

The regular meeting of the Hammond Common Council of the City of Hammond, Lake County, Indiana was held on July 24, 2017 in the Hammond City Council Chambers.

Council President Janet Venecz presided.

Council Coordinator Carmen I. Balboa facilitated.

PLEDGE OF ALLEGIANCE was recited by all.  
Moment of Silence.

ROLL CALL

PRESENT: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

ABSENT: None

TOTAL: 9

READING OF THE MINUTES

Councilman Spitale, supported by Councilman Emerson, moved to accept the minutes of July 10, 2017 and place on file. AYES: ALL

APPROVAL OF CLAIMS

Councilman Markovich, supported by Councilman Higgs, moved to approve the claims from July 5, 2017 through July 19, 2017. Claim #4192 through claim #4525, inclusive.

Councilman Woerpel - About a month ago we pulled claim #3597, for \$5 thousand to Ice Miller, and we requested that the Judge show up and she couldn't make the last meeting. I see she's here from St. John tonight.

Councilman Woerpel, supported by Councilman Higgs, moved to suspend the rules to ask questions of Judge Jorgensen.

Councilman Markovich - Should that be taken up under New and Unfinished Business? Unless you're planning on putting that claim back in to be approved for tonight. We're just approving regular claims.

Councilman Woerpel - It's up to you guys. I mean, if she gives us the opportunity to ask her the questions we want. We can make her wait the whole meeting or we can do it now.

Councilman Higgs - I think the purpose of Councilman Woerpel requesting the Judge to stand before us is to give us clarification as to why the \$5 thousand was presented as a claim and it also gives an opportunity to ask any questions and so we can amend it in at this meeting so it can be paid.

APPROVAL OF CLAIMS cont.

ROLL CALL VOTE (suspension of rules)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried

9/0/0

RULES SUSPENDED

Councilman Woerpel - Again, thank you for appearing. I know it's late.

Judge Jorgensen - I'm happy to appear, always, to answer any questions.

Councilman Woerpel - This claim #3597 caught my attention because it was to the firm of Ice Miller. It was a \$5 thousand claim and it was on our list of claims two meetings in a row. When I pulled the claim it just said for services rendered. Number one, originally when we pulled the claim the stories hadn't appeared in the newspaper that there was a possible threat of litigation against this council that we would in fact be paying to be sued. Can you clarify what this is for and would you be willing to go on the record and state to this council that you have no intentions of suing this council over the court?

Judge Jorgensen - So, that was kind of a mixed bag of questions there. So, I'll break it apart as best that I can. Again, thank you for the opportunity to speak to the council. I am always, and have always been, happy to speak with the council. As you recall when I appeared before you in the past, when we were discussing the future of the court, I tried to keep a neutral stance on the issue of whether the city of Hammond needed a court. I was always available to answer questions and provide information regarding the courts operation and budget in an attempt to aid you all in making a very difficult decision. But I was always careful to be neutral as to whether or not the city of Hammond should have a court because it is your power. It has always been within your power to abolish and establish courts. Today I'm here for a different reason. Because the powers that surround everything from establishing the court to abolishing the court reside with me within the branch of the judiciary. The court has made multiple attempts to meet with city officials to give the city an opportunity to weigh in on the orderly transition of cases that are under the courts authority. Thus far, the city has been fighting to totally control this process and has really been unwilling to have any meaningful functional conversations with me about the transition of the cases out of the court. While I have total discretion as to whether or not to hire legal council, as a courtesy to the city I discussed the need to hire legal council and advised in that process why I was hiring legal council. I even provided the city with the Ice Miller retainer agreement which clearly states that Ice Miller has been retained to assist with strategic legal representation regarding the planning for the decommissioning of the Hammond City Court. That agreement goes on further to state that the agreement will absolutely not cover any litigation initiatives whatsoever. So, I can tell you with 100% certainty that the invoice before you does not cover litigation costs. So, why did the court need to retain an attorney, I can tell you that the ordinance that the council drafted is overly simplistic. The Mayor's Office continues to try to function in a capacity of the judicial branch of government, which is inappropriate. I have a constitutional mandated duty to insure that the Hammond city has access to the court appointed judge during my term. I'm concerned what happens to the city residents if 85% of infraction cases currently being held here in the city are now heard in Crown Point. The ordinance itself takes up less than one page but sets to wind down one of the biggest city courts in the city of

APPROVAL OF CLAIMS cont.

