company during business hours. Commissioner McDowell stated that although the item has a motion and a second he would like to modify the agreement striking the phrase. Mr. Callahan stated he cannot say if his company would agree because the issue has not been previously brought up.

Commissioner Fischer stated his concern is if there was a successful appeal to the Illinois Pollution Control Board or any State or Federal Court and they would get a win in court why would they want the property annexed? If the annexation with the City does not go through, Advanced will most likely go through with the expansion through the County and the City will have no say so. The City can maintain some control through the annexation. He stated the annexation agreement contains language that is standard in a legal agreement. He does not see the benefit of the City retaining the annexation if the application is denied.

Commissioner McDowell stated even if the land would not be used as a landfill it still has value to the City. He believes the annexation is the City's best option. He stated he has reviewed the documents many times and has had many questions. He has received answers for most of his questions but still has a few more concerns. He stated the issues will not prevent him from voting in favor of the annexation.

Commissioner Fischer stated denying the company the full use of the property with the intent on which they purchased it for and put the City in a possible legal battle. He does not believe they should modify the agreement and create more doubt instead of moving forward and keeping the process in the City's hands.

Commissioner McDowell asked if the agreement is approved as written could both parties look at the issues raised and agree to remove the language. Erich Stach, City Attorney, stated the parties can agree to an amendment addressing the concerns. He stated if the City fails to approve the siting application Advanced has the ability to disconnect. The second part regarding potential reversal of the City's approval by other entities is somewhat limited. There would be a hearing under the Environmental Protection Act which is a fact finding and heavily intensive application and report that has to be approved by the City. He stated it is another safeguard for problems that could occur during the hearings once the application is filed. Commissioner McDowell stated he would rather have the property inside the City but it will not prevent him from voting for the annexation even if they did not have the mechanisms to make the changes tonight. He asked that Mr. Callahan raise the concerns with his client.

Attorney Stach stated the vote for the annexation agreement requires a vote of 4 ayes by the Council.

It was moved by Commissioner Fischer, seconded by Commissioner Frierson that an Ordinance (19-O-18) be passed Authorizing the Execution of an Annexation Agreement relative to the property located south of Russell Road and west of Kenosha Road, Zion, Illinois. The vote on roll call was: Commissioners Fischer, aye; Holmes, aye; Frierson, aye; McDowell, aye; and Mayor McKinney, aye. Motion carried. Ordinance passed.

#### **ORDINANCE/ANNEXING CERTAIN TERRITORY/SOUTH OF RUSSELL ROAD /WEST OF KENOSHA ROAD**

It was moved by Commissioner Fischer, seconded by Commissioner McDowell that an Ordinance (19-O-19) be passed Annexing Certain Territory to the City of Zion Lake County, Illinois (south of Russell Road and west of Kenosha Road). The vote on roll call was: Commissioners Fischer, aye; Holmes, aye; Frierson, aye; McDowell, aye; and Mayor McKinney, aye. Motion carried. Ordinance passed.

**ORDINANCE/SECOND AMENDMENT/HOST CITY AGREEMENT/ADVANCED DISPOSAL SERVICES  
ZION LANDFILL, INC.**

Commissioner McDowell stated he had concerns regarding Section 4, page 3; of the property value protection agreement. It expands the property value protection agreement 1500 feet away from the landfill and also lists properties on the east side of Kenosha Road. He asked if the agreement also included the 3 or 4 properties that are on the west side of Kenosha Road. Mr. Callahan stated yes geographically it included them, however, in the plan if a compensated sale has occurred and a claim was not made, they would not be covered. If they are newly within the geographic area it would be covered. Commissioner McDowell asked what the cut-off date would be to take advantage of the former property protection agreement. Mr. Callahan stated if they were covered geographically and a sale occurred any time the plan was in place. Commissioner McDowell stated if the purchaser purchases a property at lesser than market value and Advanced makes up the difference then the seller would be made whole and the purchaser would get a discount on the price. He asked how many homes Advanced did not own in the identified area. Mr. Callahan referred to a map showing from the State Line stating there are 8 lots (pin numbers) along the stretch of highway. Commissioner McDowell asked if any of the 8 properties identified were within the original property value protection agreement of 1995 or outside. Mr. Callahan stated according to the map it appears they would not have been included. Commissioner McDowell asked if the original protection agreement included the Bergman property or just the landfill. Mr. Callahan stated it covered the Bergman property as well. He stated the only way the 8 lots could be included is if they were specifically named in a document. Commissioner McDowell stated the uncertainty is a concern to the people that own the property. He would like to get the assurance from Advanced that the remaining properties will be part of the agreement that will be approved at this meeting. Mr. Callahan stated he can only approve the draft that the company has already approved. He stated he can bring the issue up to the company and get him a specific answer on what would be included currently under the second amendment. He stated if there are some properties that would have otherwise been covered before he will ask the company if they would be willing to cover them. Commissioner McDowell stated he would hate to delay the annexation any more than it has been but he would like to have answers to his questions. Mr. Callahan stated he does not have answers for him now but would bring the questions to his clients.

