

MINUTES  
MUNCIE COMMON COUNCIL  
300 NORTH HIGH STREET  
MUNCIE, INDIANA 47305

**MONDAY, DECEMBER 2, 2019**

**PUBLIC HEARING: 7:15 P.M., 1<sup>ST</sup> FLOOR CITY HALL AUDITORIUM.**

**REGULAR MEETING: 7:30 P.M., 1<sup>ST</sup> FLOOR CITY HALL AUDITORIUM.**

**PLEDGE OF ALLEGIANCE:** Led by Councilperson Anderson.

**INVOCATION:** Given by Teresa Long from Life Touch Ministry.

**CITIZEN RECOGNITION:**

Anderson calls up a gentleman that doesn't really wants to be up here, because of the fact that he does great things but he does it (not necessarily privately) but no one has to motivate, encourage or stimulate him to do something. This gentleman does it because he has a passion for people and believes in helping people wherever he goes and is a great server and yet, a great role model, not only for children but for grown men as well. The recipient of the December 2019 Citizen Recognition Award is Chad McKibben.

Chad was born in Muncie, Indiana and attended all of the Muncie Community Schools and graduated from the great school called Muncie Southside High School. Chad, along with this lovely wife, Heather, has adopted five children. Chad is a part of this community. Why? Because he's the owner and operator of Auto Auction and owns two car lots, one in Anderson and one in Muncie. If you are ever going down 29th Street to see Millennium Motors, well that is Chad. However, he is more than that. He is involved in his community. Not only is he involved in his community but he is involved in his state. That is why Chad became a civilian citizen and therefore he has an opportunity to travel and wherever there's a disaster, Chad takes out his own time and goes. You have heard of Hurricane Harvey, well, Chad was there. He went on his own for four days and four nights helping those that were in distress, mothers, children and more. Not very long later, Chad took off and went to Florida in Hurricane Irma for ten days. Chad was doing what came natural to him because he has a passion for people and wants to help people. During those ten days in Florida, Chad helped set up a Response Center (a command center) and stayed because he wanted to make a difference. Again, Chad was there. We have heard of Southview Elementary School. Anderson just so happened to be on the school board and knew about around 441 little kids in there. For three years, Chad has been a part of that. Chad became involved in the schools. Why? Because he wanted to make a difference. No one told him, he just wanted to do it. For the first two years, Chad gave up two hours a day, every day, to help the kids. Now, what was Chad doing? Chad was doing basic

things like helping the kids off the bus and helping them in the cafeteria. When it is time to eat lunch, kids can get a little rowdy but Chad was there, helping those kids. Here is the big thing about it, knowing what the poverty level in all of that is going on, Chad mentored a lot of kids throughout the school system. Chad is a man that we all want to be like because he's given up his time and talent. Here is the thing about Chad, when he took those cross-country trips, he didn't get paid for that. He was on his own. It wasn't about that, it is about the love of helping others. Within Anderson and the City Council, he presents a plaque to Chad McKibben that reads "Muncie City Council December 2019 City Council Citizenship of the Month Presented to Chad McKibben. Thank you for your generous commence and time, support and inspiration to the city of Muncie." Anderson tells Mr. McKibben that they can never repay him. Again, he is not the kind of guy that wants to be up front. He knows what needs to happen and he makes things happen, without anybody telling him. Chad is the guy that Anderson likes to be around because we need more Chad's around, more Chad's in our city, our schools and more Chad's in our world because we all need some help.

Mr. Chad McKibben thanks the council and first and foremost, wants to thank God because without him, he would be none of this. He thanks his family and friends, Bishop Keith O'Neill, Destiny Christian Center who's help him in his faith. Like Anderson said, McKibben has been in Muncie all his life. He loves this city and has been a business owner in this city for almost twenty years. Do we have some issues in Muncie? Absolutely. We have poverty, drugs, but show him a city that doesn't have those issues. People ask, "why are you in Muncie? There's nothing in Muncie." Well, yeah there is. Every one of us are in Muncie. We are all apart of Muncie and if we want to make change, it starts with us. We got to look in the mirror and be the change that we want to see. As McKibben was praying before he come up here today, Matthew 22:37 came to mind and it says "ask Jesus, what's the most important commandment?" And it is "to love your God with all of your heart and all of your soul and all of your mind. Second to that, is to love your neighbor as yourself." How much difference could we make if we love our neighbors as ourselves? How much change could we make? If we want to break down the barriers of socio-economics and racial problems, it all starts with us and we have to be the change that we want to see. We all have time, treasure and talents. It's ours to give and just a small contribution can make a world of difference. When McKibben started volunteering at the school, the difference that hour (here and there) would make on the students faces when they're having a rough day or having an issue and it became to where those students would come to Chad when they had a problem. If anything, volunteer at a school or help someone in need, but it all starts with us. If we want change, we have to be the change. McKibben closes by thanking everyone in attendance. Powell states that program is something that President Marshall started back in 2012 when they took office and she certainly hopes that the incoming council continues that because Powell thinks it's something that is really important so that they highlight those people in our community that make our community so special. Powell thinks that is something that we need to recognize as we move forward with business.

