

City of Mt. Vernon, Illinois
Regular City Council Meeting
Monday, July 16, 2018
7:00 p.m.
MINUTES

The Mt. Vernon City Council held a Regular City Council Meeting on Monday, July 16, 2018 at 7:00 p.m. at the Rolland W. Lewis Community Building, Veterans Park, 800 South 27th Street, Mt. Vernon, Illinois.

Mayor John Lewis called the meeting to order.

Jo Alice Pierce 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 Rippey, Council Member Mike Young, and Mayor John Lewis.

PRESENTATION OF JOURNALS

The Journal for the July 2, 2018 Regular City Council Meeting was presented to Council for any additions, deletions or corrections.

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

VISITORS/CITIZENS REQUESTS/ADDRESSES FROM THE AUDIENCE

Mike McDonough, 835 McCauley Road, spoke on the lack of a sidewalk on McCauley Road. He presented a petition signed by many residents on McCauley Road, Curtis Court, and Mick Road. The petition reads: *"We have no sidewalk on McCauley Rd. causing our children to have to walk and ride their bicycles to school in the street dodging traffic which is so very dangerous. Last year a motion was voted on and passed by the City Council and the money was set aside to construct a sidewalk on McCauley Rd. that money was diverted to other projects. We the citizens of McCauley Rd. and the surrounding area ask the Mayor and the City Council to change their priorities and put the safety of our children first and reinstate the construction project to build the sidewalk on McCauley Rd."* McDonough stated that the residents want the sidewalk that they were told that they would get. Many residents have reported to the Police about the speeding vehicles on this road and he stressed that something needs to be done.

Bart Southerd, 2809 Lime Ave., spoke on the Park Plaza project. He asked what the status of the project is and if there will be a guarantee on the number of jobs and wage rates. Southerd stated that he was assured that these numbers would be provided. Mayor John Lewis reported that negotiations are on-

going, and they are trying to determine the numbers. The public will be informed on how many jobs are estimated to be created and the pay rate.

Southerd spoke on the condition of the Veterans' Park Lake. Mayor Lewis stated that it is under discussion on what to do with the lake. It will take a half a million dollars to clean up the lake or fill it in.

Dan Black, #7 Sunset Drive, encouraged the Council to get behind the InnoTech Manufacturing project at the Park Plaza site. He plans to continue to create jobs and employment opportunities in Mt. Vernon. Black feels that he has a great opportunity for the City and hopes that the City will support two industries at the Park Plaza site. He feels that InnoTech could take over the former Woolworths building and it would not have any effect on Milano's proposal for the site. Black stated that TIF Districts were designed to support businesses, create jobs, and get dilapidated buildings back on the tax rolls.

Omar Cabrens, South 13th Street, spoke on the opportunities that he was given at InnoTech to advance and become the Production Manager. He explained the trades that are taught at InnoTech and stated that the former Woolworths building would help streamline their products.

Eric Black, 1532 E. Holland Drive, spoke on Dan Black's character and InnoTech's track record for job creation. He asked that the Council give serious consideration to InnoTech's proposal.

APPROVAL OF CONSOLIDATED VOUCHERS FOR ACCOUNTS PAYABLE

The Consolidated Vouchers for Accounts Payable were presented to Council for approval. Council Member Jeff May questioned the \$7,850.00 payment to Modern Pool Management for the July's management fee at the Aquatic Zoo. He asked if the City is making money or breaking even at the pool. City Manager Mary Ellen Bechtel stated that she will be able to have the figures in a few weeks. She reported that there have been many challenges at the pool this year such as pumps, controllers, and variable frequency drives going down.

Council Member Mike Young motioned to approve the Consolidated Vouchers for Accounts Payable in the amount of \$1,276,519.97. Seconded by Council Member Jeff May. Yeas: May, Moore, Rippy, Young, and Lewis.

BIDS & QUOTES

City Manager Mary Ellen Bechtel reported on the bids received for the Mt. Vernon Aggregate Crushing Project. One bid was received from Mathis Excavating of DuQuoin for \$32,500.00. This project includes the crushing of 5,000 tons of salvaged concrete. The crushed concrete is used as rock backfill material on various projects.

Council Member Donte Moore motioned to accept the bid from Mathis Excavating of DuQuoin for \$32,500.00. Seconded by Council Member Mike Young. Yeas: May, Moore, Rippy, Young, and Lewis.

