

*Prepared by
Robert J. Golec
Hammond City Clerk*

MINUTES OF THE COMMON COUNCIL
SEPTEMBER 14, 2015

The regular meeting of the Hammond Common Council of the City of Hammond, Lake County, Indiana was held on September 14, 2015 in the Hammond City Council Chambers.

Council President Michael Opinker presided.

Council Coordinator Carmen I. Balboa facilitated.

PLEDGE OF ALLEGIANCE was recited by all.
Invocation by Councilwoman Venecz.

ROLL CALL

PRESENT: Markovich, Spitale, Venecz, Kalwinski, Uylaki, Higgs, Emerson, Hinojosa, Opinker

ABSENT: None

TOTAL: 9

PRESENTATION by John Minear, Executive Director of Lake County Solid Waste.

Mr. Minear introduced himself. Explained he was making his rounds to all the community councils. Invited the council to contact him or his staff with any issues. Announced present and upcoming projects in the district. Informed the council on his background and history.

READING OF THE MINUTES

Councilman Spitale, supported by Councilman Kalwinski, moved to accept the minutes from August 24, 2015 and place on file.

AYES: ALL

APPROVAL OF CLAIMS

Councilman Markovich, supported by Councilman Higgs, moved to approve the claims from August 19, 2015 to September 9, 2015. Claim #4778 through claim #5014, inclusive.

Councilman Markovich, supported by Councilman Higgs, moved to amend in claims:

#5015	Hammond Veteran Parade	Common Council	
	\$ 500.00		
#5016	Wtg. H.S. Parent Club	Common Council	
	\$ 75.00		
#5017	NSP Consultants	Inspection	\$3,010.00
#5018	NWI Veteran Action Council	Common Council	
	\$ 50.00		

ROLL CALL VOTE (amendment)

AYES: Markovich, Spitale, Venecz, Kalwinski, Uylaki, Higgs, Emerson, Hinojosa, Opinker

NAYS: None
ABSENT: None
Motion carried

9/0/0

AMENDMENT ADOPTED

MINUTES OF THE COMMON COUNCIL cont.

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ROLL CALL VOTE (as amended)

AYES: Markovich, Spitale, Venecz, Kalwinski, Uylaki, Higgs, Emerson, Hinojosa, Opinker

NAYS: None

ABSENT: None

Motion carried
(as amended)

9/0/0

CLAIMS APPROVED

PUBLIC HEARINGS

15-32 An Ordinance Vacating a 104.83 foot portion of an East-West Alley lying South of 169th Street and East of Marshall Avenue in the City of Hammond, Lake County, Indiana

Alvin Cheeks - Glad to see such a great development in that area.

COMMUNICATION

Councilman Higgs - First and foremost I'd like to say that there's been ongoing discussion and dialogue in regards to the first amendment right. No one is trying to eliminate anyone from their first amendment right. What I'm trying to eliminate is the harassment and I don't think none of my colleagues on the council wants to be harassed and mistreated in regards to anything relating whether it's at their home, or at the council chambers, or at a meeting. The reality of this situation is that I've been continuously being harassed over and over again, and it needs to stop. Okay. So, in regards to that it seems to be a 1st amendment right for you to pat your behind in front of your parents. Is that acceptable? Would one of you all like to see that happen to you all.? Question. Secondly, to be called out your name in the hallway of the Council Chambers. Is that acceptable? No. I don't think so. Neither one of you would want that to happen. So to try to paint a picture as though Councilman Higgs is doing something out of the ordinary is totally incorrect and unheard of and no need to even try to paint a picture as though I'm trying to eliminate anyone from their 1st amendment rights. You're free to speak to any issue pertaining the 3rd District or the City of Hammond. I have no problem with that. People are gonna talk and say what they want to say and how they want to say it, I can't stop that. That was never my intent and still is not my intent. My purpose for filing a protective order, so it's public, and make sure you put in there, so I could stop being harassed. Stop being mistreated. It's not right and it's not fair and I don't think none of my colleagues would want some one to pat their behind and tell them to kiss their a-s-s in front of their parents. That's all I have to say, and it's ridiculous and for anyone to sit and try to elaborate on it and say that it's about a 1st amendment right is totally wrong. Make sure you put that in the paper, is totally wrong. No one is trying to eliminate anyone from saying anything. You're welcome to do such. You have Public Expression. You can come to any meeting and do whatever you so choose but leave me alone.

COMMITTEE REPORTS

Council as a Whole Committee - Councilman Spitale - Brought out 15-32.

Community and Crime Watch - Councilwoman Venecz - Upcoming Community and Crime Watch Meetings:
Mon., Sept. 21, Columbia Crime Watch; Columbia School; 5:00 p.m.
East Hammond Pullman Crime Watch; Tues., Sept. 15; Ophelia Steen Center; 6:30 p.m.
Hessville Crime Watch; Thur., Sept. 17, Jean Shepherd Center; 7:00 p.m.
Thurs., Sept. 17, South Hammond Crime Watch; Hammond Housing Authority Building; 7:00 p.m.

Announced that on Halloween, Oct. 31, Edison Community Watch and the East Side Community Council will partner to host Trunk or Treat at Home Depot from 5:00 to 7:30 p.m.

