

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

**FEBRUARY 6, 2017**

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

RES. 26-16 A RESOLUTION CONCERNING THE TAX ABATEMENT AUTHORIZED BY RES. 13-12. Council President Doug Marshall asks if anyone is present to speak on this resolution for the Muncie Music Center. Scott Twidle, 708 W. Wade. Muncie, Indiana 47303, is here on behalf of Dave Helms who could not be here. He has the documents and paperwork that was needed. Councilperson Alison Quirk states the Public Hearing is just the opportunity for public input and they will not ask questions at this time but it is just for someone to be able to step up and say they are here. Questions called.

ORD. 3-17 AN ORDINANCE FOR ADDITIONAL APPROPRIATIONS (GENERAL). Quirk states this ordinance is dealing with appropriations for the Muncie Police Department. Marshall asks if anyone is present to speak on this ordinance. Questions called.

ORD. 4-17 AN ORDINANCE FOR ADDITIONAL APPROPRIATIONS (PARK). Quirk states this ordinance is dealing with appropriations for Capital Equipment for the Park Department. Marshall asks if anyone is present to speak on this ordinance. Questions called.

Public Hearing closed.

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

**PLEDGE OF ALLEGIANCE:** Led by Council President Doug Marshall.

**INVOCATION:** Given by Pastor Larry Carther and wife Shirley from Faith Center for All Nations.

**CITIZEN RECOGNITION:** Councilperson Dan Ridenour recognizes Mr. Fred F. Glancy Jr. for this month's citizen recognition. Fred began working on his dad's vegetable farm from as early as he can remember. At the age of six he started marketing vegetables door to door. By age twelve, he was selling to stores, markets, and state hospitals. Later, they were chosen by Purdue University to help develop hybrid seed corn. He continued working with the family farm while attending Purdue University. After graduating from Purdue, Fred joined the Marine Corp and was commissioned as 2<sup>nd</sup> Lieutenant and eventually set up training programs for two Marine Corp Divisions. He entered into combat against the Japanese on the island Iwo Jima and helped take, secure and set up the command post. By the end of the war, now Captain Glancy, was

offered the position to head up training programs for the Marine Corp at Quantico, Virginia. He declined and returned home to Indiana.

He soon received a teaching license and pursued his teaching career in Delaware County. He expanded the vocational program and held classes for veterans returning to the farms that wanted to know more about advances in agriculture. He expanded the courses that then expanded to other schools throughout Indiana and ultimately ran one of the largest high school vocational Ag programs in the East Central United States.

Fred was asked by the trustee to help set up a student guidance program. His program soon developed into a department called Pupil Personal Services. He grew frustrated that some kids were still being missed so Fred set out to learn why. Along with teachers and parents he was able to build a program that was recognized as the best learning program in Indiana. Later, it was recognized as a top program in the United States. The work spread and his team was invited to a world symposium on learning in Brussels, Belgium. There, they were awarded the top honors for best educational program at the symposium and the best education program in the world. Fred was even given funding from the President of the United States to promote and disseminate the program and it grew to all fifty states. That led the way to establish a federal law 94-142 that helped release the institutionalized handicap. This helped free millions so they could have access to mainstream education all over the world where they have adopted this program. His programs were called: Catch Them Early, Catch Them Whenever You Can, Putting it all Together and Insight Unlimited. These programs helped three areas of education.

Now living quietly in his home in Muncie, Indiana – Fred Glancy Jr. has made a lasting impact on this city, state and even the world. With his work ethic, military service, teaching and handicap programs, Fred has led a remarkable life. Ridenour thanks him for all he has done.

Fred takes the podium and jokingly tells Ridenour to sit down and take a rest that he can handle it from this point on. He thanks the City Council for all the work they have done, some good and some bad, but he understands everyone just wants the city to be the best it possibly can be. He doesn't get the chance to speak very often so he teasingly informs he would only be about an hour. He recognizes and asks them to stand everyone that has worked with him over the years and tells them they are the ones that deserve an award because without them he wouldn't be getting his award. Those people have helped take his ideas and built them and carried them out. That is what makes this a great country and a great group of people. He was worked for many, many years and is an astounding 95 years old and not ashamed of it. He then goes on to say it is not quite 100 but says its creeping up on him fast and he is trying to run as fast as he can before it can catch him). He mentions that because he has been asked what he owes his longevity to and he would simply answer by not procrastinating. If he had something that had to be done, he did it then without hesitation. There is always some way to work it out. Fred explains it has been a wonderful world, and could not explain just how wonderful it has been. He once promised the Lord if he made it through World War II then he would spend the rest of his life working for his people. He did that and went in to education. It upset his that so many children are failing in school as they are today and not getting an education. The things that win wars are intelligence and the building of the minds of those young people. He goes on to state

that he has worked with 91 countries in his time. He then recognizes William, Nancy and Kathy in the audience and thanks them for being the core of caring his program out. They were the center and did an excellent job. In closing, he states he has a million stories of some amazing times but is mainly glad to be helping the Lords people.