<b>ROLL CALL:</b>	<b>PRESENT</b>	<b>ABSENT</b>
John Hampton	X	
Nora Powell	X	
Brad Polk	X	
Julius Anderson	X	
Jerry Dishman	X	
Doug Marshall		X
Lynn Peters	X	
Dan Ridenour	X	
Linda Gregory	X	

**APPROVAL OF THE MINUTES:** A motion is made by Peters and seconded by Hampton to Approve the Minutes from Regular City Council Meeting on November 12, 2019. A roll call vote showed 8 yeas, 0 nays and 1 absent (Marshall). MINUTES APPROVED.

A motion is made by Gregory and seconded by Hampton to Approve the Minutes from the Environmental Impact Committee Meeting on November 12, 2019. (The same Minutes were just approved at the Environmental Impact Committee Meeting on December 2, 2019 as well.) A roll call vote showed 8 yeas, 0 nays and 1 absent (Marshall). MINUTES APPROVED.

**COMMITTEE REPORTS:**

Councilperson Hampton states they have a brief report from the Environmental Impact Committee which met just a few hours ago to discuss the environmental ordinance that is going to be read for the second time tonight. They had some comment from a gentleman who was here last month and didn't get a chance to talk. The committee also presented to the newly elected Mayor, Dan Ridenour, and a copy to the next council, a list of experts. Those copies are available to anyone. The list is of people in the medical, academic and industrial world here in Muncie who are experts on environmental issues. Hampton strongly urges the new council and the new administration to utilize the knowledge that this list represents. Brian Preston provided it for the committee and as Hampton said, they passed it on. He recalls somebody asking for a copy of it during the break and Hampton has it available here if they want to get it. Powell states any questions from the council can come during meeting when they discuss that ordinance.

Jeff Robinson, 1812 N. Riley Rd., Muncie, Indiana, starts off by thanking the council for their service to their community. Although, there are agreements and disagreements as they go down the road, he just wants to thank them. He has known many of them for a while and knows all of their hearts are in the right place, so, he thanks them for their service on council. Robinson is here representing Cornerstone Center for the Arts, which is doing a fundraiser next Saturday night to benefit the Muncie Animal Shelter. What they do every year is a Scarevania Haunted House on the top two floors of the Masonic Temple at the corner of Main and

Madison Street. For the last two years, they have turned it into a Christmas-themed haunt in December, for one night only. Next Saturday, December 14<sup>th</sup> from 8:00 pm to midnight at Cornerstone Center for the Arts. Admission is either \$5 cash (that goes to Cornerstone Center for the Arts to support scholarships and financial aid for their Arts education students) or you can donate goods for the Muncie Animal Shelter. They have been able to raise truckloads of dog food, cat food, kitty litter and things like that. They have a wish list on Facebook that you can find. It's a great way to have some fun during the holiday season and Robinson can guarantee some fun. He encourages all to come out, tell constituents to come out and support Cornerstone Center for the Arts as well as the Muncie Animal Shelter. Robinson closes by thanking the council for their time.

Lynn Thornburg, 714 E. Washington St, Muncie, Indiana, with the East Central Neighborhood Association, states before you go to the Scarevania Haunted House, you can come to Victorian Holiday Tour in the East Central Neighborhood on Washington Street. Tickets are \$10.00 and they have five well-decorated homes. Several are what they call the "mansions" and then the Emily Kimbrough house will be decked out thanks to Randy and Dwayne, who are excellent with Christmas decorations. It's Saturday, December 14<sup>th</sup> from 4:00 to 8:00 pm, ending just before Scarevania and then, Sunday, from 1:00 to 5:00. You can either experience the lighted tour after dark or in daylight. On Sunday, they will have Santa at the Kimbrough Museum where the tickets are sold for pictures. Thornburg thinks there's an activity plan for children so if the parents want to go on the tour and the kids want to stay and do an activity, they can do so. Thornburg closes by thanking the council.

