

AGENDA
CITY OF SALEM
6:00 PM REGULAR CITY COUNCIL MEETING
JUNE 3, 2019

- 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 - 05/20/19
 - 2. Presentation by Marion County Health Dept of Smoke-Free Parks and Recreational Facility Policy
 - 3. Approval of Resolution Directing Consideration of Amendment to Zoning Code to Allow Commercial/Large Scale Solar Projects in the Non-Urban Zone
 - 4. Approval of Bid and Purchases for FY20 Gas System Improvement Program
 - 5. Approval of Purchase and Installation of Water Plant Chlorine Room Improvements
 - 6. Approval of Amendments to Solicitor Ordinance (Fees & No-Soliciting Registry)
 - 7. Approval of Fireworks Purchase
- VI. City Manager Report
- VII. City Attorney Report
- VIII. Finance Director Report
- IX. City Council Report
- X. Adjournment

Bill Gruen, City Manager

MINUTES
CITY OF SALEM
JUNE 3, 2019

I. CALL TO ORDER

The regular June 3, 2019 meeting of the City Council was convened at 6:00 pm, and called to order by Mayor Rex Barbee.

Council members present:

Councilman Jim Koehler
Councilman Nic Farley
Councilman Craig Morton
Councilwoman Sue Morgan
Mayor Rex Barbee

Council members absent:

None.

Others present:

| | |
|-------------------------------------|---|
| City Manager Bill Gruen | City Clerk Bev Quinn |
| City Attorney Mike Jones | Chief of Police Sean Reynolds |
| Public Works Director John Pruden | Finance Director Keli Barrow |
| Deputy Chief of Police Susan Miller | Assistant Public Works Director Annette Brushwitz |
| Economic Dev. Dir. Jeanne Gustafson | Code Enforcement Officer Dave Lusch |
| Members of the Media and Public | |

II. PRAYER AND PLEDGE OF ALLEGIANCE

Opening prayer was offered by Councilwoman Morgan, followed by the Pledge of Allegiance.

III. PRESENTATION OF PETITIONS/PUBLIC COMMENTS – None.

IV. MAYOR'S REPORT AND PRESENTATIONS

Mayor Barbee thanked the City Council and members of the public for their condolences on the loss of his sister.

VI. CITY COUNCIL ACTION

1. Consent Agenda

- a. City Council Minutes – 05/20/19

Motion was made by Councilwoman Morgan and seconded by Councilman Farley to approve the minutes of May 20, 2019 as presented. Roll call vote: AYES: Councilman Farley, Councilman Morton, Councilwoman Morgan, Councilman Koehler, Mayor Barbee. NAYS: None. Motion carried.

2. Presentation by Marion County Health Dept of Smoke-Free Parks and Recreational Facility Policy

Mary Williams, Health Educator for the Marion County Health Department, addressed Council to request that it adopt a smoke-free parks and recreational facility policy. Ms. Williams indicated this has been proposed before, with no action taken, but she wants to reintroduce the topic for further discussion. Williams indicated the City has a beautiful park, swim complex, dog park, walking and biking trails, and tennis courts. Ms. Williams, with the assistance of the children from Kid Care, picked up tobacco debris from Bryan Park for thirty minutes, and they collected approximately a half-gallon container of debris. Williams added that second-hand smoke is not good for anyone, and she is requesting that the proposed policy include all tobacco products, e-cigarettes and marijuana, once it becomes legal. Ms. Williams added that the program is largely self-enforcing and there are grant dollars available through the Illinois Tobacco Free Communities Grant to pay for signage.

Discussion ensued regarding the proposed policy. Consensus of the Council was that they did not want to adopt the policy as written, but would consider prohibiting smoking in some contained areas. This will be brought back for further discussion at a future meeting.

