

**MINUTES
NEW COUNCIL CHAMBERS IN THE CIVIC COMPLEX
401 WEST WASHINGTON STREET, EAST PEORIA, ILLINOIS**

OCTOBER 15, 2019

The Regular Meeting of the City Council of the City of East Peoria, Illinois was called to order by his Honor Mayor John P. Kahl presiding at 6:03 P.M. with proper notice having been given.

Upon the roll being called the following answered present: Mayor John P. Kahl, Commissioner Daniel S. Decker, Commissioner Mark E. Hill, Commissioner Seth D. Mingus, and Commissioner Michael L. Sutherland.
Absent: None.

The invocation was given by Commissioner Hill.

Mayor Kahl led the Council and the audience in the pledge of allegiance to the flag.

Motion by Commissioner Mingus, seconded by Commissioner Decker; Mr. Mayor, I move that the minutes of the Regular Meeting held on October 1, 2019 be approved as printed.

Yeas: Commissioner Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None.

Mayor Kahl declared the motion carried.

Mayor Kahl stated if there was anyone in the audience who wanted to speak on any items on the agenda to come to the podium and state the matter or matters to be discussed.

George Herman came up to the podium and asked about why the city is purchasing eight police vehicles. Mayor Kahl explained that no police vehicles were purchased last year.

Mayor Kahl asked if there was anyone else who wished to comment on any items on the agenda. There was no response.

CONSENT AGENDA ITEMS BY OMNIBUS VOTE:

Mayor Kahl asked if any Commissioner wished to remove any items from the Consent Agenda for discussion. There was no response.

Motion by Commissioner Hill, seconded by Commissioner Decker; Mr. Mayor, I move to adopt a consent agenda consisting of items numbered 1 and 2 as listed on the agenda for this meeting to be considered by omnibus vote.

Item No. 1 – Adoption of Resolution No. 1920-067 – Resolution to Approve Payment of the Schedule of Bills Listed on Schedule No. 11 in the amount of \$4,184,784.12.

Item No. 2 – Adoption of Resolution No. 1920-063 on its Second Reading – Resolution to Approve Contracts for Access Road 6 Improvement Project.

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None.

Mayor Kahl declared the motion carried.

Motion by Commissioner Hill, seconded by Commissioner Decker; Mr. Mayor, I move you that Items numbered 1 and 2 listed on the Consent Agenda be hereby approved and adopted, the item numbered 2 having been read once by its title and having laid on the table for no less than one week for public inspection be adopted as presented.

Item No. 1 – Adoption of Resolution No. 1920-067 – Resolution to Approve Payment of the Schedule of Bills Listed on Schedule No. 11 in the amount of \$4,184,784.12. (Adopted by omnibus vote)

Item No. 2 – Adoption of Resolution No. 1920-063 on its Second Reading – Resolution to Approve Contracts for Access Road 6 Improvement Project. (Adopted by omnibus vote)

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None.

Mayor Kahl declared the motion carried and the items adopted by omnibus vote designation.

Motion by Commissioner Hill, seconded by Commissioner Mingus; Mr. Mayor, I move you that Ordinance No. 4458, hereto attached, (AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$18,225,000 TAXABLE GENERAL OBLIGATION REFUNDING BONDS (ALTERNATE REVENUE SOURCE),` SERIES 2019, FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING ALTERNATE REVENUE BONDS OF THE CITY, AUTHORIZING THE EXECUTION OF A BOND ORDER IN CONNECTION THEREWITH, PLEDGING CERTAIN REVENUES OF THE CITY, PROVIDING FOR THE IMPOSITION OF TAXES TO PAY THE SAME, AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT IN CONNECTION THEREWITH, AND AUTHORIZING THE SALE OF SAID BONDS TO THE PURCHASER THEREOF) having been read once by its title and having been laid on the table for no less than one week for public inspection, be adopted as presented.

