

The regular meeting of the Hammond Common Council of the City of Hammond, Lake County, Indiana was held on January 22, 2024 in the Hammond City Council Chambers and was available to be viewed at gohammond on Facebook, gohammond.tv live and per Zoom.

Council President Scott Rakos presided.

City Clerk Robert J. Golec facilitated.

PLEDGE OF ALLEGIANCE was recited by all.

A Moment of Silence was observed.

ROLL CALL

PHYSICALLY PRESENT: Alexander, Spitale, Venecz, Kalwinski, Salinas, Tyler, Emerson, Woerpel, Rakos

ELECTRONICALLY PRESENT PER ZOOM: None

ABSENT: None

TOTAL: 9

MAYOR'S ADDRESS

Mayor McDermott - Good evening everybody. This is my address for January 22, 2024. I wanted to start off welcoming back Councilwoman Venecz and Councilman Woerpel. Condolences, again, to both of you. We missed you guys and welcome back to the Council. It's good to see you again. I wanted to go through my activity log for the last two weeks. This is a summery, obviously. I went with, obviously there's been a lot going on with the Hammond Sanitary District as of late. I recently met with all five of the board members , including the member from Munster, as well as almost everybody that works in the Hammond Sanitary District. I attended an Executive Session with the Hammond Sanitary District's Board of Directors so that we're getting on the same page. Everybody's on the same page with the new CEO, Milan Krusinski. So a lot of organization meetings going on recently with that. We also lobbied for two days straight in Indianapolis. While we were there we met with Representatives Porter, Representative Cherry, Representative Snow, Representative Judy, in Indianapolis, speaking with all of them in regards to Hammond's potential food and beverage tax proposal. It seems as though, at this point, it's going very well in the House. Obviously, you have to get through the House and the Senate. You know, it seems like everything is thumbs up so far. Keep in mind, even if Hammond is given the ability in Indianapolis to enact a food and beverage tax we still have to come back before the Hammond Council before anything could be done. While in Indy, I also attended the Northwest Indiana Legislative event for the Northwest Indiana Forum with the Economic Development team. Held a community meeting at the Ophelia Steen Center with the host, Councilman Barry Tyler, in regards to the Memorial Park development. It was attended by about thirty or forty residents. I thought the meeting was a really good meeting. It seems like we have good marching orders on that and we're moving forward. Attended the Inaugural Ball for the new Mayor of Gary, Indiana on behalf of our City. I know he was happy to see me there and I want to say congratulations to the new Mayor of Gary, Eddie Melton. I know our 3rd District Councilman, Barry Tyler, was also at the Inaugural Ball, although we didn't run into each other. I attended the Annual MLK March and attended the event afterward at the Hammond Civic Center. I believe we set a new record on the coldest beginning of the march ever. That's always a very cold day. It was -10 when I got out of my car that morning. I

*Prepared by
Robert J. Golec
Hammond City Clerk*

MAYOR'S ADDRESS cont.

Mayor McDermott cont. - know there's some action items before the Council tonight. I've heard that the Event Space ordinance is going back in committee for some reworking. That's fine. I appreciate you all working on that. The pop up events space has become an issue across the City in all of your districts. This is where an open space, it may be a nail salon, it may be a barber shop, and then at night time it turns into a club and they're serving alcohol and sometimes worse. We want to work with the Council and come up with better defined pop up event spaces so that we could deal with this better in the future. So, thank you for working with us on that. I know that ratification of Board of Public Works matters, I know that this is an issue you all watch closely. I want to point out that the Board of Public Works, the year of 2023, approved six stop sign actions and three resident only parking matters and they're being ratified by you all tonight. But its nine different actions that occurred. I wanted to point out that it's not being misused. I hope in your opinion it's not being misused. You have a bond ordinance for Station No. 2. I imagine this has been explained to you. I just want to explain it on the record for the audience that's watching. This gives us options to get Station 2 built cheaper. You're giving us more options for financing. We had ARP money to help get this station done and at the time we were talking about a Build Operate Transfer scenario for financing. We're still committed to that, however, because Indiana Bond Bank is getting so aggressive with interest rates we thought we'd take a look at interest rates and compare them. If it's cheaper to go with traditional financing, we'll go that route. So, you're giving us another option in the toolbox. We still might go with BOT, or we may go with financing traditionally but you're just giving us one more option and we're gonna take the cheapest option to built Station No. 2, obviously. Last, but not least, I know there's a resolution we submitted. When I say we, the administration, submitted the resolution to you all. It's not legally required, I wanted to make that clear, alright? This is in regards to the Haunted House/Fireworks stand on 177th Street and the proposed Eminent Domain action the City wants to take. Where the City has started actually. I wanted to see where you all were on this issue, not for legal reasons. If you vote against the resolutions, it's not like this stops it automatically. However, it matters to me how you feel, a lot, and I'm gonna need your support through this process. So if this resolution went through and it did not fare well tonight, it would probably be a signal to me that this might not be an easy journey for me. So, I thought that it would be prudent if we submitted a resolution to you all talking about the process that we intend to undergo in regards to the property on 177th. I call it the Haunted House for purposes of this, what we call it when we talk about the project. As you all know, we, the City, developed a property very similar to this at the old Riverpark Apartment Complex. We took an apartment complex that we bought for \$14 million and it's worth around \$70 million right now. The assessed value of the Haunted House is around \$600 thousand. So let's call it a million. At the end of this day, I will not accept for anything less than two sit down restaurants at this location and either a large hotel or an office building. Like we have at Oxbow right now. We could turn this piece of property into something that's valued at \$30 million. It generates jobs, it generates tax revenue. All due respect to the Haluska family. I care greatly for them. They're a great family. I would never in a million years come up here and talk bad about that family. They're a great family. They've done a great job for twenty years. I think that if that I was ... I think because I'm a good Mayor, I like to consider myself a good Mayor, this is why I'm doing this project. Because I look at a piece of property completely underutilized, seeing its better day, and a good Mayor is gonna take that property and run forward even though he may know the family, even though it's not the easy thing to do. This is the hard thing to do. Definitely. But it's going to make our city stronger. It's gonna make the 4th District stronger. You know, Councilman Emerson's district does not have a sit down restaurant in the 4th District, and that's a shame. I'm not gonna settle for anything less than two at this location. We could probably

*Prepared by
Robert J. Golec
Hammond City Clerk*

MAYOR'S ADDRESS cont.

