

**Note: Due to COVID-19 issues, City Hall will not be open to the public. Remote participation is being implemented using Zoom meeting software. Necessary login information is provided below the agenda. To participate via video, it is necessary to download the ZOOM app. It is not necessary to have the app to call in and participate without video.**

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**CITY OF SALEM  
6:00 PM REGULAR CITY COUNCIL MEETING  
May 4, 2020 – 6:00 PM**

- I. Call to Order**
- II. Prayer and Pledge of Allegiance**
- III. Presentation of Petitions/Public Comments**
- IV. Mayor’s Report and Presentations**
  
- V. City Council Action**
  - 1. Consent Agenda
    - a. City Council Minutes – 4/20/2020
  
  - 2. First reading – Ordinance against the feeding of wildlife within the City Limits
  - 3. Bid Award – Oil and Chip
  - 4. 4. DOEM – Emergency Signal Repair
  
- VI. City Manager Report**
- VII. City Attorney Report**
- VIII. Finance Director Report**
- IX. City Council Members Report**
- X. Executive Session**
  - 1. 5 ILCS 120/2(c)(1) - Personnel
  
- XI. Motion to Adjourn**  
  
Rex A. Barbee  
City Manager  
*RAB*

Quote of the day –  
Concentrate all your thoughts upon the work at hand. The sun’s rays to not burn until brought to a focus.  
Alexander Graham Bell

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**MINUTES  
REGULAR CITY COUNCIL MEETING  
MONDAY, MAY 4, 2020 – 6:00 PM  
(Held remotely using Zoom meeting software)**

- I. CALL TO ORDER**

The regular May 4, 2020 meeting of the City Council was convened at 6:00 pm via video conferencing, and was called to order by Mayor Sue Morgan.

**Council members present via Zoom:**  
Councilman Jim Koehler  
Councilman Nic Farley  
Councilman Craig Morton  
Councilman Jacob Hockett  
Mayor Sue Morgan

**Council members absent:** None.

**Others present:**

City Manager Rex Barbee

Public Works Director John Pruden

Economic Dev. Director Tabitha Meador

Asst. Public Works Dir. Annette Brushwitz

Brock Waggoner

Members of the Media and Public

City Clerk Bev Quinn

Chief of Police Sean Reynolds

Finance Director Keli Barrow

Chamber Director Jessickya Coleman Nix

DOEM Director Terry Mulvany

**II. PRAYER AND PLEDGE OF ALLEGIANCE**

Opening prayer was offered by Councilman Koehler, followed by the Pledge of Allegiance.

**III. PRESENTATION OF PETITIONS/PUBLIC COMMENTS**

Brock Waggoner indicated he had submitted a letter to Mayor Morgan regarding the Governor's Stay at Home Order. Mayor Morgan indicated it had been her intention to read his letter into the minutes, as it was not clear that he wanted this to be an agenda item. Mayor Morgan apologized for the misunderstanding. Mr. Waggoner went through his letter, which is shown in its entirety below:

Salem City Council,

Yesterday on the 27th of April in Clay County Rep. Darrin Bailey won his lawsuit against the governor of the State of Illinois. This lawsuit was in regard to the Governor's actions that the stay at home order beyond the original 30 days is impeding his Civil Rights and goes against the current pandemic plan from the Illinois Dept. of Health.

([http://www.idph.state.il.us/pandemic\\_flu/Illinois\\_Pandemic\\_Flu\\_Plan.pdf](http://www.idph.state.il.us/pandemic_flu/Illinois_Pandemic_Flu_Plan.pdf))

Rep. Bailey won his lawsuit against the governor and as a citizen of Salem I am addressing the City of Council to be proactive. Allow for business to open, people to get back to work, allow parks to open, etc. Though I am not an attorney my understanding is that as a jurist this case would now be a part of the case law cited for any case brought against the City for restoration of Civil Rights. Continuing to support this illegal order would now open the City for redress/monetary award whereas following the Constitution would keep in place the immunity that the city enjoys from lawsuits of this sort.

When the city decides to end any enforcement of the governor's illegal order. We will be stating support of the Constitutional rights guaranteed in the 1<sup>st</sup> amendment. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

I've underlined the relevant portions of this amendment and will discuss why they protect us from this illegal order.