3. Approval of Resolution Directing Consideration of Amendment to Zoning Code to Allow Commercial/Large Scale Solar Projects in the Non-Urban Zone

City Manager Gruen provided the following information as part of the meeting agenda:

The City of Salem is familiar with the company, Enerparc, who is proposing two large scale solar projects to be located in and outside of Salem. The project that would be located outside of the City would be placed roughly at the southwest corner of the intersection of South College and Cross Road on two tracts of land that total 120 acres. This project has been reviewed twice by the City's Planning Commission, having been declined the second time it was heard. Some City Council members have expressed to me interest in modifying the City's Zoning Code to more expressly allow solar projects to be sited in and around Salem. On this point, I'd to offer some background and information that provides background on the matter:

- The Zoning Code amendment contemplated would make large scale solar a permitted use in the Non-Urban Zone. The Non-Urban Zone is located just about everywhere outside of Salem's corporate limits. Salem's Zoning authority stretches out 1.5 miles beyond our corporate limits as provided by Illinois law found in 65 ILCS 5/11-13-1, cited in appropriate part below. In summary, Marion County has not adopted its own zoning code, and as such, Salem's Code governs out to 1.5 miles. A major reason for this makes sense, in that municipalities are capable of growing and expanding outward. Unincorporated developments within this 1.5 mile range would be able to seamlessly fold into a municipality as it grows outward. It is not at all unusual for Salem to enforce its Zoning Code beyond the corporate limits, as it happens relatively often.
- Although the Planning Commission has reviewed the solar project located at College and Cross, it has done so pursuant to a Code that has been adopted by the City Council. The City Council is given the power to "pass all ordinances needed for the welfare of the city" (Sec 2-35). Furthermore, the City Council is the only body that can make amendments to the Zoning Code, through a process explained in further detail immediately below (Sec 23-7).
- The process to potentially amend the Zoning Code, at least in this case, would begin with the City Council adopting a resolution seeking to amend the Code in the manner prescribed. If this is approved, the proposed change would eventually be granted a public hearing with the Planning Commission, after which time, it would submit an advisory report back to the City Council allowing it to take action on the proposed amendment. Notice of the Planning Commission's hearing would have to be published in newspaper, and many, many property owners within the prescribed distance of Non-Urban zones will all have to be notified by mail of the proposed change.
- **The Salem Zoning Code already allows for solar panels of various sizes and generation potentials to be located on real estate within the City's zoning authority, and in every zone, under certain conditions.** Some examples:

Accessory vs Principal Uses → A key concept to understand is municipal zoning codes (at least in Illinois) as a general rule of thumb create zones and provide for lists of uses of permitted, *principal* uses in those zones. For example, a single family home is a permitted, principal use in Salem's residential zones. Although detached garages are also permitted in residential zones, they are not a permitted, *principal* use. This means a detached garage cannot be a stand-alone use of real estate in a residential zone. A detached garage is permitted as an *accessory* use, and be located in any zone so long as it is subordinate in size or purpose to a *principal*, permitted use and is useful for that permitted use (Sec 23-4 and 23-118). Other caveats are provided for accessory uses in 23-118:

Residential → Provided building and electrical codes would so allow, solar panels would be permitted as an accessory use to be installed freestanding on the ground, but their height would be limited to 15 feet and they couldn't cover more than 30% of rear yards not reserved for setbacks (23-118 [c]).

Non-Urban & Commercial → Other than maximum heights for all structures in such zones, there is no limit on height applicable to accessory uses. In a Non-Urban Zone, an accessory use could be located as close as five feet to a side property line or eight feet to a rear property line. Unlike residential zones, an accessory could cover any portion of any yard not reserved for a setback (23-118 [c]).

Industrial → Large solar projects are a permitted use in the Industrial Zone pursuant to an amendment the City Council made earlier this year. This means a stand-alone solar project could be located on a property without any other use.

