

**City of Mt. Vernon, Illinois
Regular City Council Meeting
Monday, February 4, 2019
7:00 p.m.
MINUTES**

The Mt. Vernon City Council held a Regular City Council Meeting on Monday, February 4, 2019 at the Rolland W. Lewis Community Building, Veterans Park, 800 South 27th Street, Mt. Vernon, Illinois.

Mayor John Lewis called the meeting to order at 7:00 pm.

Rev. Harold Quick from West Salem United Methodist Trinity Church gave the Invocation.

The Pledge of Allegiance was recited.

ROLL CALL

Roll call showed present: Council Member Jeff May, Council Member Donte Moore, Council Member Jim Rippy, Council Member Mike Young, and Mayor John Lewis.

PRESENTATION OF JOURNALS

The Journal for the January 22, 2019 Regular City Council Meeting was presented for approval.

Council Member Donte Moore motioned to approve the Journal as presented. Seconded by Council Member Jeff May. Yeas: May, Moore, Rippy, Young, and Lewis.

VISITORS/CITIZENS REQUESTS/ADDRESSES FROM THE AUDIENCE

No comments were heard.

APPROVAL OF CONSOLIDATED VOUCHERS FOR ACCOUNTS PAYABLE

The Consolidated Vouchers for Accounts Payable were presented to Council for approval. Council Member Jim Rippy asked for a status update on the installation of the water meters. City Manager Mary Ellen Bechtel replied that well over 50% have been installed. The total water meter project is \$2.7 million.

Council Member Donte Moore motioned to approve the Consolidated Vouchers for Accounts Payable in the amount of \$1,121,214.56. Seconded by Council Member Mike Young. Yeas: May, Moore, Rippy, Young, and Lewis.

BIDS AND QUOTES

City Manager Mary Ellen Bechtel presented the bid results for the demolition of 19 properties. The properties are:

- | | | |
|------------------|-----------------|---|
| 1. 315 N. 7th | 7. 1809 Stanley | 13. 309 Castleton |
| 2. 2310 Perkins | 8. 421 Herbert | 14. 2019 Cherry |
| 3. 1020 S. 6th | 9. 401 Bell | 15. 1716 Lamar |
| 4. 1623 Forest | 10. 124 Opdyke | 16. 903 S. 25 th & 905 S. 25 th |
| 5. 801 S. 17th | 11. 917 S. 12th | 17. 1708 Logan |
| 6. 217 Castleton | 12. 2105 Cherry | 18. 1200 S. 26 th |

The bids were:

- | | |
|---|--------------|
| 1. Heck's Excavating, Mt. Vernon, IL | \$94,000.00 |
| 2. Kenneth A. Hails Exc., Texico, IL | \$93,800.00 |
| 3. Hanks Excavating and Landscaping, Belleville, IL | \$136,300.00 |
| 4. S. Shafer Excavating, Pontoon Beach, IL | \$189,348.00 |
| 5. Shores Builders, Inc., Centralia, IL | \$332,269.00 |
| 6. Rawson Excavating, Inc., Murphysboro, IL | \$209,720.00 |

Bechtel recommended the acceptance of the low bid from Kenneth A. Hails Exc., Texico, IL for \$93,800.00. Council Member Jim Rippy stated that he cannot understand range of the bids on the same bid. Council Member Jeff May asked if the low bidder had insurance and a performance bond. Bechtel replied, yes.

Council Member Mike Young motioned to accept the low bid from Kenneth A. Hails Exc., Texico, IL for \$93,800.00 for the demolition of 19 properties. Seconded by Council Member Jim Rippy. Yeas: May, Moore, Rippy, Young, and Lewis.

CITY MANAGER

City Manager Mary Ellen Bechtel requested permission to seek bids for the repainting and rehabilitation of the Opdyke Water Tank using IEPA Loan monies. The IEPA has allowed the City to go ahead and do the bidding even though the City does not have final loan approval. Bechtel reported that the loan is expected to be around \$990,000.00. The plan is to have the bids back by April and work performed this summer. The City's payment on the loan will be about \$54,000.00 per year if the City does not receive the 50% loan forgiveness. Council Member Donte Moore asked what factors determine whether the City receives the loan forgiveness. Bechtel explained that it depends on water rates and how much money IEPA has available.

Council Member Jeff May motioned to seek bids for the repainting and rehabilitation of the Opdyke Water Tank using IEPA Loan monies. Seconded by Council Member Mike Young. Yeas: May, Moore, Rippy, Young, and Lewis.