<b>ROLL CALL:</b>	<b>PRESENT</b>	<b>ABSENT</b>
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 MINUTES:** A motion was made by Polk and seconded by Powell to approve the minutes from the January 9, 2017 meeting. A roll call vote showed 9 yeas and 0 nays. MINUTES APPROVED.

**COMMITTEE REPORTS:** The council welcomes the Sutton Elementary School City Championship Basketball team, coaches and school representatives. Principal, Mr. Grim thanks the council for having them then thanks the mayor for all of his support in buying basketballs, pizza and even bringing out Ball State basketball players and role models to talk to the kids and set good examples for them. This team has had more opportunities than any other team in Muncie and are very appreciative of that. Mr. Grim goes on to introduce the seven of the twelve players present, Landon West (grade 4), Marvis Harris (grade 4), Elijah Duncan Russell (grade 4), Kaleb Eisenhardt (grade 4), Landon Pointer (grade 5), McKeegan Gray (grade 5), CJ Holiday (grade 5) and Coach Jace Kinsey. This group of kids were runners-up last year and this year wanted to do better. They ended up going undefeated against all the other Muncie elementary schools including Burris, St. Mary and St. Lawrence. There weren't really any close games, they did what they came to do and Coach Kinsey is appreciative for that. They talk a lot about school and being good representatives and all signed contracts at the beginning of the year making sure they would stay out of trouble and keep their grades up. He is happy to say they had no issues with that this year and everyone remained with the team and within the expectations and that is why they were so successful. They have a bright future and he wants to congratulate them on everything they have done and wish them the best of luck moving on to track season next. Marshall asks that parents and family members stand to be recognized as well because it all wouldn't have been made possible if it wasn't for them.

Councilperson Anderson states this past Saturday at Minnetrista was the contest kick-off for Black History Month and participants from Muncie Community Schools were all able to participate. The contest was an essay contest and tonight they are happy to have the three winners in each one of the divisions. Each winner received \$100.00 from Mutual Bank. Representing the elementary division is Emma Judd, a 4<sup>th</sup> grader from Westview Elementary School (teacher – Vickie Hunter) reading her essay, “If I were Elected President of the United States, What Would I do for the First One-Hundred Days.” In the middle school division, Diamond Watson, a 6<sup>th</sup> grader from Southside Middle School (teacher – Pam DeGrew), who is not present at tonight’s meeting. Moving on to the high school division, Brooke Jackson, a junior from Muncie Central reading her essay “If Voting is a Right or a Privilege.” Anderson then asks for any teachers or school employees to stand and be recognized for the wonderful job they do with the youth in this community.

Audrey Jones, City Controller, informs council that the city has received the 1782 notice back from the state and it said there was enough revenue for all the budgets. They will, however, have to do additional appropriations for four budgets because the advertising constraints from the form 4 did not go to form 4-3. They would say the chance is like one to one-hundred municipalities but it does happen. It is an automatic fill that gets converted over and is unknown exactly why it happens like that. Ultimately, there is enough funding to cover the budgets that were approved by the Common Council at the end of 2016 for budget year 2017.

Council person Quirk mentions she notices Michael, one of her students, sitting in the audience and would like to point out that he is here tonight earning a badge for boy scouts. She jokingly ends his recognition by telling him she hopes he has his homework done.

#### **ORDINANCES PREVIOUSLY INTRODUCED:**

ORD. 2-17 AN ORDINANCE AMENDING CHAPTER 155, SECTION 20(A) & SECTION 42 OF THE CODE OF ORDINANCES OF THE CITY OF MUNCIE, INDIANA.

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

A motion was made by Powell and seconded by Quirk to Amend to reflect the changes filed on February 6<sup>th</sup>.