ORDINANCE 3RD READING - FINAL PASSAGE

15-32 An Ordinance Vacating a 104.83 foot portion of an East-West Alley lying South of 169th Street and East of Marshall Avenue in the City of Hammond, Lake County, Indiana

Councilman Spitale, supported by Councilman Kalwinski, moved for passage.

ROLL CALL VOTE

AYES: Markovich, Spitale, Venecz, Kalwinski, Uylaki, Higgs, Emerson, Hinojosa, Opinker

NAYS: None

ABSENT: None

Motion carried

9/0/0

ORDINANCE NO. 9308 PASSED

INTRODUCTION OF ORDINANCES

15-33 2016 Budget Proposal - City of Hammond

Councilwoman Venecz, supported by Councilman Higgs, moved the proposed ordinance to 1st and 2nd reading by title, referred it to the Council as a Whole Committee with a Public Hearing on 9-28-15. AYES: ALL

15-34 2016 Civil City Salary Ordinance

Councilman Spitale, supported by, moved the proposed ordinance to 1st and 2nd reading by title and referred it to the Council as a Whole Committee. AYES:

ALL

15-35 2016 Police & Fire Salary Ordinance

Councilwoman Venecz, supported by Councilman Kalwinski, moved the proposed ordinance to 1st and 2nd reading by title and referred it to the Council as a Whole and Finance Committees. AYES: ALL

INTRODUCTION OF ORDINANCE cont.

15-36 2016 Redevelopment Budget Proposal

Councilwoman Venecz, supported by Councilman Emerson, moved the proposed ordinance to 1st and 2nd reading by title, referred it to the Council as a Whole Committee with a Public Hearing on 9-28-15.

AYES: ALL

15-37 2016 Sanitary District Budget Proposal

Councilman Markovich, supported by Councilman Higgs, moved the proposed ordinance to 1st and 2nd reading by title and referred it to the Council as a Whole and Finance Committees with a Public Hearing on 9-28-15.

AYES: ALL

Councilman Spitale, Councilwoman Venecz and Councilman Higgs requested to be added as sponsors.

15-38 Creating a New Fund (Fund #208) for the City of Hammond Fire Department for Special Event Compensation

Councilman Spitale, supported by Councilman Higgs, moved the proposed ordinance to 1st and 2nd reading by title, referred it to the Council as a Whole Committee.

AYES: ALL

15-39 Amending Ord. 8282, also known as Section 150.072 of the Hammond Municipal Code as it pertains to the Registration of Vacant and Abandoned Buildings

Councilwoman Venecz, supported by Councilman Hinojosa, moved the proposed ordinance to 1st and 2nd reading by title and referred it to the Council as a Whole Committee.

AYES: ALL

Councilwoman Venecz - This ordinance is in reference to vacant residential buildings. Any residential building that has not been had their service on, water, or NIPSCO for 90 days will be required to register with the city.

15-40 Amend Chapter 77, Schedule XII, of the Hammond Municipal Code as it relates to Parking Schedules for 1117 Merrill

Councilwoman Venecz, supported by Councilman Hinojosa, moved the proposed ordinance to 1st and 2nd reading by title, referred it to the Council as a Whole Committee with a Public Hearing on 9-28-15.

AYES: ALL

Councilwoman Venecz - This ordinance is in reference to Church Only Parking signs in front of New Hope Church at 1117 Merrill. This in reference to the 1100 block of Merrill only.

Councilman Higgs - I did receive a correspondence from New Hope Missionary Baptist Church. It says, "Dear Councilman Higgs, I am requesting your assistance in submitting an ordinance for the two church signs in front of our church. Your assistance is greatly appreciated. Thank you, Rev. Herman, Pastor."

INTRODUCTION OF ORDINANCE cont.

15-41 To Post Speed Limit Signs near 28 Ruth Street

Councilman Higgs, supported by Councilman Hinojosa, moved the proposed ordinance to 1st and 2nd reading by title and referred it to the Council as a Whole Committee.

Mayor McDermott - I saw this ordinance in my packet this morning and I thought it was silly to have an ordinance for one specific home. So I took out my smart phone, booted up Hammond 311 app, I put it in this morning and by lunch time the sign was already in place. So I think this ordinance is sort of unneeded. I think it's silly to do an ordinance for one specific property. So, I did it on Hammond 311, it took literally less than two hours to fix the issue. I think it would be more properly handled that way. At this moment there is a speed limit sign in front of 28 Ruth.

Councilman Markovich - Is it putting a speed limit sign or is it saying what the actual speed limit is in front of this house?

Mayor McDermott - This ordinance is asking to put a speed limit sign in front of one specific house. We have thirty thousand residents in the city of Hammond, are we gonna do an ordinance for every stupid address we have in the entire city. This is ridiculous. This is the kind of stupid stuff we shouldn't be doing. We should be doing Hammond 311 saying, "Could I put a speed limit sign up here." That's how you handle these situations. You don't do a stupid ordinance for one house out of 30 thousand in our city. It's ridiculous. Waste of time.

Councilman Higgs - First and foremost, the reason I document everything is so I have I can actually have documentation showing that I submitted these things. For a number of times I've submitted letters and things didn't get accomplished. So, that was the purpose. Secondly, it's fine with me, I could rescind that. If the sign is already up, I'm cool with it. I don't have a problem with it. So, I rescind my motion.