City Manager Mary Ellen Bechtel requested permission to close a street for the Mt. Vernon Homebrewers Festival on Saturday, June 8, 2019. The street to be closed is 9th Street from the City parking lot to Casey Avenue from 8 a.m. to 6 p.m.

Council Member Jim Rippy motioned to close a street for the Mt. Vernon Homebrewers Festival on Saturday, June 8, 2019. Seconded by Council Member Donte Moore. Yeas: May, Moore, Rippy, Young, and Lewis.

City Manager Mary Ellen Bechtel requested permission to close streets for the Mt. Vernon Fall Fest to be held September 26 to September 30, 2019.

Council Member Mike Young motioned to approve the road closures request for the Mt. Vernon Fall Fest to be held September 26 to September 30, 2019. Seconded by Council Member Jeff May. Yeas: May, Moore, Rippy, Young, and Lewis.

City Manager Mary Ellen Bechtel requested approval to release the Emails regarding the January 22, 2019 City Council Meeting. Bechtel explained that there was an observation by a Council Member that the Emails on January 22, 2019 may have violated the Open Meetings Act. For transparency, the E-mails were made public in the City Clerk's Office and will be included in the minutes. The E-mails were:

"From: Mayor Lewis

Sent: Tuesday, January 22, 2019 11:04 AM

To: Councilman May <councilmanmay@mtvernon.com>; Lori Ulrich <lori.ulrich@mtvernon.com>; Councilman Moore <councilmanmoore@mtvernon.com>; Councilman Rippy <councilmanrippy@mtvernon.com>; Mary Ellen Bechtel <CityManager@mtvernon.com>; Nathan McKenna <nathan.mckenna@mtvernon.com>; Councilman Young <councilmanyouth@mtvernon.com>;

Good points. Totally agree.

From: Councilman Young

Sent: Tuesday, January 22, 2019 11:02:39 AM

To: Councilman May; Lori Ulrich; Councilman Moore; Councilman Rippy; Mary Ellen Bechtel; Mayor Lewis; Nathan McKenna

Subject: Re: January 22 2019 City Council Meeting Agenda

Agreed.

From: Councilman May

Sent: Tuesday, January 22, 2019 10:43:36 AM

To: Lori Ulrich; Councilman Moore; Councilman Rippy; Councilman Young; Mary Ellen Bechtel; Mayor Lewis; Nathan McKenna

Subject: Re: January 22 2019 City Council Meeting Agenda

In reviewing item 10G it appears that it fails to address a very important point. I can support the independent committee, but it is very important that is group does not waste valuable city resources. Particularly the time of city employees. That would be fiscally irresponsible and a waste of tax payer money.

Also, we could be sending a confusing message to our citizens. Just like the east side sidewalk, people will believe this is going to happen. Most business folks in town understand and many ask me why are we stirring this up.

From: Lori Ulrich <lori.ulrich@mtvernon.com>

Sent: Friday, January 18, 2019 4:15 PM

To: Councilman May; Councilman Moore; Councilman Rippy; Councilman Young; Mary Ellen Bechtel; Mayor Lewis; Nathan McKenna

Subject: January 22 2019 City Council Meeting Agenda

Attached is the agenda for the City Council meeting which will be on TUESDAY, January 22, 2019. All necessary materials have been uploaded to Dropbox. Please note the zip file of Closed Session minutes for the semi-annual review.

Council Member Jim Rippy stated that the emails were a direct violation of the Open Meetings Act, he assumed that all Council Members took the same OMA Training. He suggested that the Council Members study the OMA rules. Council Member Mike Young asked Rippy about the emails that he sent in June and October 2018 to all the Council Members. Rippy asked what those emails had to do with the January 22, 2019 emails. Young replied that a violation is a violation. Mayor John Lewis stated that a notice was sent from the City Clerk and City Manager to every member of this Council that the violation was technical and unintended. Council Member Jeff May stated he initiated the email and he repeated verbatim, at the City Council Meeting, what he sent in the email.

Council Member Jeff May motioned to release the Emails regarding the January 22, 2019 City Council Meeting. Seconded by Council Member Donte Moore. Yeas: May, Moore, Rippy, Young, and Lewis.

CITY ATTORNEY

City Attorney David Leggans presented for Council's consideration a Resolution Establishing Water Rates for Woodlawn, Waltonville, Bluford, Dix-Kell, Northeast Water District, and Belle Rive. Finance Director Merle Hollmann explained that every five years new contractual rates are sent from the Rend Lake Conservancy District. The rate to the Villages is currently \$2.609 per thousand gallons. This Resolution would determine the rates for water usage for the next four years.