Judge Jorgensen cont. - Hammond. The ordinance calls for Clerk Golec and his discretion when to stop, to decide when to stop accepting Civil cases. I believe Clerk Golec knows he doesn't have the authority to stop taking Civil cases. That authority doesn't reside with the Clerk, it resides with the Judge. The ordinance called for the Mayor to instruct the police department to start filing in Crown Point, which is fine, but it was silent, as it should have been, silent, on the 30 thousand cases still open in the court. There are a lot of complicated issues surrounding those cases for which the court needs legal advise. When I stood in front of you before, back when the council was first deciding whether or not to abolish the court, you said to me, "Hey, let's vote on it now, let's abolish it, and then we'll work through the remaining details later. We'll come up with an idea of what ordinance court looks like." I felt like there was some acknowledgment that how to get to A to B was unclear and that the city would work with the court, with the court's making the decisions on how to wind the court down. That we would work together to accomplish those goals and I specifically remember saying to you, you know what, I'd rather work through that stuff now before you vote to abolish the court so that we don't try to close the barn door after all of the horses are out. That's basically exactly what's happened now. Now we're finding that 85% of infraction cases are gonna be heard in Crown Point. We should have found that out before the decisions were made to close the court. There are a lot of fuzzy math numbers about how much does the court make and how much does the court cost. I think, and I have a report that I can give you. The 2016 report for court expenses. One of the great ideas would be to keep infractions and ordinances here while continuing to have misdemeanors in Crown Point. The Clerk indicated to me he could substantially reduce his staff if we structured it that way. I could substantially reduce the courts budget and a vast majority of the \$965 thousand that the court brought into the city of Hammond would stay because (unclear) \$107 thousand of that is related to misdemeanors. So there are a lot of discussions about to structure this, you know, that would be best for the city of Hammond. Also, too, as I sent to you in a letter a couple weeks ago was the proposal that the cases be heard here during my term, and I have a meeting with Judge Pera to discuss the idea further, to have the cases heard here by me as a Commissioner for Lake County instead of as a Hammond City Court Judge. Because, again, my concern is that I was appointed until December 31<sup>st</sup> of 2019 and that I have a constitutional obligation to the residents of Hammond. To answer the heart of what your question was, I hired legal council. It's for \$15 thousand, is what it actually cost. You'll get three invoices of \$5 thousand each. That comes out to just over \$700 from now until December 31<sup>st</sup> of '18. \$700 a month for the court to have legal advice on how to uphold my constitutional obligations as I wind down the busiest city court in the state of Indiana. If any of these matters come to litigation, it was not handled in this agreement. So, the purpose of the draft complaint that was distributed to you was after multiple attempts were made to meet with the Mayor to discuss the functional practicalities of winding down the court and I could not get a meeting, could not.

Councilman Woerpel - Respectfully, your honor, the thing that bother me is I'm looking at a \$5 thousand bill.

Judge Jorgensen - It's really a \$15 thousand bill.

Councilman Woerpel - Well, thank you for letting us know that now. If the city is not cooperating and they are winding it down, as you say ...

Judge Jorgensen - The city can't wind down the thirty cases already filed in the court.

*Prepared by  
Robert J. Golec  
Hammond City Clerk*

APPROVAL OF CLAIMS cont.

Councilman Woerpel - Is this a retainer? Is this for hours billed?

Judge Jorgensen - No, that's another .... And again, I provided a copy of the full agreement to the Controller's Office. It's a \$15 thousand dollar flat fee. They're working at a grossly discounted rate. If you did it on a monthly basis, it comes down to \$700 a month for Ice Miller to advise the court on issues that currently exist, that will exist over the next month, as we seek to transition 30 thousand cases out of this court.

Councilman Woerpel - Okay, again, number one, one of my colleagues just said, "Can we get a copy of that agreement?" Number two, I guess what you're telling me is this thing that was sent to us about litigation was a bluff?

Judge Jorgensen - Well, I wouldn't use the word bluff but I would say ...

Councilman Woerpel - Was it a threat?

Judge Jorgensen - The draft complaint that you referred to was yet another attempt in a series of multiple attempts to start meaningful conversations. And it looks like it worked because I am standing here. So, up until today I wasn't able to get anyone to talk to me. So was it a threat? You know, that's a tricky question. I still at every turn expect all of us to work together.

Councilman Woerpel - The fact that the court is closing has already been voted on and done and over with. I mean, I've heard a lot about what we should or shouldn't be doing about that issue. I guess I'm specifically asking you, was this a bluff? Was it a threat?

Judge Jorgensen - No, it was to say that it's time for the two parties for the city and the court to have meaningful conversations so that the city can articulate to the court, how it's planning to handle it. Because, again, I am the one with the constitutional obligations to run the judicial branch in Hammond right now.

Councilman Woerpel - So, do we have any guarantees that at no point ...

Judge Jorgensen - Would you guarantee me at no point ....