Mayor McDermott cont. - do more. It's fifteen acres of highly developable property. Five hundred cars a day drive by it and see this property. It's gonna be the easiest piece of property we've ever developed. All due respect. The highest and best use is not a fireworks stand and is not a haunted house. That is not the highest and best use. This is one of our most marketable pieces of property. That's why I'm being a good Mayor and doing the hard thing. And having to look a family in the face that I've known for a long time and say, "I'm sorry, but this is what a Mayor has to do". This is the best thing we can do with this property. And Hammond needs this, by the way. We don't have the luxury to sit around on marketable properties and wait another three to four years. We don't have that luxury. We need people to live here now. If we keep waiting three or four more years it'll never get done. That's why I'm going forward on this. I'm asking you to approve this resolution as a signal that I'm not going off solo. So, I'm open for your questions. I appreciate everybody. I appreciate the Haluska family. I know they are very concerned. I wish I was dealing with them directly. I wish we were dealing with them directly. That they were the landowners and they would be getting the money that we're gonna have to pay for this. Because we're not stealing this. It's not like we're gonna get it for free. We're gonna pay. This is gonna cost money. But we're gonna spend money and we're gonna make a lot more for the City of Hammond and that's what our job is. That's why I'm doing it. So thank you for listening to me. I'm available for any questions you have on any topic I'm talking about.

Councilman Emerson - I agree with you Mayor. I want what's best for the 4th District. On the other hand I appreciate the Haluska family. But when you said how many people drive by 80/94 a day, that's my consideration. So I don't mean any harm to anybody but I really think that I agree with you and that is really what we (unclear) but it's gonna take time, you know, so, anyway, that's it.

Councilman Tyler - Mayor, thanks for the update. You mention that ... I'm sorry, I saw that the basement backup protection program was approved, was funded.

Mayor McDermott - Yes, sir. Through the Council, I'm sorry, I should have put that in. It was approved through the Sanitary District. Thank you for bringing that up.

Councilman Tyler - Can you tell me, do you have an update on that? Because I know we have a (unclear)

Mayor McDermott - I do not. I wish I did. I read it in the minutes and I should have got more details. So I'd be going off the top of my head. Councilman Kalwinski do you? The basement backflow preventer program was approved by the Hammond Sanitary District.

Councilman Kalwinski - (Unclear) from \$1 thousand it's gonna be \$2 thousand.

Mayor McDermott - Nothing's changed on that so I'm sure that's the number. But let me update you guys at the next meeting on that exactly. It was passed by the Sanitary District Board. I read that in the minutes.

Councilman Tyler - Because I know, also, there was a conversation around if families qualify that they'd be paying the full amount for the (unclear) through other funding from Redevelopment (unclear) or something like that. Maybe not HUD but some other ...

MAYOR'S ADDRESS cont.

Mayor McDermott - Nothing's changed on that. I'm sure that's the number. But let me update you guys at the next meeting on that exact ... it was passed by the Sanitary District Board. I read that in the minutes.

Councilman Tyler - Because I also know there was a conversation around if families qualified, then maybe paying the full amount for them too through other funding from Community Development. Maybe HUD dollars or something like that. Maybe not HUD but some other funding.

Mayor McDermott - I think HUD is behind ... if the funding Councilman, honestly, it's all speculative. I'm not sure what's in the ... Could I get that and bring that back next meeting. I apologize. That should have been in my report. I read it yesterday and I forgot to include it.

Councilman Tyler - Spring will be here before we know it, so I just wanted to ...

Mayor McDermott - I agree.

Councilman Kalwinski - In the past the homeowner paid the full amount, showed receipt, submitted it to Sanitary, Board approved it, then the check was cut. That's the past.

Councilman Tyler - Yes, we spoke about in this new iteration of the program, that we would pay for it. In some instances we were gonna pay for it 100% without the family having to come out of pocket for anything. So there wouldn't be no reimbursement process. It would just be us taking care of the cost with the plumbing company.

Mayor McDermott - Yeah, I'm not sure. We'll have to find out. But that makes me nervous. Because City doesn't work, including the Sanitary District, doesn't work on private property.

Councilman Tyler - Of course, it wouldn't be us. It would be us paying the plumbing company.

Mayor McDermott - I don't know. I'm not sure what was the final ... Something was passed. I didn't it up and I should have. One more thing, on the resolution, sometimes I think resolutions are the best way to do business and in a case like this where, obviously, a family is being affected, I think it's a good thing but sometimes I get I get locked in too much so it's like a temperature gauge with me with you all and the resolution so I appreciate you all thinking about it deeply and voting you conscience. Appreciate it. Nice talking to you.

APPROVAL OF MINUTES

Councilman Spitale, supported by Councilman Emerson, moved to approve the minutes of January 8, 2024 and place on file.

AYES: ALL

APPROVAL OF CLAIMS

Councilwoman Venecz, supported by Councilman Spitale, moved to approve the claims from January 8, 2024 through January 17, 2024. Claim #192 through #745, inclusive. In the amount of \$11,859,573.66.