City Manager Mary Ellen Bechtel presented the bid results for the replacement of a water main along 12th Street and Casey Avenue. Two bids were received; (1) J.K. Trotter & Sons - \$370,293.00 and (2) Haier Plumbing & Heating, Inc. - \$413,003.00. Bechtel explained that this project does not replace the entire

12th Street main. The balance of the 12th Street replacement main is written into a grant using CDAP Funds/Revolving Loan Funds. This project is the most urgent part of 12th Street which runs from Broadway to Casey and then over to 15th Street on Casey. The water mains will be up-sized and the main under the railroad will be eliminated. Council Member Jim Rippy commented that he had never seen bids like this and he will abstain from voting because he does not understand how common supplies can be bid double or triple on the bids. Council Member Donte Moore asked how long this project will take. Bechtel stated that it will take three weeks to a month to complete. Individuals in the area should not be impacted much, because the new water main is replacing the existing main. She stated that Trotter has been awarded several projects in Mt. Vernon, nevertheless the City will be prioritizing the projects.

Council Member Jeff May motioned to accept the bid from J. K. Trotter & Sons for \$370,293.00 for the replacement of a water main along 12th Street and Casey Avenue. Seconded by Council Member Donte Moore. Yeas: May, Moore, Young, and Lewis. Abstain: Rippy.

City Manager Mary Ellen Bechtel presented the bid results on the Opdyke Water Tower Valve Vault Project. Bechtel explained that this is a separate project from the other renovation items. An application will be submitted to IEPA for the other renovations at the Opdyke Water Tower. This project fixes the valve vault and pit. Three bids were received; (1) J.K. Trotter & Sons - \$119,160.00, (2) Rend Lake Plumbing - \$124,201.58, and (3) Haier Plumbing & Heating, Inc. - \$187,300.00.

Council Member Donte Moore motioned to accept the bid from J. K. Trotter & Sons for \$119,160.00 for the Opdyke Water Tower Valve Vault Project. Seconded by Council Member Mike Young. Yeas: May, Moore, Young, and Lewis. Abstain: Rippy.

CITY MANAGER

City Manager Mary Ellen Bechtel presented a request to close Lamar Avenue from 20th Street to 19th Street for a neighborhood block party on Saturday, August 11th from 3 p.m. to 6 p.m. Linola Spann stated that this is the third year for the party and that this year's party will be the biggest one yet.

Council Member Jim Rippy motioned to approve the request to close Lamar Avenue from 20th Street to 19th Street for a neighborhood block party on Saturday, August 11 from 3 p.m. to 6 p.m. Seconded by Council Member Mike Young. Yeas: May, Moore, Rippy, Young, and Lewis.

CITY ATTORNEY

City Attorney David Leggans presented the Public Hearing regarding the Vacation of part of Forest Avenue. City Manager Mary Ellen Bechtel explained that this is a required hearing to advise the public of the proposed street vacation. She stated that the proposed vacation will close Forest Avenue from 9th to Dawson Park.

Council Member Jeff May motioned to recognize the Public Hearing regarding the Vacation of part of Forest Avenue. Seconded by Council Member Mike Young. Yeas: May, Moore, Rippy, Young, and Lewis.

City Attorney David Leggans presented a Resolution to approve a Conditional Use Sign Permit for property located at 800 S. 10th Street. The petitioning party is La Fiesta Restaurant. City Manager Mary Ellen Bechtel reported that the Planning and Zoning Commission unanimously approved this request. No objectors were present.

Council Member Jim Rippy motioned to approve a Conditional Use Sign Permit for property located at 800 S. 10th Street. Seconded by Council Member Donte Moore. Yeas: May, Moore, Rippy, Young, and Lewis.

City Attorney David Leggans presented a Resolution to Establish a Dedicated Restricted Account for Funds received from the Maintenance and Repair Privatization Account. City Manager Mary Ellen Bechtel explained that the 1999 Waste Water Treatment Service Agreement between the City of Mt. Vernon and EMC required that both parties to deposit funds into an account for use by EMC and its successors (American Water Services Company) for the repair, maintenance, and capital replacement at the City's Sewer Treatment Plant. The fund has grown since 1999 and there is \$663,292.61 in the account. Bechtel stated that the privatization part of the contract ended on April 30, 2018. Plus, American Water Services Company is selling their Sewer Treatment Plant Maintenance Contract to Veolia North America. The City desires to establish a dedicated City account providing for expenditure of the City's share of the funds received from the Maintenance and Repair Privatization Account only for maintenance (including environmental studies and testing), repair, capital infrastructure, and/or physical improvements to the Sewer Treatment Plant and/or Sewer Lift Stations. Bechtel stated that currently the City has over \$700,000 worth of identified capital improvements and maintenance for the Waste Water Treatment Plant over the next five years. One upcoming expense is a State mandated Phosphorous Study. The cost of the Study will run around \$150,000.