Councilman Woerpel - I'm a Hammond resident and I wouldn't appreciate a St. John resident suing myself is what it boils down to, your Honor.

Judge Jorgensen - Are you willing to commit to the court that you'll stop interfering in the judicial branch? Are you willing to commit to the court that you'll never sue the judge? Are you willing to commit any of those things to the court? That's a ridiculous question, to be fair.

Councilman Higgs - I think the appropriate way to handle this matter is to simply express your concerns and it's clear to me that you have a passion for the job that you're doing as judge of the city. I understand the fact that

APPROVAL OF CLAIMS cont.

Councilman Higgs cont. - you don't live in the city of Hammond. Me personally, I voted against closing the court. Because I feel it is very important to me, not just me but the entire city of Hammond. However, my colleagues chose to close the court. But at some point, I would hope and pray that it somehow, God willing, that it will somehow remain in our city. It is so important and seeing that a number of people don't have the resources or ways and means of getting to Crown Point, it's just scary. I hear people all the time telling me how am I gonna get to Crown Point? How am I gonna do this? How am I gonna do that? But the fact still remains, I understand your point clear. You are simply saying that you have a judicial obligation to make sure that the court is ran efficiently until the end of the year and that you want to make sure everything is being handled in the proper way. I hear that.

Judge Jorgensen - That's absolutely correct. And if the draft complaint had attached the letter, the cover letter to the draft complaint was, again, I could read it in relative part. But it was, you know this was attached to that complaint. "We still have not heard any more from you or the Mayor's Office in response to our request for meetings and discussions regarding the wind down of the court. As I have articulated, Judge Jorgensen has a right and a duty as the presiding judge of the court to ensure that this process is done consistent with justice and good administration of justice." And goes, "To litigate over this is not our goal." It's never been our goal. Do I want that? Absolutely not. So, no, that would be, to me, that would be the absolute worst case scenario. The absolute worst result. And it would represent a total breakdown of any ability to communicate and I can tell you, for one, I will never stop communicating. So you could ask me to come here every single day and I will be here every single day talking to you about it. So, as long as somebody's gonna talk to me on the other side of the table, you know. It serves the residents of Hammond for the judiciary to get advise from the city on the proper wind down of the 30 thousand cases that are still open on the structuring of an ordinance court, on all sorts of issues that the city has intentionally excluded me from.

Councilman Woerpel - Well, I'm listening, but you started, before you read your opening statement, you started with saying I would never sue to close this court, can I ask you ...

Judge Jorgensen - I don't recall saying .... I said it would never be ....

Councilman Woerpel - I don't know the exact words. It would never be your intention to?

Judge Jorgensen - Never.

Councilman Woerpel - Is that option still available to you is what I'm asking you? Is that something that you will ask this council to sue itself?

Councilman Woerpel - I don't know that that's appropriate.

Councilman Torres - My understanding of what you're saying, I don't have that document that litigation in front of me but, you never intended to litigate but all you want is participation in winding down the court.

APPROVAL OF CLAIMS cont.

Judge Jorgensen - That is absolutely correct.

Councilman Torres - I mean since this council voted to abolish it, all you want ..... the city is doing it for you and since you are the appointed judge, legal judge and head of the judiciary system for two years. You just want to do your job.

Judge Jorgensen - That is correct.

Councilman Torres - And that's all it is. You want to participate because you feel and obviously there's some laws that say that the judge is entitled. Since this council voted to abolish the court, that is your job to wind it down, not nobody else's, and you're willing to do that.

Judge Jorgensen - Yes, that is correct.

Councilman Torres - I find that simple to understand, myself.

Councilman Higgs - I certainly can't speak for anyone else, I wish I had the resources and the tools to help and assist you in those efforts. However, I would hope that you coming before this council, and the Mayor is here and he is over the city in his executive branch of government. We would hope that somehow or another you all can come together and a happy medium and do what's necessary for the residents of the city.

Judge Jorgensen - That is certainly my hope as well. I think when you spoke a few minutes ago, you commented about the people who don't have the means to get back and forth to Crown Point. I know at the last meeting it was said something like 90% of people will pay online, the reality is I would have probably believed that before I spent almost the last year adjudicating thousands of cases now in the Hammond City Court and what I can tell you, and I welcome any of you to come in and sit in court for a couple hours, like this week on Thursday or Friday or anytime, and what you will find is that so much of it is compliance checks. It is somebody who doesn't have insurance, somebody who's license either doesn't have one or is suspended along with the infraction. So, so many of the things that we are doing in the court aren't really covered by the ability to pay online. If you are pulled over for driving without insurance, if you pay that online, your license is suspended for six months to two years automatically by the Bureau of Motor Vehicles for your having pled guilty to driving without insurance. So, the vast majority of people who are coming in are asking for extensions to pay, they can't pay online, they want to plead liable to the ticket but they ask the court for 90 days to pay. You can't do any of those things online. So I would say with certainty, and I could actually sit in court and do a tally mark any day of the week you want and tell you what percentage of the people in a typical court day would pay their ticket online but I would argue at this point that it's actually closer to the reverse of what you're saying. More like 80 to 90% of the people are unable to pay online.