Commissioner Hill then gave a public recital of the nature and purpose of the Bond Ordinance, which included a reading of the title of the Bond Ordinance and statements (1) that the Bond Ordinance provides for the issuance of taxable general obligation alternate bonds to refund certain outstanding alternate revenue bonds of the City, previously issued in connection with the redevelopment of the Camp Street Redevelopment Project Area heretofore designated by the City (the "*Camp Street Redevelopment Project Area*"), (2) that the bonds are issuable pursuant to authority of the Illinois Municipal Code and the Local Government Debt Reform Act to accomplish debt service savings, (3) that the Bond Ordinance delegates the authority to sell the bonds to certain designated officers of the City, who are to execute a bond order in connection with such sale, (4) that the Bond Ordinance provides for the

bonds to be paid by various pledged revenues as described and set forth in the Bond Ordinance, but there is also a back-up levy of taxes to pay the bonds, and (5) that the Bond Ordinance provides many details for the bonds, including provision for terms and form of the bonds, appropriations and the execution of an escrow agreement.

He explained that the long-term bond rates have significantly saved the city in the past and are estimated to save the city of up to \$1,500,000 for the remaining life of the bonds.

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None

Mayor Kahl declared the motion carried and Ordinance No. 4458 be adopted as presented.

Mayor Kahl explained that Ordinance No. 4459 has been pulled from the agenda for consideration at a future meeting.

Resolution No. 1920-068 by Commissioner Hill, seconded by Commissioner Decker; BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, ILLINOIS that Resolution No. 1920-068, hereto attached, a Resolution Approving New Sign Lease Agreement with Adams Outdoor Advertising L.P. for 2200 East Washington Street (FOLEPI Building), be approved. Mr. Mayor, I move you that this Resolution No. 1920-068 be accepted on its first reading as read by its title, and be laid on the table for no less than one week for public inspection.

Commissioner Hill commented on the agreement including the term length of ten years, the city's use of the sign for city events, and the new sign that will be placed.

Commissioner Decker commented on concerns about light pollution when the sign was initially placed and commended Adams on the good job they do in maintaining the sign.

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None.

Mayor Kahl declared the motion carried.

Motion by Commissioner Hill, seconded by Commissioner Decker; Mr. Mayor, I move you that Ordinance No. 4460 hereto attached, (AN ORDINANCE ADDING NEW SECTION 1-8-9 TO THE CITY CODE ESTABLISHING A FUND BALANCE POLICY FOR THE CITY OF EAST PEORIA) be read at length by the Clerk, and that said Ordinance No. 4460 be accepted on its first reading, and be hereby adopted as presented.

The city clerk read the ordinance at length.

Commissioner Hill commented on the ordinance and reasoning behind the amendment that included an explanation of the city not previously having a fund balance policy in the city code and the amendment may help increase the city's bond rating that will allow the city to have savings in the city's bonds. As of April 13, 2018, the city is above that required minimum set in the new fund balance policy language in the city's fund balance.

Commissioner Decker thanked Director of Finance/Treasurer, Jeff Becker, for his work and trying to help people understand city finances. The policy sets for a minimum unassigned fund balance equal to sixty days of General Fund revenues as determined from year to year based upon the fiscal year budget approved by the City Council. The amount of money that the city has in the unassigned fund balance was discussed. Once the city gets to \$4,000,000, Commissioner Decker would like to put more monies into the street expenditures.

Mayor Kahl commented on the ordinance and expressed his opinion that the fund balance policy is the prudent thing to do.

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None.

Mayor Kahl declared the motion carried and Ordinance No. 4460 to be duly adopted as presented.

Resolution No. 1920-065 by Commissioner Mingus, seconded by Commissioner Decker; BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, ILLINOIS that Resolution No. 1920-065 hereto attached, a Resolution approving a Collective Bargaining Agreement between the City of East Peoria and the International Association of Fire Fighters, Local #1498, for a period beginning May 1, 2019 and terminating on April 30, 2024, be hereby approved. Mr. Mayor, I move you that this Resolution No. 1920-065 having been read once by its title and having laid on the table for no less than one week for public inspection, be adopted as presented.

Commissioner Mingus commented on the collective bargaining agreement explaining that he believes it is a fair agreement that was negotiated in good faith. If approved, the contract begins on May 1, 2019 and the firefighters have been working without a contract since that time. He is hopeful that the agreement will be approved tonight.