The proposed rates are:

May 1, 2019	\$2.659 per thousand gallon
May 1, 2020	\$2.709 per thousand gallon
May 1, 2021	\$2.759 per thousand gallon
May 1, 2022	\$2.809 per thousand gallon

Council Member Jim Rippy stated that he would be voting against this Resolution because the City pays Rend Lake Conservancy District too much for water. **Died due to the lack of a motion.**

City Attorney David Leggans presented for Council's consideration a Resolution to Amend the Agreement between the City of Mt. Vernon and Keith Baldwin/Baldwin Enterprises, Inc. to Extend the Tax Credit Period of Economic Assistance for the Holiday Inn Express. City Manager Mary Ellen Bechtel explained that the City provided economic assistance in connection with the Construction of the new Holiday Inn Express (HIE) and the renovation of the former (HIE) to a Double Tree by Hilton. The tax credit provided would continue until May 4, 2027. Baldwin has requested that the tax credit

period be extended to December 16, 2028 because the renovation to a Double Tree was significantly delayed.

Council Member Jim Rippy motioned to approve the Resolution to Amend the Agreement between the City of Mt. Vernon and Keith Baldwin/Baldwin Enterprises, Inc. to Extend the Tax Credit Period of Economic Assistance for the Holiday Inn Express. Seconded by Council Member Jeff May. Yeas: May, Moore, Rippy, Young, and Lewis.

MAYOR

Mayor John Lewis introduced Ray Botch to give an update on the Public Utilities Committee. Botch read the following report:

“There has been controversy over our method of selecting an Engineer for our infrastructure projects. As a Home Rule Community, we can Bid or Seek Proposals for Services. In this case both sides have valid arguments. Different opinions allow us to debate and come up with a decision the majority favors. I just know based on 35 plus years as a City Manager the process or method we chose works best for the City. CONSTRUCTION SHOULD BE BID! On the other hand, you select an Engineer to be a member of your Management Team responsible for designing, bidding and constructing your project. In private industry, many larger companies have their own Engineering Staff who are part of their Management Team.

Our water system is complex made of three major components:

- 1. Water Source - Rend Lake*
- 2. Storage Tanks providing 2,650,000 gallons of storage.*
- 3. Distribution Systems - Pipes used to get water to the customer*

Each must work in sync to provide water when you open the faucet. Our system is antiquated and in need of a major capital investment. A Plan of Action has been developed by the Public Utilities Committee. Over the past year and a half substantial progress has been made.

The first project determined the causes of the City's 18% unbilled water. The City conducted an Acoustic Leak Survey to determine the leaks in our distribution system. Few leaks were found leading us to believe that the problem was our 35 to 40-year-old water meters. This was remedied by the purchase of 6700 Kamstrup Meters. Over 50% are now in place.

The next project was a Water Modeling Study designed to improve our water delivery system. This study concluded that we renovate the 1,500,000-gallon Vernwood Water Tank first. This upgrade, along with two new pumps is now complete and back in operation.

The study also recommended the installation of a Supervisory Control and Data Acquisition System (SCADA) to allow the City to regulate and balance our four water storage tanks and distribution system. The SCADA System is now in operation.

We have also submitted an IEPA Loan Application for the Opdyke Tank and tonight we received permission to bid for the repainting and repair of the tank. Renovation will be done this summer.

Our City Public Works Director developed a 17-year, 45.95-mile water main replacement program. The first two years are now being engineered. The City approved the negotiated \$295,000 contract with Round Table Engineering. Some have intimated that the City approved a no bid contact without due diligence. Nothing could be farther from the truth. We received seven Engineering proposals. The proposals were given to the City Manager, the City Engineer

and me to independently review each proposal. We then met two times to discuss and decide who we would call in for negotiations. We met two times with Round Table. The results included Engineering for 2020 and 2021 Water Mains along with the EPA Loan Application. In addition, we were able to include updating our Water Modeling Study and use of a Lazar to give us a 3-D image of the L/N Storage Tank. This is necessary to submit to prove the L/N Tank is not a Historical Landmark, thus allowing us to replace the tank. Why did we recommend Round Table?

1. They are familiar with our system which cuts down on our Staff time.
2. They did our Water Modeling Study.
3. They prepared the IEPA Loan Application for the Opdyke Tower.
4. They did the emergency Engineering for 12th/14th/ Casey water main replacement in a timely fashion. As I stated earlier our system is complex and I feel needs a firm that has knowledge of our system.
5. We negotiated a very good 6.7% fee for the water mains. Normally the fees would be 8% to 12%.”