Councilman Woerpel - Getting back to the claim. Have they done any work on your behalf as of right now? I mean, again, I'm looking .....

APPROVAL OF CLAIMS cont.

Judge Jorgensen - (unclear) there are countless open issues that ....

Councilman Woerpel - I'm looking at a draft complaint that looks like a lawsuit and basically what I read in the paper was, "Yeah, I sent it but, hold on, never mind."

Judge Jorgensen - I think what you read in the paper was extremely accurate. No one ever wants to litigate and I would ...

Councilman Woerpel - Then why did I receive something that was drafted like a lawsuit?

Judge Jorgensen - Because I couldn't get anyone to communicate with me and it seems like, for good or for bad, we're communicating now. So let's get this thing done together.

Councilman Higgs - I have a question for you Judge.

Judge Jorgensen - Yes.

Councilman Higgs - How much revenue did the court generate?

Judge Jorgensen - I can actually... I brought copies for you of that report. The court generated \$1.25 million that went to the state; \$321 thousand that went to the county; and \$965 thousand that stayed in the city of Hammond. Here's the revenue on court revenue numbers. I printed a copy for all of you. This report is correct. It is from 2016. I think one of the problems in our initial discussions about court revenue, I think a version of that report was held up in this council meeting as bogus numbers back then and I would say that's probably pretty accurate because before I got here the report was riddled with errors. The 2015 report was virtually meaningless. This report has been done according to reporting standards and accurately reflects court revenue in every single category. Categories were left out in the 2015 report. Specifically, all ordinance money was left out of the 2015 report. This 2016 report is very accurate. If you go to the last page it accounts for all court revenue what was to the city. If you flip to the last page it shows State Level Funds \$1.2 million, County Level Funds \$300 thousand, and City/Town Funds \$965,283. So, that is very, very, accurate.

Councilman Woerpel - I'll just say this. I guess I'm not gonna move to put this claim back in because I guess I'll go ahead and move to put it back in when I find out whether or not we're gonna get sued. I don't want to re-litigate what we did back in January.

Councilman Woerpel moved to return to the regular order of business.

Judge Jorgensen - Before you consider that motion I would say this, again, you are the legislative branch, I am the judicial branch, I have mandate powers, and if I feel the court needs a an attorney the court's going to get an attorney. Statements like that show that you don't understand the structure of government entities and what your role is versus what my role is. I have constitutional obligations to my role. So you can threaten me about

APPROVAL OF CLAIMS cont.

Judge Jorgensen cont. - residency. You can do all of those things and I still come back with my hand out trying to talk to everybody. The judiciary is not going to be threatened. It just doesn't work that way.

Councilman Woerpel - Well, we're the financial body and it's my responsibility ...

Judge Jorgensen - I have my own budget. The court operates under its own budget and I have mandate powers.

Councilman Higgs - Point of order. We have my colleague and the Judge speaking at the same time. That's not helpful to none of us. There is a motion on the floor.

Councilman Rakos second the motion to return to the regular order of business.

ROLL CALL VOTE (regular order)

AYES: Markovich, Spitale, Kalwinski, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: Torres

ABSENT: None

Motion carried 8/1/0 MOTION CARRIED

ROLL CALL VOTE (approve claims)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 CLAIMS APPROVED

PUBLIC HEARINGS

None

COMMUNICATIONS

Councilman Higgs announced his 16<sup>th</sup> Annual Back to School Give a Way at Martin Luther King Park on August 12, between Columbia and Lyons in the center of the park. It starts at 10 a.m. until supplies last. Sponsored by yours truly, Councilman Higgs. 16 years of giving back to the children of this city.

COMMITTEE REPORTS

Community and Crime Watch Committee - Councilwoman Venecz - Upcoming meetings:

Pulaski Park N. A.; Tues., July 25; 6:30 p.m.; American Legion

Whiting/Robertsdale C.W.; Thur., Aug. 10; Calumet College; 6:30 p.m.

National Night Out is on August 1<sup>st</sup> at the Wolf Lake Splash Pad from 5 to 8 p.m.

Sat., August 12<sup>th</sup> there's a Back to School Event from 2 to 4 p.m. at Memorial Park.