Attorney Joe Hunter wants to briefly summarize what the main change in this ordinance is. There have been several meetings over this but not this specific amendment. He does not wish to revisit the whole history but it started out as being a lot broader to what it is now, basically watered down to the bare essentials. The biggest number of complaints that he thinks they have received, along with the mayor’s office, is that this original ordinance after the previous ordinance was withdrawn was in response to the comments made at the Land and Traffic Committee meeting held. It was worked to fit into the original ordinance that simply required the Affidavit of Occupancy. The first version called for filing of the tenancy agreements which in lack of a better way to put it is just the lease. In thinking about that, that is information that is a private contract between the people that lease the properties and the tenant. There is

information actually in a lease that the city does not need and the business person doesn't want to share, for example, how much they are leasing the house for. Really, the essence of the amendment is that were not requiring landlords or property owners to file the lease. The Affidavit of Occupancy was a requirement and has been a requirement for quite some time, as least since 2006. There is importance in having some of the information that's contained in the Affidavit of Occupancy available to the city. That is really what this does, give basic information on who is there, who is the owner and how many children are there, things like that. The core of this amendment is that it is not being required to file the lease with the city. All they want to see is the Affidavit of Occupancy that has been on the books for years and should be being complied with already, as far as the ordinance goes.

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

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

President Marshall call for questions from the audience and requests for people to not be repetitive if they have heard something already said or mentioned at a previous meeting.

Mr. Malco thanks Marshall, Powell and the mayor for this opportunity and their meeting. The only issue with that is when there is so many people in a room, it could be difficult to get all your questions answered. He then passes out a flyer with his questions to members of the council. He understands the ordinance. He does not have too many issues with it however, he does have some questions. He states he has not seen the updated version of the ordinance. Marshall addresses that point and states the mayor really could not give the public that amended version until after it was officially amended by council. He wants to make sure what Malco stated does not get misconstrued by the public. Malco apologizes. He goes on to state the revenue would go towards administrative costs as well as projects to improve neighborhoods but does not see that stated in the ordinance and questions if it is really going into the general fund. He informs the mayor indicated the ordinance was needed for safety reasons which is understandable, however, believes it make more sense for the tenants to file this paperwork instead of the landlords. The reason for that would be several examples where the family would come and go. This comes down to the responsibility of the landlord. Look at a divorced family for example, a year or six months where one side of the family would keep the children then the other party would keep them for a year or six months. How would a landlord know that? What about foster families where children could be in a household for two weeks or three months, it is just unknown. The tenant would be the one that would know this information. Moving further through his notes, Malco states he is bothered by the deadline dates. Mr. Marshall informs him his time is up and thanks him for his time.

Councilperson Gregory states she also has a problem even with the amended version with the due date for the filing being January 1<sup>st</sup>. City Hall is not open on the first of January and although it was mentioned it could be filed by mail, e-mail or fax, she personally would want a date stamped receipt. That would not be possible on January 1<sup>st</sup>. She also thinks there is a logical problem when they say that this filing has to be made every time the tenancy or ownership changes. She interprets that to mean that if a tenant moves out, she has 30 days to file that information and then on day 31 she gets a new lease signed and would have to file the new tenant's information. And say all of that took place on December 30<sup>th</sup>, then she would have to then come back on January 2<sup>nd</sup> (or whatever the first business date would be) and file that again for the next calendar year. She believes that is intrusive to business and landlords are

business people and defines it as exactly the kind of boreoarctic nonsense that people complain about all the time. This is something that we can do locally to curtail that kind of requirement. She does not see the need for it but does agree with the fact we have issues. If a name is filed and associated with an address and it has been made available to the public, then what is to prevent an abusive ex-spouse of finding out where his ex-wife lives and goes to hurt her again. If she were that woman she would not want her name in any kind of database. That is why she objects to this ordinance.

Megan Quirk, City Attorney address council and states the reason January 1<sup>st</sup> was chosen as the date is because really on a 365 calendar, no day is better than the other. It is an easy date with lots of different types licensing is due (for example, Quirks bar license). Whenever the tenancy terminates it does not necessarily mean you would need to file another affidavit of occupancy. For example, say a tenancy ends August 31<sup>st</sup> but a new tenant does not move in until January 1<sup>st</sup> then it would make logical sense to file the new tenancy agreement with the new names. These are things that are, unfortunately, part of the process and are imperative for them to keep up with the data and the way the numbers are within a household for police and fire agencies. In regards to being able to get the information of the tenants, there would have to be a written request under the Access to Public Records Act of Indiana. They would have to come to the Building Commissioners office and in writing ask specifically what they are looking for along with signing it and including a name and address. In her practice, she has dealt with people that have been stalkers and abusive and in having to go to a public office during business hours to write a request for the information, which there is a very small likelihood that would happen. If a stalker/abuser were going to come after the person, they would watch them and initially follow them after school or after work. Unfortunately, that happens more than not, however, they are sensitive to that and that is why they would follow the confidentially and Access to Public Records Act as strictly as possible. The September 1<sup>st</sup> due date for the first year was taken into consideration not only on the process on trying to get this passed but also to cut into when the majority of the leases happen at Ball State. They plan on having an administrative form online in which if nothing has changed by the first of the year, then they can select that option and the city can keep up with the record keeping that way as time goes on.