Commissioner Sutherland explained that he has thought long and hard on the approval of this agreement. He explained that he did not support the contract because of residency but that does not mean that he does not support a contract. He explained that he does not support a firefighter voting on this item. He read comments from a prepared statement. He urges that a vote on the second reading of this resolution be delayed until the city council can be advised by a major independent law firm with a written opinion regarding certain issues that exist. He stated that the concerns he has are that (1) Commissioner Decker received campaign funds from firefighters unions; (2) this contract indirectly affects Commissioner Decker's compensation package; (3) just because there is no caselaw, does not mean it is ok to vote when an appearance of a conflict of interests exists; and (4) Commissioner Decker is his boss' boss and now wants to vote on fire business. He explained that he has contacted Ancel and Glink to determine if Commissioner Decker can vote on the contract. He is concerned that the city is taking a chance that a contract is approved that is illegal and may result in expensive litigation. Ancel and Glink advised that they would be willing to provide such an opinion at \$250 per hour to time spent preparing such and opinion and they anticipate that it will take no more than twelve hours. He urges that the vote be delayed on the second reading until an opinion is received.

Motion by Commissioner Sutherland, seconded by Commissioner Hill; Mr. Mayor, I move you that Resolution No. 1920-065 - Resolution approving Collective Bargaining Agreement between the City of East Peoria and the International Association of Firefighters, Local #1498, for a period beginning May 1, 2019 and terminating on April 30, 2024 be tabled until the next Regular City Council meeting to be held on November 5, 2019.

Commissioner Sutherland asked for a straw vote about whether other city councilmembers would be willing to expend funds to receive an outside legal opinion as to whether Commissioner Decker can vote on the collective bargaining agreement. The cost will be around \$2,750. Commissioner Sutherland is willing to take a look at their recommendation and if they disagree with Commissioner Sutherland then thinks he can stand aside. He believes that there may be a problem with some of the things that he is reading.

Mayor Kahl indicated that he reached out to the Attorney General's office to receive an opinion on the matter. However, the response may take weeks to months to receive a response or any information back from the office.

Commissioner Sutherland stated that he received an opinion from the city attorney that stated the following: "It cannot be predicted with any degree of certainty whether a conflict of interest will be found in this matter. The appearance of a conflict and the benefit to the public confidence and the impartiality of the city's governing body is a different matter and warrants serious consideration." "However, to the extent that he enjoys a personal benefit as a result of the CBA the assistant chief would be prohibited by common law by voting on the collective bargaining agreement." "There is no legal authority which clearly prohibits the assistant fire chief from voting on the CBA. That said, given the lack of legal authority, it is impossible to predict with any certainty how a court would rule on this matter. Any number of speculative indirect personal benefits could be attributed to the Assistant Chief." Commissioner Sutherland feels that Commissioner Decker will have a direct impact by this contract. He is concerned that there will be a challenge.

Commissioner Decker explained that he was asked if he would vote on the contract since he was no longer in the bargaining unit. He explained that the opinion is an eight-page document and Mr. Sutherland is paraphrasing and the opinion talked about the arguments for and against but took no definitive stand. He stated that his salary and benefits are not determined by the contract. It has nothing to do with the contract. He stated that the Council could choose to give the Assistant Chiefs no wage increases over the next five years. When he was asked whether or not he should vote, he explained that he did quite a bit of research and received an initial opinion and spoke with Attorney Triggs. He commented on Miller, Hall and Triggs spending time on looking into whether the vote was legal or not. He explained that he received two opinions that it was legal to vote including one from Attorney Triggs. He was also asked if it was legal to vote then does he have the right not to vote. He believes that if the contract does not pass then he feels that the union will go to arbitration and arbitration is costly to the city and it will cost so much more than the contract.

He explained that even if it is legal, he is willing to vote. He explained that he feels that the city has one of the most knowledgeable law firms on municipal law. He feels like trusting the city attorney's office and that he feels that he has an obligation to vote. He feels that he has an obligation to vote since he is no longer in the bargaining unit.