Council Member Jeff May motioned to approve the Resolution to Establish a Dedicated Restricted Account for Funds received from the Maintenance and Repair Privatization Account. Seconded by Council Member Mike Young. Yeas: May, Moore, Rippy, Young, and Lewis.

City Attorney David Leggans presented a Resolution Approving a Subordination of Surface Rights for Public Road Purposes. City Manager Mary Ellen Bechtel explained that the State of Illinois has right-of-way which includes City infrastructure. The Subordination Agreement states that if the State requires the infrastructure to be moved, the State would reimburse the City for the cost of relocating the infrastructure.

Council Member Jim Rippy motioned to approve the Resolution Approving a Subordination of Surface Rights for Public Road Purposes. Seconded by Council Member Jeff May. Yeas: May, Moore, Rippy, Young, and Lewis.

City Attorney David Leggans presented a Resolution Approving an Agreement with Sage Industrial for Spare Variable Frequency Drives (VFD) and a Yearly Service Contract for the Aquatic Zoo. City Manager Mary Ellen Bechtel reported that the City needs to develop a preventive maintenance plan for the Aquatic Zoo. There have been several recent challenges with the pumps and controllers. The Yearly Service Contract should help avoid some of the problems which occurred this year. The cost for the spare VFDs is \$6,574.25 and the cost for the Yearly Service Contract is \$7,680.00. Council Member Donte Moore asked what services Westport Pools provide at the Aquatic Zoo. Bechtel replied that Westport opens and

closes the pool. Council Member Jeff May asked if reserves are budgeted for mechanic maintenance. Bechtel replied yes and the end of the fiscal year the fund had about \$150,000.00 in reserve.

Council Member Donte Moore motioned to approve the Resolution Approving an Agreement with Sage Industrial for Spare Variable Frequency Drives (VFD) and a Yearly Service Contract for the Aquatic Zoo. Seconded by Council Member Jim Rippy. Yeas: May, Moore, Rippy, Young, and Lewis.

MAYOR

Mayor John Lewis presented for the advice and consent of the City Council the reappointment of William Pittman to the Police Pension Board.

Council Member Donte Moore motioned to reappoint William Pittman to the Police Pension Board. Seconded by Council Member Mike Young. Yeas: May, Moore, Rippy, Young, and Lewis.

Mayor John Lewis presented for the advice and consent of the City Council the reappointments of City Manager Mary Ellen Bechtel and Finance Director Merle Hollmann to the Fire Pension Board.

Council Member Donte Moore motioned to reappoint City Manager Mary Ellen Bechtel and Finance Director Merle Hollmann to the Fire Pension Board. Seconded by Council Member Jim Rippy. Yeas: May, Moore, Rippy, Young, and Lewis.

CITY COUNCIL

Council Member Jim Rippy motioned to Direct the City Manager to Reopen the Request for Proposals Regarding the Park Plaza Shopping Center Property. Rippy explained that two successful companies have the potential to add more jobs than one company. He said that he has not seen any detailed plans for the Milano proposal, but he feels that there is enough room for two companies on the property. **Council Member Donte Moore seconded the motion to discuss this issue.** He stated that he does not understand why the City is doing this in the first place because all companies submitted their best proposals previously. Moore wants to see why the City would reopen this when the City awarded the bid and remains in negotiations with a company.

Council Member Jim Rippy stated that simply two companies have the potential to bring more industrial manufacturing jobs to the City than one company. It is a potential growth situation.

Council Member Donte Moore reported that on the night of the proposals, the interested parties came forward with their best proposals and there was clearly one proposal that was in the best interest of the City. That proposal did not require for Downtown TIF Funds. Another proposal asked for all of the Downtown TIF Funds. This would cause Southtown to be destroyed because there would be no funds left for other businesses. The City is in the middle of negotiations with a company. If negotiations fail, then the project could be rebid. Moore stated that the City must be ethical.

Council Member Jeff May asked City Attorney David Leggans if the City can legally reopen bids. Leggans stated that technically proposals were received. Proposals can be negotiated or renegotiated however

the Council decides. May reiterated that he feels whoever is chosen needs to have some upfront skin in the game. May stated that he voted for the proposal based on which one was the best for the City.

Council Member Jim Rippy asked how many negotiation meetings have been held with the company with the successful proposal. City Manager Mary Ellen Bechtel replied that there have been three meetings or about one per month.