ORDINANCE 3<sup>RD</sup> READING - FINAL PASSAGE

None

INTRODUCTION OF ORDINANCE

17-18 Amending Ord. 9379, being an Ordinance Amending and Fixing the Schedule of Sewer Rates and Charges to be Collected by the Hammond Sanitary District from the Owners of Property Served by the Sewage Works of the District

Councilman Markovich, supported by Councilman Higgs, moved to suspend the rules to allow Marty Wielgos, District Manager of the Hammond Sanitary District, to discuss the proposed ordinance.

ROLL CALL VOTE (suspend rules)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 RULES SUSPENDED

Mr. Wielgos - I'm embarrassed to have to come in front of this council for a third time. But I'm here to tell you that there was a mistake on the ordinance that you had passed. All of the handout materials, the public notice that was put in the paper, had all of the right information. But there was a mistake on one of the numbers that was put into your ordinance. That is for our industrial users and their contamination rate that they pay a surplus on. What was put into the paper was .21¢, it should have been .31¢. So that's what we're doing today, is correcting that mistake and it only involves the industrial client. It has no affect on the residential. It has no affect on commercial. So I'm asking for your favor to do that tonight and I hope that we can dot that. Once again, I apologize. As District Manager, I take full responsibility for that. I know the Mayor has been embarrassed by that. We've had several conversations in his office. But at the end of the day, I am the District Manager and I'm not gonna be pointing fingers at different people because that doesn't really accomplish anything. It really stops with me. I've been gracious to have three sponsors that started with me on this from the very beginning and they have been very patient with me. But I know your patience is running out and I truly understand that. So I ask for all of you tonight to pass the correction of the .21¢ to .31¢, which is now in that correction ordinance.

Councilman Markovich, supported by Councilman Higgs, moved to return to the regular order of business.

ROLL CALL VOTE (regular order)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 MOTION CARRIED

INTRODUCTION OF ORDINANCE cont.

ROLL CALL VOTE (call for the vote)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 MOTION CARRIED

Councilman Markovich, supported by Councilman Higgs, moved the proposed ordinance to 1<sup>st</sup> and 2<sup>nd</sup> reading.

ROLL CALL VOTE (1<sup>st</sup> and 2<sup>nd</sup> reading)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 MOTION CARRIED

Councilman Markovich, supported by Councilman Higgs, moved for a suspension of the rules to consider passage of proposed ordinance 17-18.

ROLL CALL VOTE (suspend rules)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 MOTION CARRIED

Councilman Markovich, supported by Councilman Higgs, moved for final passage of 17-18.

ROLL CALL VOTE (passage)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 ORDINANCE NO. 9381 PASSED

Councilman Markovich, supported by Councilman Higgs, moved to return to the regular order of business.

ROLL CALL VOTE (regular order)

AYES: Markovich, Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: None

ABSENT: None

Motion carried 9/0/0 MOTION CARRIED

RESOLUTIONS

17R-28 Supporting the South Shore West Lake Extension with Hammond LIT f/k/a CEDIT Funds

Councilman Torres, supported by Councilman Kalwinski, moved for adoption.

Councilman Emerson, supported by Councilman Markovich, moved to amend 17R-28 to include that no whistle blowing crossings in all residential neighborhoods, actually in the 4<sup>th</sup> that would include 165<sup>th</sup> and 173<sup>rd</sup> Streets. No freight is to be carried on the West Lake Extension Project.

Mayor McDermott - I can tell you that, first off, whistle blowing, I believe, is covered under Federal law. I don't know if we could make that promise even if it was in a resolution. I had about five lawyers pouring through this document that's before you right now. If we change it on the floor we're gonna have to delay. We're gonna have to have lawyers looking at it to making sure anything we do today is gonna be okay with them. But, this document's been changed a number of times. It is negotiated, hard bargained for. Everything I've heard, first off, in regards to freight, everybody tells me there's no possibility of freight at all. So I don't know if that hurts or helps by adding it to this document but if there is freight I would be concerned as well. From what I've heard, there is no freight to be involved in this. Secondly, I don't know if we could say no whistles. I don't know if we could say that because I know that to have a whistle free zone you have to have protections built into the tracks. They have to be double sided, there have to be medians in it. I don't know if we could say that. So, like, if we do this, we're gonna have to table it and we're gonna have to go back to the drawing board for a couple weeks and make sure everything we're talking about is gonna be okay.