Dennis explained that it is a complex question. He explained that case law, statutes, commentary from the Illinois Municipal League were research. One thing is the attorney who wrote the memorandum spent 19 hours on the project and will be billed for 15 hours at \$179 per hour. What is missing is Attorney Triggs' own time because he did not write the memorandum. His direction was for the attorney he assigned to research was to undertake the analysis objectively. Attorney Triggs' time is hard to quantify because some time is covered by the monthly retainer fee. Time expended is around three times more than is actually paid for by the retainer. The opinion is that he can vote but with many reservations and qualifications. He talked about the Ancel Glink law firm. The other opinions will only be an opinion as with the Attorney General. This is pure speculation and the opinion from the attorney general will take many months. All of these are only opinions. He does not want to talk against getting another opinion, and it is up to the council; but, keep in mind that it is an opinion.

Mayor Kahl asked whether he needs council action or whether he can do it on his own.

Attorney Triggs explained that he does believe that a straw poll is enforceable, and the straw poll was not noticed up on the agenda. If a majority of will is expressed tonight, then Attorney Triggs believes that it lawful and appropriate for the Mayor to do so. The Mayor can do so as chief executive of the city, and that he can spend up to \$3,000 if it is the will of a majority of the city council.

Commissioner Mingus is concerned that there have been several opinions that have been received. He explained that last year the city spent \$587,613 in legal fees. If we are going to question this decision of the city attorney, what keeps us from questioning the other expenditures on legal fees. He explained that the city is already over its estimated attorney's fees for the year. It is just another opinion, and he explained that without case law the only thing that is certain is when a court actually rules on this. City Attorney Triggs explained that you get a final opinion from the court which is appealed and there is no further appeal available. Attorney Triggs explained that there is a statute that allows a firefighter to hold public office where other employees cannot. Frustration goes back to the statute that creates issues to which there is no easy answer. Commissioner Mingus believes that if the Council delays the vote there could more expenditure of funds and money is not something we have a lot of. He feels that it is a dangerous road to go down if we start questioning our attorneys' opinions.

Commissioner Hill explained that he did research and it gives firefighters the right to be elected to office. He explained that there was a decision where a police officer could not serve as it was deemed incompatible offices. He commented on an opinion not being definitive and that the only definitive decision would be a court case. He asked how much the city is going to incur in legal costs if this matter were to be in court. Attorney Triggs explained that if the matter were in court it could be a significant expense. However, City Attorney Triggs explained he is unsure as to what degree would the council want to fight or demonstrate that the vote was lawful. Council might not spend a lot of money to influence the outcome, but it would be more of a case of wanting the court ruling on the matter. Then, the city could appeal the ruling. If it were tabled and there was a vote, the agreement would be enforced. A person who has standing could then request ask for the decision to be overturned.

Commissioner Hill explained that he likes facts and figures. He feels that this has been advised. He feels that there is a potential for a sick pay buyout with everyone cashing out and it would be difficult to get those monies back. He feels to spend \$3,000 to save \$26,000 is prudent. There was a discussion regarding recoupment of the sick time payout.

Mayor Kahl explained that he would not support the collective bargaining agreement, because bargaining in good faith means that both parties have a clear understanding of what is on the table and two monetary provisions were not shared with city council. He explained that there is a monetary provision that remains in the contract that is costly to the city. Mayor Kahl explained that he knew that this was going to be divisive if Commissioner Decker voted on this item. He explained that his vote hinges on one monetary provision and he explained that he was told that if that provision is taken out then the union will be taking the city to arbitration. He explained that it is legal for Commissioner Decker to serve on the council. He explained that the question is whether he can cast a vote on this item. We will never know the outcome until it is tried in court and whether it will be tried in court. He would support tabling this until there is an opinion of the attorney general. However, that is no time coming soon. He asked another outside legal opinion and he has no way of knowing of the outcome until there is a court case.

Commission Mingus explained that he did not know that the sick time buyout was an issue until twenty-hours prior to the city council meeting.

