

MINUTES
MUNCIE COMMON COUNCIL
300 NORTH HIGH STREET
MUNCIE INDIANA

DECEMBER 1, 2014

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

ORD. 45-14 AN ORDINANCE TO VACATE EASEMENT IN THE CITY OF MUNCIE, DELAWARE COUNTY, INDIANA. (PETITIONER-BMW RESTAURANTS, INC.) Attorney William Hughes representing petitioner, which is the owner of Mac's restaurants in Muncie. They are requesting utility easement at the rear of the Mac's location at 1121 W. McGalliard be vacated. It runs under part of the building. There are no utility services in this easement and it was part of the original plat of oxidation back in 1954 when McGalliard looked a lot different than it does today. BMW restaurant own both sides of the easement area. He does have notice where the public hearing was published. They sent letters to each of the utilities. He received responses from Vectren and Indiana Michigan Power. They have no objection to the proposed vacation.

ORD. 46-14 AN ORDINANCE AMENDING THE 2014 BUDGET AS APPROVED BY THE COMMON COUNCIL WITH RESPECT TO GENERAL FUND. Controller Audrey Jones states most of this has to do with health insurance, part-time help, FICA and Medicare. Because health insurance costs increased they couldn't control the costs. Jones states she transferred out of Board of Works to other departments to cover their health insurance claims.

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

PLEDGE OF ALLEGIANCE: Led by Councilperson Linda Gregory.

INVOCATION: Given by Pastor York from the Cammack Chapel located in Muncie, Indiana.

CITIZEN RECOGNITION: Councilperson Brad Polk will present award. He has selected Dale Basham. Basham came to Muncie from Louisville, Kentucky to obtain his masters of Arts degree in 1974. He started his educational career with Muncie Community Schools in 1977 as English speech and Drama teacher at Southside High School. He became a guidance counselor in 1993 at Southside holding that position until he became associate principal in 2004. He was associate principal until 2008. His 27 years at Southside he created the Southside mountain of food campaign, which received the international horizon award from the international rescue missions. He was director of the Muncie Southside Commencement from 1993 until 2008. He was a sponsor for the National Honor Society at Southside from 1993 until 2004. He served as Director of the Muncie Area Career Center in 2008 and 2009, retiring from the

Muncie Community Schools after the 2009 school year. In 2010 he was elected to the Muncie School Board. In 2011 he served as Interim Director of secondary education. He was selected in 2014 to serve as interim principal at Muncie Central while Principal Tom Jarvis was working on the Southside and Central merger that took place earlier this year. This was a tough assignment because of the merger. Basham stated serving as Interim Principal was one of the joyful times of his career. He made it a priority to be able to spend the time with the Central students and focusing time on them. The Central students loved having Basham as Interim Principal. One week that happened earlier this year, everyone had fun of the week Basham was in Australia attending the Rotary International Conference. Basham continued to do the daily announcements live from Australia even though it meant he had to stay up until early hours in the morning. He would always end the announcements with an Australian saying. He was more than a Principal; he was a friend to all the students. Basham has many accomplishments even being named a Kentucky Cornel in 1995 by former Kentucky Governor Jones.

From 1995 to 2006 Basham was a member of the military academy selection board appointed by former Senator Richard Lugar. He has served as an MC for many different programs and many different causes. He serves as a board member of the Muncie Action Plan. Chairman of the Muncie Delaware County Chamber of Commerce Business Education Partnership, Board of Directors and Treasurer for the Muncie Downtown Development Partnership, Commissioner for the Muncie Human Rights Commission and he is completing his reign as the President of the Muncie Rotary where he serves on the Board of Directors as well as Education Liaison. Earlier this fall Basham was asked to fill in as Interim Chief Academic Officer. He continues to serve Muncie every day. When Basham was asked what he liked most about Muncie. He stated it's a great place to grow and thrive, great people and it's his home. Polk states when he thinks of Basham he is thinks of a quote from Tim Johnson who is a former head football coach of Battleground Academy High School in Franklin Tennessee. He stated "Anybody can be a leader and can be first in line when things are going great. Test is when you battle through tough times when things aren't perfect where you stand". On that day and at the end of your life you say to yourself I gave it all I had and for a worthy cause. Polk presents plaque to Dale Basham for recognition for the month. Basham states he is honored to be present. Basham states Polk ask him if he had a quote. Basham states "It makes more sense to build a fence around a cliff than to keep sending an animal to the valley" and he wants to build fences.

