



Common Council Meeting – Minutes for April 17, 2023

Council Members in Attendance: Ben Leavitt (OL), Dana Hollar (IP), Amy Rosa (IP), Kelbi Veenstra (IP)

Also Present: Mayor: Phil Jenkins, **City Attorney:** Brian Hoffer, **Clerk-Treasurer** Jeff Knight, **Guests:** 9 (8 IP, 1 OL) and 1 member of the press (IP).

- Call to Order: Mayor Jenkins called the meeting to order at 7:01 pm and led the Council in the Pledge of Allegiance and an opening prayer.
- Roll Call: All council members listed above were in attendance. Councilman Leavitt was visible and audible during the required times of the videoconference. Councilman Geyer was unable to attend.
- Approval of Minutes from the April 3, 2023, Council meeting: Councilwoman Veenstra motioned to approve the minutes. Councilman Hollar seconded. The minutes were approved unanimously by roll call vote.
- There were no petitions or comments by citizens.
- Reports of Committees, Boards, or Commissions:
 - Clerk-Treasurer Reports for December 31, 2022, and January 31, 2023: CT Knight presented the December 31, 2022, and January 31, 2023, CT Reports. CT Knight focused on the shift of funds from investments into cash-on-hand in order to cover costs of upcoming projects. He noted that he just refinanced a CD with 1st Source Bank at 5.25% for six months. CT Knight also presented a brief analysis of the City's cash-on-hand over the course of the last three years. The balance at the end of 2020 was \$30,227,343. The balance at the end of 2022 was \$26,945,513. The difference is \$3.28 million. This can be attributed to the costs associated with Wellfield Park. Councilwoman Rosa mentioned that she thought one of the interest rate percentages read 30.02% instead of 3.002%. Councilman Leavitt motioned to approve the CT Reports for December 31, 2022, and January 31, 2023, with the corrected interest rate. Councilman Hollar seconded. The CT reports were approved unanimously by roll-call vote. CT Knight will check and correct the interest rate as noted.
 - TIF Report for 2022: The annual TIF Report was prepared by Baker Tilly and was submitted to the Council for them to review. Mayor Jenkins noted that CT Knight uploaded this report to the DLGF through the Gateway reporting website on April 13th. The due date was April 15th. CT Knight walked the Council through the document. Other than the CT's presentation of the report to the Council, no action is required.
- There was no unfinished business.
- New Business: Mayor Jenkins requested to reorder the Agenda to handle Items A, D, and E at the top of the meeting. Councilwoman Rosa motioned to approve the reordering of the items discussed. Councilman Hollar seconded. The reordering of the agenda items was approved unanimously by voice vote.
 - Approve Plan Commission Petition to Rezone from I1-Industrial to B2-General Business, Lot #2 of O'Reilly Minor Subdivision at 1755 E. Market Street by Anthony Cocca of Cocca Development (Developer) and Shepard Land Investments, LLC (Property Owner): Planning Superintendent Nunemaker presented the request. The Plan Commission reviewed the request and approved the rezoning but with conditions (in the staff analysis reflected in orange) that included some



design requirements for the building and lot. Councilwoman Rosa inquired if the motion needed to include the staff analysis requirements. City Attorney Hoffer commented that the recommendation from the Plan Commission was subject to those requirements. So, this would be approving the Plan Commission recommendation that already includes those requirements. Councilwoman Rosa motioned to accept the recommendation from the Plan Commission including the staff analysis requirements. Councilwoman Veenstra seconded. The Plan Commission petition for rezoning of the property was accepted unanimously by roll call vote.

