

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

NOVEMBER 5, 2018

PUBLIC HEARING: 7:15 P.M., 1ST FLOOR CITY HALL AUDITORIUM.

ORD. 37-18 AN ADDITIONAL APPROPRIATION ORDINANCE. (BUILDING COMMISSIONER)
No public comment made.

RES. 22-18 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA, CONFIRMING THE DESIGNATION OF AN ECONOMIC REVITALIZATION AREA AND APPROVING THE DEDUCTION FROM ASSESSED VALUE OF NEW REAL PROPERTY IMPROVEMENTS.
(DELAWARE DYNAMICS, LLC)

Traci Lutton, Muncie Delaware County Economic Development Alliance, states notice of this public hearing was published in the Muncie Star Press on October 25, 2018 as well as on the doors to the entrance to City Hall and the auditorium. Additionally, notice of the hearing and project overview was provided to the overlapping taxing districts on October 24th. The Council adopted resolution 18-18 at the October 1st meeting for the designation of the economic revitalization area for the Delaware Dynamics project. The public hearing provides an opportunity for remonstrance and objection. She is here in support of the adoption of the confirmatory resolution.

President Marshall Adjourns the Public Hearing.

REGULAR MEETING: 7:30 P.M., 1ST FLOOR CITY HALL AUDITORIUM.

PLEDGE OF ALLEGIANCE: Led by President Marshall.

INVOCATION: Pastor Michael Sherman from the A Quaker Meeting Church.

A moment of silence followed for city employee, Mr. Richard Roscoe, who passed away Saturday, October 29th. Mr. Roscoe put in 25 years with the Parks Department.

CITIZEN RECOGNITION: Councilperson Anderson explains that the recipient for this award sustained an injury and is currently in the hospital. Her sister will be receiving the award for her this evening.

Donna Mae Shoecraft (Roberts) was born in Muncie and attended Muncie Community Schools, Longfellow, McKinley, Blaine and graduated in 1958 from Muncie Central. She was born in a loving family with six children (2 boys, 4 girls) while her mother was a homemaker. Her father, Warrant Shoecraft, worked downtown at the Oldsmobile Cadillac on East Washington St. in

which, that building still stands. Donna married her husband, Norman Roberts, and moved to California but later moved back to Muncie to start a family. They had 3 children, Jenna, Norman Jr., and Kenneth Roberts. In the mid 60's, the state of Indiana and Delaware county received federal funds for the Head Start program and other non-profit organizations which was a war on poverty serving underprivileged children. Head Start Action Inc. and NYC Neighborhood Youth Core provided grant money for Robert Foster and Donna to use to set up an office in the basement of Jefferson School. As a youth in the mid 70's, Anderson himself benefited from the NYC program by landing his first job of \$1.15 an hour. Donna, who typed 120 words a minute, would teach young women how to do office skills such as short -hand, record keeping and etc. She always felt that there was a need for people to step up and volunteer. That was how she got involved. Donna has spent the last 10 years volunteering at Friends Food Pantry, the home church of the pastor that just did the invocation. Anderson went to the church to meet with DeeDee, the supervisor of the pantry, and was told that Donna was an excellent volunteer. In fact, whenever DeeDee was out, Donna usually took over the leadership in helping the other supervisors give the food away. When there was an individual who was out of control, so to speak, she always knew how to handle that particular person. When the Industrial Neighborhood Association was inactive, Donna was contacted by the state to see if the organization chapter was still active because the records indicated that the organization had been resolved. She had submitted paperwork to the state to update the organization bylaws and afterward, the state had informed her that the work she submitted was the fastest approval for the 501C3 that they had ever seen. The process started in August of 2014 and completed in January 2015. When Anderson asked her the thing she loved most about serving, she replied "I have worked all of my life and I love helping others." When he asked her if she would do it all over again, she replied, "yes, I would do it again because I love to give. The more you give to others it will come back to you."

Portia, Donnas sister, accepts the award on her behalf. She thanks the audience and members of the Council. When she asked Donna what she wanted her to say on her behalf she replied that she was very sorry that she was not able to make it due to her injury but she is very glad to be able to be a servant for the community. That is what it is all about is assisting the community and doing whatever she can for them.