- County Assessor Mark Miller reports the solar project proposed for the SE corner of Cross and College will generate almost \$65,000 annual in property tax revenue for all impacting taxing districts. The City would not receive any of this revenue due to the project being located outside of the City. Taxing districts that would benefit include Marion County, Selmaville School, Salem Fire, SCHS, Kaskaskia, Salem Airport, and Salem Township.

Greg Dye of Brandy Lane voiced his objection to the solar farm. Mr. Dye indicated his primary concerns are that he doesn't want to see the solar panels from his back yard; the adverse effect it will have on his property value; and that no one will want to buy a lot on Brandy Lane, if there is a solar farm in its backyard.

Brenda Loew of Sunburst Subdivision spoke in opposition to the solar farm, and questioned the City's right to enforce zoning in an area outside of the City limits. Loew added that the solar panels will be an eyesore, cause noise, and have an adverse effect on property values. Loew added that solar energy is necessary, but there must be better locations for these facilities than adjacent to residential properties.

City Manager Gruen responded that the City's 1 -1/2 mile zoning jurisdiction outside the City limits is by State law. As Marion County has not adopted a zoning code, without the City's zoning jurisdiction there would be NO control over what went in outside the City limits.

Councilman Morton asked if his neighbors inside the City limits could put solar panels in as an accessory use to provide electricity for their homes. City Manager Gruen responded that they can.

Mayor Barbee asked where Ms. Loew obtained her information about the noise. Ms. Loew responded that the handout provided by the petitioner indicated the noise would be about the same as a HVAC, and the larger units get pretty loud. Ms. Loew added that she feels the residents are being ignored – "if mom won't let you do it, go ask dad". Mayor Barbee responded that the City has had other projects fail based on negative comments from neighboring property owners that were based on emotion, not facts.

Rick Clark of South College St. indicated he is not against solar power, but he doesn't want to see farm land used for an industrial use. Clark added that comparing the small panels used for residential use to the proposed use isn't a good comparison. Most residential panels are on top of the home, and don't generate any noise. The commercial panels will use a large generator that won't shut off during the day, and will produce a hum all of the time they are working. Mr. Clark added that the petitioner indicated he was going to ask for tax abatements, and the project will not create any jobs, other than temporary construction jobs. Mr. Clark expressed concern regarding the runoff that will be caused, since Kell and College Streets have the worst drainage in town, with repeated flooding. Clark added that he is not convinced that there will be benefits to Salem or Marion County from this project. Clark added that the City Council let an industrial project get away based on neighbors' objections, and it was in an Industrial Park and would create jobs. The proposed project is not in an industrial zone.

Mark Miller, Supervisor of Assessments indicated he wanted to share some information regarding the benefits this project would have to the community. Mr. Miller indicated one of the largest solar farms in Illinois is in Streator, and they have experienced no negative issues since it was developed. In fact, there have been additional homes built since that time. There are three real benefits to the County:

- 1) Tax Dollars. The project will generate \$65,000 in tax dollars the first year. Taxes tend to go higher every year, and these rates are set by the State, not the assessor's office.
- 2) Funding for Taxing Bodies. Beginning the first year, Selmaville School would receive an additional \$24,000 in tax dollars and Salem Community High School would receive an additional \$16,000. The City of Salem would not receive any additional dollars, but the Salem Fire Department would receive \$5,000 and Salem Township would receive additional dollars for roads.
- 3) Salem Solar Energy, LLC would be one of the top 10 tax payers for Selmaville School and SCHS.

Mr. Miller added that there has been zero evidence of property values decreasing, and there have been no noise or odor issues. The current owner could sell his land at any time and it could be developed as a subdivision, which would remove it from farm use. Miller added that Solar Farms are here to stay, and we need renewable energy sources. This is a chance for Salem to be at the forefront of the solar industry, and this project would be the largest solar farm in southern Illinois. This could bring additional solar farms to Marion County.

Councilman Morton asked if other land owners enter into agreements with solar facilities, will each one increase tax dollars. Mr. Miller responded that they will. Miller added that the abatement Enerparc is requesting is a small abatement from the two schools for three years, to assist with buildup costs.