ROLL CALL VOTE (claims)

AYES: Alexander, Spitale, Venecz, Kalwinski, Salinas, Tyler, Emerson, Woerpel, Rakos

NAYS: None

ABSENT: None

Motion carried

9/0/0

CLAIMS APPROVED

PUBLIC HEARINGS

None

COMMUNICATIONS

Councilman Salinas - I'd like to just inform back and report here to the Council that I attended a training last week in Indianapolis, January 16th through the 18th. It was the NEO Boot Camp. The newly elected officials boot camp, sponsored by AIM. AIM stands for Accelerate Indiana Municipalities. There were several work shops that I found very beneficial. TIF, special taxing districts, the budgets, as well as the enforcing municipal code work shops. We had a special guest speaker, Lt. Governor Suzanne Crouch. She offered lots of insight to the group. I found most beneficial the council member peer round table meetings where the council members from across the State spoke and gave some advise to all of us newly elected officials. Overall it was a great networking opportunity. I got sit and talk with some established members from smaller communities as well as newly appointed officials that have been a part of the public and have done great things. So I'm excited moving forward and motivated after attending this conference. Thank you.

Councilwoman Venecz - We received a letter from George Stoya that I wold like placed on file.

COMMITTEE REPORTS

Capital Improvements Board - Councilman Emerson - We had, under New Business Funding allocations for Streets and Roads, an agreement, and this was no additional cost to the City. We also had a Summer Street Reconstruction Drive engineering from American Structurepoint. Part of that is reimbursed two year construction. We also had Funding Allocation for the City Hall Siren Relocation. I've already seen it east parking lot but it's gong to be moved from the building that was razed. Also we had a Funding Allocation for NICTD for the Downtown Station and part of that involved a \$1 million grade change and also a Funding Allocation for the Wabash Widening.

Councilman Kalwinski - Was that million dollar expense for the Grade Change, was that a Change Order? Or was that just there and you approved it?

Councilman Emerson - No, we approved the amount of \$200 thousand. There's \$200 thousand, \$40 thousand, left for the Russell Street Station.

*Prepared by
Robert J. Golec
Hammond City Clerk*

INTRODUCTION OF ORDINANCES

Councilman Emerson - This involves six stop signs and two residential parking changes. So, this is the Board of Public Works, we voted to let them deal with all this. We're just finalizing this at this time. It's only first reading.

Councilwoman Venecz - Do you intend on having a committee meeting?

Councilman Emerson - I don't think so.

ROLL CALL VOTE (1st and 2nd as amended)

AYES: Alexander, Spitale, Venecz, Kalwinski, Salinas, Tyler, Emerson, Woerpel, Rakos

NAYS: None

ABSENT: None

Motion carried

9/0/0

MOTION CARRIED

24-03 Authorizing the Issuance of Bonds to Finance the Costs of a New Fire Station in the City of Hammond, Appropriating the Proceeds derived from the Sale of such Bonds, and other matters related thereto

Councilman Woerpel, supported by Councilman Woerpel, moved the proposed ordinance to 1st and 2nd reading by title with a Council as a Whole Committee meeting on February 12, 2024 at 5:15 p.m. and a public hearing on February 12, 2024.

Councilman Woerpel - This is as the Mayor said, just another option when it comes to financing the new Fire Station, as well, we all know that County Councilman Dave Hamm and County Councilwoman Christine Cid gave us County ARP funds in the amount of \$2.1 million and we've also appropriated from the City ARP fund and as the Mayor stated this is just another option to come up with the best financing.

ROLL CALL VOTE (1st and 2nd reading)

AYES: Alexander, Spitale, Venecz, Kalwinski, Salinas, Tyler, Emerson, Woerpel, Rakos

NAYS: None

ABSENT: None

Motion carried

9/0/0

MOTION CARRIED

Mayor McDermott - Real quick, I poke to the Attorney for the Sanitary District. I have answers for a couple of your questions now. This is only through text messaging. They did approve the program that we talked about. It's a reimbursement program. The homeowner installs the improvement, presents a paid invoice and the Hammond Sanitary District writes up a check for the homeowner for up to about \$2 thousand to reimburse. So that's about half to about 40%. Right in that ball park for the total cost of reimbursement. Owana Miller is involved through Community Development. We are gonna get you all more details. In spite of all this, we've only had ten or fifteen people participate thus far. Including myself, my basement's unprotected and I haven't participated yet either.

Do we know the amount that we have to help the residents?

*Prepared by
Robert J. Golec
Hammond City Clerk*

INTRODUCTION OF ORDINANCES cont.

Mayor McDermott - According to the text message \$2 thousand is reimbursed after. So, depending on what a good deal.

Councilman Kalwinski - What's in the pot? How much is in the pot?

Mayor McDermott - Oh, I have no idea about that. I mean this is financed through the District. Unless Federal Guidelines apply in which case I imagine Owana's program is coming up with the \$2 thousand. But, ultimately it's Sanitary District is paying for it. I just wanted to update you. I'll get you more details by the next Council Meeting.

RESOLUTIONS

24R-02 Ratifying the City of Hammond and/or the Hammond Redevelopment Commission making a Good Faith Offer to Purchase and Ratifying the Hammond Redevelopment Commission Filing a Condemnation Lawsuit Pursuant to State Law

Councilman Emerson - I would ask that we support the City of Hammond and the Redevelopment Commission in making a good faith offer to purchase and ratify the Hammond Redevelopment Commission filing a condemnation lawsuit pursuant to state law.

Councilman Emerson, supported by Councilwoman Venecz, moved for adoption.

Councilwoman Alexander - I know I didn't say much in our caucus because I was finishing up with my students but I'm really hoping that with this we can hopefully work with this family. I understand that we want to take the property and do some development. But for me, I'm just not in hurting a family and not them having a plan or enough time to make a plan to go forward with their lives. Not saying that it's not a good move but I am saying that we need to be able to give them a little time to make the right choices for them. And what I mean my that is putting a plan in place so that they can make sure that they can come out ahead in terms of if they need to find a new location or anything like that but definitely setting a plan so that if they only have a year, they have the timing to do so and plan with their family because there is bills that they have to pay.