Councilperson Polk recognizes the Muncie Central AP Government students and their teacher, Mrs. Julie Snider. Earlier this year, he and President Marshall had the opportunity of speaking to her classes. They were full of questions. Attending a City Council meeting has become a requirement of the class and next semester, students must actually participate in a City Council meeting. Taking a picture with a Council member is 10 extra credit points. He thanks them all for being present tonight.

ROLL CALL:	PRESENT	ABSENT
Alison Quirk	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 was made by Polk and seconded by Powell to Approve the October 1st, 2018 Public Hearing and Regular meeting Minutes.

A roll call vote showed 9 yeas and 0 nays. APPROVED.

The Special Meeting Minutes from October 24th, 2018 will be addressed at the December meeting.

COMMITTEE REPORTS:

ORDINANCES PREVIOUSLY INTRODUCED:

ORD. 24-18 AN ORDINANCE TO VACATE CERTAIN PUBLIC STREETS AND ALLEYS IN THE CITY OF MUNCIE, DELAWARE COUNTY, INDIANA.

A motion was made by Quirk and seconded by Polk to Adopt.

Nick Tokar, Attorney with Defur Vuran at 400 S. Walnut Street, refers to last month when he informed Council that they would be submitting a revised ordinance. They were in the process of getting a new survey which removed a portion of Second Street. Tokar proceeds and passes out handouts that include a map to the Council. He also has with him Larry Keesling with Delaware Dynamics that could potentially help answer any questions that the Council may have. The map provided has two colors, blue and yellow with red marks through it and the yellow portion is what they are asking to be removed. The new survey they had removed that portion from their request. This called for him to submit a revised ordinance which had updated legal descriptions that showed just the portions in blue. They are requesting this be approved as amended.

Anderson asks if they contacted the homeowner in that area. Tokar responds yes, he spoke with him after the meeting last month to let him know that amendment would be coming.

Gregory asks where in the ordinance would the language need to be changed. He replies that he tried to send a copy to everyone but can supply a copy to pass around tonight as well.

A motion is made by Gregory and seconded by Anderson to Amend to include the new survey and map provided.

A roll call vote showed 9 yeas and 0 nays. AMENDED.

A motion was made by Gregory and seconded by Powell to Adopt as Amended.

A roll call vote showed 9 yeas and 0 nays. ADOPTED AS AMENDED.

ORD. 27-18 AN ADDITIONAL APPROPRIATION ORDINANCE. (STREET DEPARTMENT)

A motion was made by Quirk and seconded by Powell to Adopt.
Questions called. A roll call vote showed 9 yeas and 0 nays. ADOPTED.

ORD. 28-18 AN ADDITIONAL APPROPRIATION ORDINANCE. (ANIMAL SHELTER)

A motion was made by Quirk and seconded by Powell to Adopt.
Polk refers to last month being told that they would receive a breakdown of what the \$150,000 was for other than other services and charges. He knows \$11,000 was for utilities and some remaining amount was for part-time employees. He questions if that breakdown was available. Marshall asks City Controller, Kevin Nemyer, if he has that breakdown. Nemyer responds that they would have to get it from the Animal Shelter. Polk says that Nemyer said last month that he would get that information to the Council.

A motion was made by Polk and seconded by Gregory to Table.
A roll call vote showed 9 yeas and 0 nays. TABLED.

A motion was made by Quirk and seconded by Gregory to Bring Ord. 18-18 Off the Table.
A roll call vote showed 9 yeas and 0 nays. BROUGHT OFF TABLE.

ORD. 18-18 AN ORDINANCE TO AMEND THE TEXT OF THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE REGARDING A NEW WHITE RIVER CANAL OVERLAY DISTRICT.