City Council Attorney Joe Hunter has a few key points he would like to address. He states in a long line of laws in the state of Indiana, if an event is due on a day that the office is closed it goes to the next business date. It doesn't need to state that when it is the law. The way the ordinance is worded right now, only an amended filing would be needed if a tenant moves out or there are changes made. A whole new affidavit is not needed. He mentions it will be available to do online and Gregory questions how would she know it was completed properly without actually being given something in return. Hunter does not know but presumes she would be able to print something off after completing the process.

Muncie Police Chief, Joe Winkle approaches the podium. He states he is sure they expect him to support this in which he does but as a department head, he thought it would be better to get some insight from someone that actually works the road.

Muncie Police Officer, FOP President and field-training officer, Chris Teegan understands that there is already an ordinance in place for this but many officers did not know about it. Whether the reason being is lack of communication between departments or what but obviously, that is something they would address. But, the amendment to this ordinance which would create

essentially a check-list system for them which would be very beneficial. They respond to calls all the time where the tenants and occupants don't maintain the certificates of occupancy like they are supposed to. While he understands, it should be their responsibility there is also a responsibility to the landlords as well. When the police get called out to a property, they do not have any way to prove who is supposed to be there. With the adoption of the amendment, police will have access in NewWorld to be able to look up this information. He can speak on behalf of landlords as well because is one also and in support of this. Officer Teegan goes on to provide an example on January 18th he took a call of a tenant and landlord dispute. He was dispatched at 3:37 PM and didn't clear that call until 4:28 PM because he had to try and figure out who was supposed to be in the house and who was the owner of the house. If he had this information available to him via NewWorld as the affidavit of occupancy is submitted through the Building Commissioners office and they are going to run this program, then he could make contact with the appropriate people ultimately spending less time dealing with a civil issue. He as an officer could be of more benefit to the city proactively patrolling and answering high priority calls. On that instance that day, there were three officers tied up on that call for over fifty minutes. Unfortunately, they didn't have the access to the system that is purposed under this amendment. If they did, it would be greatly beneficial and help resolve some of the issues they run into.

Muncie Fire Chief, Eddie Bell states that he has had questions from members of the council and different landlords throughout the city and yes, there are reasons for them to use what they have. As far as names and numbers of people in a household, it makes it 100% easier for them. It could be something dispatch could inform them of while they are on their way in route to the fire. There are times when the firefighters are left standing outside in front of a structure fire, not knowing how many people are inside or even living there. In that type of hectic situation, it could be difficult to obtain information from people in the neighborhood. The fire department takes their accountability very seriously. Its paramount for any fire station in the nation to have "accountability tags." When the fire department pulls up to a scene, every firefighter has a tag. If they go into the location of the fire, they take off their tag and give it to whomever is at the command post. In essence, everybody that is in that structure fire, they have their tag to indicate they are inside. It is no different here with this ordinance and the community. If they are able to know how many people are inside it makes it easier of the firefighters to get inside and find them.

Councilperson Lynn Peters thanks both chiefs for coming out and speaking on this because she thinks at it was needed long before now. Also, with that has been in place it doesn't seem like it was being enforced or even known about. She again thanks both the police and fire department for their inputs.

Councilperson Ridenour mentions he has zero challenges with the amendment for the top part. 155 Section 20B has been occurring where the affidavit was just kept in the homes, with this it would have to be filed with the Building Commissioner. He has no problems with the adjustments that have been made to make that work and appreciates all those that have had in input. However, he has received a number of concerns about selective enforcement and when it says \$250 is the minimum and \$1,000 is the maximum, and questions what violation would be decided as a \$250 fine and what violation would be decided as a \$1,000 fine.

Attorney Quirk states the amendment that they are purposing today is only the first sentence of the ordinance. It includes the violation of the filing requirement. There is a noticing provision under Indiana Code 36-1-20-6 which would need to be followed before the violations or penalties are assessed. Under the current housing code, it is upon conviction which means the case or series of violations, would have to be taken to City Court or Circuit Court and the city would state in the complaint how much the person is in violation. The way it reads is after due notice has been served, the most someone could be fined is \$1,000 nor shall be less than \$250. This is also after a series of notices that would go out to the individual that they have not made their filing requirement as well as receiving a judgement in City or Circuit Court. That is how all the housing code violations are handled. It would be at least a 60-day timeline.