ROLL CALL:	PRESENT	ABSENT
Mark Conatser		X
Mary Jo Barton	X	
Doug Marshall	X	
Brad Polk	X	
Jerry D. Dishman	X	
Julius J. Anderson	X	
Alison Quirk	X	
Linda Gregory	X	
Nora Powell	X	

APPROVAL OF MINUTES: A motion was made by Marshall and seconded by Dishman to approve minutes from November 3th. A roll call vote showed 9 yeas and 0 nays. Motion carried.

A motion was made by Marshall and seconded by Powell to approve minutes from October 20th. A roll call vote showed 7 yeas and 1 abstain. (Barton). Motion carried.

ORDINANCES PREVIOUSLY INTRODUCED:

ORD. 39-14 AN ORDINANCE AMENDING CHAPTER 77, SECTION 77.34, USE OF CITY PARKING LOT METERS, OF THE CODE OF ORDINANCES OF THE CITY OF MUNCIE, INDIANA.

A motion was made by Barton and seconded by Polk to Adopt. Question called. A roll call vote showed 8 yeas and 0 nays. ADOPTED.

ORD. 40-14 AN ORDINANCE TO AMEND TITLE IX, CHAPTER 96, DIVISION 5 OF THE MUNCIE CITY CODE REGARDING REGULATION OF ACTIVITIES WITHIN PUBLIC RIGHTS-OF-WAY.

A motion was made by Barton and seconded by Marshall to Adopt.

Director of Planning Commission Marta Moody states she is present as Board Member of the Downtown Development Partnership, which is where this ordinance originated but is citywide. There are probably more businesses that will utilize this in the downtown core and the village area because that is where you have buildings that are right up to the sidewalk and in order for them to have outside venues they are in the right-of-way. Buildings that are set further back if they have outside dining they can do it on their own property. There are some properties that have to go into the right-of-way. They encourage those types of venues because people enjoy sitting outside and eating because it is a good environment. This is the enabling legislation for developing a permit program and standards for the use of that right-of-way.

They have been working on the standards of guidelines that will be adopted by the Board of Works. They want to be able to provide a draft at this Wednesday's meeting. She states on the ordinance she put the effective date as January 2015. Quirk asks how much feedback Moody has received from some of the businesses. Moody states she hasn't and they will let them know and provide standards to them. She made changes to the standards in accordance of what came up and she will provide copies of the draft to them and if there are any issues they can get back with Moody. Question called. A roll call vote showed 8 yeas and 0 nays. ADOPTED.

NEW ORDINANCES:

ORD. 41-14 AN ORDINANCE AMENDING CHAPTER 113, SECTION 113.04, ADDING SECTION 113.04(B) OF THE CODE OF ORDINANCES OF THE CITY OF MUNCIE, INDIANA.

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

City Attorney John Quirk states this ordinance is about adding paragraph B, which requires food service establishments that are mobile to be 150 feet away from another food service establishment so they can't sit right in front of another restaurant in front of their door and serve food. He is talking about the downtown area and the village area. Gregory asks how 150 feet was picked because she would think in the village this pretty much precludes any type of food service. Quirk states they would require a use permit for blocking the sidewalk anyway. Gregory states it won't allow any mobile food service. Quirk states at 150 feet. He states they could have it on the side streets but not on University. Question called. A vote by acclamation showed 8 yeas and 0 nays. INTRODUCED.

ORD. 42-14 AN ORDINANCE AMENDING CHAPTER 79, SECTION 79.16 AND CHAPTER 77, SECTION 77.34(B) SECTION OF THE CODE OF ORDINANCES OF THE CITY OF MUNCIE, INDIANA.

A motion was made by Barton and seconded by Marshall to Introduce. Police Chief Steve Stewart states this cleans up the language and puts these under the supervision and direction of the Muncie Police Department for the certain chapters that is in there now. Gregory asks what the impact is on Code Enforcement Personnel. Chief Stewart states none. Gregory asks if they will still issue tickets. Chief Stewart states yes. Gregory states under the supervision of the Muncie Police Department. Chief Stewart concurs. Gregory asks where they are located now. Chief Stewart states the Street Department. Gregory asks if they handled that in the budget. Chief Stewart states not as of yet. Question called. A vote by acclamation showed 8 yeas and 0 nays. INTRODUCED.