Councilman Markovich - I can concur with what the Mayor said, you know, as far as changing anything. And I can understand where Councilman Emerson's coming from being that it's in his district. What the Mayor said, whether we have five, or ten, or twenty lawyers looking at this and making changes. I mean, probably what we should do then is table this and probably have a public hearing so we can get this all out on the table, out on the floor, and make sure everybody's got their questions answered and so forth and something of this magnitude just doing this tonight and strapping for \$13.5 million now for thirteen years, or thirty years, and being that congress, as far as we know, is not gonna have the money they are talking about. You know, whether it's gonna be funded or not in this budget or next year's or so forth. So, I don't think another two weeks is gonna make a big difference whether we pass this tonight or whatever. But, to have a public hearing and allow the public and what have you. Then questions like Councilman Emerson, what he has, I mean let's get them answered. And I can concur with the Mayor, as far as whistles and so forth and all of that. Whether we can do that, because that's a safety issue. If for some reason the gates don't come down, they don't work, you're still gonna want them putting their horns out there and letting people know the train is coming.

Mayor McDermott - You know, we got to do what we got to do here, but these last minute drop ins, you know. I respect Councilman Emerson very much. I know Councilman Emerson voted against the original resolution when we passed through this council. We had a public hearing. During that session, where a number of people showed up, including the Congressman himself, Congressman himself standing before you on the record said there will be no freight. It was very clear. Actually, no, that day he didn't know. Since then Congressman has made it clear. True story.

RESOLUTIONS cont.

Councilman Emerson rescind his motion to amend.

Councilman Emerson - I make the request to the gentlemen that are here tonight that these two things do happen. Because the calls that I have gotten about the station....well that's a whole other issue. I'll talk about that in discussion.

Mayor McDermott - First off, if you're reading closely, the resolution, there's stipulations in there that says that if we're gonna pay the money, first off the Gateway Project has to be included. That's the project in Councilman Torres' district. It's just to the southern border of Councilman Kalwinski's district. Second thing is, the rail yard has to be included, that's at the OK Champion facility that's located in Mr. Torres' district. Third is, we wouldn't start to pay until the FTA approves this project. Okay, that could occur six months or a year down the road. Lake County, for instance, has been paying into it for the last three years into it. Ours wouldn't kick in until this was approved. There's no mention whatsoever that the South Hammond Station, I know Councilman Emerson has a lot of concerns, as do the residents down there, so we chose, as a city, as an administration, to take no position on that. Because quite frankly, I personally feel like it's necessary. NICDE feels otherwise. NICDE feels like this is a very important station, I respect them, they know the train business way more than I do. We didn't even mention the South Hammond Station in this resolution. If you notice there's no mention at all. If NICDE came back and said, "Hey Mayor, we want to save \$10 million and not have this station, it wouldn't break my heart. I don't think that's the best location for a station, personally. So, adding these stipulations isn't really even consistent with the resolution because there's no mention of the South Hammond Station in the resolution. But I do understand where Councilman Emerson is coming from, you know, whistle blowing by trains is a big deal. I'm definitely not interested in freight and I trust the Congressman when he tells us straight up that it's not gonna be included. He said that since that council meeting.

Councilman Torres - You know, if we could find a way, I remember this in discussion, years and years ago, I have trains going through my district, South Shore and all of that, and being a safety issue that they have to blow that whistle so many feet from the intersection or crossing. If there is a way to stop whistle blowing and have silent zones, if we can research that later, I'm up for it.

Mayor McDermott - I appreciate Councilman Torres' and Councilman Emerson's recommendation on the whistle zone, alright. But to make the money contingent like, to make it contingent, like our end it says three specific things that NICDE and the RDA must do for us to participate, and I don't think it's fair to them to make a whistle zone part of the contingencies. We can add all kinds of things to the contingencies, it's gonna make it impossible for them to meet all of them.

Councilman Higgs - Beside s that, I mean, the reality of it is, I mean, look at it, if you want trains to enter into intersections where crossings are coming and say for instance one of those crossings don't come down you don't want the whistles to blow? Peoples lives could be at risk if they don't blow them. I mean, it's a safety issue. You got to look at it both ways.

RESOLUTIONS cont.

Councilman Emerson - Just a final point. You should drive out to Dyer or Schererville sometimes because they have no whistle zones and those trains go fast, Councilman.

Mayor McDermott - Councilman Emerson's right. To improve a rail intersection to make it a whistle free zone requires big money per intersection. You have to do a lot of things. I know Whiting, for instance, has a it right by the football field. But they had to do the medians, they had to do the double sided gates, they had to do a lot of investment to make it a whistle free stop. But to make hat part of the contingencies, I think is unfair. Like, whether you like it or not, and if you don't agree with the deal that I struck on behalf of the city then you have every right to shoot it down. That's the right of the council. I think it would be unfair is I struck a deal with the RDA and then we started adding more and more contingencies to the deal that we came up with. I don't think it would be fair to the RDA, because we struck a deal. And if it's not a fair deal, if you don't agree with it then shoot it down and we'll start over again. I think that's the fairest way to approach it. I can't really look Mr. Hanna in the face after shaking hands with him saying this is what I'm going to present to the council if we start adding contingency, after contingency to it.

