

## REGULAR SESSION, COMMON COUNCIL, November 28, 2022

Be it Remembered that the Common Council of the City of Plymouth, Indiana, met in regular session on November 28, 2022. The meeting was held in the Council Chambers, on the second floor of the City Building, 124 N. Michigan St., Plymouth, Indiana and was called to order at 6:30 p.m.

Mayor Senter led the Pledge of Allegiance and Councilman Ecker offered prayer.

Mayor Senter presided for Council members Greg Compton, Don Ecker Jr, Jeff Houin, Robert Listenberger and Randy Longanecker. Council member Shiloh Carothers Milner attended virtually. Council member Duane Culp was absent. City Attorney Surrisi and Clerk-Treasurer Gorski were present. The public was able to see and hear the meeting through Microsoft Teams.

Council Members Ecker and Compton moved and seconded to approve the minutes of the regular session of the Common Council on November 14, 2022 as presented. The motion carried.

Councilman Longanecker wished to state that he has had a couple people reach out to him in regards to Surf Broadband. He states that he even saw what they were doing in his neighborhood. He explains that they were backfilling with frozen dirt and now there is 6-8 inches of sediment. He states that he watched them try to cut the dirt off the top and put fresh dirt in it but it wasn't working.

Mayor Senter asks if Utility Superintendent Davidson was aware of this.

Davidson responds by stating that he was not aware of it but he can make contact with the manager to make sure this gets addressed. He states that he was aware that they would be packing up and moving out of town today but they have another crew that does repairs.

Longanecker asks if they are wrapped up.

Davidson responds by stating that the last drillers stated that was it for them.

Longanecker states that his only other concern is that it is getting dark now and they have been out walking around at 6:30 pm -7:30 pm in people's backyards. He states that some of them have had high-visibility jackets but not all of them.

Davidson states that he will look into that.

Council Members Ecker and Longanecker moved and seconded to table the discussion until next meeting about Koontz Lake Brewery as Roger Holston was not in attendance. The motion carried.

Clerk-Treasurer Gorski presented a request to speak before the council on behalf of an incident that occurred with the Plymouth Police Department. Jan Lemler was present to speak on the request.

**REQUEST FORM  
CITY OF PLYMOUTH**

Date: 11-18-22

Notice to COMMON COUNCIL, CITY OF PLYMOUTH, INDIANA

Kindly review of the following request:

I would like to be present  
at the next common council  
meeting on Monday 11-28-22  
to discuss the current position  
of the Chief of Plymouth Police Bureau  
in regards to and incident that  
occured with officer Miller  
on 10-23-22 12:30pm.

Signed Sam Lemler Phone Number 574-933-3835  
Print Name Sam Lemler Address 1015 W Jackson St  
Plymouth, IN

Lemler states that he is a current resident of Plymouth and had become a resident on the first of October. He states the concern he has with the situation that he was in; it was a near-miss accident with a Plymouth Police Officer. He states that he reported it the day that it happened to the Plymouth Police Station and he had to go through 911 because it was a Sunday. He states that he did a follow up on the next week on three different occasions. He recalls that one was to an Officer West, the Assistant Chief of Police, and the Chief of Police. He states that what the Sheriff told him is that the Officer that was involved in the incident was in the wrong. He explains that he was fortunate to be here because of this incident. He states that the last conversation he had was with the Chief of Police and he told him that the matter is being taken care of. He claims that he told him that he has to understand that he is an officer and not a civilian so those laws do not apply to him. He states that is his concern. He states in the State of Indiana he is a retired Assistant Safety Director for Pioneer Hybrid so he knows the traffic laws very well. He states that a solid white line in the State of Indiana is not a passing zone for anyone. He states that a police officer passed on the right side of a vehicle and was going around it. He states that is illegal, no one is above the law and fortunately he was on guard. He asks what if that is a child or someone walking and you have a police officer that is passing on the right.

Mayor Senter asks which way he was going.



Lemler responds by stating that he was heading north and the police officer was heading south on Michigan Street.

Mayor Senter asks if he was on the road or on the shoulder.

Lemler responds by stating that he was on the shoulder. He states that he is aware that bikers are told to bike with the traffic but that day wasn't safe to bike with the traffic. He states that he was biking against the traffic. He states that regardless Sheriff Matthew Hassel affirmed that a solid white line is not a passing line for anyone. He explains that is what his concern is.

Mayor Senter asks for Police Chief Bacon to come up.