Councilman Salinas -I'd also like to share my thoughts on that. I agree with Councilwoman Alexander, in terms of if possible the City being able to establish a time line, if it makes sense, to allow the operators to take advantage of the opportunity, if it's available. But I am in support of also supporting the opportunity that the City has here in front of them. I think it's a huge opportunity that benefits the whole. So, I just want to just go on record of saying that I do support this.

Mayor McDermott - Realistically, being honest, there is no ... the Haluska family will definitely be able to do one more 4th of July for sure. There is no way ... I want them to know that. We're committed to that. I'd almost say there's a decent chance they get one more Halloween as well. That one's more questionable, but the 4th of July, and I realize, we reached out to the family today, I'm not sure if they were actually successfully contacted.

RESOLUTIONS cont.

Mayor McDermott cont. - But we wanted them to know. Because we heard they may be holding back on whether or not to purchase goods for the upcoming 4th of July. If that's the case, of course we want them to do what they would normally do and conduct business the way that they normally would during the 4th of July this year, absolutely. Okay, I'm on record at a Hammond Council meeting in front of the public saying that. Now, in response to the questions, now in response to Halloween, I'm not sure how it's gonna work out going through the system we have, you know, and I appreciate Councilwoman mentioned taking the property and that's common terminology, I get that. But we're not taking this property. We're buying it. It's not for sale. Okay? But we're buying it. We're gonna pay fair market value for this property. Okay? I get it, it's not for sale. So we are taking it in that regards. But we're not taking it for nothing. We're gonna pay market value for this property. Then my bet, the bet for the City is we could pay market value to the Meyer's family that owns that property and we could probably multiply it 30 times and make that property worth millions more than it's worth right now, and that's the bet. That's what we're trying to do. It's nothing spiteful towards the Haluska family at all. In fact, the Haluska family has been nothing but gentlemen and good family to me my whole career. I feel horrible about this, but every once in a while you have to be the Mayor and look at opportunities that are sitting right in front of us. It's sitting right in front of us every time we drive into the State of Indiana it's sitting right there. It's our most marketable piece of property in the entire City, right there off 80/94 and I'm trying to do the right thing. And it sucks because I know they're affected by it. But we are going to pay market value and I hope that the Meyer's family is generous with the Haluska family that has been renting this thing for twenty years. I hope that the lease deals with this situation, but I'm not sure, All I know is that for the City of Hammond, this is the right move, for the City of Hammond, in my opinion.

Councilwoman Alexander - I understand that you say they can get through July, it's my hope that they can get through October and they can go for it because I know that they've made plans for October as well.

Mayor McDermott - No, I'm not sure about that.

Councilwoman Alexander - That's just my hope. That's my hope. I mean, you guys are gonna do whatever they're gonna do. But I'm just putting on record, I'm hoping they can get through their two seasons so that they can make proper plans because that is one of their marketable times as well. So, I understand ...

Mayor McDermott - We can wait until the 4th of July after that also, you have to put a limit to it at a certain point, Councilwoman.

Councilwoman Alexander - I'm putting a lot of things into perspective. I'm looking out, yes, I love the City of Hammond. Been here all my life and I'm not saying that that piece of property is not marketable. What I'm saying is we have a family that's been in that business for 34 years and to just put something in front of them, like boom here you are. That's what it is. I'm just asking that I hope that we can look into letting them finish their season in a proper way since they've been making arrangements so that we could be of good faith to them. Yes, they don't own the property but they pay and since we have not been able to get a hold of this company or the people that own it all the way ...

Mayor McDermott - Who's we? We've made contact with the owners of the property.

RESOLUTIONS cont.

Councilwoman Alexander - In the meeting I heard that we have not heard from the people in the trust. I'm just going off of what I heard in the meeting today during the caucus. So, I'm just saying what I'm saying. So I'm just hoping that we can work with this family and finish off their season strong so that we can go ahead and go forward wherever we're gonna go.

Mayor McDermott - Okay, thank you, Councilwoman.

Councilwoman Venecz - Not that I am an attorney, but I have seen a lot of legal actions take place. They don't move quickly. They just don't move quickly. So, I think it's reasonable for the Haluska family and plan and based on your statements too Mayor. Plan for the 4th of July. And being that the Meyer family is difficult to get in touch with because they are scattered all over, who knows how long this could take. We are not in the business of putting Hammond businesses out of business. That is not our intent here at all. But we are in the business of beautifying Hammond and that is a prime piece of property. And when I campaigned years ago for the 4th District, you know where I had my fundraiser, at White Castle. Because we didn't have a sit down restaurant in the 4th District and it's been long overdo that we have this type of development in the 4th District. My heart goes out to the Haluska family. I understand that you've operated the business for a very long time but we are in the business of progressing Hammond forward. That is my opinion on it.

Mayor McDermott - In response to your statement about we don't normally put businesses out of business. I agree, but sometimes we do. Like we put Riverpark apartments out of business and then we took Riverpark Apartments footprint and we turned it into businesses worth 20 times more than Riverpark Apartments was. So if we are gonna make a move like this, we got to be positive that we are gonna be successful and there's no way we can't be successful at this location. It's visible to hundreds of thousands of cars every day. It's the most marketable piece of property in the City of Hammond. All due respect to that family. Of course, every one feels terrible, Councilwoman, and, you know, I appreciate your empathy. We're all empathetic. I think it's totally reasonable to say that they're safe with the 4th of July. I'm not comfortable, on the record at this moment, saying that we're good with Halloween. Because I don't know if we are or not. But I know for a fact, there's no way we'll move that fast. Even if we could move faster, we wouldn't move that fast on the 4th of July and I want them to know that we have no intention of interfering with their 4th of July in 2024.

Councilman Tyler - What's stopping us from making that guarantee. Because from our understand, if we take control of this property, or we purchase the property, and the HRC owns it, and they can be landlords from a commercial property ...

Mayor McDermott - We could also start moving forward and get ready to develop it commercially.

Councilman Tyler - We could, right, and that's what I'm saying but what's stopping us from saying right now that we want to guarantee this family one more Halloween?