- With the current order we are being limited in our freedom to exercise our religion. Though many pastors are now broadcasting online by not allowing the Church's to conduct services how they see fit impedes upon this right as guaranteed by the federal constitution.
- Our freedom of speech is being suppressed due to us not being able to speak at city council meetings, gather in protest without potential fines and imprisonment, etc.
- Freedom to peaceably assemble is continuing to be impeded in our schools providing instruction.
  - My own child attends Little Lamb Preschool and I pay out of my pocket and his ability to gather with his friends there is impeded.
  - Children are not attending schools and receiving the instruction that my tax dollars pay for. As we can "instruct" these students this way now tells me that we should be restructuring how we do education. Otherwise we should petition to open these institutions of learning.
  - I cannot gather at a restaurant with friends to gather for a nice dinner out.
  - Citizens not able to gather at a church without fear of being shut down.
  - My children are not able to gather at the library to enjoy the programs that again my tax dollars pay for.

*(Letter continues on next page)*

- As stated in a report from WJBD, “the pool will be opened unless the state shuts it down.” This would not be an issue because the pool is a place of gathering that is a major part of many children’s social activities during the summer.
- I am writing to start the process of redress and Rep. Bailey used the courts to do such. As we have case law now established supporting opening up our City and State we should do such. If not redress in the future could include the following.
  - Citizens asking for rebates on our already high taxes for services not rendered but paid for when these taxes are not adjusted to account for this loss of service. If asking does not work, it would be easy to see a mass change in the elected council to address this in future elections.
  - The city of Salem opens itself to lawsuits from business to seek financial redress from the city for continuing to enforce this unconstitutional order. I would think that because our city is enforcing an unconstitutional order that effects each citizen civil liberties. Business owners would have a good case to seek financial redress.

Ultimately business will adjust to accommodate any issues that come from the concerns over this pandemic and I trust people to make their own choices for their personal health. I hope that the city council has this same faith in its constituents.

Brock Waggoner

505 Cottonwood Dr.

Salem, IL. 62881

Mr. Waggoner also presented the following:





# Quick Background on Petition

Powers of the Governor under the EXECUTIVE BRANCH (20 ILCS 3305/) Illinois Emergency Management Agency Act. (20 ILCS 3305/7) (from Ch. 127, par. 1057)

Sec. 7. Emergency Powers of the Governor. In the event of a disaster, as defined in Section 4, the Governor may, by proclamation declare that a disaster exists. Upon such proclamation, the Governor shall have and may exercise for a period not to exceed 30 days the following emergency powers; provided, however, that the lapse of the emergency powers shall not, as regards any act or acts occurring or committed within the 30-day period, deprive any person, firm, corporation, political subdivision, or body politic of any right or rights to compensation or reimbursement which he, she, it, or they may have under the provisions of this Act:



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## Cause for Petition

- The first stay at home order was issued on 20 March and instituted @ 5pm on 21 March 2020.
  - 30 Days ended 20 April 2020.
  - 4 May is 14 days past the governor's lawful power.
  - 30 May is 40 days past the governor's lawful power.
- Continuing enforcement for pandemic response falls to the local health department.
  - Included as an attachment with my letter I included the pandemic plan for easy review.
  - Their pandemic plan guarantees protection of civil liberties.
  - By continuing to allow “enforcement” of the governor's unlawful order you are depriving businesses and citizens of their civil liberties.
- Marion County has an estimated population of 37,205 by the Census on 1 July 2019.
  - Reported cases of Covid in Marion County is 35 or ~0.0009% of the population.

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## Cause for Petition

- Illinois pandemic plan has the following projections for what constitutes a pandemic.