Mayor John Lewis read a prepared statement. It read: *"Now I would like to try and put everything back into context and attempt to speak to the real issue here, so let me first remind everyone of the various proposals. These numbers are approximate and rounded. The one from Trevor Borowiak requested zero taxpayer money and would save the City about 500 thousand in demolition costs. Many of us had questions about the viability of some of this project and the taxpayer's return for their asset. Ron Swopes proposal was not specific on how he was going to fund his project nor how much money the taxpayers would need to spend and therefore in our opinion was incomplete. Milano's proposal was for us to spend the 500 thousand to demo the property and she would guarantee 500 thousand dollars in jobs filled or buildings added to the property tax rolls or they would pay the remainder to the citizens of Mt. Vernon at the end of 15 years. She also agreed to finance the demo costs and have the city reimburse her over time. InnoTech's proposal would save the taxpayers 500 thousand dollars in demo costs, but he needed 4 million dollars of taxpayer money, gave no guarantee and would not put any of his own money into the project as far as the building. He did submit another proposal for just the one building which would have saved the taxpayer about 100 thousand dollars in demo costs, but he needed 1 million dollars in taxpayer money to complete his project and again would not put any of his own money into the project as far as the building. The choice was pretty much black and white. Trevor's proposal came in a close second. This council also realizes that any job claims cannot be guaranteed so we looked to see how much of their own money they were willing to invest in their project.*

Much of what we have heard this evening is just a deflection away from the real issue. The issue before us IS NOT whether InnoTech's proposal is the best one. The issue before us is did we not look at something during the bid process that would make our decision incorrect. Otherwise, it appears we are a "good ole boys club", helping our friends and buddies. I am sure anyone who lost the bidding process would love to come back in and say I could have done better, so this is what I will do now. If we allow this, then we set precedence on any other request for proposal or bid we award and now that puts us in the arena of "bid shopping" which is somewhat illegal, and I do not want any part of that. I do not think it is proper to discuss any proposal changed after the results have been publicly disclosed. Now a situation has been created where 2 businesses have been pitted against each other and this has pit friend against friend in a fight for taxpayer money and no one wins, especially the taxpayer, and this is just wrong.

When we came into office, we had a mission to make sure that all requests for proposals or bids were done fairly and transparent, with absolutely no favoritism given to friends and family or other relationships. This vote tonight is not to debate proposals but, on the process, and being fair. We spent a month developing ground rules for the park plaza process. We spent 8 months with proposals being sought and submitted, constantly telling all involved to "put their best foot forward" as they would only get one chance. We spent another month discussing the best and fairest way to roll these proposals out for consideration that did not give any entity an advantage of

any kind. Now a few people do not like the outcome and now want to change the rules, move the goal post and are asking us to throw the baby out with the bathwater. When these counter proposals started flying, I said if this does not border on being illegal, it is unethical, and I do not want any part of it.

InnoTech did submit a counter proposal AFTER the proposals were opened, AFTER they and EVERYONE else was prodded at least 3 times to make sure it was their best offer. I do not know any bidder that would not love to have a second bite of the apple after he saw everyone else's hand. InnoTech is asserting that a lot has changed, and the City could entertain both opportunities. Yes, things started to change after the ones that lost saw everyone's hand. It is a little late at that point. There was not one thing keeping 2 or 3 or more companies partnering together for a proposal. InnoTech says it is not an either/or and wants the City to throw out a valid bid and separate the two. This is just changing the rules.

Bid shopping is an unethical practice. Most laws state that except under exceptional circumstances, once the prime contract has been awarded, the awarding authority is prohibited from re-soliciting bids. Legislation has been enacted in various states in an effort to eliminate bid shopping and some have been overturned in the courts. Courts in both Pennsylvania and Illinois have stated in decisions the following: "It has been held that the purposes behind requiring governmental units to engage in competitive bidding are to invite competition, to guard against favoritism, improvidence, extravagance, fraud and corruption."

Now, the logic that two successful firms creating jobs has the possibility to create more than one is possibly true, and they should have put that in a proposal. A third and fourth successful businessman were also involved in this bidding process, so why not try and include 3 of them. How about all 4 of them, maybe we will have a better chance and maybe then no one succeeds. Bottom line, we are moving the goal posts on everyone and this is not fair nor right.

Now InnoTech is wanting to pick the building they want and force someone who also wants the building, had the better proposal, and won fairly in the request for proposal process to relinquish that building. The other two proposals also wanted the same building. Mary Burgan has been asked at least 3 times that I know of if it were possible she could do without that piece of property and on all 3 occasions she replied no.