Mayor McDermott - I'm not comfortable saying that. That's what's stopping me from doing it. I'm not gonna say something stupid and get sued for it and have Hammond be liable for it.

RESOLUTIONS cont.

Councilman Tyler - But what I'm saying is it sounds like we have the power to control when a development starts.

Mayor McDermott - I'm not comfortable saying that, Councilman. I'm not.

Councilman Tyler - Okay.

Mayor McDermott - That's what's stopping me. I'm not comfortable saying that. If I say the wrong thing right now, we'll get sued. I'm not gonna say that.

Councilman Tyler - But just answer that question. We do ...

Mayor McDermott - I'm answering your question. I'm not comfortable saying that and I won't say it because I'm not comfortable.

Councilman Tyler - Right, but my question is, we control when the development starts, right?

Mayor McDermott - That's right.

Councilman Tyler - Okay.

Councilman Kalwinski - I think that property is hot. I think it's developable. I think it's gonna be big things at some point. And I want to support other councilmen in their district when they want to make a difference in a positive way. But we have a family and their business caught in the middle between City and the owners and they're the ones that the hurt is going to be on if it's done quickly. I thought I heard from the family or I read that they were looking for trying to stay open three more years at that site. We're maybe offering them a year. I think we should negotiate with them about when they can be out in a way that makes sense, that's a compromise for them and a compromise for the City, maybe two years. But I don't feel comfortable putting people out of their business. People that have been good to Hammond for decades. Paid their way through Hammond, provided services, did everything right, and I get this is a hot property and I also get the pain that can happen when you no longer have your livelihood. I just wanted to say that.

ROLL CALL VOTE (adoption)

AYES: Spitale, Venecz, Salinas, Tyler, Emerson, Woerpel, Rakos

NAYS: Alexander, Kalwinski

ABSENT: None

Motion carried

7/2/0

RESOLUTION NO. R02 ADOPTED

NEW AND UNFINISHED BUSINESS

Councilwoman Venecz, supported by Councilwoman Alexander, moved to re-appoint Amy Radolak to the Hammond Community Corporation effective February 12th of 2024 for a period of three years.

ROLL CALL VOTE (re-appoint)

AYES: Alexander, Spitale, Venecz, Kalwinski, Salinas, Tyler, Emerson, Woerpel, Rakos

NAYS: None

ABSENT: None

Motion carried

9/0/0

MOTION CARRIED

Councilman Woerpel - I'd like to take a moment to thank everybody for their thoughts and prayer sin reaching out to us over this very hard time and I appreciate it all. It all helped.

Councilwoman Venecz - I would like to echo those sentiments and I'll stop there so I don't cry.

Councilman Tyler - I just wanted to share that a few months ago I was able to submit an application on behalf of the City in a few different departments to the Urban Institutes Mobility Action Learning Network. It's an opportunity for up to thirty teams of local leaders across the U.S. to receive technical assistance from the Urban Institute out of D.C. for advancing locally driven programs, policies and actions that boost upward mobility from poverty and racial equity. So over the next year myself and various other representatives from the City will be participating. It's kind of like a fellowship but we'll be able to learn from twenty-nine other teams from across the country in terms of the services that they provide residents in terms of upward mobility. But that includes education, it includes job training, and other types of assistance. So really excited about participating in that. I want to thank the Mayor and his administration for agreeing to participate in that. I should be heading to D.C. tomorrow for our first in person convening and then for the rest of this year we'll have virtual meetings with our trainers from Urban Institute. We also have the opportunity throughout this program to create system of organizations that will be working together to either establish new programs or expand on program that already exist. Hammond Development Corporation is a part of this. Our Community Development Office, our School City is a part of it. So really excited about this program in looking forward to helping progress Hammond forward. Thank you.

PUBLIC EXPRESSION

George Stoya - I've written a letter to the Council because my concern is back in about May of '22 you guys passed a resolution to fund litigation concerning a lawsuit filed by the Mayor and Eduardo Fontanez concerning the Voting Rights Act, Section two, the thrust of which was that because there were insufficient minority candidates voters were being deprived of proper participation in the political process. I'd written a letter before on this. I didn't submit it. I may have submitted it to a couple councilmen. I objected at the meeting that we embark on this. This case had been pending for almost three years and a lot of money. It's been amended a few times. It's my contention that the city of Hammond no longer has a standing to sue. We're gonna pay all these lawyers only to find we never had a standing anyway.

*Prepared by
Robert J. Golec
Hammond City Clerk*

PUBLIC EXPRESSION cont.

T.J. Gaertig - Councilman Tyler made a great point. Hammond is in control of the time line for this Haunted House eminent domain. He asked why we can't guarantee a more forgiving time line and the Mayor said that he wasn't ready to answer that. Why would you pass a resolution with unanswered questions on the table? I live in the 4th District and I can drive five minutes in any direction to a restaurant and there's no hurry to get another restaurant by next year. They have hardly had enough time. You have the option to throw your weight around and try to get them a full calendar year to prepare for losing their business and I'm wondering why you didn't.

Ken Rosek - The destruction of Briar East woods will have detrimental effects to the wellness of the community and lower our quality of life in Hessville. The bridge will increase noise, pollution, the risk of flooding. Those are facts. It destroys valuable natural habitat with hundreds of old trees. It does not solve our public safety issues with school children. It will be harder to walk around, less pedestrian and more car dependant. This makes no sense. The bridge will cost \$8 million more than the bridge on Grand Avenue. An expert stated that Gibson Woods are dune and swale that they were formed by water as Lake Michigan receded. The Briar East Woods are genuine dunes, formed by wind thousands of years before. It is older. These are ancient dune woodlands. Two or three thousand years older than anything in dune swale. A representative of the IN Dept. of Natural Resources stated the black oaks are larger and older than any black oaks they've seen.

Councilwoman Alexander, supported by Councilman Spitale, moved to adjourn.