Attorney Hunter attempts to simplify the matter and states the according statute that is cited in the ordinance, before someone is fined they have the opportunity to cure. It is not like the city found out you didn't meet your filing requirement therefore this fine is now owed, that's not the way it works.

Councilperson Quirk makes the comment that they all appreciate everyone expressing their questions and concerns. She wants to make sure everyone knows they have had different conversations among themselves about certain things they questioned and were concerned over. She goes on to thank Mayor Dennis Tyler for working with them and listening to their concerns. She urges Mr. Malco, who spoke earlier, to continue conversing with the mayor regarding some of the administration issues that he has. On the Council end, they are being asked to look at if they feel it is within their legal jurisdiction to amend the code that is already in place. Many people have concerns with filing the lease and they did take that into consideration and that is why the amendments were made. Another aspect she wants to mention is the cost of the program, they mayor has worked to make some changes so the program wouldn't cost as much as initially thought. Also for clarification, it is not their intention to publish tenant's names and information being made readily available. That would be confidential information.

Questions called.

A roll call vote showed 6 yeas and 3 nays (Ridenour, Polk, Gregory). ADOPTED AS AMENDED.

#### **NEW ORDINANCES:**

ORD. 3-17 AN ORDINANCE FOR ADDITIONAL APPROPRIATIONS (GENERAL).

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

City Controller, Audrey Jones indicates this ordinance has two additional appropriations she is requesting. The first is Capital Equipment. She spoke with the Finance Director, Councilperson Powell and discussed the lights and sirens for the 28 cars that the police department purchased through the Muncie Redevelopment Commission. There were not budgeted amounts to outfit those cars so they are asking for an additional appropriation of \$200,000 to outfit those cars with the appropriate equipment needed. The Building Commissioners office requested \$50,000 last year for the securing of homes and it got cut to \$25,000. That is the second on in this ordinance, a request for that \$25,000 back to go towards securing homes and making sure that they are taken care of.

An All-in-favor vote shows 9 yeas and 0 nays. INTRODUCED.

A motion was made by Powell and seconded by Peters to Suspend the Rules to Adopt.

A roll call vote showed 9 yeas and 0 nays. RULES SUSPENDED TO ADOPT.

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

A roll call vote showed 6 yeas and 2 nays (Polk and Ridenour). ADOPTED.

ORD. 4-17 AN ORDINANCE FOR ADDITIONAL APPROPRIATIONS (PARK).

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

City Controller, Audrey Jones confirms this is for lease payments. It has been in the budget since 2012. When the department head submitted it to her they had accidentally left this off the budget so they are now requesting an additional appropriation for this to be added back to the budget. It is for Capital Equipment in the amount of \$40,000.

Ridenour asks Jones to clarify how it was just left off the budget.

Jones goes on to explain every year in the process of doing budgets, she sends out a form to all the department heads who in return sends it back to her. She states the department head had forgot to put in their \$40,000 payment so they are asking for an additional appropriation.

Gregory recommends making a checklist of all the payments that Jones does for future reference.

Polk has a statement that will go along with this and the previous ordinance. The council does have committees, which this would be a perfect example of assigning one to a committee. Like how the last ordinance had a suspension of the rules, with a committee meeting, council would be aware of it and the recommendation of yes or no can come back to the rest of the members. He is just trying to utilize the committees more.

President Marshall thanks Polk for that information and informs him that another option on obtaining more information is going to the council member that purposed that specific ordinance.

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

ORD. 5-17 AN ORDINANCE TO AMEND THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE FROM THE R-4 RESIDENCE ZONE AND THE R-5 RESIDENCE ZONE TO THE BV VARIETY BUSINESS ZONE ON PREMISES LOCATED AT THE 2900 BLK OF N. BUCKLES STREET, 2901 N. BUCKLES STREET, 2905 N. BUCKLES STREET, 2909 N. BUCKLES STREET, AND 3000 N. MILTON STREET, MUNCIE, INDIANA.

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

Arron Hurt with Civil and Environmental Consultants representing the Lauth Group Inc. states this is for the Fresh Thyme Grocery Store at McGalliard Road and Milton Street. In the past, the property has been a dumping ground. The site itself is about 5.3 acres, the re-zoning request in front of council today re-zones about one acre of that property so approximately 4.3 acres is already variety business. This is cleaning up the part of the property that is unusual in the shape. They were approved unanimously through the planning commission in January. They

would also like to ask for a Suspension of the Rules, if appropriate, to complete the second hearing tonight as well to move ahead with the schedule of the project.

