

**CITY OF EARLVILLE
CITY COUNCIL
REGULAR SESSION, July 18, 2017, 7:00 p.m.
City Hall Council Room, 210 W. Railroad Street, Earlville, IL**

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Michael Hall called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

ROLL CALL

The following members were present: Alderman Mark Actis, Alderman Robin Austin, Alderman Walter Grimm, Alderman Chuck Jenkins, Alderman Michael Konsoer. Absent: Alderman Ken Bonine. Also present was City Attorney Mark Anderson.

Visitors at the meeting were Sheila Jenkins, Beverly Malkey, Wilma Stillwell, George Durbin, Pat Durbin, Ryan Richardson, Sue Hall, Nancy Wold, Glenn Jacoby, Louise Jacoby, Pat Waldron, Jim Baird, Linda Peterson, Kristi Actis, Rose Stockley, Jessica Brawner, Sergeant Alfonso Valdez and Stu Bloom (Earlville Post).

Mayor Hall warned that anyone using profanity or making personal attacks would be escorted from the building.

ADDITIONAL AGENDA - None

APPROVAL OF MIINUTES

Alderman Jenkins made a motion, seconded by Alderman Austin, to accept the June 14, 2017, Regular Session Minutes. All in favor by voice vote. MOTION CARRIED.

TREASURER'S REPORT

Alderman Austin made a motion, seconded by Alderman Jenkins, to approve the treasurer's report, as read by Mayor Hall, for June 2017. All in favor by voice vote. MOTION CARRIED.

**COMBINED FUNDS ACCOUNT BREAKDOWN
June 2017**

FUND	AMOUNT
CORPORATE	\$ 99,715.86
SOCIAL SECURITY	\$ 15,272.22
INSURANCE	\$ 32,549.16
AUDIT	\$ 8,129.47
GARBAGE	\$ 9,805.79
UNEMPLOYMENT	\$ 7,789.36
WORKMEN'S COMPENSATION	\$ 22,872.84
IMRF	\$ 12,563.75
MOTOR FUEL TAX	\$101,021.45
TIF III	\$ 46,579.17
2017 GO BOND CAPITAL PROJECT	\$485,742.88
2017 GO BOND REPAYMENT	\$ 17,443.54
2014B GO BOND REPAYMENT	\$ 122.00
WATER	\$260,753.05
SEWER	\$ 67,113.10

2014A GO BOND REPAYMENT	\$145,020.37
OUTSTANDING CHECKS	\$ 18,104.46
TOTAL	\$1,350,598.47

ILLINOIS FUNDS INVESTMENTS – June 2017

GENERAL FUND	\$ 43,773.89
MOTOR FUEL TAX FUND	\$ 52,471.98

Alderman Bonine arrived at 7:05 p.m.

REVIEW ACCOUNTS PAYABLE AND MOTION TO PAY BILLS AS PRESENTED

Alderman Austin made a motion, seconded by Alderman Actis, to pay all bills as presented. Alderman Konsoer made a motion, seconded by Alderman Grimm to amend the motion to delete the bill for \$5,000.00 from Wipfli and pay the remainder of the bills as presented. On roll call: Alderman Bonine - aye, Alderman Actis - nay, Alderman Jenkins - nay, Alderman Grimm – aye, Alderman Konsoer - aye, Alderman Austin – nay, Mayor Hall - nay. 3 aye, 4 nay. MOTION TO AMEND FAILED. Roll call on main motion: Alderman Bonine – aye, Alderman Actis – aye, Alderman Jenkins – aye, Alderman Grimm – nay, Alderman Austin – aye, Alderman Konsoer – nay. 4 aye, 2 nay. MOTION CARRIED.

PUBLIC VOICE - None

COMMITTEE REPORTS

Finance

Alderman Austin made a motion, seconded by Alderman Actis to pass ORDINANCE NO. 07-18-2017 APPROPRIATION ORDINANCE. On roll call: Alderman Austin – aye, Alderman Grimm – nay, Alderman Jenkins - aye, Alderman Actis - aye, Alderman Konsoer - nay, Alderman Bonine - aye. 4 aye, 2 nay. MOTION CARRIED.

Alderman Konsoer asked for an update on e-pay. Deputy Clerk Dankenbring reported that the only thing we are waiting on is the set-up of the clearing bank account with the State of Illinois. Once that is done we can begin taking payments.

Public Works

Alderman Actis made a motion, seconded by Alderman Konsoer to approve the purchase, from Bonnell Industries, Inc., of a Titan Pro Leaf Vacuum for \$34,998.00 per quote No. 0117663 and a Titan Leaf Box and Front Debris Deflector for \$5,705.00, per quote No. 0117676. On roll call: Alderman Konsoer – aye, Alderman Jenkins – aye, Alderman Austin – aye, Alderman Bonine – aye, Alderman Grimm – aye, Alderman Actis – aye. MOTION CARRIED.