- 1st Reading – Ordinance 1621 – Shepard Land Investments – Rezoning of 1755 E. Market St.: Councilman Hollar motioned to approve Ordinance 1621 on first reading. Councilwoman Veenstra seconded. Ordinance 1621 was approved unanimously by roll call vote on first reading. After the presentation, Mr. Cocca commended the Council for saying the Pledge of Allegiance and a prayer to open the meeting. This is not something that he hears that often in the various meetings that he attends. Mayor Jenkins thanked him for his comments and his attending the meeting.
- Petition for Outdoor Sales & Plant Stand – Matt & Evie Tobias: Mayor Jenkins introduced the petition and Superintendent Nunemaker walked the Council through the times for the sales to take place and the location. This is essentially the same as last year. The Council asked that the parking be improved from grass to gravel. This has been done. This store constitutes roadside sales which requires approval by the Council. The duration of the sales location will be May 1st through November 1st, 2023. Councilman Hollar motioned to approve the petition for the outdoor sales and plant stand. Councilwoman Rosa seconded. The petition was approved unanimously by roll call vote.
- Annual Tax Phase-ins: Mayor Jenkins opened the discussions by noting that when a business approaches the City regarding a tax phase-in, the City looks at what the business' capital investment is, how many jobs they have, and how much technology they are utilizing. The City analyzes these things with the Economic Development Corporation of Elkhart County, sends a letter to the Indiana Economic Development Commission local/regional officer, and makes a determination as what can be offered by way of a tax phase-in. Tax phase-ins range from 3 years to 10 years. Also looked at is what the company provides in annual salary.

Mr. Jeff Kitson presented the annual tax phase-in requests for each company. All of them met or exceeded the terms and conditions to have another year of their abatement approved. Further details are provided where necessary.

- ATC – Real Property: The company is in year 6 of 10. Councilman Hollar motioned to approve the requested tax abatement. Councilwoman Veenstra seconded. The tax abatement for 2023 was approved unanimously by roll call vote.
- INTech Trailers – Personal Property: The company is in year 1 of 5. Councilwoman Rosa motioned to approve the requested tax abatement. Councilman Hollar seconded. The tax abatement for 2023 was approved unanimously by roll call vote.
- LFM Holdings – Real Property: The company is in year 1 of 10. Councilman Hollar motioned to approve the requested tax abatement. Councilwoman Veenstra seconded. The tax abatement for 2023 was approved unanimously by roll call vote.
- Newmar Corporation - Personal Property: The company is in year 5 of 5. Councilwoman Veenstra motioned to approve the requested tax abatement.



Councilman Hollar seconded. The tax abatement for 2023 was approved unanimously by roll call vote.

- Newmar Corporation – Real Property: The company is in year 5 of 5. Councilwoman Rosa motioned to approve the requested tax abatement. Councilman Hollar seconded. The tax abatement for 2023 was approved unanimously by roll call vote.
- Tri State Crush: Mr. Kitson opened the discussion by noting that the company was found to be in substantial compliance with the tax abatement requirements. He presented a memo denoting issues he would like to see the company continue working to resolve. Among those issues are noise, drift of product, dust from trucks entering and exiting the property, and the posting of a phone number where someone can be reached 24/7. Mayor Jenkins interjected that he has had a number of conversations with Tri State management, and they have been responsive to his calls, and they continue to look for ways to improve their production. Mayor Jenkins did receive a couple of calls from local residents last year regarding the plant. The City continues to try and be an intermediary between the company and the local residents.

Councilwoman Veenstra asked if the Council votes to approve another year of abatement, that it is in good faith that the company is expected to make the suggested improvements. Mayor Jenkins responded that the approval is predicated on whether or not they met the criteria required for another year of abatement. The items listed in the memo are auxiliary to qualifying for the abatement. Councilwoman Rosa commented that she has struggled with these issues as well. Being a good neighbor and dealing with these issues is separate from the requirements for the tax abatement. She further commented that the tax abatement is not the mechanism to hold them accountable, but the City does wish to see continued improvements. Councilwoman Rosa asked if there have been any further complaints. Mayor Jenkins said he has not received any further complaints and Councilwoman Veenstra said she has not received any complaints since the last time the bearing was out. Mayor Jenkins noted that most of the neighbors have the Tri State number and can get ahold of them and that a timeline for improvements will be provided to the Council as one becomes available. Mr. Kitson said they have been much more responsive in the last two years. Councilwoman Rosa asked what the mechanism is for the City to hold companies accountable when there are issues that need to be dealt with. Councilman Hollar responded code enforcement and Mayor Jenkins agreed. Councilwoman Rosa thought it was important to note that residents believe the Council can fix everything, but it is not in the Council's ability to do that. Councilman Hollar agreed that tax abatements were not the method to hold them accountable. Councilwoman Rosa noted that by not approving the abatement it would be to take resources away from the company to make the improvements the City was hoping for.