A motion was made by Gregory and seconded by Powell to Adopt.
William Hughes, Beasley & Gilkison 110 East Charles Street, forwarded to the Council a letter dated October 22, and does not want to rehash what he indicated in there but had four main points. They think the creation of an Overlay District is premature. With his experience, with new development coming in and developing secures and interest in property, which brings forth a concept. First with the Planning Commission and then to the City Council for approval. Here, there is no developer and there is no concept and yet the city is wanting this Overlay District. It suggests that this is an area in need of redevelopment and as he indicated in his letter, his clients (Thomas Business Center and Naze-Perry Insurance Company) are long-time successful businesses with very nice properties. They are contributors to our community, employers and tax payers. As Mr. Hughes was traveling here this evening, he was going down White River Road and the side of Thomas Business Center building says that they have been serving the Muncie community since 1939. Now, for some unknown reason, their property is deemed in need of redevelopment. That is very difficult for them to understand. He specifically cited item "K" that created a 30-foot-wide no build zone that cuts off part of the Thomas Business Center building as well as part of the Naze-Perry Insurance building. For what reason, they don't know, that arguably is simply a tasting of property without any compensation. This is not anything that they have asked for yet they are being denied the use of their property. The whole concept of public tasting a property for a private development has been a discussion throughout the country. The Indiana General Assembly addressed that and said pretty clearly that the government cannot come in take properties for private development. If a developer wants to come in and talk to them about acquiring their property and put forth a proposal for the Council to consider then they can act in the entire best interest of the community alongside the private developer and landowners. That is not what is before them. That is why they think this is premature. He recommends turning down the ordinance or to amend it and send it back to the Planning Commission until it is timelier, or perhaps, more clearly filled out.

Quirk states that she was the one that asked for this to be Tabled at the October meeting. That was because she wanted to have the opportunity to look into a few things. She had a conversation with Marta Moody from the Planning Commission who informed the Council they had to act within a 90-day period. That is why she is choosing to bring it off the table this evening. It is her understanding that existing businesses are grandfathered in and are not required to follow this (unless they take their properties down and rebuild). They are not going to be held to the same development standards and requirements for the Overlay District. Also, she understands the people within that committee want to work with people within the community. No one has suggested any eminent domain that she has heard of.

Marta Moody, Executive Director for the Muncie Delaware Metropolitan Planning Commission, says the concept for the Overlay District originated with the next Muncie group and they had a committee which was working on the downtown area, along with a consultant. They brought her in and asked if she would prepare a zoning ordinance amendment to achieve sort of a vision for this part of the downtown area. She views it as a pilot because the idea of maybe having this be throughout the downtown area is not a bad idea. With this pilot area, she used the overlay standards that they had put in place similar to but not identical to the Village Overlay District. She made some changes that were more applicable to the downtown environment. The provisions are geared toward building styles and materials and things that are not found in other parts of the zoning ordinance nor are applicable to other parts of the city. It is intended to ensure that new development within this area is done in a certain manner and that as more new development comes in, those who have already made their investment can have the comfort of knowing the new development is also going to have to be at the same level and the same quality. That is the concept behind it. Quirk is correct as to it would not apply to existing buildings unless they made an addition that was greater than 20% or if it was tore down and new development was put there then it would not require existing properties and buildings to do anything.

Ridenour refers to item "K" regarding the 30-foot setback and asks what the critical piece is and if its possible another distance would work. Marta answers when talking about a cycle-track system where there is a separate facility for the bikes and a separate facility for the pedestrians, similar to the Indianapolis Cultural Trail, that usually takes 15 feet and then there are shoulders (if you will). If there were to be an improvement like that done, they don't necessarily need 30 feet, 20 feet would be a comfortable distance. Ridneour confirms the 30 feet is not a requirement and that existing buildings are not being required to make repairs or improvements and if the 30-feet is in existence and kept in the ordinance, would it financially impact either of these businesses if either goes to sell their property. He understands it would require them to repair, change or upgrade anything but does it impact the sale inability of those properties if it stays at 30 feet. Ms. Moody answers that she is not a real estate developer or an expert but her opinion would be that it takes away a little bit of the flexibility because it places a setback. Their court ordered development standards do a similar thing where they require a 25-foot landscape buffer between a development and a residential use. Its not unheard of and there is a limitation of the buildable area but it's not a unique situation. Ridenour encourages the Council to send it back and see if section "K" can get adjusted so it takes care of the good

business owners. Ms. Moody replies that if Council rejects or amends the ordinance then it goes back to the Planning Commission in which they have 45 days to report back to Council. That report would either be that they agree at which in that case it would become effective upon her filing their concurrence with the desired amendment, or they disagree and it would come back to Council to reaffirm their approval. Ridneour mentions at worst it would give delay but the chance to do what is right. Marta again says if they amend it, it goes back to the Planning Commission, she recommends if they want to amend it to the 20-foot then do so and then it will be sent to them to make their consideration.