Alderman Actis made a motion, seconded by Alderman Jenkins to pass ORDINANCE NO. 07-18-2017(D) AN ORDINANCE AUTHORIZING THE CITY OF EARLVILLE TO BORROW FUNDS FOR THE PURCHASE OF EQUIPMENT FOR USE BY THE PUBLIC WORKS DEPARTMENT BY ISSUANCE OF A NOTE; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST OF THE NOTE; AND PRESCRIBING OTHER MATTERS RELATING THERETO, borrowing \$27,000.00 from Pioneer State Bank at 3.5% fixed interest . On roll call: Alderman Bonine – aye, Alderman Actis – aye, Alderman Konsoer – aye,

Alderman Jenkins – aye, Alderman Austin – aye, Alderman Grimm – aye. MOTION CARRIED.

Alderman Actis made a motion, seconded by Alderman Austin to approve the purchase, from Holland & Sons, Inc., of a 2016 John Deere 5065E Utility Tractor and trade in the John Deere 5225 Tractor, MFWD w/542 loader the City currently has, for \$19,000.00, per quote No. 15632717. On roll call: Alderman Jenkins – aye, Alderman Austin – aye, Alderman Grimm – aye, Alderman Bonine – aye, Alderman Konsoer – aye, Alderman Actis – aye. MOTION CARRIED.

Mayor Hall reported that there are a couple intersections that still need to be completed as a part of the 2017 Street Maintenance Project.

Police

Alderman Konsoer made a motion, seconded by Alderman Jenkins to transfer \$5,000.00 into a reserve line item for Police Department Vehicles. Alderman Konsoer made a motion to amend the main motion to make the transfer an annual transfer. All in favor by voice vote. AMENDMENT MOTION CARRIED. All in favor by voice vote on main motion as amended. MOTION CARRIED.

Public Health & Safety

Alderman Actis reported mosquito were sprayed Saturday. Alderman Grimm asked if they will be going up Warren Street and spraying the park, Alderman Actis will check. Alderman Konsoer suggested the spraying could be put on the electronic sign if we had enough advance notice.

UNFINISHED BUSINESS

Alderman Austin made a motion, seconded by Alderman Grimm to pass ORDINANCE NO. 07-18-2017(A) AN ORDINANCE DISCONNECTING PROPERTY FROM THE CITY OF EARLVILLE (MURST) AND ORDINANCE NO. 07-18-2017(B) AN ORDINANCE DISCONNECTING PROPERTY FROM THE CITY OF EARLVILLE (COOPER) AND ORDINANCE NO. 07-18-2017(C) AN ORDINANCE DISCONNECTING PROPERTY FROM THE CITY OF EARLVILLE (REMICK). On roll call: Alderman Actis – aye, Alderman Konsoer – aye, Alderman Jenkins – aye, Alderman Bonine – aye, Alderman Grimm – aye, Alderman Austin – aye. MOTION CARRIED.

Alderman Actis made a motion, seconded by Alderman Jenkins to approve the Invitation to Receive Bids for the demolition of house at 515 Stilson Street. Discussion followed. Bid due date was set for September 6, 2017 at noon and the bid opening would be September 6, 2017 at 7:00 p.m. at the Committee of the Whole Meeting. The Invitation to Receive Bids will be published in the Earlville Post and placed on the City website along with direct mailing and personal contacts to get the invitation out. On roll call: Alderman Austin – aye, Alderman Jenkins – aye, Alderman Bonine – aye, Alderman Konsoer – aye, Alderman Grimm – aye, Alderman Actis – aye. MOTION CARRIED.

Alderman Actis reported that he met with Kevin Lindeman from North Central Illinois Council of Governments (NCICG) about the ITEP Grant. This grant cannot be used for sidewalks alone so we will not need to contract with NCICG to apply for the grant at a cost of \$1,500.00. Alderman Konsoer asked about applying for an ITEP Grant for something else. Alderman Actis stated the grant can be used for other beautification projects like parks, downtown improvements, etc., however we have no plan together for any of those projects.

NEW BUSINESS

Alderman Jenkins made a motion, seconded by Alderman Austin to approve planting two fast growing trees on the west side inside the playground and on the south side outside the playground at a cost of \$300.00 per tree, with the public works to set the location of the trees to maximize shade. On roll call: Alderman Jenkins – aye, Alderman Actis – aye, Alderman Konsoer – aye, Alderman Grimm – aye, Alderman Bonine – aye, Alderman Austin – aye. MOTION CARRIED.

Mayor Hall re-appointed Mary Bender to the Zoning Board of Appeals with term to expire July 23, 2022.