Michael Darvey, partner and owner of the Lauth Group based out of Carmel, has been involved with and is the preferred developer for Fresh Thyme grocery stores ever since they first came to Indiana. They have been involved in eleven stores in five states. They are a private company that offers grocery stores focused on organic and healthy food choices at reasonable prices. The communities in which they have built them have embraced them being there and they get involved in the community as well. On the employment side and economic benefits, they will employ probably 40-50 full time and 40-50 part-time people. Their weekly payroll will be about \$35,000 which will exceed \$1.8 million annually. They came to Muncie in early 2015 and worked with Mr. Todd Donati and Mayor Tyler who were both helpful in point them towards this site after an estimated twelve failed Muncie locations. In September, the Mayor announced he was in support of the project and have since been working with staff and other officials since that day to get where they are now.

Ridenour asks where the headquarters are located. Mr. Darvey responds with Chicago, Illinois. Peters comments that she is excited and glad they are coming into our community.

President Marshall requests the president of the Muncie Redevelopment Commission to speak and give some clarification on behalf of some information going around.

Sam Beasley, President of the MRC, apologizes for not being at the last meeting and aware of some of the misleading information that is circulating around. The allegations he has heard, however, is that they were telling lies on how many jobs they would bring, how much those jobs would pay, those types of things. He indicates none of that is true. Everything has been pretty straight forward in terms of what this development brings to the city. In their view it brings a needed resource, additional and healthy food that hopefully will be disproportionately grown nearby. Organic food is good for people and is obviously a revolution food in which Fresh Thyme is capitalizing on that hopefully to greatly benefit our community. Beasley asks if there are any specific questions that he could address, as far as the MRC, that someone was told or anything along those lines. Everything that has been discussed here tonight is exactly what they have been told and what their beliefs are as a board.

Polk wants to get an idea of the size of the store and asks about comparison to the 82<sup>nd</sup> Street store in Indianapolis. Mr. Darvey states that they are all generally about the same size. The 82<sup>nd</sup> Street store was a retro-fit from an existing building so he can't say specifically on the size. Their prototype is just shy of 29,000 feet so this would be a prototype building. He does add that their cost alone will exceed about seven million dollars and then Fresh Thyme infuses equipment, etc. at two to three million. As the general contractor, they will be interviewing local sub-contractors as well.

Councilperson Powell asks about the importance of the request of a Suspension of the Rules. Mr. Darvey states council is not to blame but with weather conditions they are a little behind schedule in construction. It has to be completed in November of this year and with this being their seventh ground up store they typically have an idea on how much time they will need. Literally, their backs are against the wall when it comes to timing. Every week counts.

Gregory asks if someone knew there had to be a zoning change. If it went to the Planning Commission last month then couldn't it have been filed here with council last month so this would be the second reading?

Quirk questions Councilperson Dishman if there were person there in objection. There was not. She believes sometimes the Metropolitan Planning Commission helps with that filing and they would typically have to wait for those signatures on the standing commission.

Gregory states they have had them filed parallel before.

Questions called.

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

A motion was made by Powell and seconded by Peters to Suspend the Rules to Adopt.

A roll call vote showed 8 yeas, 1 nay (Gregory) and 1 abstain (Dishman).

ORD. 6-17 AN ORDINANCE TO AMEND THE CITY OF MUNCIE COMPREHENSIVE ZONING ORDINANCE FROM THE R-4 RESIDENCE ZONE TO THE BV VARIETY BUSINESS ZONE ON PREMISES LOCATED AT 3200 N. RESERVE STREET AND THE 3200 BLK OF N. MILTON STREET, MUNCIE, INDIANA.

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

Mike Thompson, Civil Engineer with Hamilton Designs (11988 Fishers Crossing Drive, Fishers, Indiana 46038) is representing Crew Carwash in this petition and appreciates them hearing it this evening. It is to re-zone of two horizontal properties that but against four vertical properties that but McGalliard Road. This petition attended the January 5<sup>th</sup> Planning Commission and received recommendation for the application for re-zoning. Additionally, this petition went to the Board of Zoning Appeals and gained the necessary approvals that are needed for this development. They are here this evening to request a re-zone of two of the six parcels necessary to provide the offering at the rear property. Essentially, there are two lots that are zoned Residential currently that they would like to re-zone to Variety Business. With that, most of those properties will simply be a buffer-yard to provide the necessary buffer from the commercial properties on. Mr. Thompson is willing to answer any questions anyone might have.