Polk refers to section "I" regarding landscape and maintenance where it states it shall be free of weeds, litter and graffiti and similar signs of deferred maintenance. Items such as fences and walls shall be repaired and replaced periodically to maintain the appropriate and sound conditions and goes on to ask what the ramifications are if that is not done and who would be responsible. Ms. Moody responds that the city of Muncie Administrative Zoning Officer who is also the Building Commissioner is the enforcement officer for the zoning ordinance. They would do their review, issue a letter or citation saying what needs to be fixed and give them so many days to do so. If they do not correct the issue then they can take them to City Court. Usually things get fixed before it escalates to that degree. Polk asks if someone gets cited and does not fix their issue and gets fined, if there is a fee schedule available or does that fall under the Building Commissioners fines that are already in place. Ms. Moody explains that it falls under the General Penalty Provision in the city code. There are minimum and maximum fines listed in which the City Judge would set at the court hearing. The Building Commissioner may have a citation schedule that may indicate a \$100 fine if someone does not fix something but the typical process would be that they would get a citation, be given time to fix it and if they don't, then the ramifications of city court would take place. Polk asks if that should be added if they do send the ordinance back. Marta explains that is an entire different section of the ordinance and there is a section on the Zoning Administrative Official.

Gregory mentions the grandfather clause and asks if that is determined with the property or the landowner. Ms. Moody responds it is the property. Gregory asks if it is sold, the new owner is not obligated to still have the grandfathered clause of whatever the footage is, until they do something to it. Ms. Moody agrees.

Powell asks if new owners can ask for variance. Ms. Moody answers yes, there is not guarantee but there is always a possibility. It is the property owners right to ask.

Kent Thomas, Thomas Business Center and Thomas Investment Company 333 N. Franklin Street, as he stated at the October meeting, supports this ordinance. He likes the planning and everything behind it (his son is an urban planner). It is the section "K" and that 30-foot setback that is not liked. He has talked to three different real estate commercial development agents that told him this is going to devalue his property 50-75% because it is going to cutback the ability to whoever purchases that property to use it for their own designated use. If something were to happen, a fire for example, he couldn't replace it, because of this ordinance. In essence, what is occurring is an inverse condemnation of his property. They are doing a right of domain without a right of domain and not going through the steps to put the walkway or bike

path in there. This ordinance condemns his property along with 30 feet of property which goes through the middle of his building and parking lots. There has been development planned for there and it does not come near that 30 feet. For four years Mr. Thomas has been working with representatives of the city that want his property. They have not offered him enough money that he could even afford to move. He has had expert after expert come in and do study after study that go and offer him pennies on the dollar. Last December was the last meeting he had when he was informed that this was his last offer and if he does not take it, they will pass an ordinance that will make his property worth less than what it is. All in all, making him unable to sell. That is what this section "K" is. It was threatened and is now being implemented. He would like to see section "K" removed.

Ridenour asks how many employees Thomas Business Center has. Mr. Thomas responds they currently have 8 but at one time had 16. They have supplied for Ball Corporation world wide, Ball State, IU Health Ball Memorial Hospital and First Merchants until taking their business outside of Indiana. Ridenour asks if Mr. Thomas is wanting to sell his property, in an ideal world. In an ideal world and eventually yes, he would like to sell. As a small businessman, you do not have a pension. Your pension is that property and money in your business. You hope that when you get done you can sell the property and business. He is not ready to do so just yet, however. They are the last office supply store in town. Ridenour explains that the community appreciates his business and loyalty for 79 years. He refers back to the setback and asks that if that length is changed to 20 feet, what would that do to his property. Mr. Thomas responds he would have to run a line on it and see. He ran a line on the 30 feet setback and it goes right through the middle of his building which has been there since 1955. Marta Moody confirms that 20 feet would hit the supply store as well. Mr. Thomas explains there is a flood line set. The ordinance mentions a Muncie Flood Commission but there is no information anywhere as to who is on that or if it even exists. They created an imaginary line that is being worked with, not the FEMA lines. It could be placed anywhere they want it to. A walkway could be more understanding. This condemns Mr. Thomas' property.