ORD. 43-14 AN ORDINANCE TO AMEND THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE FROM THE R-3 RESIDENCE ZONE TO THE BV VARIETY BUSINESS ZONE ON PREMISES LOCATED AT 1724 E. 29TH STREET, MUNCIE, INDIANA. (APPLICANT-MUNCIE IMPORTS AND CLASSICS, LLC.)

A motion was made by Barton and seconded by Polk to Introduce. Ed Conatser with F.C. Tucker Five Star Real Estate represents the owner of the property. He went before the Planning Commission last month and received a favorable recommendation. He would be happy to answer any questions. Barton asks what he plans on doing with the property. Conatser states the front portion along Macedonia and 29th Street is already zoned Variety Business. He states this is to bring the property into conforming use for future development. Barton asks for what kind. Conatser states for retail business or commercial environment. It could be a split user and they are under contract with the property on 29th street and Macedonia. They are just asking for the balance to be brought into conforming use.

They are in the process of getting it platted, surveyed and providing all the required drainage on the parcel. Conatser states bringing it into Variety Business zoning now, they will be able to do the onsite retention in an area and have it preset for the development when it happens. Barton states she understands what he is saying but doesn't feel like he has answered her question. Barton asks what they want to build on that property. Conatser states the 1.3 acres is already zoned Variety Business. He

states they are under contract on that with a national account. The balance that is not zoned Variety Business is being asked to have it brought into Variety Business Zoning so they can have the entire parcel zoned for commercial zoning. Barton states he still didn't tell her what will be built there. She states there is a piece of parcel that is BV Variety and he is asking them to vote on the rest changed to BV Variety. Barton states she is not crazy about BV Variety Business because a tavern can be built there. She states this has happened in her district. Conatser states a tavern that close to a church he would have to talk to the Planning Commission but doubts that is the case. Conatser states the intent for the owner to bring it into full zoning compliances of variety business zoning and attract other national tenants. He states just like on the Southeast corner there is a strip center with five or six shops. That is the same kind of development that will be on the Northeast corner. He states they have two acres and it could be multiple users but they would look at it as the same kind of retail and food opportunities that exist on the Southeast corner. Marshall asks if the owners are selling the property once they get the zoning changed.

Conatser states the owners have taken great strides in cleaning the corner up, demoed the building and removed all the trash and debris and is ready for development. That is the only corner that has remained undeveloped. This is the last property that has a visual effect to the community coming in from the south. They do have part of the parcel under contract and they are looking at additional opportunities in order to sell the property. Marshall makes recommendation to send this to the Land and Traffic Committee. Hopefully people can come out and ask questions because that is a real hot corner. He states hopefully by the time the committee meets Conatser can come up with answers with more than he has today. Conatser requests the meeting as soon as possible and would be more than happy to attend. A vote by acclamation showed 8 yeas and 0 nays. This will go to Land and Traffic Committee. Barton states they can meet on Friday at 5pm. Barton states if there is a problem they can change the date.

ORD. 44-14 AN ORDINANCE AMENDING CHAPTER 154, SECTION 154.14, 154.15, 154.16, 154.17, 154.19, 154-21 AND 154.99.

A motion was made by Barton and seconded by Polk to Introduce.

Building Commissioner Craig Nichols states this is an ordinance that amends their local ordinance that speaks to the licensing for plumbing contractors and plumbers. Now the State licenses plumbing contractors and plumbers. The Building Commissioner only registers them locally. They are just updating the language. Gregory asks if there is a penalty for someone who fails to register locally. Nichols states there is. Gregory states it isn't covered in this ordinance. Nichols states it will not be changed. It is just the language that they are licensed here and that has changed. Question called. A vote by acclamation showed 8 yeas and 0 nays. INTRODUCED.

ORD. 45-14 AN ORDINANCE TO VACATE EASEMENT IN THE CITY OF MUNCIE, DELAWARE COUNTY, INDIANA. (PETITIONER-BMW RESTAURANTS, INC.)