Councilman Markovich - I know we talked about this but there are obviously several people here that probably want to talk. In all due respect to them we probably should have a public hearing at the next meeting. At least give the opportunity for the people to go ahead and talk and not pass this tonight. It wouldn't be fair to go ahead and pass this without them at least having a chance to speak and not just allowing them to speak tonight because we've got a handful. But if this was moved for another two weeks and we're not under any time restraint here. Maybe more than six people would show.

Councilman Woerpel - This issue was brought up on a resolution from the meeting before I became on this council and that night the council approved the Mayor to spend up to \$900 thousand of CEDIT money on this project. There was a public hearing about it. I think that meeting went on for an hour or so. There was public discussion about it. We have before us a resolution before us that's committing 15% of the CEDIT money rather than the 33%. I don't see no need to table this now.

Councilman Markovich - Correct me if I'm wrong, I don't know if the Mayor committed \$900 thousand a year because if that was the case we wouldn't even be here right now. They would have got their \$900 thousand just like all the other cities and towns that voted to go along with it. We gave them \$225 or \$250 thousand to do an environmental impact study. I don't recall that this council voted on to approve that \$900 thousand. If I'm wrong then I need to be corrected.

Councilman Woerpel - I'm not saying we voted to approve it. I'm just saying that I think we gave the resolution for him to negotiate up to \$900 thousand.

Mayor McDermott - Councilman Markovich is right. We gave \$250 thousand to do an environmental impact study early on. It was recommended by Congressman Viscloskey that each city and town donate up to 34% of what was then known as CEDIT, towards this project. But very, very, few municipalities have followed that recommendation. Quite frankly, a lot of shockingly low numbers including along the rail line. For instance

RESOLUTIONS cont.

Mayor McDermott cont. - Dyer, very shockingly low amount, just \$50 thousand a year, which is a very small percentage. It's a pittance compared to what Dyer is gonna get in return. Munster did the full 34%. But then again, Munster doesn't donate to the RDA, and that's where my problem was all along. We're giving \$3.5 million to the RDA which is gonna be over the next thirty years, \$105 million, that should count toward our contribution is what I maintained all along. We started at zero in Hammond, Mr. Hanna and the RDA started at 34%, and we sat down and ironed it out. I think for what Hammond's getting in return, if the Gateway's in it, if the rail yard's in it, and if the FTA approves this project, I think it's a huge project for our city. I think it's a huge project for the 1<sup>st</sup> and the 2<sup>nd</sup> District. I don't have a better project lined up in the 2<sup>nd</sup> District right now than this one. I think it's worth it for us to contribute. I think I made, on behalf of the city, a fair deal. I think the RDA feels that it was a fair deal. I think that NICDE feels that it's a fair deal. I described it as, we walked away, everybody was sort of pissed off, excuse my language, I was upset because I felt like we gave too much in addition to what we already give. I think Mr. Hanna and Mr. Nolan walked away thinking we gave too little. Usually those are pretty good deals when everybody walks away a little unhappy. I feel like I made a fair deal. I feel like we shook hands and as a man of my word I'm bringing that deal to you all for ratification. If you don't think it's a fair deal, I'm asking you to just shoot it down. Okay, and then we'll go back to the drawing board. But I think it's a fair deal. I think if we had a private investor coming into Hammond spending \$30 million on a Gateway Station and hundreds of million of dollars in new investment, I think we'd give them money. I know we would, we did it with Lear. We would do it with .... this just so happens it's a politically charged issue. Quite frankly, one that has been talked about for the better part of the last two years. Every single day on WJOB, in the Times, in the Post Tribune, on gohammond.tv, this has been talked about. Councilman Markovich moved for a public hearing, God bless him, if it passes, God bless, but this has been talked about. I could almost tell you to the person what they're gonna say when they come up here. Okay, because we've heard it twenty times already. Alright, if you want to delay another two weeks that's on you. But this is the deal we struck. I feel good about it, personally, as the Mayor. If you don't think I made a good deal, you have the right to shoot it down.

Councilman Markovich rescind his second on the motion to amend.

Councilman Markovich moved to set a public hearing for 17R-28 on August 14, 2017.