Bacon states that as he has relayed to the Council earlier the interactions with Mr. Lemler on Sunday, October 23<sup>rd</sup>. He states that initially Officer Weir served him with a "No Trespass" Order for Trinity United Methodist Church that morning. He explains that Mr. Lemler became upset during that service and later Officer Weir was traveling south on South Michigan Street and a vehicle was turning left into Family Express. He states that Officer Weir and a second vehicle behind him passed on the right. Bacon then cites Indiana code in regards to overtaking and passing on the right.

IC 9-21-8-6 Overtaking and passing on the right: conditions

Sec. 6. (a) A person who drives a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn.

(2) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lanes of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) A person who drives a vehicle may overtake and pass another vehicle upon the right only under conditions that permit overtaking upon the right in safety. Overtaking upon the right may not be made by driving off the roadway.

Bacon explains that the shoulder is part of the roadway. He explains that the fog line, the white line has no bearing in this. He states that there are no statutes that say you can not cross the white line, however there are statutes that say you can not cross the center line but there is nothing that says you can not cross the white line. He states that Weir was obeying traffic laws and Mr. Lemler was traveling north on the southbound side of the road. He adds that cyclists are bound to traffic laws as well and was on the wrong side of the street. He clarifies that he was not hit and his complaint was handled at the department level.

Compton asks if there is a cutout there.

Bacon responds by stating that there is a bump out that was put there when Family Express was built.

Lemler states that he would like to counter that statement because it has false truths in it.

Mayor Senter states that they are not going to take on what the Sheriff told him.

Lemler states that this has nothing to do with the Sheriff. He states that he asked of an investigation that day and was denied. He states that this incident happened beyond both driveways of the Family Express and the Dollar General. He states that both of these vehicles were going at a



high rate of speed and the individual that the Officer passed was not even turning as they did not have a turn signal on. He states that they were beyond both driveways when this incident happened.

Mayor Senter asks if he is telling them that nobody was turning left and they just sped around them on the right side.

Lemler states that is correct. He asks why nobody was willing to investigate it that day when he requested it.

Houin asks what it is that Lemler is asking for.

Lemler responds by stating that the perfect storm could happen to anyone and he was fortunate enough that he was aware of the situation. He states that if he was a child walking or a child on a bicycle and you do not have officers trained on the laws of traffic in the State of Indiana then the perfect storm is just waiting to happen. He states that another thing that happens in this City is that it is not safe to ride a bicycle down Michigan because Police Officers and citizens do not stop at the white line. He states that they pull up as close as they can to Michigan Street and do not stop where they are supposed to before looking for pedestrians. He adds that it happens all the time.

Houin states that in his experience in the city that he is right and there are a lot of unsafe things that happen but his question tonight is other than trying to learn from this experience and to try to encourage safer traffic behavior that he is unsure what else he wants.

Lemler states that he would like the Officers of this city trained to the traffic laws of the State of Indiana. He restates that a solid white line is not a passing lane.

Mayor Senter states that he believes Police Chief Bacon overruled his argument the State Statute.

Lemler states that he does not believe he has all the information either.

Bacon states that Weir has been with the department for over 20 years and he is one of the most active officers when it comes to writing tickets so he is certain that he is well-versed on traffic law. He states that he also provided written explanation of the interaction with Mr. Lemler before Lemler even asked or before he even filed the complaint.

Lemler asks where the video tape is of this incident recording all of that at. He states that the city and the county are spending money on electronic stuff to make sure people are safe.

Mayor Senter says that those interactions are recorded at a traffic stop and not when the police officer is just driving around.

Lemler states that they are driving down the roads and breaking laws.

Mayor Senter states that is not what they are here for.

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Lemler states that they have a Police Officer, whether he likes to hear it or not, who broke the law by passing a solid white line.

Mayor Senter states that he was already told what the law was.

Lemler states that Bacon told the law but that office did not follow the law because he didn't fall under the terms of those conditions. He states that he does not care what they do with this but what he is saying is if this continues that the perfect storm is being set up. He states that he did not get killed but if this were to continue with officers that are not trained properly then someone is going to get hurt.

Council Members Ecker and Compton moved and seconded to accept the following

communications:

- Minutes of the Board of Public Works and Safety meeting of November 14, 2022
- November 28, 2022 Check Register
- October 2022 Clerk-Treasurer Financial Reports
- November 22, 2022 Technical Review Committee Minutes
- Memo to Council RE: Rainy Day Fund

The motion carried.

There being no further business to come before the Council, Council Members Compton and Longanecker moved and seconded to adjourn, Mayor Senter declared the meeting adjourned at 6:45 p.m.

  
Lynn M. Gorski  
Clerk-Treasurer

APPROVED

  
Mark Senter, Mayor