AYES: ALL

2024 HAMMOND COMMON COUNCIL ATTENDANCE RECORD OF
ELECTRONIC AND PHYSICAL PRESENCE

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Katrina Alexander	8 P											
Dan Spitale	P	P										
Janet Venecz	E P	P										
Mark Kalwinski	P	P										
Alfonso Salinas	P	P										
Barry Tyler	P	P										
Bill Emerson	P	P										
Dave Woerpel	A P											
Scott Rakos	P P											
Initials	RJG											

E=ELECTRONIC

P=PHYSICALLY

PRESENT

A=ABSENT

If the member qualifies for an exemption from the "Consecutive - 50" requirements, draw a circle around the E for that meeting/ member.

Scott M Rakos

Scott Rakos, President
Hammond Common Council

ATTEST:

RJG

Robert J. Golec, City Clerk

Time: 7:05 p.m.

cb

Prepared by
Robert J. Golec
Hammond City Clerk

George Stoya
1413 Stanton Avenue
Whiting, IN 46394
Tel. 219.659.6339 lawsuit
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January 22, 2024

To: Hammond Common Council
5925 Calumet Avenue, Room 304
Hammond, Indiana 46320
Phone: 219-853-6404
Fax: 219-853-6420
council@gohammond.com

RE: An Inquiry into the City of Hammond's Standing in Appealing dismissal of its Voting Right Act lawsuit against State of Indiana Officials and Lake County, to the U.S. 7th Circuit Court of Appeal or state courts.

THESIS: That the inclusion of the City of Hammond and its Mayor as Parties were fictitious designations *ab initio* and devoid of any legal status validly enabling or justifying further financial subsidization from municipal funds.

Councilmembers:

Despite the express findings and conclusion of law by federal court judge Philip Simon that, "With respect, I find the Seventh Circuit's reasoning in *Quinn*, and the cases in which it cites, to be unsatisfying, especially in light of *Brnovich*, as discussed below. Nonetheless, *Quinn* is controlling law and I am not free to disregard it where it plainly applies...In short, whether or not I find *Quinn* persuasive, I must apply it here and grant the State Defendants summary judgment on Count I, finding as a matter of law that §2 of the VRA is not violated by the Lake County Superior Court judicial selection procedure provided in Article 33 Chapter 45 of the Indiana Code," Hammond Mayor Thomas McDermott, Jr., emphatically committed the city to further quixotic litigation by unilaterally declaring in a January 10, 2024, Post-Tribune news report, "I feel like we're on the right side of history with this case," he said. "And that's why it's becoming somewhat of a crusade with me. We're going to definitely follow this through." McDermott told the Post-Tribune that the city plans to appeal the case to the 7th Circuit.

Added Judge Simon, "The question instead is whether under the VRA the General Assembly can withhold the right to vote for a state judicial office in counties

with a high percentage of black voters while conferring the right in counties with overwhelmingly white voters. In my view, *Brnovich* requires that question to be answered 'no.' But because *Quinn* stands in the way, summary judgment will be granted in favor of the Defendants." See, *Quinn v. Illinois*, 887 F.3d 322 (7th Cir. 2018).

It is interesting to note despite the recognition of the controlling precedent of *Quinn*, and his running commentary in the substantive application of Section 2 (b) provisions of the Voting Rights Act, that Judge Simon omitted express mention of its most telling aspect in subsection (b), indeed the very cornerstone framing the context and criteria flouted by Mr. Fontanez and the mayor of Hammond's in their challenge to the aforementioned Chapter 45 et seq., of Title 33, Article 33 of the Indiana Code:

Section 2 of the Voting Rights Act clearly provides (underlined):

(b) A violation of subsection (a) is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: Provided, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.

Accordingly, as a citizen of Hammond, I am at a loss as to how and why, given the allegations constituting this lawsuit, that it wasn't dismissed for failure to state a justiciable claim? What's more, not only is this lawsuit a dog with fleas, but that if Mayor McDermott wishes to embark on a "crusade" that he does it in his capacity as an individual and bankroll the litigation costs from his own pocket, and not the city's treasury.

STANDING IN FEDERAL COURTS

In its original Complaint filed in May 2021, the lawsuit appeared to be one prosecuted, as it were, as a local controversy, pleading:

"Plaintiffs, City of Hammond, Thomas McDermott, in his official and personal capacities, and Eduardo Fontanez, by counsel, for their Complaint for Declaratory Judgment and Injunctive Relief against the Defendant, the Lake County Judicial Nominating Commission ("Lake County JNC"), and state as follows..."

Seven months later in December 2021, the Plaintiffs above filed an Amended Complaint and nine months later in August 2022, the Plaintiffs filed their Second Amended Complaint. In each iteration of its pleading the plaintiffs designated as PARTIES, JURISDICTION, AND VENUE that:

1. Hammond is an Indiana municipality and governmental organization located in Lake County, Indiana, and its administrative offices are located at Hammond City Hall, 2nd Floor, 5925 Calumet Avenue, Hammond, Indiana 46320.

2. Hammond frequently litigates in Lake County Superior Courts.

3. When Hammond's police officers write traffic tickets or make arrests, those matters are frequently prosecuted in Lake County Superior Courts.

4. Hammond has a direct and substantial interest in ensuring that Lake County Superior judges are constitutionally selected.

5. Thomas McDermott is the Mayor of Hammond (as a government official has no standing as a voter), and is an attorney that resides in Lake County, Indiana, and is a registered voter...

In a rather curious development to justify more extensive funding, it wasn't until May 23, 2022 that the mayor had the city council adopt Resolution 22R-10 - one year later. But the public discussion was so limited and riddled with ambiguity about the lawsuit's merits and its prospects of prevailing at trial that, ultimately, all the discussion conveyed were political ideals and summary social aspirations framed in vague speculation about why the city of Hammond was even involved.