Mayor Kahl discussed the sick time buyout going into the last negotiations. He explained that he did not agree with it. He explained that the purpose of the sick time buyout three years ago was to save money, and it made sense three years ago. Anyone that maxes out on sick leave will get an additional three days of vacation. Three years ago, those days were covered with overtime. Mayor Kahl explained that he did question the sick time buyout and less than one year ago he solicited getting three additional firefighters to cut down on the overtime costs that the city was incurring. He explained that this was addressed by adding three additional firefighters three years ago so he does not feel the buyback amount will save the city money.

Commission Mingus explained that the Fire Department is still paying overtime.

Commissioner Sutherland stated that the history of the wages that go to the assistant fire chiefs and the history of how the assistant fire chiefs have been paid. He explained that he has asked to receive the written opinion of the legal opinion that he received. He explained that he feels that he received short notice on the fire contract. He inquired as to what the city would do if there were five commissioners that were in the fire department on the city council.

Commissioner Decker explained that he has never been asked for the legal opinion that he received and that he will gladly share the opinion with him.

Yeas: Commissioners Hill, Sutherland, and Mayor Kahl.

Nays: Commissioners Decker and Mingus.

Mayor Kahl declared the motion carried and Resolution No. 1920-065 tabled until the November 5, 2019 meeting.

Resolution No. 1920-066 by Commissioner Mingus, seconded by Commissioner Decker; BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, ILLINOIS that Resolution No. 1920-066, hereto attached, a Resolution Approving an Intergovernmental Agreement between the City and the County of Tazewell for Animal and Rabies Control Services, be approved. Mr. Mayor, I move you that this Resolution No. 1920-066 be accepted on its first reading as read by its title, and be laid on the table for no less than one week for public inspection.

Commissioner Mingus explained that this is an intergovernmental agreement with Tazewell County for animal control services. He explained the costs for the contract is \$28,752 for the year.

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None.

Mayor Kahl declared the motion carried.

Resolution No. 1920-069 by Commissioner Mingus, seconded by Commissioner Sutherland; BE IT RESOLVED BY THE COUNCIL OF THE CITY OF EAST PEORIA, ILLINOIS that Resolution No. 1920-069, hereto attached, a Resolution Authorizing and Approving the purchase of Eight (8) 2020 Dodge Durango AWD Police Service Vehicles and the outfitting of such vehicles for the Police Department in the amount of \$333,696, be approved. Mr. Mayor, I move you that this Resolution No. 1920-069 be accepted on its first reading as read by its title, and be laid on the table for no less than one week for public inspection.

Commissioner Mingus explained that the city budgeted for seven vehicles; however, they received a better deal to purchase eight vehicles. They will be outfitted with lights, radios, and other items.

Commissioner Decker asked about the outfitting. Chief of Police Roegge, explained that the costs of Ford Explorer increased and Deputy Chief Brodrick looked into the Dodge Durango platform which did not increase in costs. Other departments have been satisfied with the Dodge Durango. The Police Department is going to go with the Dodge in order to get an additional eighth vehicle.

Commissioner Hill thanked DC Brodrick for sharing the maintenance history of the vehicles. The eighth car comes as the result of a vehicle accident of a current police vehicle.

Mayor Kahl explained that DC Brodrick brought forth maintenance costs and the city still has fourteen Chevrolet Impalas and a substantial amount of maintenance costs goes toward those vehicles. Mayor Kahl and Chief Roegge discussed the one of the funds that the monies will come out of that is limited in what the funding can be used toward. The purchase is all within budget.

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None.

Mayor Kahl declared the motion carried.

Mayor Kahl stated if there was anyone in the audience who wanted to speak on any items not on the agenda to come to the podium state the matter or matters to be discussed.

George Herman with the Veterans of Foreign Wars came up to the podium to invite residents who are former or active military to participate in the East Peoria Veterans Day Parade that is scheduled for November 9, 2019 beginning at 1:30 p.m. from Columbia to W. Washington to Richland street. A WWII landing craft will be there and a semitruck in patriotic theme will be in the parade. The parade participants will be invited to the bash at the VFW Post after the parade from 3:00 p.m. to 5:00 p.m.