Powell states both of the Public Safety departments have events coming up. 'Shop with a Cop' is coming up on December 14<sup>th</sup> at Target and the Firefighters Union is having their 'Toys for Tots' bowling tournament. Those are events you can find on Facebook to help support that.

Audie Barber, 610 W. 11<sup>th</sup> St, Muncie, Indiana, needs to bring attention and that there was paperwork he distributed to everybody. There is a member on the council that he would like to see brought to a vote that he be removed from Council tonight. Again, Barber would like to see it brought to a vote right away and have Hampton removed. Everybody has copies of the papers and Barber would like to see Peters, Dishman, Gregory, Powell, Polk, Anderson and Ridenour to go ahead and vote on that before they go any further because any business conducted by Hampton on the council is illegal. It opens the city up to a major lawsuit of detrimental portions. Barber would like to ask the council to vote on it and know everybody's opinion before he sits down. Powell thanks Barber for his request but informs him that he can sit down now. Barber asks Ridenour if there is any way that they can vote on this. Powell states she has asks Barber to sit down. Barber states he is asking for a vote and some input on this. Powell informs him that if he does not sit down she will have to ask him to leave. Barber is asking for and wanting input on this, at this time, he is asking for a vote. He is tax paying member of this city and he wants a vote on this. Powell appreciates that. Barber asks if there is a chance they

can bring it to a vote. Powell answers no, there is not. Barber, again, asks Ridenour, Polk, Anderson and Dishman if there is any way they can bring this to a vote. Powell calls order and states if he does not stop being disruptive, she is going to ask him to leave. Barber states he is not disrupting anything, he is wanting this brought to a vote. Powell asks Chief Winkle to come up to the podium. Barber is asking this be brought to a vote. Powell then would like to read something, "the Open-Door Law states the government agencies must hold official meetings of the majority of the governing body, such as council or board meetings, publicly. As a citizen, you have the right to attend and record these meetings. While you can attend and record these meetings, you do not have the right to speak at them. You may have the opportunity to speak, if the meeting...." Barber cuts her off and claims she is giving these people here the right to speak but not him. Powell continues that she has an email from Luke Britt, Public Access Counselor, and reads, "there is no established protocol or procedure regarding disruptions. Some boards do have policies. My guidance has generally been to give the disrupter a warning or two and then, if they continue, they waive their right to observe and can be asked to leave." Powell is going to ask Barber, again, to sit down. Barber states per Sec. 32-06, the council shall have the power to expel any of the members violating the duty or declare the seat... Chief Winkle steps in and moves the microphone away from Barber and informs him that the council is not going to vote. Barber continues asking and asks Ridenour if he is going to call for a vote, which Ridenour then refers to Polk. Winkle asks the council if they want Barber to leave and begins asking individually. Peters states yes and that she wishes they can just get through one meeting. Winkles continues and gets a yes vote from Dishman, Gregory and Powell but when he gets to Polk, he wishes to first say something.

Councilperson Polk explains he was going to do this before they were interrupted (Ridenour confirms) in doing business for the city, but, at this time, he would like to make a motion, seconded by Ridenour, that the City Council exercise its powers to remove John Hampton from City Council based on IC Code 3-8-1-5 sections D and E, for their right to act on this Muncie city code 32-06. Polk has copies of 3-8-1-5 (disqualification of candidates) to pass out to the council and their attorney. Polk asks that they act on this before moving forward with the remainder of the meeting so they can do city business that they are here to do. That is a motion. Ridenour confirms he seconded that motion. Attorney Hunter does not know if it is applicable, like he said the last time, but Polk has every right to make that motion. Powell confirms they have a motion by Polk and a second by Ridenour and asks for discussion from the panel. Peters asks Hunter if he already has and read this paperwork. Hunter explains his concern, from a legal perspective is that Sec. 3-8-1-5 deals with candidates for office. At this point, Hampton is not a candidate for office. That is the province of the Election Board, which is what happened recently with (he thinks) two or three other potential candidates. At this point, Hunter's opinion is that this is not applicable. He explains he stated that at the last meeting but he also told them he would entertain input from the council. Hunter reiterates, Polk has every right to make the motion. Powell asks about the legal ramifications that the council could face from the city. Hunter explains it is more of the city than the council. The council is not an entity that, by

