

**MARENGO CITY COUNCIL
REGULAR MEETING MINUTES
Marengo Council Chambers
132 E. Prairie St.
Marengo, IL 60152
December 14, 2009**

CALL TO ORDER

Mayor Donald Lockhart called the December 14, 2009 regular meeting of the Marengo City Council to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

Mayor Lockhart led everyone present in the Pledge of Allegiance.

ROLL CALL

Present for this meeting were Mayor Donald Lockhart, Aldermen: Carole Bartman, Corey Brackmann, Michael Smith, Eric DeBoer, Pat Signore, Todd Hall, and Steve DiMaria. Also present were: City Administrator Deborah Nier, City Attorney Carlos Arevalo, Chief of Police Martin Podosek, Superintendent of Public Works Jim Craney, Building Commissioner Jayson Shull, Assistant to the City Administrator Joshua Blakemore and City Engineer David Johanson. Absent this evening was Alderman Mike Secor.

PUBLIC HEARING. 2009 TAX LEVY

Mayor Lockhart opened the public hearing at 7:02 pm. Deborah Nier explained how the tax levy was determined. The tax levy for 2009 increased by 20%, to a total of 32% for a total of \$1,817,959. This allows the City to capture all of the new growth that has occurred in the City of Marengo over the past year. The City does not establish the tax rate – the City makes a request of funds to cover what would be needed. The County then establishes the tax rate – which is then capped out at 5%. There were no public statements made. Alderman Pat Signore made a motion to close the public hearing, seconded by Alderman Steve DiMaria. The motion passed with an aye vote by Aldermen: Signore, DiMaria, Hall, Smith, Bartman, DeBoer and Brackmann. The public hearing closed at 7:06 pm.

PUBLIC PARTICIPATION

None.

APPROVAL OF MINUTES

The minutes were reviewed, and it was noted that page 2 – paragraph 5 – needed to be corrected to read “City Council.” Alderman Michael Smith made a motion, seconded by Alderman Eric DeBoer, to approve the minutes as corrected. The motion passed with an aye vote by Aldermen: Brackmann, DiMaria, DeBoer, Hall, Bartman, Smith and Signore.

CONSENT AGENDA

- a. List of bills
- b. Ordinance Establishing City Council Meeting Dates for 2010
- c. Appointment of Freedom of Information Act Officers

Alderman Steve DiMaria made a motion, seconded by Alderman Todd Hall, to approve the consent agenda items. The motion passed with an aye vote by Aldermen: Bartman, Smith, Brackmann, DiMaria, DeBoer, Signore and Hall.

NEW BUSINESS

An Ordinance Increasing the Number of Class G Liquor Licenses

Mayor Lockhart explained that this is a request by the Shell Gas Station, which is under new ownership. There are currently 3 Class G licenses (package store) in the City of Marengo. Alderman DiMaria asked how the City determines how many of any type of liquor licenses are issued. Attorney Arevalo explained that the number is determined by the City Council, at their discretion. These types of licenses are non transferable. The Liquor Commissioner reviews all the licenses on an annual basis.

Alderman Pat Signore made a motion, seconded by Alderman Steve DiMaria, to approve the Ordinance change, increasing the number of Class G Liquor Licenses to 4. The motion passed with an aye vote by Aldermen, Signore, Hall, Brackmann, DiMaria, Bartman, DeBoer and Smith.

Deerpass Meadows Letter of Credit Reduction

David Johanson updated the Council with current figures for Deerpass Meadows. The new amount would be \$196,847.81.

Alderman Carole Bartman made a motion, seconded by Alderman Eric DeBoer, to approve the request by Deerpass Meadows on their Letter of Credit to a new amount of \$196,847.81. The motion passed with an aye vote by Aldermen: Smith, Brackmann, DiMaria, Bartman, Hall and DeBoer. Alderman Pat Signore voted no on this motion.

Economic Development Commission Update

Dane Checolinski, representative from the EDC, updated the Council on progress that they have made. Their main focus lately has been marketing. Mr. Checolinski has put together the packet of materials, copies of which had been handed out at the last Council meeting. Dane hopes to be working with a hotel developer on a tourism push shortly.

Alderman Signore questioned Dane on the indemnity clause, and the possibility that it is creating an issue with some of the applicants. Dane advised that there was a problem that came about after Karsten's legal counsel reviewed the incentive, and had not agreed to the contract. Attorney Arevalo stated that Karsten's are not willing to sign the contract as long as it contained an indemnity agreement of any kind. He asked them to submit a counter proposal to the City, but their response back was that they were not willing to sign any agreement if it contained an indemnity clause of any type. Alderman Signore then asked if the same applied to the possible agreement with Swedish American, and Attorney Arevalo said yes, but that Swedish American was proposing a little different

language as their contract has to do with them leasing the property and not owning it. Their liability would be different.