Ridenour asks if this would need a suspension of the rules. Thompson answers no, it would not but he will be back next month to vacate an easement.

Polk questions if the two properties Thompson is referring to are Lots 18 and 31 according to the map provided, in which they appear to be vacant. Thompson indicates yes. The reason they are re-zoning is because they are zoned Residential and they could be developed as a residential property. If they include them within this development they provide for the necessary buffer to properly allocate that area as a buffer and then it would never be developed. That's the whole idea. Polk states right now, it looks like they back up to the liquor store and the abandoned auto supply store. Thompson confirms yes all that will be completely removed at the time this is development.

Questions called.

An all-in-favor vote shoed 9 yeas and 0 nays. INTRODUCED.

ORD. 7-17 AN ORDINANCE TO VACATE A CERTAIN PUBLIC ALLEY IN THE CITY OF MUNCIE, DELAWARE COUNTY, INDIANA.

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

Nicholas Tokar from the law firm of DeFur Vuran, makes the clarification that the title of the petition states it is in the Eastern Indiana Normal University Addition but it is actually in the A.E. Boyce Addition. The body of the petition, however, is accurate and describes the right addition to the city. This is for streets and alleys, and all the property on every side of these streets and alleys are owned by KPEP or Muncie Eastside Neighborhood rentals and they would like them to be vacated so that they can moved dirt off those lots and also lots in the development.

Questions called.

An All-in-favor vote showed 9 yeas and 0 nays. INTRODUCED.

ORD. 8-17 AN ORDINANCE TO VACATE A CERTAIN PUBLIC ALLEY IN THE CITY OF MUNCIE, DELAWARE COUNTY, INDIANA.

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

Nicholas Tokar from the law firm of DeFur Vuran jokingly makes the comment that he titled this ordinance correctly. Indicating this is the alley north of the Sears building and south of the parking lot. That alley needs to be vacated because the addition to the building where there will be apartments renovated. There is an additional building being constructed adjacent that will go over that alley. The alley does not run through the west side of that block for instance where the MITS Station is so it is not really serving the purpose.

Questions Called.

An All-in-favor vote showed 9 yeas and 0 nays. INTRODUCED.

## **RESOLUTIONS:**

RES. 7-17 A RESOLUTION MAKING TRANSFERS WITHIN BEECH GROVE.

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

Audrey Jones, City Controller, states she is going to talk about all these resolutions together.

They are just cleaning up funds from 2016. She spoke with the Finance Chair again on a process she has now changed. Before anything can be overridden, the department head has to submit a form to Jones to indicate where they would like a transfer to be made so that the process is cleaner and more efficient for the years to come.

Gregory asks if these corrections are for this year or last year. Jones states they are for last year, 2016. She had earlier explained that they ended very late in the year with claims being done up to December 31<sup>st</sup> and because of a filing deadline in January, she wasn't able to file in time for the January meeting.

Questions called.

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

RES. 8-17 A RESOLUTION MAKING TRANSFERS WITHIN GENERAL FUND.

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

Polk questions the different line items on page 2 where it states Decrease: Clerk Postage, and then underneath it states Increase: Overtime. Another one he questions is the Decrease: Fire Clothing Pay and then Gas and Oil. Jones states it is Fire Clothing Pay and the way it reads is if you look at the item above it where it says Police: Gas and Oil, she actually copied and pasted that so it is just an error on her end. She requests that they amend that to read correctly.

Gregory asks which account number is 435011 for, Postage or Fire Electric. Jones clarifies it is for Fire Electric and that Postage is a 42 number. Gregory then asks for recommendation from Attorney Hunter if they should accept it as the intent and not the actual filing. Before answering, Jones states that the account numbers are correct, the top description is correct, the bottom description is incorrect on just two that say Gas and Oil Pay instead of Clothing Pay. Gregory would feel more comfortable postponing it until next month giving Jones the opportunity to resubmit it.

A motion was made by Powell and seconded by Gregory to Table.

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

RES. 9-17 A RESOLUTION MAKING TRANSFERS WITHIN PRAIRIE CREEK.

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.