Mayor McDermott - Let this serve as another opportunity for the residents of Hammond and the members of the City Council, that a lot of the things that we do by letters, I mean, if we took this process being proposed right now it'd go out for 1st & 2nd reading today, you'd come back two weeks from now, it's go to 3rd & Final, I imagine it would be passed and then we'd send a letter to Gary and say, "Gary, put a speed limit sign in front of this house." It would take a month to put a stupid speed limit sign up and I did it in about 12 seconds this morning. It's a waste of the Council's time. This is the kind of silly stuff we shouldn't be doing.

Councilman Higgs - Mayor, in all due respect as your authority as the Executor of the city, let me explain something. Normally when there are handicapped signs placed there's a process that it goes through. You can't just write a letter and have a sign placed there. It has to go before Board of Works, you have to have a letter submitted from the doctor, in order for the sign to go up. So there is a procedure in place. So, just for someone to put 311 and say I want a sign, it's not correct. The reality of it is is that there is a process and the process has been stone since I've been on the council and probably before I was a councilman. So, if you want to rescind that and the signs already up, I'm fine with it. But I'm not here to get into a pitty pat match with you or argument. That's not what I'm here for. I'm here to simply here to do the job that I was elected to do.

INTRODUCTION OF ORDINANCE cont.

Council President Opinker - So, Councilman Higgs, I take that ordinance is rescinded?

Councilman Higgs - I rescind it.

RESOLUTIONS

None

NEW AND UNFINISHED BUSINESS

15-30 INTENT TO CONSIDER : CP-15-15: Petition of Marina District Development, LLC to Reclassify property at the 900 block of Indpls. Blvd. and the 1000-1100 blocks of 5th Ave. from C-2 General Shopping Center District C-4 General Commercial District and I-2 Manufacturing District to PUD Planned Unit Development District

Councilman Kalwinski, supported by Councilman Emerson, moved for passage.

ROLL CALL VOTE (passage)

AYES: Markovich, Spitale, Venecz, Kalwinski, Uylaki, Higgs, Emerson, Hinojosa, Opinker

NAYS: None

ABSENT: None

Motion carried 9/0/0 ORDINANCE NO. 9309 PASSED

15-31 INTENT TO CONSIDER : CP-15-16A: Petition of Marina District Development, LLC for Approval of Marina District Development PUD District Ordinance located in the 900 block of Indpls. Blvd. and the 1000-1100 blocks of 5th Ave.

Councilman Kalwinski, supported by Councilman Spitale, moved for passage.

ROLL CALL VOTE (passage)

AYES: Markovich, Spitale, Venecz, Kalwinski, Uylaki, Higgs, Emerson, Hinojosa, Opinker

NAYS: None

ABSENT: None

Motion carried 9/0/0 ORDINANCE NO. 9310 PASSED

Council President Opinker vacates chair, Vice President Spitale assumes chair.

Councilman Opinker - I'd like to place an item on the agenda, Resolution 15R-18. I'm calling for final passage of 15R-18.

Councilman Markovich - Point of Order. This was not on the agenda. You have to suspend the rules and you have to have 6 votes to put this on the agenda.

NEW AND UNFINISHED BUSINESS cont.

Council President Opinker, supported by Councilman Kalwinski, moved to suspend the rules.

ROLL CALL VOTE (suspension of rules)

AYES: Venecz, Kalwinski, Uylaki, Emerson, Spitale, Opinker

NAYS: Markovich, Higgs, Hinojosa

ABSENT: None

Councilman Opinker reads 15R-18 in its entirety.

Councilman Higgs - First and foremost, no one is trying to stop anyone, as I stated previously, of their 1st amendment rights in regards to speaking to the issues. My goal is to stop the harassment, intimidation, that's been going on for a number of years. Just like you my colleague on the council, make sure you print this, who happen to be the councilman and accuse me of seconding a motion and saying hush and shut up. That's not appropriate. Did you censure yourself when that occurred? I don't think so. Make sure you put that in the paper, now don't miss anything. The reality of it is we all need to respect one another. Make sure you put that in there too. We need to respect one another's opinions. We're all here and we're elected to do a job. That's all I have to say in regards to this particular resolution, which has no authority whatsoever, opinion of yours. But my opinion is that you owe me an apology for simply saying shut-up on the council floor, which I never got. Did you censure yourself for that. That was totally uncalled for and I've never, ever, approached you in such a way.

Councilwoman Venecz - It's very sad that it has come to this. It was over a year ago, well over a year ago. We were in the midst of a heated vote. The councilman, Councilman Higgs, interrupted the vote. He called our president a liar. I leaned back and asked him to hush. For one year this has been thrown up in my face. Now, if that's the worse that I do to disrespect Councilman Higgs. I am sorry.

Councilman Higgs - Thank you.

Councilwoman Venecz - So you're not gonna throw that up in face, I trust.

Councilman Higgs - I will never ...