So, I think the question before us is not "Is this a win/win/ situation to change course, by a bidder that changed his proposal after he saw every other proposal, but does our original decision, based on each bidder, playing on a level playing field and supposedly putting their best foot forward, should stand. If not, how are we ever going to keep favoritism, fraud and corruption out of our government? I am going to again ask this council not to change the rules or move the goal posts or throw the baby out with the bathwater."

Council Member Jim Rippy respectfully and totally disagreed with Mayor Lewis' comments. He stated that there is no favoritism involved. The only reason that he brought this issue up was that two successful companies have the potential to add more jobs than one company. His goal is whatever is best for the City and he feels more jobs is the best for the City.

Vote on the motion to Direct the City Manager to Reopen the Request for Proposals Regarding the Park Plaza Shopping Center Property. Yeas: Rippy and Young. No: May, Moore, and Lewis.

Council Member Donte Moore announced that on Saturday, July 28, 2018 the city will hold an electronic recycling event from 9 am until noon. The event will be held at 1201 Casey Avenue in the Public Works facility parking lot. The event is free to Mt. Vernon residents. Residents must bring a copy of their current water bill. Residents will be limited to two tube tv's or computer monitors. Jefferson County residents may also drop off items, however there will be a charge of \$5 per tv or computer monitor limited to two tv's. This service is for residential disposal only, no commercial disposals will be accepted.

VISITORS/CITIZENS REQUESTS/ADDRESSES FROM THE AUDIENCE

JoAlice Pierce, 700 Meadowbrook, asked what the progress is on the 7th Street reopening project. City Manager Mary Ellen Bechtel explained that the grant was awarded a few weeks ago. The safety arms have been ordered and constructed. As soon as the arms are received, the City can make a timeline for the reopening.

JoAlice Pierce commented on the Park Plaza Project. Her concern is having a salvage business in the heart of Mt. Vernon.

Dan Black, #7 Sunset Drive, spoke on the Mayor's comments about the proposals for the Park Plaza site. He said that he did not ask the City to throw out Milano's proposal, but only encouraged the City to continue negotiations about retaining the former Woolworth's building not only for InnoTech, but other businesses too. Mayor John Lewis stated that Mary Burgan of Milano's was asked on three separate occasions if there was any possible way that Milano's could do without the former Woolworth's building. She said no and explained that the building is needed.

Black stated that he did not request all of the Downtown TIF Funds for his project. Council Member Donte Moore explained that he asked the City Manager if all of the TIF Funds would be gone if the InnoTech's proposal was chosen. City Manager said that all Downtown TIF projects would stop. City Manager Mary Ellen Bechtel reported that Black presented three proposals. The three proposals totaled \$4 million, \$2 million, and \$1 million. The only way that the City could finance the \$4 million project was by the use of TIF Funds over the next 15 years. Black said that he did not request that the funding come from TIF Funds and said that the City could finance the project anyway they chose.

Council Member Jim Rippy stated that it seems ironic because it appears that the City is showing favoritism to a group that closed down 7th Street. Mayor John Lewis stated that Evansville Western Railroad pushed for the closure of 7th Street. No one on the Council had a personal relationship with Milano's before the election. The Council voted and requested that the 7th Street closure and the Park Plaza project be kept separate.

Council Member Donte Moore stated the City needs to complete the negotiation process and give everyone a fair shot. Rippy asked who the judge of the success of the negotiations will be. Mayor Lewis replied the City Council.

Joseph Collier of InnoTech asked how the requests were made to Mary Burgan about separating the former Woolworth's building from her proposal. Mayor Lewis replied that one was an e-mail and the others were face-to-face negotiation meetings. Collier asked that as the negotiations continue that the City negotiate for the Woolworth's building to benefit both businesses.

Bobby Farris agreed that a sidewalk on McCauley Road is needed due to the dangerous traffic.

Horton Petties spoke on the Park Plaza project. He asked if Milano's were to expand their salvage business or create a new business. Mayor Lewis said that he could not speak for the company.

Petties asked if the Post Office will stay at Park Plaza. Mayor Lewis replied no. The City is required to demolish the Park Plaza facility because it has been condemned. The City is working with the Post Office to find another location.

Petties asked if Dawson Park will remain open if the proposed vacation will close Forest Avenue from 9th to Dawson Park is approved. Council Member Donte Moore replied that at this point there still will be a park.

Petties commented that the City needs to keep and maintain Veteran's Park Lake. Council Member Donte Moore stated that it will take roughly \$500,000 to fix the lake. Moore said that roads, water mains, and sewer mains need to be repaired first.

EXECUTIVE SESSION

No Executive Session was held.

ADJOURNMENT

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

The meeting was adjourned at 8:24 p.m.

Respectfully submitted,



Mary Jo Pemberton
City Clerk