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

Attorney William Hughes is present for any questions. Gregory asks why they are doing this now. Hughes states when they ran a title search they found this easement that

runs underneath the building and there are plat restrictions that have been ignored for many years and they filed a petition with the Circuit Court to have those cleaned up. Question called. A vote by acclamation showed 8 yeas and 0 nays. INTRODUCED.

ORD. 46-14 AN ORDINANCE AMENDING THE 2014 BUDGET AS APPROVED BY THE COMMON COUNCIL WITH RESPECT TO GENERAL FUND.

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

Controller Audrey Jones states these are various changes that need to be made because they under budgeted in some areas. This is not increasing or doing additional appropriations. This is being taken from the Board of Works budget and putting the money in the appropriate funds so they do not have negative balances at the end of the year. Gregory asks about the City Council insurance and what it covers. Jones states the insurance is liability. If someone would sue the Council they would need liability. They pay a premium amount and but didn't have any cases where they had to pay a deductible amount and that is why the money is available. Gregory stated on the interest expense there was only \$50,000 budgeted and asks if she just moved money around. Jones states yes it was transferred within.

Jones states she has two ordinances and asked the council to waive the rules. She wanted to make sure they got towards the end of the year in case they needed an additional appropriation. She wanted to get close enough to the deadline to get it done and that is why it's in the December meeting and not November. Jones asked to suspend the rules so it can go in effect this year. Quirk states there may be a typo on the interest. Jones states it is \$59,718 and she put the comma at the tenth spot instead of the one hundredth spot. A vote by acclamation showed 8 yeas and 0 nays. INTRODUCED. A motion was made by Barton and seconded by Marshall to amend line number 101-19-439075 Interest Expense from \$597, 18 to \$59,718. A roll call vote showed 8 yeas and 0 nays. AMENDED. A motion was made by Barton and seconded by Marshall to Suspend the Rules. A roll call showed 1 nay. (Polk). MOTION DENIED. A special meeting will be called.

ORD. 47-14 AN ORDINANCE OF THE CITY OF MUNCIE AUTHORIZING THE TRANSFER OF FUNDS FROM THE ADULT PROBATION SERVICES FEE ACCOUNT.

A motion was made by Barton and seconded Marshall to Introduce.

Controller Audrey Jones states this is usually presented by the Judge. This has been delayed because the Judge hasn't been in the office. She had the Probation Officer send her the ordinance they usually do. She provided it so the transfer can be done before the end of the year. She asks for suspension but they are already going to have a Special Meeting that is ok. Gregory asks if they already did the one on the Probation Officer. She stated they appropriated the money for the Probation Officer and it was approved last year and they just needed to do something with the Bailiff. Barton asks if this is the correct amount. Jones states she did the ordinance and it is the correct amount. Gregory asks if there is adequate in the fund. Jones states yes. A vote by acclamation showed 8 yeas and 0 nays. INTRODUCED. A special meeting will be held.

RESOLUTIONS:

RES. 20-14 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA APPROVING AN ADDENDUM TO THE AGREEMENT WITH THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES AND COUNCIL 962 AFSCME LOCAL #3656.

A motion was made by Barton and seconded by Marshall to adopt.

City Attorney Megan Quirk states there are two changes that were made. The first one is to reduce the time for a probationary employee from one year to six months. They deleted the sentence from the current contract. They want to amend a sentence in paragraph 2, which states that a probationary employee will receive \$1 less per hour. Whatever the person is hired in at is the amount of wage they will be paid. Quirk states they use to hire someone and their on probation for a year, they would get \$1 less. The probation time was reduced to six months and deleted the \$1 less. It allows them to be more competitive and allows them to seek employees to be more just and equal within the private sector. Any disciplinary or discharge provision of the contract is still in affect. Just because someone isn't a probationary employee or is it doesn't mean they're not affected. Question called. A roll call vote showed 8 yeas and 0 nays. ADOPTED.

RES. 21-14 A RESOLUTION MAKING TRANSFERS WITHIN THE GENERAL FUND.

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

Controller Audrey Jones states this is a little different than in years past. Councilperson Gregory asked that she put all the transfers in one resolution. Gregory states at the end of page 2 there are two decreases and there isn't an increase following police vehicles. Jones states she used the same amount but just stated an extra decrease. A motion was made by Gregory and seconded by Powell to amend and remove the decrease for police vehicles for \$15,600. A roll call vote showed 8 yeas and 0 nays. AMENDED. A motion was made by Gregory and seconded by Marshall to Adopt as Amended. A roll call vote showed 8 yeas and 0 nays. ADOPTED AS AMENDED.