Councilwoman Venecz - I'm not talking to you right now. You can answer later. We are representatives of the city of Hammond. We are to express ourselves in the most professional manner possible. Do we sometimes lose our temper, absolutely, absolutely, we're human. But, we must take the trust of the residents of the city of Hammond seriously. We must represent the city of Hammond in the highest manner possible. When, and I'm all throughout the county, when people outside, inside of Hammond for that manner, but outside of Hammond also, laugh at us. That is unacceptable. . The job that we do here is very serious. Personality should not even be involved in this. Quite frankly the behavior of constantly bringing up, "Well, she said hush. She said shut up." Which isn't true. Or she did this or she did that, or whatever. I was even called sweetheart on the council floor, is that professional? It's high time that we all represent the city of Hammond with the highest standards and stop

NEW AND UNFINISHED BUSINESS cont.

Councilwoman Venecz cont. - the ridicule from outside of Hammond. We are a laughing stock and quite frankly I do not appreciate that. As I said we have serious work to do here and we're all adults we need to set personalities aside and do the serious work that we have to do here in Hammond and make our city proud.

Mayor McDermott - I wanted to speak a little to this resolution, as well I want to rise up in support of it and I'm gonna tell you the reason why. As Mayor, I observed this confrontation between Ms. Herbert and Councilman Higgs grow. Saw it get worse and worse over time. I know for a fact that Ms. Herbert was served with a threatening legal letter from a lawyer out of Gary about a year before the election. At the time she and I had conversations and I apologized to her right now but I think it's important to bring it up because it's a pattern. This letter was brought to my attention and it was threatening, basically intimidating, saying that you're saying

things at council meetings that I don't appreciate and I think that you should cease and desist. It was written as though Anne was about to be sued, by an Attorney from Gary, who should know better by the way. I told Anne at the time I thought that was a serious matter, it was a 1st amendment issue and she decided not to pursue it. Then during election season, a supporter of mine made a political cartoon out of Councilman Higgs which was not taken very kindly by Councilman Higgs, and I'm sure I wouldn't appreciate it either. Councilman Higgs filed a lawsuit against that supporter of mine and that case is currently pending in court. So, this guy that made a political cartoon got sued by Councilman Higgs and had to go out and hire a lawyer and spend thousands of dollars defending himself because he made a political cartoon, which is the 1st amendment, Councilman Higgs. It's allowed. It's legal. If you don't like it, you're in the wrong line of work, Councilman Higgs. So I saw a supporter of mine get sued and that case is pending as we speak. I know Councilman Higgs is telling everybody, "Hey, I'm gonna drop the lawsuit". But, how would you like it if you got sued? Anybody standing behind me, if you got sued for expressing your 1st amendment right and you had to go out and hire a lawyer and defend yourself against a frivolous lawsuit. It happened. You sued a constituent, and this case is pending. I tell you what, I think there should be sanctions in that case. I think the lawyer should be sanctioned. I think Councilman Higgs should be sanctioned in that case. Because that case is clearly 1st amendment. Now, we have the current case with Anne Herbert, and it's very similar. Councilman Higgs goes, gets a ex parte order from a judge and she gets a restraining order filed against her. Let me tell you, I practiced family law for a long time before I became your mayor. I did hundreds of cases. These restraining orders are give in the cases of domestic violence. Where usually a husband is beating on a wife. Usually, unfortunately, that's the situations where these come up in and court resources are scarce. So, we shouldn't be running to court with frivolous intimidation tactics like this and wasting Judge Sedia's time. He's had two hearings on this matter now he has to have another one. Wasting our time, your time, bringing discredit upon your council. Why? It's a 1st amendment issue. Anne Herbert has the right. She's a 3rd District resident. She has the right to criticize you, Councilman Higgs, she has the right. 1st amendment right. I've seen three different cases, as your Mayor, of Councilman Higgs intimidating constituents. Using legal maneuvers, filing lawsuits, using lawyers, and it's wrong, Councilman Higgs, it's wrong. You gotta stop. That's why I think what you guys are doing is right on. You need to formally denounce this type of bully tactic. And I will sign this resolution today if you pass it.

Councilman Higgs - I'm just gonna say this and I'll be done. God bless you, Mayor. I understand that we don't agree and for whatever reason it seems to be that you just don't care for me and I understand that. But I'm praying for you that God will remove that hate and hostility towards me. That's my prayer.

NEW AND UNFINISHED BUSINESS cont.

Councilman Hinojosa - I believe that everybody has the right to criticize, with the 1st amendment rights. Besides Higgs and his opponent that he had, besides what happened there. I'm referring to the cartoon and the pending court case that's happening right now. If anything, it shouldn't be tolerated by city employees. City employees should act in a professional manner. Therefore, I'd like to make an amendment.

Councilman Hinojosa, supported by Councilman Higgs, moved to add whereas behavior like this will not be tolerated by any city employee.

Councilman Higgs - It's been motioned that an amendment, and second.

Mayor McDermott - So let me get this straight, there's a resolution censuring Councilman Higgs saying don't intimidate people for expressing their 1st amendment rights and we're gonna do an amendment onto that and say that city employees don't have 1st amendment rights. Do I got this straight? If you're a city employee, sorry

Joann, you have no 1st amendment right anymore. That seems like a great idea. Line up the lawyers, we're gonna get sued.