Councilwoman Morgan indicated she tries to look out for all of Salem, and the surrounding areas, and she visited the County Bob’s facility this morning to see their solar array, and there was absolutely no sound or glare. The amount of tax dollars to be generated would be a huge bonus to the schools. Councilwoman Morgan added that the City let the Howell Paving project get away by being influenced by public opinion, and while she doesn’t want to go around the Planning Commission, the project would provide great benefits to the taxing bodies.

Councilman Koehler asked if the tax dollar benefits were explained at the Planning Commission meeting. Mr. Clark responded that tax dollars were mentioned, but the County can’t tax temporary structures – the land will still be taxed as farm land and the project will have a 20-year life span. The company will supposedly repair any damage, but a lot can happen in 20 years. Mr. Miller responded that there are new rules and regulations regarding solar projects, and the State sets the assessment of these facilities based on the megawatts produced. The panels are taxed as REAL property, not temporary. It is a guarantee that these tax dollars will come in, and the solar company cannot appeal their tax rates. Mr. Clark indicated that after 20 years, the land will go back to being assessed as farm land. Mr. Miller responded that we don’t know what will happen with solar over the next 20 years, and they have every intention of staying longer than 20 years.

City Clerk Bev Quinn indicated she also serves as Zoning Administrator for the City, and she and Planning Commission Chairman Rick McCullum had discussed the proposed zoning change this morning. They would like to propose that the commercial solar projects remain a special use, with notices sent to affected property owners and a public hearing at the Planning Commission level. The Planning Commission currently has the final say on Special Use requests. McCullum and Quinn are suggesting that the zoning code be revised so that the Planning Commission makes recommendations to City Council, based on input received at public hearings, and City Council make the final decisions as to whether or not to issue a special use permit.

Councilwoman Morgan indicated she would not want to see ALL non-urban zoning changed to permit solar farms. Morgan added that she feels the Planning Commission does a great job, and the proposed revision deserves further discussion. Mayor Barbee indicated he likes keeping the solar farms as special uses, and would like to see this come back for further discussion. Mayor Barbee thanked everyone for their input.

4. Approval of Bid and Purchases for FY20 Gas System Improvement Program

City Manager Gruen indicated the FY20 budget includes \$348,000 for this year’s gas system improvement program to design, inspect and complete improvements in areas of West Bryan, Mills Cart, Westgate, Shingle Oak and Cross Road. Low bids for construction and materials are shown below:

| <u>Item & Low Bidder</u> | <u>Amount</u> |
|-------------------------------|---------------------|
| Construction materials – USSI | \$36,614.85 |
| Construction – USDI | <u>\$265,930.00</u> |
| TOTAL | \$302,544.85 |

Gruen added that USSI and USDI are the same company in Olney. USDI designs the City’s annual gas system improvement program and also has an arm which constructs the program they design. USDI has not been the low bidder on Salem projects for at least the last two years, with low bids coming from Kiefer Brothers. Public Works Director John Pruden added that the gas system improvements have been awarded to either Keiffer Bros. or USDI/USSI for many years. **Motion was made by Councilman Koehler and seconded by Councilman Farley to approve award for gas system improvements materials and construction to the low bidders - USSI in the amount of \$36,614.85 and USDI in the amount of \$265,930.00 Roll call vote: AYES: Councilman Morton, Councilwoman Morgan, Councilman Koehler, Councilman Farley, Mayor Barbee. NAYS: None. Motion carried.**

5. Approval of Purchase and Installation of Water Plant Chlorine Room Improvements

City Manager Gruen indicated the FY20 budget includes improvement of the “chlorine room” at the Water Plant, which would automatically shut down our chlorine tanks in the event of a leak. We have a separate room which houses the Plant’s chlorine tanks and the related mechanics which feeds chlorine into treated water. Exposure to chlorine gas would be very harmful to anyone having to enter the room to shut down the tanks. This project will be designed to not require anyone to enter the chlorine room in the event of a leak.