Attorney Stach stated he wanted to clarify the confusion with the Host Agreement. The Host Agreement that the Council is voting on today is specifically what is considered exhibit C to the Annexation Agreement that was just approved under Item 7(a). This makes section 6 of the Second Amendment to the Host Agreement effective immediately. This immediately establishes the landfill manager as the point of contact for the City of Zion.

It was moved by Commissioner Holmes, seconded by Commissioner Fischer that an Ordinance (19-O-20) be passed Authorizing the Execution of a Second Amendment to Host City Agreement with Advanced Disposal Services Zion Landfill, Inc. The vote on roll call was: Commissioners Fischer, aye; Holmes, aye; Frierson, aye; McDowell, nay; and Mayor McKinney, aye. Motion carried. Ordinance passed.

**ORDINANCE/AMENDING ZION MUNICIPAL/TEXT AMENDMENT/SECTION 10-180(5)(a)**

A memo (19-DOC-29) was received from Director Ianson regarding a text amendment to the Zion Municipal Code Section 10-180(5)(a). Director Ianson is recommending an amendment to Section 10-180(5)(a) of the Rental Housing Inspection & Certification Ordinance to include language that states a more definitive required inspection timeline of 30 days. Commissioner McDowell stated he appreciates Mr. Boone's comments at the last two Council meetings. He believes some of the points he is raising are worthy of the Council's consideration. He has concerns with entering into someone's home and wonders if it wouldn't be a bad idea to sit down with the Lake County Apartment Association and see what ideas they may have that may be helpful. Commissioner Fischer stated the City was sued over many of the points and prevailed in court, specifically on the constitutional issues. He is willing to sit down with any group to discuss improving the program, but the program has been sustained in the courts. Mayor McKinney stated he appreciates the points made by Mr. Boone regarding the program but he has also seen the merits of the program. The building department does not barge into people's homes to make inspections. The program has been run in other Cities and it has been successful. The home values have improved as a result of the program. The program is about the life safety of the residents. He stated the responsible landlords are making sure the life safety issues of the tenants are looked at. He stated they are open to sitting down and talking but feels the program has done a lot to protect tenants where landlords do not take care of their property. The program does not make money for the City. When the program was put in place it was mandated that the City could not generate revenue. The program pays for itself. The City helps the tenants that do not have a voice. Some tenants are afraid to come to the City and complain when they have issues such as no

electric, heat, air conditioning or running water. The City is not going in to look at people’s belongings they are looking at life safety issues only.

It was moved by Commissioner Holmes, seconded by Commissioner Frierson, that an Ordinance (19-O-21) be passed amending Chapter 10 “Buildings & Building Regulations”, Section 10-180(5)(a) Rental Housing Inspection and Certification of the Zion Municipal Code. The vote on roll call was: Commissioners Fischer, aye; Holmes, aye; Frierson, aye; McDowell, aye; and Mayor McKinney, aye. Motion carried. Ordinance passed.

**DEPARTMENTAL COMMENTARY**

Director Ianson shared what a typical rental inspection certification list consisted of.

Mayor McKinney stated he read an article in the News Sun regarding violations with both the North Chicago Housing Authority and the Lake County Housing Authority. Individuals that were receiving vouchers were not getting inspections. The newspaper showed pictures of some of the living conditions. They are under the investigation of HUD for violating their regulations of the necessary inspections that are supposed to be made to those with vouchers. There are landlords out there that are not looking out for the best interests of their tenants.

Commissioner McDowell recognized Police Chief Dumyahn as it was his last City Council meeting. He stated he has served the City well for the last 33 years and has made his mark on the City. He has had a positive influence on the way the Police Department operates.

Chief Dumyahn stated the “Click it or Ticket” campaign has begun its annual campaign which kicks off Statewide on Memorial Day. They will heavily enforce the use of seatbelts and will ticket citizens.

Mayor McKinney thanked Chief Dumyahn for his service to the City and for taking the time to meet with him and explain police procedures.

**ANNOUNCEMENTS**

May 27		City Offices Closed for Holiday
June 4	7:00 p.m.	Zion City Council Meeting
June 15		Nostalgia Days
June 18	6:15 p.m. 7:00 p.m.	Zion Township Meeting Zion City Council Meeting

**ADJOURN**

There being no further business to come before the Council at this time, it was moved by Commissioner McDowell, seconded by Commissioner Frierson and unanimously approved the meeting be adjourned at 8:19 p.m. Motion carried.

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City Clerk