Council Member Jim Rippy stated that he totally disagreed awarding the engineering contract without bidding. He feels that the best value for the money is received from firm bids.

Mayor John Lewis read his statement to help the citizens understand what the issues are. Lewis read the following report:

“I am not an attorney, nor did I stay at a Holiday Inn Express last night. I did not run these remarks past our City Attorney so they may not pass legal muster, but this is what I got out of researching from a layman’s point of view.

Since this assertion on a Supreme Court case was brought up, the public became confused on what exactly was going on, especially since no facts were ever presented. We wanted to make sure things were being done correctly, so throughout this process, we checked with many entities such as our City Attorney, the Illinois Municipal League Attorneys and the Grant Manager, who all stated that we must adhere to the rules unless we wanted to use our own money or we were not interested in getting any forgiveness on this loan. What we were hearing were some innuendoes and 2nd or 3rd hand information regarding the existence of a Supreme Court Case which affected in some ways how things were bid. Our attorneys looked up this statute and I was able to get a lot of information just by Googling “Supreme Court, Professional Engineers, United States”. So, since I like to deal with just the facts, here are the facts: This was not a case from a few years back, but 40 years ago. This Supreme Court decision affirmed rulings by both Federal and District Courts and the United States Court of Appeals for the District of Columbia in a civil anti-trust case brought by the Government in 1972 and decided by the Supreme Court in 1978. This decision has absolutely no bearing on what we were doing.

This decision appears to me, to be narrow in scope. The decision only dealt with prohibiting the National Society of Professional Engineers from adopting any official opinion, policy statement, or guideline stating or implying that competitive bidding is unethical. The allegation by the government was that the National Society of Professional Engineers Cannon of Ethics prohibiting its members from submitting competitive bids for engineering services violated the Sherman Act. Mr. Justice Stevens stated that, “This is a civil antitrust case brought by the United States to nullify an Associations Cannon of Ethics prohibiting competitive bidding by its members.

The Society maintained that the competitive pressure resulting from awarding work to the lowest bidder could compel engineers to sacrifice quality and safety precautions thereby jeopardizing public health, safety and welfare.

The Court rejected the defense and held that the purpose of a rule of reason analysis is to form a judgment about the competitive significance of a restraint, not to decide whether a policy that affects competition may have legitimate public or industrial interests at its core. While the Court noted that special considerations often are afforded learned professions such as the Society, it did not specifically discuss the limits and relevant considerations of granting an exemption. The Court's conclusion suggested that the Society could adopt some other ethical guideline to achieve the desired objective of avoiding deceptively low bids, and it may move the District Court to modify its injunction.

So, this case does not address in any way the health, welfare or safety concerns or its low bid or request for qualifications being better than the other, only an antitrust violation of the Sherman Act. The Society is free to bid or not bid in a bidding scenario and the government or private industry can still require low bid or request for qualification. There are good results and bad results for Request for Qualifications as there are good results and bad results for low bid. So, the decision here was do we use our own Money and go low bid or use someone else's money with a possible forgiveness of debt and go by their rules. Their money, their rules. Our money, our rules. We decided to take their money in hopes of getting a 30 to 50 percent forgiveness on the loan for our taxpayers rather than do it against the grant terms and place at risk the taxpayer's money."

Council Member Jim Rippe asked if there is anything in the grant guidelines that state in writing that you cannot competitively bid. City Manager Mary Ellen Bechtel replied no, but the City was advised by the grant manager that if the City did not follow the IEPA guidelines, the project may not be eligible. Ray Botch stated that since the City is Home Rule, bids were not required. Rippe asked to see it in writing.

CITY COUNCIL

Council Member Mike Young requested an update on the street lights at Veteran's Memorial Drive and Davidson Drive. City Manager Mary Ellen Bechtel replied that Tri-County feels that two street lights might be necessary.

VISITORS/CITIZENS REQUESTS/ADDRESSES FROM THE AUDIENCE

No comments were heard.

EXECUTIVE SESSION

No Executive Session was held.

ADJOURNMENT

Council Member Mike Young motioned to adjourn. Seconded by Council Member Jeff May. Yeas: May, Moore, Rippe, Young, and Lewis.

The meeting was adjourned at 7:43 p.m.

Respectfully submitted,



Mary Jo Pemberton
City Clerk