statute, can be sued but that does not mean that the city cannot be subject of a lawsuit regarding the council's action. Powell clarifies, the action brought forth by Hampton. Hunter states he has no idea. Polk states Sec. D states, "a person is disqualified from assuming or being a candidate," so that's two different things "for an elected office" and it gives all of that. Polk highlighted the stuff that is on there. "A guilty plea hearing, if the person pleads guilty to a felony." To Polk, there is not a lot of discussion there. He continues, if Hampton was convicted of a felony then, obviously, he cannot hold office in in the state of Indiana. Powell asks for a response to that from Hunter. Hunter believes he has probably already given it but this deals with disqualification. The title of it is disqualification of candidates. Hunter also points out that under the ordinance and the state statute, it requires a two-thirds vote to remove somebody from some assumed office. The ordinance is 36-4-6-6 which governs expulsion of members. This is the statute in its entirety, "the legislative body may expel any member for violation of an official duty, declare the seat of a member vacant if the member is unable to perform the duties of the members office and adopt its own rules to govern proceedings under this section, however, a two-thirds vote is required to expel a member to vacate the members seat." Hunter explains that typically, a council acts by resolution or ordinance by statute and Polk has made that motion. He can make the motion but there are notice and opportunity to be heard issues also. Those are Hunter's concerns but the motion has been made and seconded, the council has every right to vote on it and he suggests that they do.

Brandon Murphy, 3204 W. Gilbert St., Muncie, Indiana, states he understands what Attorney Hunter has said, although, 3-8-1-5 does say explicitly that it applies also to those who assume an office, which Hampton has done. Murphy thinks the election code applies to this issue and the council has the absolute authority to act and he would ask that the council do so.

Powell asks Attorney Hunter if that code says "assume office?" Hunter responds "a person is disqualified from assuming or being a candidate of the office." The problem that he sees here is that Hampton has already assumed the office and been sworn in.

Powell declares a recess for five minutes. Members of the audience shout out that there is a motion on the table and they cannot recess. Attorney Hunter explains that the council rules say that the presiding officer decides call questions of order subject to an appeal. So, if the presiding officer wants to adjourn, that is subject to an appeal. But, that is the initial ruling on order, under section 32.21, "the presiding officer shall decide all questions of order subject to an appeal to the council by any member whose appeal shall be seconded." He continues, if the council wants to adjourn, initially, that's up to the council, if they want to object, that's up to the rest. Powell would like to call a recess for five minutes to discuss the motion.

#### **ADJOURNMENT:**

After five minutes, Powell declares the meeting back in order.

Polk then withdraws his motion and also makes another motion to adjourn the meeting.

Hampton seconded. MOTION WITHDRAWN.

A roll call vote showed 6 yeas, 2 nays (Powell and Ridenour) and 1 absent (Marshall).

MEETING ADJOURNED.

Audie Barber brought cake and passed it out after the meeting. Powell then asks anyone that would like to stay can do so for she has an announcement to make, not pertaining to the council business. There are some amazing people on this council, whether you agree with their votes or not, that deserve to be recognized. There are some people who have put a lot of time over the course of several, several years of their lives to help move this community forward. Powell wishes Councilman Ridenour all the best of luck in his endeavors as Mayor. Councilman Dishman and Councilman Polk will be continuing on the council and Powell wishes them the best of luck. Powell states Councilman Marshall was out this evening because he is having surgery but she would like to award some councilpersons who have been quite amazing. Councilperson Peters has served on council for four years and has done an amazing job and is awarded a plaque. Councilman Anderson has served on council for almost 10 years, taking over for Councilman Murphy and he has also done an amazing job in representing his community and is awarded a plaque. Finally, Councilperson Gregory has served for twelve years and has been an added watchdog for the taxpayers and is awarded a plaque. Powell just wants to wish the next Council the best of luck, the Clerk the best of luck, and everyone a Merry Christmas and is sorry the meeting did not go as planned. Lynn Thornburg wants to wish her daughter, Councilperson Powell, the best of luck in her endeavors and awards her with a plaque, as well, for her outstanding service and her backbone standing up to the Mayor, the Fire Chief and everybody else. Thornburg loves her very much.



President of the Muncie Common Council



Belinda Munson, Muncie City Clerk  
of the Muncie Common Council