Gregory asks the impact of eliminating section "K" and Ms. Moody responds that would mean there would not be an identifiable bike path on the river bank. However, a provision could be put in there that was more general along the lines of the development plan shall incorporate a bicycle and pedestrian area as a part of the development plan. That gives the flexibility of as to where it can go. Gregory asks if that protects Mr. Thomas and his potential sale. Ms. Moody responds it could, it then becomes a matter of how the design plan is done. He has two parcels there and the building takes up most of one parcel in the shape of a triangle. The parking lot is the larger, squared off parcel. If someone bought both parcels, there could be flexibility to do a development and the 30-foot river setback is descriptive. The concept was to provide a river walk then in the development plan make that a requirement.

Marshall declares a 5-minute recess.

A motion was made by Gregory and seconded by Powell to Amend Ord. 18-18, page 12, section "K", all new development and expansions of existing development must provide

accommodations for river walk and or bikeway access” and removes the remaining part of the paragraph. A roll call votes showed 9 yeas and 0 nays. AMENDED.

A motion was made by Powell and seconded by Polk to Adopt as Amended. Questions called.

A roll call vote showed 9 yeas and 0 nays. ADOPTED AS AMENDED.

For everyone’s information, Ms. Moody explains that the Planning Commission does not have a regular scheduled December meeting so she will work on setting up a special meeting to deal with the revised ordinance. They have 45 days to do that and their next meeting isn’t until January 3, 2019. If it agrees then she will file the report and let everyone know it is then in effect but if they make any changes to it, it will be back before Council.

A motion was made by Powell and seconded by Gregory to Suspend the Rules and add Ord. 25-18 to the Agenda. A roll call vote showed 9 yeas and 0 nays. RULES SUSPENDED.

ORD. 25-18 AN ORDINANCE AMENDING THE MAXIMUM SALARIES OF EACH AND EVERY APPOINTED OFFICER, EMPLOYEE, DEPUTY, ASSISTANT, DEPARTMENTAL AMND INSTITUTIONAL HEAD OF THE CITY OF MUNCIE, INDIANA, INCLUDED HEREIN FOR THE YEAR 2018. (PARKS DEPARTMENT)

A motion was made by Quirk and seconded by Powell to Adopt.

Sarah Beach, City of Muncie Personnel Director, is willing to answer any questions.

Powell clarifies that this eliminates one position which will save the city money. Ms. Beach confirms and explains they are asking to eliminate one position which is the Prairie Creek Assistant Superintendent and increase the salary of the Parks Superintendent because of the additional responsibility and the working Foreman’s position because of the mass of increase of responsibilities. Because of the reduction of that one position, the Parks Department has been able to save a lot of money. This is all within their budget to take care of this.

Questions called. A roll call vote showed 9 yeas and 0 nays. ADOPTED.

NEW ORDINANCES:

ORD. 37-18 AN ADDITIONAL APPROPRIATION ORDINANCE. (BUILDING COMMISSIONER)

A motion was made by Quirk and seconded by Powell to Introduce.

Rick Lorrison, Building Commissioner, explains that this appropriation covers shortfalls on two wage items. They had two employees, in which, one passed away and one resigned. With the days that were owed in the package that came in effect left a shortfall on both.

Gregory asks how this would affect the salary ordinance and if it would throw those two-line items over the established maximum salary. Mr. Lorrison cannot answer that. Gregory asks if he will have that information at the next meeting before the vote to adopt. He answers yes.

Questions called. An all-in-favor vote showed 9 yeas and 0 nays. INTRODUCED.

RESOLUTIONS:

RES. 19-18 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA SUPPLEMENTING THE 2015 TITLE VI IMPLEMENTATION PLAN.

A motion was made by Quirk and seconded by Polk to Approve.