Minutes of 22R-10 from the council meeting addressing 22R-10 reveal, in pertinent part:

Councilwoman Venecz- "Uh, as the mayor stated, and he may want to elaborate some more during his open remarks. Uh, this is a lawsuit initiated by the City of Hammond against the judicial nominating commission and the state of Indiana. Uh, there are four counties out of the ninety-two counties in the state of Indiana who are not allowed to elect their own judges. They are Lake County, Allen County, Marion County, and Saint Joseph County. All 88 other counties elect their judges. Um, the city initiated this action and I believe that other municipalities and counties are going to follow our lead on this and I ask for your consideration. Uh, Mayor, if you would like to elaborate, please..."

Mayor McDermott- “Sure, thanks, Councilwoman. Um, this is the type of lawsuit if it's not for the City of Hammond. It's really the type of lawsuit that won't be filed by any lawyer that practices in Lake County because it's complicated, it's costly, and quite frankly, if that lawyer loses, they still have to practice law in Lake County. I could tell you there's a number of people that aren't happy with this lawsuit.”

Mayor McDermott- “Over here, in Lake County, we have to go through this arcane system that's set up by the governor and the super majority right across the border in Porter County, they get to elect their judges. It makes no sense and it's going to lose. It just needs a willing plaintiff and we became that willing plaintiff. And I want to thank you for your support over the last year while we've been litigating this. We want to take it to the finish line and win and then, you know, so...”

But he did not win. And as conceded by Judge Simon, the plaintiffs have been PRECLUDED from winning by rationale & analysis in *Quinn v. Illinois*. “Nonetheless, Quinn is controlling law and I am not free to disregard it where it plainly applies...In short, whether or not I find *Quinn* persuasive, I must apply it here and grant the State Defendants summary judgment on Count I...”

At the time of Resolution 22R-10, as shown the same Minutes I complained, “George Stoya- Gotta tell you, I was not at all happy with the Mayor's explanation. It's too complex for us, really? What is it? A declaratory relief action? Or does it entail a great deal of discovery? What are we looking at here? Are we the only ones paying the bill here? He talked about, we got the best lawyers. You know what that means Cha Ching Cha Ching. I thought we were going broke here in this city.”

Now, of course, like a bad gambler, the mayor wants to throw more good money after bad bets in the name of a “crusade.” But as discussed in a recent law review article entitled, STANDING: Proper Parties, Proper Relief written by legal Professors William Baude, U of Chicago & Samuel L. Bray, Notre Dame (HARVARD LAW REVIEW, NOV 2023, Volume 137), “Article III requires the proper parties, seeking proper relief.¹² This logic has driven various permutations of justiciability doctrines. It explains why courts would classically reject cases without the real party in interest, or parties of necessary importance.¹⁸ It explains why courts would not decide what they called “political questions” — meaning cases where the relief was effectively within the jurisdiction of the political branches and not the courts.¹⁹ It explains why courts would not issue judgments against nonconsenting sovereigns — they were not proper parties against whom proper relief could be issued.²⁰

The above passage is prefaced by the reminder that “Article III of the Constitution vests the federal judiciary with “judicial Power” to decide an enumerated

range of “Cases” and “Controversies.”¹³ Since the Founding, members of the Supreme Court have insisted that this means that they must act through certain forms — they cannot issue advisory opinions in response to executive inquiry,¹⁴ and they cannot opine on disputes when they do not have the power to issue binding relief.¹⁵ Federal courts cannot decide cases without litigants, or without remedies to award.”

Doctrines like standing operate, continues the article, to ensure that the federal courts act as courts. Requiring proper parties ensures that it is a judicially cognizable dispute, and requiring proper relief ensures that it is a judicially resolvable dispute. These requirements help to distinguish the court’s power to decide particular cases according to law from the legislature’s power to make law and the executive’s power to enforce it.

The importance of remedies to standing, and attention to proper relief is, contend the article’s authors, especially evident in equity. The range, power, and flexibility of equitable remedies are a central part of equity’s contributions to modern law. As Professor D.E.C. Yale put it, with some modest overstatement, “Equity is essentially a system of remedies.”⁴² Unsurprisingly, equity has tended to require a stronger showing of injury (or of a “grievance,” to use language more apt for equity) before it will deal out a stronger remedy.⁴⁸ Thus, “in equity it all connects — the broader and deeper the remedy the plaintiff wants, the stronger the plaintiff’s story needs to be.

Thus, in the instant case in which Mayor McDermott seeks to subsidize with municipal funds on appeal, according to Judge Simon, the Quinn case preempts further challenge. As earlier stated, this renders McDermott’s “crusade” more a bad gambler chasing losses with still worse bets because at the federal level, Section 2 (b)’s proviso is clear, *...That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.”* As observed in *Quinn*, “The Voting Rights Act has been on the books for 53 years, and as far as we are aware no court has understood § 2 to require that any office be filled by election.”

Lastly, as to their legal standing as plaintiff parties to this action, neither Thomas McDermott, Jr., as mayor or the city of Hammond itself are voters and, in any event, cannot be said to have suffered direct injury in fact under Section 2 (b) of the NVA and consequently not a real party in interest.

PENDING CLAIMS UNDER STATE JURISDICTION

As part of an effort last year to prevent the Franciscan Alliance from unilaterally shuttering Hammond's primary care facilities at St. Margaret's hospital, and thus forever disrupting its more than century-long tenure in maintaining the socio-physical infrastructure grounding Hammond's medical community, attorneys for the city filed an action against the Alliance for equitable and injunctive relief.

According to the Indiana appellate court, in broad terms, the lawsuit contended that 17 months earlier in Y2021, the City of Hammond relied on formal representations made by Franciscan executives to keep the Hospital open. That Franciscan Alliance agreed it would not shut down the Hospital and its emergency room and allow the city administration reasonable time to find a new emergency healthcare provider, and quash the potential for increased legal liability stemming from delayed response times to medical emergencies. The City anticipated it would take around 18 months to adequately plan, approve a budget, and incur these costs. Hammond officials claimed that Franciscan had "renege[d]" on its "promise to keep the emergency department of [the Hospital] operational," claiming that Franciscan's conduct would leave "approximately 80,000 residents without immediate access to emergency medical services" and that "people [would] die as a result of [the Hospital's] closure."