Alderman Bartman asked for the terminology that existed in the Karsten agreement. Attorney Arevalo – “if there is any litigation stemming from the agreement against the taxing body, that Karsten’s would step in ---“

Attorney Arevalo advised that if a change were proposed with the indemnity clause on the incentive agreement, then the change would have to be approved by all the taxing bodies that had signed the initial agreements. It would not just affect the City of Marengo, but everyone involved.

Alderman Signore asked Dane to keep the Council updated on pending applications. This information can be transmitted to the Aldermen by email. The usual process involves the applicant receiving a blank copy of the incentive agreement to look over, and once they complete the full application, then the complete packet is given to the applicant for their review. Mayor Lockhart suggested that the entire packet be given to applicants to review at the time they initially come to the EDC.

Alderman Bartman suggested that the EDC send a letter to Karsten’s to see if their attorney would get in touch with the City’s attorney to come up with language that would be agreeable to everyone. Dane advised that a letter had been sent this past month.

Dane added that the EDC has met with all of the local banks and financial institutions and have let them know who they are and what they are doing. They feel that this meeting was very beneficial to everyone. They will be meeting in the near future with local realtors to do the same.

Road Ranger Subdivision and Execution of First Amendment to Agreement

Attorney Arevalo reviewed what the previous agreement was with Road Ranger on the property at Route 20 and George Street. Original agreement was to have the “pork chop” divider removed, and allow traffic to make a left turn onto Route 20 from George Street. That has been done. Further improvements were postponed until development of the mixed-use commercial facility that is next door, known as lot 2. Road Ranger is proposing to subdivide the property and shift 75% of the responsibility for the remainder of the improvements required by IDOT onto Lot 2, keeping 25% of the responsibility with Lot 1. All improvements would be completed when Lot 2 is sold, or is fully developed. The total cost for the improvements would be \$320,000. Lot 2 currently has a 2-unit dwelling on it, but has been zoned commercial. The other option that would require the improvements to be made is if the property to the south of George Street were to be developed, the improvements would have to be made at that time – and the development would then be responsible for the improvements. If the second option were to occur, they could request the City to supply them with a recapture agreement to recover a portion of those funds from Road Ranger and Lot 2 (if it is sub-divided).

Ryan Chapman, 12003 Vireo Vale, Roscoe, Illinois is the attorney for Road Ranger and answered questions on the percentage being applied to each lot. The items that need to be completed are the widening of Route 20, and storm sewer improvements.

Attorney Arevalo is recommending that we handle the request of Road Ranger in 2 separate motions. The first would be to allow Road Ranger to split the parcel into 2 lots. The second would be to authorize the Mayor to execute the first amendment to the original agreement.

Alderman Pat Signore made a motion, seconded by Alderman Michael Smith, to approve the proposed subdividing of the property into Lot 1 and Lot 2. The motion passed with an aye vote by Aldermen: Hall, DeBoer, DiMaria, Smith, Brackmann, Signore and Bartman.

Attorney Chapman clarified for the council that if and when Lot 2 was sold, all of this information (on the percentage of responsibility) would be disclosed at the beginning of the process. The possible new owner would know up front about the amended agreement and their obligations.

Alderman Corey Brackmann made a motion, seconded by Alderman Todd Hall, authorizing the Mayor to execute the first amendment to the original agreement. (i.e. dividing the responsibility for the required improvements to be 25% for Lot 1 and 75% for lot 2)

The motion failed with Aldermen DeBoer, Brackmann and Hall voting yes. Aldermen DiMaria, Signore, Bartman and Smith voted no.

Attorney Arevalo advised the Council that with the outcome of the motions, Road Ranger could potentially approach IDOT with the approval of the subdivision of Lot 1 and Lot 2, and make improvements to Lot 2 without any agreement on Lot 2. This means that Lot 2 has no responsibility for making the IDOT improvements. Full responsibility would be on Lot 1.

Further discussion followed on the percentage proposed, and Alderman Pat Signore made a motion, seconded by Alderman Michael Smith, to reconsider the decision that was made to deny granting authority to the Mayor to execute the first amendment to the agreement. The motion passed with an aye vote by Aldermen: DeBoer, DiMaria, Brackmann, Smith, Signore and Hall. Alderman Bartman voted no on this motion.

Alderman Pat Signore made a motion, seconded by Alderman Eric DeBoer, to authorize the Mayor to execute the first amendment to the original agreement. The motion passed with an aye vote by Aldermen: DeBoer, Hall, Smith, Brackmann, DiMaria and Signore. Alderman Bartman voted no on this motion.

2009/2010 Annual Tax Levy Ordinance

Alderman Steve DiMaria made a motion, seconded by Alderman Eric DeBoer, to adopt the 2009/2010 Tax Levy Ordinance for the City of Marengo for the 2009/2010 fiscal year. The motion passed with an aye vote by Aldermen: Smith, Bartman, Hall, Brackmann, DiMaria, DeBoer and Signore.