Mayor McDermott - Before we get into this, that is a three week delay. I know for a fact the RDA is pushing to get this thing filed. I think three weeks is unreasonable. I think if you're gonna actually entertain a motion to delay this. I think it's reprehensible that we're waiting three more weeks. I think it's reprehensible. If you're gonna do it, Councilman Markovich, then get them here in a couple days. Okay. This is reprehensible that you guys are gonna delay a project of this magnitude for three weeks, a CEO would walk out that door and say screw Hammond. I know they would.

Councilman Markovich - Point of Order. Before we have any discussion we need a second. If there is no second then the motion will die.

Motion dies for lack of a second.

RESOLUTIONS cont.

Councilman Torres - Again, I call for the final passage of 17R-28.

ROLL CALL VOTE (passage)

AYES: Spitale, Kalwinski, Torres, Higgs, Emerson, Woerpel, Rakos, Venecz

NAYS: Markovich

ABSENT: None

Motion carried

8/1/0

RESOLUTION NO. R28 ADOPTED

NEW AND UNFINISHED BUSINESS

Councilman Higgs, supported by Councilman Torres, moved to send a letter to the Public Works Dept. in regards to cutting the weeds and cleaning up near the railroad tracks from Fayette all the way down to, I think that is, I would say, Hohman Avenue. Calumet Avenue all the way to Hohman.

LETTER SENT: JULY 25, 2017

Councilman Emerson - I just wanted to thank everybody that came out to the Festival of the Lakes. A lot of people worked very hard. Everyone was very courteous. People just seemed to go out of their way to make it enjoyable. I didn't go every night, but the nights I was there everybody seemed to really work hard and made it enjoyable for everyone and that's not just the bands but the carnival and the polka day, and the fishing derby. So, I just wanted to get that out there.

Councilwoman Venecz - And I will piggy back on that, this morning, 6:30, I was hanging banners for National Night Out up at the Splash Pad and the street sweeper was out cleaning up already at the Splash Pad. So kudos to everyone with the city who worked so very hard to make the festival just wonderful. Over 100,000 people came to our city and it was a very nice event to show off the amenities in our city. So that you to all our city employees.

Councilman Emerson - I was a little slow on the last discussion. I know it's New and Unfinished but I did want to compliment, and they're gone now, but the people that worked on the negotiation thus far for the train. You know, I was the only one a year ago that voted no on the council and it was twice as expensive as it is tonight. So at some point this may or may not happen, but I think to continue to stand against it is .... that train's leaving the station. No pun intended.

PUBLIC EXPRESSION

Julie O'Connor - Leads the Concerned Families of the West Lake Corridor Project Neighborhood Group, which advocates for the fair treatment of residents and input into the decision making process. NICDE recently confirmed that it would begin the property acquisition process as early as this fall. Well before it receives confirmation of federal funding. Mr. Nolan stated that NICDE could acquire homes even if it never receives funding and the project never gets built. It is wrong for NICDE to displace 100 of your constituents on

PUBLIC EXPRESSION cont.

Julie O'Connor cont. - speculation. Please help us to get NICDE to abstain from any property acquisitions until they receive a full funding grant agreement and are assured of receiving the funds.

Donna Dunn - Regarding crossings and the whistles at crossings. As an Engineer, I've been through many cities and South Bend is a big one where they don't allow you to blow your horn. The Mayor is absolutely correct, you need to have double gates and depending on the amount of traffic you may have to have a median. I don't like going through silent crossings because people always find a way to go around the gates. It has happened before where homes have been taken by eminent domain and the projects weren't completed and there were acres of empty land and many displaced people. So it is a real possibility.

Mike Swiger - Regarding the Courts claim, thank you for catching that. There is no itemization of what hours are being worked and what services are being provided. It sounds like a pre-paid legal service where they could work 100 hours, they could work 0 hours, and we're on the hook for the same thing. It is not defined. Until it is defined then the city shouldn't have to pay that money. It could be a conflict of interest. There is a possibility of the court suing the council.

Joe Hero - Asks the council to look at the constitution, Article 6, Section 6. I think that applies to Hammond, IN. It goes to residency of public officials. Title 3 of the Indiana Election Code establishes what residency requires.

George Stoya - Credits the Mayor in respect to his compromise with the railroad. You can't compromise unless you are objective and that's what you guys were elected to be. As for the judge, if she alleges fault then she has to burden the proof. Let them present their case, make her arguments, cite her authority, and make the argument. State your position. I'd rather see a legal memorandum than a proposed complaint.

Councilman Higgs, supported by Councilman Spitale, moved to adjourn.

AYES: ALL

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Janet Venecz, President  
Hammond Common Council

ATTEST:

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Robert J. Golec, City Clerk

Time: 7:25 pm  
cb

Minutes approved at the Common Council Meeting of August 14, 2017.

*Prepared by  
Robert J. Golec  
Hammond City Clerk*