#### **OTHER BUSINESS:**

Attorney Joe Hunter mentions Resolution 26-16 (Helms Properties LLC on the Muncie Music Center) that was on the Public Hearing earlier in the evening. His recollection of this is that it has been on the Table now for at least two months. He states he has had conversations with Mr. Helms and they had the Public Hearing on it with the publication he provided at that earlier time. The representative, Scott Twidle, has since left the meeting and is no longer present to speak on it. Basically, the gentleman had forgotten to do his filings for his tax abatement. So, that was intended to extend the abatement to allow him the extra year that he was entitled to when he first filed the abatement. That is the second time around for this. Hunter was contacted by him and he had already had the resolution prepared so he filed it which brings him to where they are at now. Hunter informs it can be left on the table and insisted that he be here to talk about it or it could be taken off the table. It is completely up to what Council wants to do.

Gregory comments that Mr. Twidle probably didn't understand his responsibility, as far as the Public Hearing was concerned. In the interest of being nice guys could they leave it on the table. Hunter confirms that they have now had the Public Hearing on it which is a requirement.

Marshall questions the need for a Special Meeting regarding this. Hunter states that they could but he would not recommend a Special Meeting just for that purpose.

Holly Hanower wants to raise an issue that concerns all Muncie residents and customers of Indiana Michigan Power. She is aware Council has heard of this issue before but now timing is critical. I&M has brought a case before the Indiana Utility Regulatory Commission requesting a rate increase which would pay for upgrades to the Rockport Coal Plant in southern Indiana. Roughly 40% of our power here in Muncie comes from this plant which ranks as the sixth largest carbon-polluter in the nation, and Indiana's second most toxic power plant. She and many other citizens are concerned about clean air, clean water and climate change, want to see a clean shift from coal towards renewable energy rather than further investments in coal. Five wealthy out-of-state corporation's own half of the Rockport Plant as a tax break and should shoulder the costs of any improvements to that plant, if I&M decides to keep it in operation. Muncie has high poverty rates and people already struggle to pay their utility bills should not be forced to pay more. Instead, I&M could be creating local jobs by developing solar farms on vacant lands here. Energy efficiency investments could also generate local jobs retrofitting older buildings and helping reduce electric bills for homeowners and small businesses. I&M's own analysis shows that it would be cheaper to retire unit #2 of the Rockport Plant in 2022 and replace that power with renewable and efficiency investments rather than to upgrade that plant. The lease with unit #2 out-of-state corporate owners expires in 2022. Muncie, Fort Wayne and South Bend are the three major cities in I&M service area. In September 2016, the South Bend Common Council passed a resolution in support of a reasonable transition to cleaner sources of energy for South Bend. It is an excellent example of careful study and planning for community improvements which involve energy. She is forwarding that document to the council in an email along with links to other information on the Rockport Plant and I&M's proposal. The IURC is currently taking comments on this rate increase and will hold a Public Hearing on February 21<sup>st</sup> in Fort Wayne. She urges everyone to study this issue and to write to the Commission opposing this increase on behalf of Muncie and all of its residents. Utilities are powerful and influential in our state government and they usually get what they want unless customers speak up. Muncie deserves all the potential benefits of a renewable energy future.

Polk announces Muncie Community Schools will be having a rally at the corner of Wheeling and McGalliard starting at 4:30 PM. Administrators, teachers, students, citizens will be there in support of MCS and he urges everyone to stop by or at least go by and honk and show their support.

Councilperson Anderson also would like to invite the public to the 5<sup>th</sup> Annual Community Forum. Him, the Mayor and his administrative team will be at one of the four locations beginning February 7, 15, 21 and the 28<sup>th</sup> at various ministries. The first one for tomorrow will actually be held from 6:00 PM to 7:30 PM at Faith Center for All Nations (Pastor Carther who did the earlier Invocation). Anderson has some fliers for anyone interested in attending. It is a good time to get to know the Mayor and members of his administration and to discuss whatever wants to be discussed.

President Marshall mentions to Polk that it was very honorable that they came together and appeared at the Teachers Union in support of them. Also, Marshall host a free skating party every year at Gibson's Skating Arena on South Mock Avenue. This years party will be held on the 27<sup>th</sup> from 7:00 PM to 9:00 PM. It is free admission and they will be giving away bicycles, a play station 4 and Gibson's gift certificates.

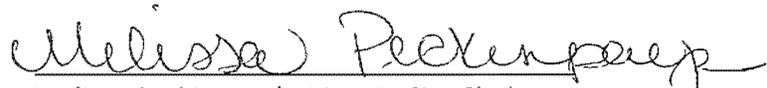
**ADJOURNMENT:**

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



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Doug Marshall, President of  
The Muncie Common Council



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Melissa Peckinpaugh, Muncie City Clerk  
of the Muncie Common Council