Councilman Higgs - I've made this clear since the beginning of the meeting. No ones trying to sensitize or take their right from the 1st amendment. There is a different in perception of what you're trying to portray to the people. The reality of it is, no one is telling anyone they can't speak to the issues. You don't want anyone standing in front of your home photographing you. You don't want someone every time and get in your vehicle harassing you. I'm certain that you call the Chief of Police and all the entire police force if that happened. You wouldn't want someone going around patting their behind and doing such acts in front of you and your family, would you? How would you feel? It's degrading and it's mean and it's evil and I pray that whatever spirit is on this city it be removed because it's sad. It's really sad and I'm the only, I get it, I'm the only African American on the council, I get it, I don't have all the votes to make everything happen. But as long as I have the ability and I have my faculties, I'm gonna continue to do what's necessary for my district and for my city. That's all I can tell you. I can't help it 'cause you dislike me. I can't do nothing about that.

Councilman Hinojosa - I'd like our Atty. Berger to elaborate on a resolution. I believe, correct me if I'm wrong, a resolution, you don't really have to do it. It's kind of like a recommendation. It's a resolution. It's not set in stone. It's not state law. It's not city law. It's just a resolution. Can Atty. Berger explain that a little better?

Council Atty. Berger - I think basically a resolution just expresses the opinion of the council. Whereas an ordinance is a law.

Councilman Markovich - Can the amendment be repeated?

Councilman Hinojosa - Above, "Now therefore", right above it, "Whereas behavior like this will not be tolerated by any city employee." Even though it's a resolution, a city employee can still do it. The mayor or anybody really probably can't fire them because it is his 1st amendment right. But it should be not tolerated by any city employee, some of the stuff that went on in this past election, by a city employee.

NEW AND UNFINISHED BUSINESS cont.

ROLL CALL VOTE (amendment)

AYES: Hinojosa

NAYS: Markovich, Venecz, Kalwinski, Uylaki, Emerson, Opinker, Spitale

ABSENT: Higgs

Motion carried

1/7/1

AMENDMENT FAILS

Councilman Markovich - You know it's a shame that it's coming to this. Like a lot of people have stated there's more important things to do. Even what the mayor said, you know, we are governed by rules and regulations and ordinances and we have a process that's called the courts. It may not be the best system but it's the only system we have. So why should we be acting on something right now that's in the courts that in two weeks it's gonna be decided. With this resolution, I'm sure it's gonna be brought up in the courts. It's almost like a fan club or the Hatfields and the McCoys, you know, you got one sitting on one side just like it's here tonight. You got one side sitting on one side of the City Council and the other ones are sitting on the other side depending on what issue they're for. But it's in the courts. This would have been decided last week if a Hammond Policeman would have showed up. He didn't show up, he was subpoenaed. Why he did or didn't, I don't know. You know. I mean I was there at this hearing just for my own information as a councilman. I'm not in favor of any

one person or anything or whatever. But, you know, had that policeman showed up it would have been done and over with. Now, it's been extended for two more weeks. The order for whatever you call it now, protective orders, been ceased until the guy comes back or whatever. Or took two weeks in that time. It is the system and what we're doing here it's like Mr. Berger said, it's just a piece of paper, it doesn't carry any weight or anything like that or whatever. And, you know, I suggested that, you know, something like this should have been discussed in a democratic caucus or an executive discussion with the councilmen. But to be bringing out dirty laundry like this, you know, it doesn't accomplish anything. It's only probably for embarrassment or whatever. It could be any one of us nine people sitting here could be the same resolution coming up a week or a year from now. Same thing, for whatever reason. Because if I told some...well, I'll give you a good example. Jaywalking, here right outside this window about Hammond High. It's become an issue now. I've had several conversations with residents about jaywalking, that we should get rid of it and this and that and everything. And like I said, at one of the last Mayor's Night Out, when that 12 year old kid over on Indpls. Blvd. and 119th St. when I walked up to there and saw this body laying out there with the two tennis shoes scattered all over and a white sheet over him. Because they didn't want to walk fifty feet to the north where the crossing guard was, where the stop light was, to cross the street. But no, they decided to come out of that alley and got hit. Now, if we were to rescind the jaywalking ordinance and if somebody got killed, all of us would be sued, and the taxpayers would be paying for it. So, it's ridiculous, some of this stuff is kind of stupid. You know, respect about the council sometimes you get heated up here or whatever and all that, and they're just trying to represent their constituents. Whether they get loud or soft or whatever, or whether they're posing for the cameras, the videos, or what have you, or for the newspapers in that respect. But, you know, for somebody to say hush or shut up, I mean my wife tells me that all the time, and I always get the last word, "Yes, dear". So I mean you kiss and make up and life goes on. I mean, it's crazy. I would request, and I know the mayor has his opinion on it and everything else, but we have to look out for the council as a whole. You just don't ostracize one individual, whether it be Mr. Higgs, Mr. Spitale, or myself in the future or whatever. I honestly think we probably should table this and wait to see what the court says and then go from there. I think of that has been said and done already that everybody's got the jest,

NEW AND UNFINISHED BUSINESS cont.

Councilman Markovich cont. - everybody's got the idea of what's going on here and you need to respect everybody. It used to be when you come up to a stop light or somebody, you know, and you give them a dirty look, or whatever, you can't do that anymore because you give somebody a dirty look and they used to just give you that number one signal but now they're pulling out a gun and shooting at you. So it's a different society now. So we just have to treat everybody with respect.