Yvonne Thompson, Executive Director for the Muncie Human Rights Commission and other duties such as also Title VI ADA Coordinator, and that is what this particular resolution deals with. The Indiana Department of Transportation has asked the city of Muncie to supplement the Title 6 Implantation Plan. (She makes sure the Council is aware it is Title VI as in the number six.) Marta Moody is here to explain. She worked with a gentleman from INDOT who requested these supplements and drew up the resolution. It was pretty straight forward in just adding the organizational chart and English charts. She found out about Good translate which will transcribe what you type into another language. Marshall adds as his Columbian foreign exchange student can vouch that sometimes the words aren't exact. Questions called. A roll call vote showed 9 yeas and 0 nays. APPROVED.

RES. 22-18 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA, CONFIRMING THE DESIGNATION OF AN ECONOMIC REVITALIZATION AREA AND APPROVING THE DEDUCTION FROM ASSESSED VALUE OF NEW REAL PROPERTY IMPROVEMENTS. (DELAWARE DYNAMICS, LLC)

A motion was made by Quirk and seconded by Powell to Approve.

Traci Lutton, Muncie Delaware County Economic Development Alliance, states this is the confirmatory resolution for the creation of the economic revitalization area and the tax abatement request for Delaware Dynamics. At the October meeting, they shared that this number involves an investment of \$3.1 million to construct a new 27,000 square foot manufacturing facility just south of Delaware Dynamics existing campus here in Muncie. This will result in the creation of 18 new jobs at an average wage of \$20.25 an hour and also the retention of 138 jobs. She is happy to answer any questions anyone might have. Larry Keesling from Delaware Dynamics is also here and they both request the Councils favorable adoption. Gregory states that they follow up each year with forms regarding tax abatement and there are questions as to whether the commitments have been achieved and asks if Ms. Lutton anticipates that those new jobs are going to be available day one or in the 10-year period. She is aware the economy drives some of that but just questions a timeline for an idea of what to expect. Mr. Keesling responds that is will scale up. They anticipate 9 jobs the first year, 9 jobs the second and 5 the third year in their forecast. It will be a gradual scale up with those jobs. Gregory mentions usual 10-year abatements she has previously seen 10% each year but this one jumps around a bit. She is curious as to what was driving that. Ms. Lutton explains that they went by the city of Muncie tax abatement guide to establish those guidelines. Statutorily it is a very standard schedule. In terms of the compliance with the job creation, every year they would be required to file their CF-1 in which the Council will have the opportunity to review that.

Anderson thanks Mr. Keesling for last month and the opportunity of bringing new jobs here to Muncie. It is a chance for the young people to get trained and start making \$20 plus an hour. He is very happy about that. The area looks a lot better today then it did twenty years ago. Mr. Keesling thanks Anderson in return and states he has heard of Vincennes coming to the Career Center again and bringing skilled training back to this area again. They are really looking forward to it and adding to their workforce.

Marshall asks if anyone had reached out and spoke to Mr. Bill Shroyer, owner of Vogue Cleaners, who had some questions pertaining to this. He is all about making the appearance

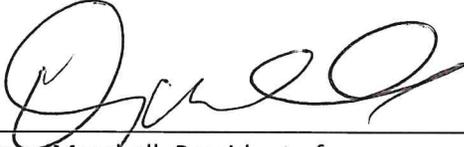
more presentable down there. Ms. Lutton has not heard from him but would be happy to chat with him. Maybe, they could even collaborate somewhere down the line. The company has a real interest in beautification of the manufacturing structure. They have been in conversation with neighbors, the 8Twelve Coalition and the South-Central Neighborhood Association working in tandem. Questions called. A roll call vote showed 9 yeas and 0 nays. APPROVED.

OTHER BUSINESS:

Forrest Bowers, 1205 N Edgewood Lane, thanks the Council and Marta Moody, Planning Commission, for recognizing a long history of the local business Thomas Business Center and its contributions to the city of Muncie in working to revise Ord. 18-18 to the benefit of its citizens and the contributions they have made over the years to the Muncie community.

ADJOURNMENT:

A motion was made by Polk and seconded by Powell to Adjourn. A vote by acclamation showed 9 yeas and 0 nays. ADJOURNED.



Doug Marshall, President of
The Muncie Common Council



Melissa Peckinpugh, Muncie City Clerk
of the Muncie Common Council