RES. 22-14 A RESOLUTION MAKING TRANSFERS WITHIN BEECH GROVE FUND.

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

Controller Audrey Jones states she worked with Superintendent Tom Schnuck helped her with the resolution. Gregory asks how electric dropped by \$1,000.00. Jones states she doesn't know because he runs his own department. She doesn't know if he over-budget that line item. Anderson states it is good that he dropped that. Jones states he needs to keep his balances out of the negative. A roll call vote showed 8 yeas and 0 nays. ADOPTED.

RES. 23-14 A RESOLUTION MAKING TRANSFERS WITHIN PARK FUND.

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

Controller Audrey Jones states when they came in June they did a general fund transfer from Board of Works to help cover raises that were approved last year and within the park budget they did not come back before council to do a transfer at that time because they can't do a transfer from one fund to another. These are to help with those costs. Question called. A roll call vote showed 8 yeas and 0 nays. ADOPTED.

RES. 24-14 A RESOLUTION MAKING TRANSFERS WITHIN THE MVH FUND.

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

Controller Audrey Jones states since February this year she has met with the Street Superintendent Duke Campbell in discussion with doing an additional appropriation and they anticipated they would have to come before council because of the bad snow they had this year. Campbell was able to keep within his budget and this is just transfers from other line items to help cover his budget. Gregory states she doesn't understand the wheel tax language. She thought wheel tax could only be used for paving itself. Jones states that is correct but they appropriated more than what they have received in wheel tax money so the wheel tax money will go to paving streets but it was over appropriated so those funds will go into a different thing because they didn't received the entire amount of appropriation of wheel tax.

Gregory states she thought the wheel tax money and MVH money are two different pots of money you can't comingle. Jones states that isn't true. They go into the same fund. You appropriate what you think you're going to get in revenue and they didn't get as much revenue as they appropriated so they were able to use the appropriations in different areas. They have not used any of the cash they have received. This isn't physical cash but appropriation. Gregory states she is surprised to see wheel tax listed under MVH as a line item. Jones states that is where the money is receipted into and that is where the money is spent out of. Jones states Campbell and herself sat together for at least 45 minutes to make sure all the revenue they received matched what their appropriations were and they over appropriated the fund so they can use the over appropriated funds in other line items. Question called. A roll call vote showed 8 yeas and 0 nays. ADOPTED.

RES. 25-14 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MUNCIE, INDIANA APPROVING AN AGREEMENT WITH LOCAL 1348 INTERNATIONAL ASSOCIATION OF FIREFIGHTERS AFL-CIO.

A motion was made by Barton and seconded by Marshall to Adopt.

Gregory states she doesn't know what the changes are to the agreement. Gregory asks what the changes are from the one in the folder and the one attached to the resolution. President Anderson calls for a five minute recess. Attorney Hunter makes copies of the changes for council. Question called. A roll call vote showed 8 yeas and 0 nays. ADOPTED.

RES. 26-14 A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MUNCIE, DIRECTING THE UNDERTAKING OF THE CONTINUING DISCLOSURE REVIEW AND AUTHORIZING PARTICIPATION IN THE MUNICIPALITIES CONTINUING DISCLOSURE COOPERATION INITIATIVE.

Marshall requests to with resolution.

OTHER BUSINESS:

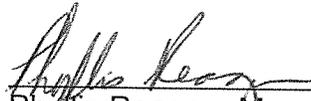
Councilperson Powell states this Saturday is the Toys for Tots Bowling Tournament at Muncie Lanes at 1pm. Teams are \$50 each for five people. It is funding their Toys for

Tots program the firefighters to and it is a wonderful thing to support. There are three spots for teams and lane sponsors are \$25. Forest Park is also taking donations for their party coming up on the 13th. They have a very loving and generous community. Polk states Sunday is the community sing at 2:45 pm and there will also be a parade afterwards.

A motion was made by Barton and seconded by Powell to adjourn. A vote by acclamation showed 8 yeas and 0 nays. MEETING ADJOURNED.



Julius J. Anderson, President of
The Muncie Common Council



Phyllis Reagon, Muncie City
Clerk of the Muncie Common Council