Mayor McDermott - A couple things I wanted to cover. I agree with Atty. Berger in regards to a resolution. It's simply expressing the will of the council and the mayor. I believe I'm a signatory on this as well. So, basically it's asking you to vote your conscience. If you agree with what the councilman is doing you can abstain. If you support the councilman, you can vote along with him. If you think what the councilman is doing is intimidation and a violation of the 1st amendment, make the vote, okay, that's first off. Secondly, Councilman Markovich points out, and he was at the hearing, I was sitting right next to him. I walked into the court house for Councilman Higgs' hearing and when I walked in I saw Sargent Chavez, Hammond Police Officer, who had to waste his time by going to court because he was subpoenaed by Councilman Higgs' attorney. Chavez is walking out as I'm walking in. I said, "What's going on Sargent?" He said, "Mayor, I can't believe it. I had to waste my entire morning to be here for this stupid hearing and I talked to Jonathon Peterson", who is Councilman Higgs' lawyer, "and he told me he didn't want to hear what I had to say." I said, "What do you mean?" He said, "I was gonna tell them exactly what I saw and I didn't see anything that was harassment. I didn't see anything that was intimidating. Jonathon Peterson asked me and I told him exactly what I was gonna

say and Atty. Peterson said we don't want you to testify." And sent him away. Anne Herbert hadn't subpoenaed him so he couldn't be called as a witness. They didn't want to hear what he had to say and that Hammond Police Officer could have been working the streets that morning. Instead he's tied up at a stupid court hearing he should have never been at because it should have never been filed in the first place. So, if you wanted the perspective of the Hammond Police Department, you had an officer there who had already taken the morning off. He could have easily testified but he was sent home, wasn't he councilman? I think this vote should go through and you should vote your conscience. That's what I think. I'll sign it if it passes.

Councilman Markovich - One more thing, well a couple things. You know, Councilman Higgs or any person or citizen has the right to file a suit. Nothing is frivolous in their own mind. You're protecting yourself. You know they can say that by voting in favor of this or against this you're trying to take away somebody's 1st amendment rights, that's not my intent or anything in that respect. If we really, really, want to look into this and come to the jest of it, we should probably table this and wait 'til the hearing from the court. And everybody talks about this cartoon. It's not a cartoon, it's a video. And that video should be brought to the city council and it should be played and let everybody see it. Then they're gonna see what we're talking about. You can see if you want yourself, if you want your wife or your kids to see your picture, your lips, your mouth moving and what was inferred. What was inferred. That's what we should do because I've asked my other councilman, nobody seen the video. I saw it. If my face or the mayor's or anybody's like that or whatever, it's crazy. I'm speechless right now to be honest with you. I don't know what to really say. But you need to see it. Yes, it's an embarrassment. Not just because it's a councilman or anything. We're not a shooting gallery up here and you guys pull out your guns and start shooting at us and start putting pictures of us and everything and saying everything and anything you want. I went through this when the Times had their chat room and things were being said about me and my

NEW AND UNFINISHED BUSINESS cont.

Councilman Markovich cont. - family and everything. It got to the point that I told my family if somebody walks up to you and says, "Are you Councilman Markovich husband, or father, or do you know him?" I instructed them to tell him you don't even know who the hell he is. He's the worst councilman I ever heard of. I went to the Times with that. Because of actions like that and threats on my family and me, that chat board was taken off. That's the worst thing that's ever come out. I have no problem with it, it's 1st amendment rights but you know what, if you want to talk on it put your real name on there. But Bob Markovich said this. Mike Opinker said this. Let everybody know that your 1st amendment rights and your voicing it and you're putting your name behind it. Not like 911312 or hocus pocus or anything like that. That's where it should be. I have no problem with 1st amendment rights but by god if you want to say something, put your name behind it. Now we know you're not hiding behind anything. That's all we're asking. I mean, I've been doing this for twenty-eight years. I didn't want to get into this but I could recall when we were talking about the golf course and I was questioning about the golf course and how much money is being spent on it. I go to my backyard and here's white paint all over my car with a golf ball sitting on the top. Now what does that tell you, because I was questioning the golf course. During budget hearings here one time at a council meeting, I go outside and my tires are cut on my car. The secretaries tires were cut. We both had SUV Escapes, the same color blue. They didn't know which one to get so they cut both tires on both vehicles. Twice, in my own back yard, the rear window on my SUV was busted, and a two inch ball bearing was found in the back seat. The last one, I parked by car in the back of the yard, 7:30, at 10 o'clock my kids come home, both of them. They come in the house, "Dad, I think you should go look at your car." I go out there, somebody put paint stripper on it. It's just bubbling. What if my kids would have walked in on who was doing that and they threw that paint stripper in their face. Now what do we got? Okay. \$6 thousand damage for a new paint job. During a council meeting, because of the way I was expressing myself and for the constituents. Somebody calls my house, my twelve year old daughter answers the phone,

cusses her out, your dad's no good, this and that and everything else. I took that phone call right there out of that phone because my wife called me because it was a threat because of the way I was asking questions about the city budget. I didn't want to do anything and everybody thought I was lying and it was a fluke. So Councilman Repay brought it up, get my phone tapped, find out who did it. Yes, we found out who did it, who it was, a city employees kid or whatever. They thought it was a joke and everything. They tried to deny it but got the Feds involved, wire tapped my phone for the future, and they were able to go back and find out who made that phone call. It hasn't happened again, but that's what we're up against. So all I'm asking is, let the courts take it's case, that way in two more weeks let it go. Find out what Judge Sedia says. Bring out the video, let's see it. Nobody here on this council next to me has seen it. You need to see it. If that's what your wife and girlfriend and kids want to see your picture painted on there then I think maybe you'll think different about it. Councilman Higgs didn't even say he saw it.