\$18,810.00 is budgeted for this project, and the quote from Sidener Environmental for the project comes in at \$18,809.84. Gruen indicated he is asking the City Council to authorize the expenditure for the project and to waive formal bidding for it, as he and Mr. Pruden believe Sidener is highly qualified to do this project and is familiar with our Water Plant. ***Motion was made by Councilwoman Morgan and seconded by Councilman Farley to approve awarding the bid for purchase and installation of Water Plant Chlorine Room Improvements to Sidener in the amount of \$18,809.84. Roll call vote: AYES: Councilwoman Morgan, Councilman Koehler, Councilman Farley, Councilman Morton, Mayor Barbee. NAYS: None. Motion carried.***

6. Approval of Amendments to Solicitor Ordinance (Fees & No-Soliciting Registry)

City Manager Gruen indicated the requested revisions to the ordinance have been made. Chief Reynolds commented that if people want to get on the “no soliciting” list, the list expire by the calendar year, not five years from the time they signed up. City Attorney Jones responded that the ordinance was written so that the management of the list is at the Police Department’s discretion. ***Motion was made by Councilman Farley and seconded by Councilman Morton to approve Ordinance 2019-08 amending Chapter 11 of the City Code, pertaining to soliciting. Roll call vote: AYES: Councilman Koehler, Councilman Farley, Councilman Morton, Councilwoman Morgan, Mayor Barbee. NAYS: None. Motion carried.***

7. Approval of Fireworks Purchase

City Manager Gruen indicated the City has used J&M for July 4th fireworks for several years, and he is not aware of any major problems we’ve had with them. Although the contract they’ve submitted would be for three years, they will accept a one year contract. Gruen added that the total amount spent for many years is \$10,000, and Council might want to consider increasing the amount. Consensus was to increase the amount spent this year to see if there is a marked difference in the show. ***Motion was made by Councilman Morton and seconded by Councilman Koehler to enter into a one-year contract with J & M Displays for July 4th fireworks in the amount of \$15,000. Roll call vote: AYES: Farley, Morton, Koehler, Barbee. NAYS: Morgan. Motion carried.***

VII. CITY MANAGER REPORT

City Manager Gruen indicated there have been some State laws changed regarding cigarette sales and use, and he and Chief Reynolds will be proposing some changes to our ordinances. Additionally, the Police Department is requesting some revisions to our ordinances pertaining to derelict cars. Additionally, recreational marijuana will be approved in January, and it appears smoking will be prohibited in public places. The City can enact an ordinance that tickets users for public smoking, but we will not be able to ticket for possession.

VIII. CITY ATTORNEY REPORT – No report.

IX. FINANCE DIRECTOR REPORT – No report.

X. CITY COUNCIL REPORT

Mayor Barbee indicated he appreciates Finance Director Barrow and staff members getting ready for the auditors.

Councilman Koehler indicated the disc golf has had a really good response. Koehler added that he was at the pool over the weekend, and there was a good attendance.

Councilman Farley asked how the change in the type of chemicals used at the pool has worked out. City Manager Gruen indicated the first day or two the water was a little green, but now it’s a beautiful blue.

Councilwoman Morgan asked, once the monsoon rains stop, if the Public Works Department can mow the deep ditch in front of Denny’s. Public Works Director Pruden responded that it’s on the schedule for tomorrow, weather permitting.

XI. ADJOURNMENT

As there was no further business to discuss, ***motion was made by Councilman Farley and seconded by Councilwoman Morgan to adjourn the meeting at 7:16 pm. Roll call vote: AYES: Councilman Farley, Councilman Morton, Councilwoman Morgan, Councilman Koehler, Mayor Barbee. NAYS: None. Motion carried.***