Rachel Oedewaldt came up to the podium and expressed her frustration over an issue she had with public works that she said caused an issue on her property during trash week. She explained that a chunk of property came out of her property. She explained that she asked that the dirt pile not be moved and that they spread the dirt. She explained that she has video and suggested that city employees come with an open mind when dealing with residents. She does not want the city to fix the issue as Bill Bassham is to fix the issue. She just wanted to go on record.

John Harris came up to the podium and expressed concerns over individuals not following the guidelines of clean-up week. He explained that 413 tons of items were taken to the landfill because people were not following the regulations of the city. He explained that junk week is supposed to be for large items and people were placing small items that should be placed in garbage cans, boards with nails, and potential hazardous substances in containers. He does not want to see clean-up week taken away because people are misusing clean-up week. It is not meant for smaller items and other illegal hazardous items.

Bobby Zimmerman of the fire department came up to the podium. He asked if the city is going to get another opinion if the contract is going to be supported. If the city is going to pay the money, then why would the city get an opinion if it will not be supported. Commissioner Hill explained that he would consider it. Commissioner Sutherland explained that he would not support the contract without residency. He asked if he could get the contact information and facts to the legal counsel. He feels that all of the facts need to be relayed to the outside legal counsel. He hopes that they contact the city with questions. If it the contract is not going to get supported, then he feels that it is a waste of money to spend money on another legal opinion.

George Herman came up to the podium and he asked what happened with brush pickup. Commissioner Decker explained that it was going on at the same time as the clean-up week. He explained that the contractor, who the city contract's with, was behind and we normally do it at the same time as the clean-up week.

Don Norbits came up to the podium and expressed concerns about open burning. He said he saw a news story about open burning and commented that at least it was suggested to ask neighbors before burning. He explained burning produces a lot of pollution and affects people with respiratory issues. There needs to be something done with the pollution and burning. He implored city council to consider doing something about the open burning and air pollution.

Mayor Kahl asked for any additional comments from the audience. There was no response.

Mayor Kahl then asked for comments from Council.

Commissioner Decker commented on clean-up week and that it just finished up last week. There was an enormous amount of material picked up. It is supposed to be for larger items. He feels that people really take advantage of the service and put items out for scrappers so that it can be reused. However, people do take advantage and put the service at risk of being lost. The brush pick-up is important, and he realizes with those that miss it, how important that it is. He explained that Bob Jorgensen asked him to discuss the showing of "What Lies Upstream" in the Civic Complex on water pollution that occurred and what the things we are doing can affect the water supply. It is scheduled on Wednesday, October 24 at 6:30 pm with refreshments. He would like to invite everyone to attend.

Commissioner Hill commented on a high-tech app that helps public works document some of the abusers of the clean-up week. The last Friday Night Lights is this Friday with a trunk or treat event. He thanked Doug on his work and encouraged everyone to attend.

Commissioner Sutherland commented on use of the drone. He explained that there have been several pictures taken of the Waste Water construction going on. He explained that officers took pictures of the construction that is going on and hopefully there will be a video at the next meeting. He explained that, with all the complaints of the landfill, there are changes coming because the city may not have the same agreement next time with the landfill.

Commissioner Mingus explained that the fire department had their Annual Firefighter Memorial Service and recognition of Firefighter of the Year, Andy Ogburn, and Service Above Self Award winner, Ross Ahrens.

Mayor Kahl reminded council that every one of them were elected to serve the good people of east Peoria and explained that no matter how divisive, the council may be on items the council needs to rise above it and work together for the next four years.

Motion by Commissioner Sutherland, seconded by Commissioner Mingus; Mr. Mayor, I move you that we adjourn until Tuesday evening, November 5, 2019 at 6:00 P.M.

Yeas: Commissioners Decker, Hill, Mingus, Sutherland, and Mayor Kahl.

Nays: None

Mayor Kahl declared the motion carried and the meeting adjourned at 7:42 P.M.

/s/ Morgan R. Cadwalader
City Clerk Morgan R. Cadwalader