Councilman Higgs - The reality of it is, whatever they choose to want to do, the reality of it is if the shoe was on the other foot, how would they feel. Everything that took place, the elections over with. Let it go, move on, let's move the city forward. Some of the stuff that's going on now is because of the things that happened but I have to protect myself. What am I supposed to do, just allow people to keep attacking me. It's not fair. I know some people in the street that are very dangerous and I guarantee you, you wouldn't approach them of this foolishness. But the reality of it is I'm trying to do it the diplomatic way and be respectful. All I want is to be left alone. You can say whatever, I could care less. Just leave me alone. Quit being harassing my parents, my associates,

NEW AND UNFINISHED BUSINESS cont.

Councilman Higgs cont. - people... all I want to do is the job that I was elected to do. I've ignored it as much as I could. The court decide. If Judge Sedia would of chose at that moment after he read the documentation and said you don't have enough evidence for a protective order. I would have said Judge Sedia, okay. Thank you. That's it. But all it shows me is basically this is how you feel. It doesn't matter if you're a councilman or not. We don't like you so we're gonna do whatever we can to try to damage your reputation or create a ruckus. The reality of it is, these things occurred and happened. I've ignored it. Even to the point where they went to my job, my place of employment. I have an elderly parent who happens to be blind. Is anyone taking that into consideration why you video take me in my home. It's ridiculous and it's outrages and I'm trying to keep myself under control and doing what I feel is right before I explode. No one wants to continuously be harassed and mistreated. I don't car who you are. I don't care what title you have. The President of the United States had a gentleman in the White House that was disrespectful, and guess what, the president had him escorted out. No one else would want these types of acts happening to them. So what makes me different? That's all I'm saying. You can say the 1st amendment right, I want you to express your rights. That's what America was built on. But it doesn't say you can harass and constantly pick with people.

Councilman Opinker, supported by Councilman Kalwinski, moved to for adoption of 15R-18.

Councilman Markovich, supported by Councilman Higgs, moved to table 15R-18.

ROLL CALL VOTE (table)

AYES: Markovich, Hinojosa

NAYS: Venecz, Kalwinski, Uylaki, Higgs, Emerson, Opinker, Spitale

ABSENT: None

Motion carried

2/7/0

MOTION TO TABLE FAILS

ROLL CALL VOTE (adoption)

AYES: Venecz, Kalwinski, Uylaki, Emerson, Opinker, Spitale

NAYS: Markovich, Higgs, Hinojosa

ABSENT:

Motion carried

6/3/0

RESOLUTION R18 ADOPTED

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

AYES: ALL

PUBLIC EXPRESSION

Councilman Higgs, supported by Councilman Markovich, moved to suspend the rules to allow Councilman Higgs' attorney, Atty. Jonathon Petersen to speak.

Council President Opinker - Roll call vote on to go back to regular order of business, roll call vote.

Councilman Markovich - I know we all said our thing here or whatever, it is what it is, you know. Probably Mr. Petersen should have been allowed to talk during the discussion and maybe it might have enlightened some of the other Councilmen, as far as this other resolution that was passed. I guess what everybody was voting on was first amendment rights and freedom of speech, so I would think they would Mr. Petersen speak, because they don't want to stop his freedom of speech and first amendment rights to represent Mr. Higgs. So I would imagine that it probably will go nine (9) to zero (0) to let Mr. Petersen speak.

Councilwoman Venecz - The intent of my vote was not to suppress Mr. Petersen's right to speak. The intent of my vote was to move forward. This is not the hearing, we voted on the resolution and it's now time for public expression.

Council President Opinker - I agree. We have a motion on the table to go back to regular order of business. Carmen, I called for a roll call vote. A yes vote is to go back to regular order of business.

Councilman Higgs - Point of order.

Councilman Markovich - Where we at now?

Council President Opinker - We are voting on to go back to regular order of business to let Mr. Petersen speak. A yes vote is to go back to regular order of business, a no vote is no.