- Tri State Crush – Real Property: The company is in year 6 of 7. Councilwoman Rosa motioned to approve the requested tax abatement. Councilman Leavitt seconded. The tax abatement for 2023 was approved unanimously by roll call vote.
- Tri State Crush - Personal Property: The company is in year 6 of 7. Councilwoman Veenstra motioned to approve the requested tax abatement.



Councilman Hollar seconded. The tax abatement for 2023 was approved unanimously by roll call vote.

- 1st Reading – Ordinance 1620 – Amending Ordinance 845 – Parks: Mayor Jenkins introduced the ordinance submitted by the Parks and Recreation Department regarding amending language pertaining to the allowance of alcohol consumption in the parks under certain approved circumstances. No alcohol will be allowed in the parks except for events that have been approved and authorized by the Park Board. A draft policy was submitted to the Council by the Park Board. Those requesting to have alcohol in the parks would be required to have the proper permits (from Alcohol and Tobacco and the State), liability insurance, and security on the premises. Along with this is the establishment of fines that are substantial enough to cause compliance with the ordinance. Parks Superintendent Davis commented that this will allow the Parks to regain control and that these events would need to be approved by the Park Board (i.e. Weddings, birthday parties, other special events). This is not a blanket acceptance of alcohol in the parks at any time for any reason. This would be for special events with the approval of the Park Board. Councilman Hollar noted that the draft policy discussed the sale of alcohol at the golf course. He asked if those sales would be City run or privately run. Superintendent Davis said it would be City run and controlled. It would be the City license. Mayor Jenkins commented that where the revenue would go is yet to be determined and would need to be established by the Council. One suggestion for use of the revenue is to hire a person that could be a course monitor. CT Knight asked if the sale of alcohol at the course would be limited to that from the clubhouse or if it would include beer carts at various events. Superintendent Davis responded that has yet to be decided. Councilwoman Rosa asked if there would be an established vendor list that the City has vetted. Superintendent Davis was hesitant to limit the vendors to those vetted by the City because someone not on the list may meet all of the qualifications from a permit and licensing standpoint. The process would still be the same in terms of approval being required from the Park Board. City Attorney Hoffer talked about the state requirements for vendors to get the licensing. Councilman Leavitt concurred with the idea that any vendor would need to show a certificate of insurance reflecting liquor liability in place and the policy established would make sure there is monitoring and training in place. Mayor Jenkins commented that it would be easy to quickly establish a list of those caterers that abide by the rules vs those that did not. This amendment will give the authority to the Park Board to decide such matters. Councilwoman Veenstra confirmed that the approval of events with alcohol would be done on a case-by-case basis. Superintendent Davis said yes as long as all of the paperwork was in order. Superintendent Davis reiterated that the Park Board plans to take a conservative approach to this process. CT Knight asked in what cases the response would be to decline authorization. Superintendent Davis said it would not be his decision, but the Park Boards and that he did not have an answer other than the Board was willing to say no. Councilwoman Veenstra asked if this would cause additional trouble for the police department. Superintendent Davis did not think so. CT Knight asked Attorney Hoffer if handling these requests on a case-by-case basis would open the City up to litigation for someone who deemed themselves viewed differently from others who had been approved. Attorney Hoffer suggested that it would be wise for the Park Board to have the final policy in place before a third reading. While every scenario cannot be predicted, there should be a process and procedure in place that treats everyone fairly. Superintendent Davis hopes to have a rental agreement created by the time a third reading takes place. He concurred with the need to be as fair and consistent as possible. Councilman Hollar



said he would be more comfortable with the Park Board controlling the sale of alcohol at the golf course and the City benefitting from it.

Councilwoman Rosa motioned to approve Ordinance 1620 amending Ordinance 845 as presented. Councilman Hollar seconded. Ordinance 1620 was approved unanimously by roll call vote on first reading.

- Approval of Accounts Payable Vouchers - 2023 APV's Totaling \$112,870.03: Councilman Hollar motioned to approve the APV's. Councilwoman Veenstra seconded. The APV's were approved unanimously by roll call vote.
- Reports by City Officers: Mayor Jenkins referred the Council to a memo summarizing the timeline of the Woodview Drive project from inception to current day.
- Adjournment: With no further business to be discussed, Councilwoman Veenstra motioned to adjourn the meeting and Councilman Hollar seconded. The meeting was adjourned at 8:17 pm by unanimous voice vote.

Phil Jenkins, Mayor

Attest: _____
Jeff Knight, Clerk of the Council