Franciscan responded to the City's complaint just before the hearing. In addition to deeming speculative and indirect any damages, the appellate court ruling characterized Hammond's claims of injury as hypothetical, at best. The trial court, it ruled, improperly focused on speculative and hypothetical damages. In particular, the City's potential future purchases of new ambulances and allegations of lost time were "too remote and speculative" to constitute the "direct injury" necessary for standing.

As a result, because of the success of Franciscan Alliance's challenge to the City's standing to bring its claim it did not qualify for injunctive relief. Furthermore, buttressed by its arguments the City could not establish the elements of promissory estoppel, the only legal theory underlying its request for injunctive relief.

The Indiana Court of Appeals defined "Standing" as a fundamental, threshold, constitutional issue that must be addressed by this, or any, court to determine if it should exercise jurisdiction in the particular case before it." *Doe v. Adams*, 53 N.E.3d 483, 495 (Ind. Ct. App. 2016) (quoting *Alexander v. PSB Lending Corp.*, 800 N.E.2d 984, 989 (Ind. Ct. App. 2003)). "The main purpose of standing is to insure that the party before the court has a substantive right to enforce the claim that is being made in the litigation." *Schulz v. State*, 731 N.E.2d 1041, 1044 (Ind. Ct. App. 2000). Standing is an issue of law that we review de novo. *City of Gary v. Nicholson*, 190 N.E.3d 349, 351 (Ind. 2022).

To establish standing, a plaintiff must demonstrate “a personal stake in the outcome of the litigation and ... show that they have suffered or were in immediate danger of suffering a direct injury as a result of the complained-of-conduct.” *Solarize Ind., Inc. v. S. Ind. Gas & Elec. Co.*, 182 N.E.3d 212, 217 (Ind. 2022) (quoting *Bd. of Comm’rs of Union Cnty. v. McGuinness*, 80 N.E.3d 164, 168 (Ind. 2017)). The City has not made such a showing here.

Indeed, not only did the Hammond administration fail in such a showing but in terms of the court’s analysis it could never achieve such a showing because, as reaffirmed by *City of Gary v. Nicholson*, above, despite the fact, “that the Hospital’s closure would “negatively impact” Hammond’s citizens by leaving “approximately 80,000 residents without immediate access to emergency medical services.” App. Vol. II, p. 10.

And despite further claims that hospital closure would significantly damage the City’s reputation and its ability to attract businesses, the court added, “even if true, any alleged negative effects on Hammond’s citizens cannot sustain the City’s standing. As a municipality, the City may not assert claims on behalf of its citizens. *See Bd. of Comm’rs of Union Cnty. v. McGuinness*, 80 N.E.3d 164, 167-68 (Ind. 2017) (holding county did not have standing to seek a declaratory judgment and injunctive relief on behalf of its residents because it lacked a “personal interest” in the case).

In *City of Gary v. Nicholson* the court formally observed, “The plaintiffs claim they have standing to sue under principles of public standing and a separate statutory right to sue under Indiana Code section 5-2-18.2-5. Standing is a legal question we review de novo. *Holcomb v. Bray*, 187 N.E.3d 1268, 1275 (Ind. 2022). Indiana law is clear that standing requires an injury. See, e.g., *id.* at 1286 (citing *Solarize Indiana, Inc. v. Southern Indiana Gas and Elec. Co.*, 182 N.E.3d 212, 217 (Ind. 2022)). But the plaintiffs, *acknowledging they have alleged no injury, argue instead that lack of injury is “irrelevant” here because they have statutory and public standing.* We disagree. Because the plaintiffs allege no injury, there is no justiciable dispute.”

Consequently, given Judge Simmon’s remand of pending claims to the jurisdiction of state court, I contend that the above-referenced legal precedents will effectively apply to the “justiciability” of any actions still left to the City of Hammond via the summary judgment rulings. The upshot is the remaining parties with standing to proceed further in state court are restricted to private parties, and/or any other parties in their capacity as individuals seeking to remedy or otherwise redress any justiciable/cognizable harms or damages to their private interests. As elaborated in the above Harvard law review article:

“The doctrines of justiciability define “the judiciary’s proper role in our system of government.”⁶²

The article continues stressing, “Yet there is a deeper connection between standing, remedies, and the judicial role. The judicial role is the conclusive resolution by judges of legal disputes, which in turn are the sorts of disputes that can be conclusively resolved by judges acting as judges. Put less circularly, what judges do is enter judgments (‘conclusive resolution’) of disputes that involve the rights of parties (‘the sorts of disputes that can be conclusively resolved by judges’) according to law (‘acting as judges’).

Doctrines like standing, it explains, operate to ensure that the federal courts act as courts. Requiring proper parties ensures that it is a judicially cognizable dispute, and requiring proper relief ensures that it is a judicially resolvable dispute.

Broadly speaking, the issue and problems of any cognizable appellate claims under Section 2 “justiciability” requirement are exemplified here in that the precedent of Quinn, as observed by Judge Simon, disqualifies the Plaintiffs’ federal action from further judicial recognition. As for the city’s standing to prosecute any lingering state actions in state courts, it is black letter that neither the city or its officials have standing.

CITIZEN REQUEST

All I am asking is for the city council to consider hiring its own, independent attorney to analyze the above contentions and set forth the probabilities of success on appeal of this case. Recall that this case has been ongoing for three years with virtually innumerable docket entries representing a billing bonanza on a dubious opportunity in federal and state courts of prevailing. As I recall, the city of Hammond just sold off rights to certain assets that will net it approximately \$50 million over a period of years. With revenue from the gaming boat taking a hit, the city’s finances do not seem poised for surplus spending on crusades.

Respectfully submitted,

/George Stoya