ROLL CALL VOTE (back to regular order of business)

AYES: Markovich, Spitale, Kalwinski, Higgs, Emerson, Hinojosa

NAYS: Venecz, Uylaki, Opinker

ABSENT:

Motion carried

6/3/0

MOTION PASSED

Attorney Jonathan Peterson - Mr President, thank you. My name is Jonathan Peterson, I'm the attorney for Councilman Anthony Higgs. I have to tell you I'm shocked that the Council would pass a resolution, such as this tonight. Councilman Markovich very eloquently spoke about the process that we have in the United States. The court systems exist resolve disputes. There is a dispute presently between Councilman Higgs and another individual. This resolution can do nothing, but patently prejudice the outcome of that case. Our Mayor, the Mayor of Hammond, I'm not a Hammond resident, I want to make that clear. The Mayor is an attorney himself, he certainly understands this. I'm surprised by some of the statements that the Mayor has said leading up to this matter tonight. One of the statements that particularly caught my attention was, a statement that was reported in the newspaper that the Mayor had he been aware of this protective order he would not have enforced it. The reason the courts exist, Councilmen and women, is to give legitimately grievances opportunity to be heard and resolved. We don't want to devalue down to the situation like we have in the Middle East where people pick up

NEW AND UNFINISHED BUSINESS cont.

Attorney Jonathan Peterson - guns and resolve their disputes through forceful and violent acts. That's not what we want, we want process of law here. And tonight this resolution does not help that process, this resolution hurts that process. I would urge the Council to reconsider this resolution and revoke it or repeal it until such time this matter is heard in the Courts. If there is any questions I would be happy to answer them at this time. Thank you.

Mayor McDermott - In response, we had Mayor's Night Out, couple weeks ago, I don't remember exactly what day it was, it was a Wednesday obviously. I was served with Councilman Higgs' protective order on that day. I appeared at Mayor's Night and I saw Councilman Higgs in close proximity to Anne Herbert and I was wondering, is he gonna try to enforce this? Is Councilman Higgs gonna go up to the Police Chief or go up to the Police Officer and say, she can not be in here, I have a protective order. And I have to point out, he actually walked toward her and sat right next to her for the entire meeting. I was never placed in the tough predicament on having to decide whether or not the protective order was going to be enforced, because Councilman Higgs didn't pursue that issue. I just wanted to point that out. And literally sat next to Anne Herbert, for most of the meeting.

Councilman Higgs - For a point of clarity, Mayor. The reality of it is, is that protective order was issued to the Police Chief, you are not a Police Officer and if you received the protective order as you are an executor of the City of Hammond and the Administrator, I should say, the Mayor of our great City, which I love so much. I would think that you would have instructed your Police Chief to such. It wasn't my job to enforce the law. I simply gave them a copy of the protective order and at that point it was his decision as to which way he would handle it. I'm not out to cause problems for anyone, I'm not out to make confrontations with anyone. I simply want to do what I was elected to do and that was to represent my district. I'm sorry everybody's not happy with it, I understand that. But quit harassing me.

Councilwoman Venecz, supported by Councilman Emerson, moved to return to the regular order of business.

AYES: ALL

PUBLIC EXPRESSION

Anne Herbert - On September 11, 2015 I attended the Sixth (6) Annual Survivor in the City Reception. A brain aneurysm support group event. Janet Venecz was honored as one of the fourteen (14) women saluted with the

Remarkable Woman Award. Hammond, Indiana is the first City in the United States to recognize the month of September as brain aneurysm awareness month on a Municipal level. Thank you Janet Venecz.

Laurie Czulno - When I woke up this morning I was in Hammond, Indiana in the United States of America. Where freedom of speech was still a right under the Constitution. I do not condone violence, but it is my right to express my opinion, it is my duty to question your decisions, your actions and your motives. I am the taxpayer and you have forgotten you work for me, the taxpayer.

Rhoel Blackmon - I'm in favor of church parking signs. All church's need parking signs for their leaders, they serve a purpose. Please continue and let the signs stay there.

PUBLIC EXPRESSION cont.

Rita Jackson - I was brought up to respect, it didn't matter if the person didn't deserve the respect or not. I was taught to respect office and position. I have seen a lot things done at this Council that I didn't agree with, but I would never disrespect anyone. Everyone has to have the same rules. We can dislike one another, but we still can respect each other.

Ola Smith - Spoke about the resolution that was passed, 15R18. I'm not in agreement with the resolution.

Carlotta Blake-King - I did not come here to address this issue, however allow me remind each and everyone of you Council Persons that you did sign a resolution of civility. You need to read it again, because what you've done today, doing this resolution, counter acts that. You need to reread it, because it's null and void now. I came here to talk about this article that appeared in the paper, Appeals Court flushes Hammond's sewer contract. Where is this water sale in conjunction with the bonds we passed?

George Stoya - What I'm disturbed about is this idea of lawsuits to restrain speech. You guys don't set the standards of what's kosher and what's not, political discourse. We are talking political speech. It is well established law that political speech is free.

Ken Davidson - I hope this is a lesson for all of us going forward. There was some examples that were thrown out there that went way beyond the bounds. When there's violence committed or something like that, that's completely different then speech. This is a complete misunderstanding of the first amendment and I think people should see that, that's dangerous. I hope moving forward we don't have situations that are embarrassing to the City like this.

Alvin Cheeks - I encourage someone to stalk me or harass my family or my son. Politics is a full contact sport. We have the right to speak. Everybody has to understand, politics is a full contact sport. So when you start this war don't come back and say, you didn't mean it. The thing we have to remember is that, it has to stop somewhere.

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

AYES: ALL

Michael Opinker, President
ATTEST:

Hammond Common Council

Robert J. Golec, City Clerk

Minutes approved at the Common Council Meeting of September 28, 2015.

Time: 7:45pm

cb/jt