Potential Pandemic Influenza Deaths and Hospitalizations in Illinois from a Pandemic Flu (Assuming a 15% – 35% attack rate)*			
Projected Dead	Projected Hospitalized	Projected Outpatient	Projected Cases
4,000 to 9,000	12,000 to 38,000	750,000 to 2 million	2 million to 4.5 million

\*Estimates are based on CDC national projections

- Current numbers for Illinois

Tests Performed	Positive (confirmed)	Covid Deaths (IL Reported)	Covid Deaths (CDC) 1 <sup>st</sup> May	Pneumonia Deaths (CDC) 1 <sup>st</sup> May
319,313	61,499	2,618	1,296	2,724

\*data taken from <https://www.dph.illinois.gov/covid19/covid19-statistics> and <https://www.cdc.gov/nchs/nvss/vsrr/covid19/index.htm> accessed on 03 May 2020

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# Businesses and Lives will be ruined.

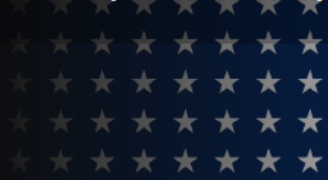
- **Businesses have to pay rent, taxes, etc. whether they are operating or not.**
  - Are you going to reduce property, sales, and other taxes to compensate?
  - Continuation of unlawful enforcement also eliminates immunity from lawsuits.
  - Loss of business in Salem will lead to a depression in building values and increase empty buildings leading to blight.



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## Lastly the Governor and Chicago Mayor's Hypocrisy

- **The governor's wife is not sheltering in place but decided to leave the state on non-essential travel to travel to their Florida home.**
  - Florida is opening for Business. Maybe she wanted to enjoy the freedoms of not being in lockdown.
- **Mayor Lightfoot recently got a haircut in defiance of the governor and her orders against non-essential business.**
  - Her excuse was that she needed a good haircut to for appearing in front of camera's. (I don't know about you, but I sure need a haircut myself to look presentable for my videoconference meetings.)



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Mr. Waggoner indicated that there is overreaction to the pandemic, and he is asking that City Council take action tonight that they are "taking a stand and will not enforce the Governor's mandates".

Councilman Farley responded that Council has no authority to do this, and that Rep. Bailey has requested that the decision on his petition be vacated. Farley added that this has not been settled in court. Mayor Morgan thanked Mr. Waggoner for his presentation, and added no action will be taken tonight. Mr. Waggoner responded that a delay means two more weeks that businesses will be forced to be closed. Mayor Morgan thanked Mr. Waggoner again, and added there will be no action taken during tonight's meeting.

#### IV. MAYOR'S REPORT AND PRESENTATIONS

Mayor Morgan congratulated Councilman Farley on the accolade he received from Kaskaskia College regarding his efforts to help students.

#### V. COUNCIL ACTION

##### 1. Consent Agenda

###### a. City Council Minutes –4/20/20

*Motion was made by Councilman Koehler and seconded by Councilman Farley to approve the minutes of 4/20/2020 as presented. Roll call vote: AYES: Councilman Farley, Councilman Morton, Councilman Hockett, Councilman Koehler, Mayor Morgan. NAYS: None. Motion carried.*

##### 2. First Reading – Ordinance against the feeding of wildlife within the City Limits

City Manager Barbee indicated the City has received complaints about residents feeding deer, which is drawing nuisance animals into their neighborhoods. Barbee added that feeding deer is

against State law, and this ordinance will just enable the City to enforce it better. City Manager Barbee added that this is a first reading, and because the meeting is being held via Zoom, he wants to provide the community the opportunity to express their opinions before final action is taken. Discussion ensued regarding what the fine would be. City Clerk Quinn indicated she would put the regular nuisance fine language into the ordinance before it comes back for a second reading.

### 3. Bid Award – Oil and Chip

Public Works Director John Pruden indicated this is the annual bid for oil and chip for the MFT program. The low bids received were:

**Seal Coat:** Mike A. Maedge Trucking, Inc., Highland, IL - \$422.00/ton - \$97,060.00

**Pea Gravel:** Charles H. Carter & Son, Inc., Fairfield, IL - \$13.70/ton - \$27,400.00

Mr. Pruden indicated these are budgeted items and he recommends approval of the low bids as presented. ***Motion was made by Councilman Farley and seconded by Councilman Koehler to approve the bid awards to the low bidders, as outlined above. Roll call vote: AYES: Councilman Morton, Councilman Hockett, Councilman Koehler, Councilman Farley, Mayor Morgan. NAYS: None. Motion carried.***