Debt Service Tax Abatement Ordinance

Alderman Todd Hall made a motion, seconded by Alderman Carole Bartman, to adopt the ordinance abating the tax levy for the year 2009 to pay principal and interest upon the \$3,075,000 general obligation refunding bonds alternative revenue source series 2003 and the \$2,740,000 general obligation refunding bonds alternative revenue source for the year 2005 for the City of Marengo, McHenry County, Illinois. The motion passed with an aye vote by Aldermen: Hall, DiMaria, Smith, Signore, Bartman, DeBoer and Brackmann.

Ordinance Abating Certain Municipal Property Taxes

Alderman Carole Bartman requested that dates be corrected on this documentation to show the correct year on page 2 to 2009 (not 2008) and on the certification to be 2009 (not 2008). Alderman Michael Smith made a motion, seconded by Alderman Steve DiMaria, to adopt an Ordinance Authorizing the Abatement of 2009 City of Marengo Taxes on Certain Property Annexed to the City of Marengo pursuant to 35 ILCS 200/18-184, with the dates corrected accordingly. The motion passed with an aye vote by Aldermen: Brackmann, Smith, Bartman, DiMaria, Hall and DeBoer. Alderman Signore abstained on this motion.

Special Service Area #2 Tax Levy Ordinance

Attorney Arevalo presented information on the SSA #2 tax levy possibility involving Parkrise Subdivision Unit 5 (i.e. the homes on Johnson and Kennedy). This SSA does not involve the trailer/modular home park that is in that area. The total amount that could be imposed on the SSA at this time is \$6,953.08 – or an average of \$142 per parcel. The SSA would involve maintenance, landscape and repair of the storm-water retention pond.

Alderman Steve DiMaria provided the Council with costs to just do the landscaping necessary to clean up the retention pond. Those costs are around \$37,000. These do not include the cost to aerate the pond, which would then help to alleviate the algae issues as well as the mosquito problem. Steve would like to table this tax levy at this time, and to ask Jim Craney to look into the costs of installing an aeration system into the pond, and then possibly bond for the cost of the aeration system and clean up of the pond. We could then levy taxes for however many years it would take to pay the bond back.

Alderman Steve DiMaria made a motion, seconded by Alderman Carole Bartman, to table this ordinance at this time, pending further information on solving the problem. The motion passed with an aye by Aldermen: Hall, Signore, DeBoer, Brackmann, Smith, Bartman and DiMaria.

OLD BUSINESS

An Ordinance Amending Chapter 24 of the Marengo Municipal Code to Include the 2009 International Energy Conservation Code for all Commercial Projects Requiring a Permit

Alderman Michael Smith made a motion, seconded by Alderman Steve DiMaria, to approve the amendment to Chapter 24 of the Marengo Municipal Code as presented. The motion passed with an aye vote by Aldermen: Bartman, DeBoer, Brackmann, Hall, Smith, and DiMaria. Alderman Signore voted no on this motion.

MAYOR'S STATEMENTS AND REPORTS

No report.

DEPARTMENT HEAD AND STAFF REPORTS

Assistant to the City Administrator, Joshua Blakemore

The City owned property at 188 8th Avenue is losing their renters. They are terminating their lease due to the current financial situation that exists. The property is owned by the City to allow for future expansion of the Waste Water Treatment Plant. It is a source of income for the City in the meantime. Update on the website: four (4) finalists were interviewed by Josh and Anna. He asked what the Council would like to review before they make their presentation to the Council. It was suggested that they provide the Council with a list of sites that they have done.

Chief of Police, Martin Podosek

Report was in packet, nothing further to add.

City Engineer, David Johanson

The bids (6 submitted) were opened today for the Ann Street, Washington Street, Prairie Street, road project, and the apparent low bidder was Plote Construction, for \$603,000. This amount is below the engineers estimate. The range of bids was from \$603,000 to \$716,000. The formal recommendation will be brought to the Council at the next regular meeting. At this time, the projected total "out of pocket" expenses for the City is \$45,000.

City Administrator, Deborah Nier

No report this evening.

City Attorney, Carlos Arevalo

No report this evening.

EXECUTIVE SESSION

The meeting took a recess for the purpose of Collective Bargaining and Pending Litigation. Alderman Michael Smith made a motion, seconded by Alderman Todd Hall, to go to Executive Session. The motion passed with an aye vote by Aldermen: Smith, Signore, DiMaria, Hall, Bartman, Brackmann and DeBoer.

The meeting recessed at 9:12 PM

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The Regular Session of the Marengo City Council, reconvened at 10:01 p.m.

There being no further business to come before the City Council this evening, a motion was made by Alderman Michael Smith, seconded by Alderman Pat Signore, to adjourn. The motion passed with a voice vote. The meeting adjourned at 10:02 PM.

Respectfully submitted,

Constance J. Boxleitner  
City Clerk