Alderman Jenkins made a motion, seconded by Alderman Actis to consent to the appointment by the mayor of Mary Bender to the Zoning Board of Appeals with term to expire July 23, 2022. 5 ayes, 1 nay. MOTION CARRIED.

EXECUTIVE SESSION

At 7:50 p.m., Alderman Jenkins made a motion, seconded by Alderman Austin to enter Executive session for the discussion of minutes of meeting lawfully closed, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. (exception to the Open Meetings Act 5ILCS 120/2(c)(21)). On roll call: Alderman Actis – aye, Alderman Austin – aye, Alderman Konsoer – aye, Alderman Grimm – aye, Alderman Jenkins – aye, Alderman Bonine – aye. MOTION CARRIED.

At 7:55 p.m., Earlville City Council returned to Open Session. Upon roll call the following members were present: Alderman Mark Actis, Alderman Robin Austin, Alderman Bonine, Alderman Walter Grimm, Alderman Chuck Jenkins, and Alderman Michael Konsoer.

Alderman Actis made a motion, seconded by Alderman Jenkins to adopt RESOLUTION NO. 07-18-2017 (Releasing/Holding Closed Session Minutes). On roll call: Alderman Jenkins – aye, Alderman Konsoer – aye, Alderman Austin – aye, Alderman Grimm – aye, Alderman Bonine – aye, Alderman Actis – aye. MOTION CARRIED.

At 7:58 p.m., Alderman Austin made a motion, seconded by Alderman Actis, to enter into Executive Session for the discussion of Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. (exception to the Open Meetings Act 5ILCS 120/2(c)(11)) On roll call: Alderman Jenkins – aye, Alderman Actis – aye, Alderman Austin – aye, Alderman Konsoer – aye, Alderman Grimm – aye, Alderman Bonine – aye. MOTION CARRIED.

At 8:02 p.m., Earlville City Council returned to Open Session. Upon roll call the following members were present: Alderman Mark Actis, Alderman Robin Austin, Alderman Walter Grimm, Alderman Chuck Jenkins, and Alderman Michael Konsoer. Absent: Alderman Ken Bonine.

Alderman Actis made a motion, seconded by Alderman Austin to engage the services of Ancel Glink as legal counsel for representation in LaSalle County Case No. 2017MR235. Discussion followed. Alderman Konsoer stated since the motion is to ask the City to retain this company you have to understand two things. First this action is not against the City, it is

against three officials of the City and those officials made certain decisions and now you expect the tax payers to open up their wallets and pay to insulate themselves from the consequences of those decisions. The second point is if there is a vote on this motion, the mayor must recuse himself because there is a clear conflict of interest. If the motion fails the mayor could experience personal financial impact, if the motion passes he would have direct personal financial benefit. So because of that conflict the mayor has to recuse himself from voting.

Attorney Anderson responded: First of all they were sued, not as individuals, but within their capacity as office holders of the City and the City owes them a duty of representation, first and foremost. Second of all, as much as they have a conflict of interest, you three as plaintiffs in this litigation have conflicts. So if you were to vote on this, using your theory, you too would have a conflict of interest, given the fact. Second of all as far as individual, community and things of that nature, there hasn't been any of that because they too have not been named as individuals but in their capacity as officers and office holders of this municipality so I would respectfully disagree. The City would owe them a defense based upon the fact they have been named as the Mayor of the City of Earlville, the Deputy Clerk of the City of Earlville and the City Clerk of Earlville, that's how they were named, not Mike Hall, Martha Dankenbring and not Jane Bauer.

Alderman Konsoer stated that the plaintiffs in this case, whether this fails or passes, it will have no financial impact on the plaintiffs, so therefore I don't agree there is a conflict of interest. The Mayor, however, has a direct financial interest. Attorney Anderson asked how so? Alderman Konsoer responded that if the citizens didn't pay to represent the Mayor he would have to pay to represent himself. Attorney Anderson stated that is not true at all, he is not being sued, the Mayor of the City of Earlville is being sued, you are suing the capacity, the office that is what it says. And you (the plaintiffs) are suing both as individuals and aldermen, so I do not know how you can say he has a conflict and you don't.

On roll call: Alderman Austin – aye, Alderman Jenkins – aye, Alderman Grimm – nay, Alderman Actis – aye, Alderman Bonine – nay, Alderman Konsoer – nay, Mayor Hall – aye. 4 aye, 3 nay. MOTION CARRIED.

ADJOURN

At 8:09 p.m. Alderman Jenkins made a motion, seconded by Alderman Actis, to adjourn the meeting. All in favor by voice vote. MOTION CARRIED.

Martha E. Dankenbring

Martha E. Dankenbring
Deputy Clerk