### 4. DOEM – Emergency Signal Repair

DOEM Director Terry Mulvany indicated the emergency signal on E. Lake St. needs to be replaced, as it is very old. The top was put on in 1982, and the lower section was replaced after the April 19, 1996 tornado, through a federal grant. The signal east of East Lawn Cemetery is the one needing repairs. The sirens behind Taco Bell, at the tennis courts, and the Fire Department are all working. City Manager Barbee indicated tonight's discussion is primarily regarding repairs to the signal by the cemetery, which were estimated at \$14,129.32. Replacement of the emergency signal at the fairgrounds would cost \$31,000, and DOEM is looking for grant funds to help with that. Barbee added that the \$14,129.32 repair is unbudgeted.

Councilman Farley asked how long it would take to have the signal repaired, once approved. City Manager Barbee indicated 10-12 weeks. Farley indicated he is cautious on making any large expenditures, as we don't know how our budget will be affected by COVID-19. Councilman Morton asked how long this signal has been out of order. Mr. Mulvany responded that it has had problems off and on for several years. Morton asked what the County is doing. Mulvany responded that they are doing much like the City, repairing or replacing what they can, when they can. Councilman Koehler asked if the sirens are really necessary, with everyone having cell phones. Mr. Mulvany responded that the sirens are outdoor warning devices that are intended to let people who are outdoors know they need to go indoors. Mulvany added that we do have the Nixle program, which notifies thousands of people by cell phone in an emergency. Mulvany added that there are still people who depend on the outdoor warning signals. Councilman Morton asked if having outdoor warning signals is a law. Mulvany responded that it is a courtesy. Councilman Hockett questioned if it is feasible to throw money at old technology. Mayor Morgan asked how many of the other signals need repairs. Councilman Koehler asked if there is more modern technology the City should be looking at. Councilman Farley indicated the repair proposal before us is good for 90 days, and suggested this item be tabled until sometime in the future. Council agreed by consensus. City Manager Barbee indicated he would work with Mr. Mulvany and provide more information before this is brought back.

## VI. CITY MANAGER REPORT

City Manager Barbee indicated the following:

- Kudos to Nic Farley, for his recognition by Kaskaskia College for helping a student.
- The YMCA/Rec Department has had to deal with a lot of cancellations and postponements, with Family Day being the most recent. Barbee added that they are hoping it can be rescheduled. Councilman Farley suggested it could become part of the July 4<sup>th</sup> celebration. Councilman Koehler added that he really hopes this will be rescheduled.
- The Gas Department recently did a high pressure check of the gas line, and the boiler at City Hall had an issue. Barbee added that at some point, we are going to have to update and replace the boiler system to a forced air heating system. Councilman Koehler responded that that needs to be done before the boiler blows.

## VII. CITY ATTORNEY REPORT - (Not present.)

## VIII. FINANCE DIRECTOR REPORT

Finance Director Barrow indicated she will be closing the month and year-end soon, and she will distribute those reports as soon as she can.

## IX. CITY COUNCIL REPORT

**Councilman Koehler** reiterated that he does want to see Family Day in the Park rescheduled. Koehler also indicated that JK Trotter is doing a good job on Whittaker Street.

**XII. EXECUTIVE SESSION**

1. 5 ILCS 120/2(c)(1) - Personnel

***Motion was made by Councilman Farley and seconded by Councilman Hockett at 6:45 pm to enter into Executive Session for the purpose of discussing Personnel. Roll call vote: AYES: Councilman Koehler, Councilman Farley, Councilman Morton, Councilman Hockett, Mayor Morgan. NAYS; None. Motion carried.***

*(Councilman Farley moved the Mayor, Council, City Manager, City Clerk, and Chief of Police into a breakout session.)*

Return to open session at 7:45 pm.

**XII. ADJOURNMENT**

***As there was no further business to discuss, motion was made by Councilman Morton and seconded by Councilman Hockett to adjourn the meeting at 7:45 pm. Roll call vote: AYES: Councilman Hockett, Councilman Koehler, Councilman Farley, Councilman Morton, Mayor Morgan. NAYS: None. Motion carried.***

*Bev Quinn, CMC  
City Clerk*

Approved: \_\_\_\_\_