

City of Tipton, Iowa

Meeting: Tipton Special City Council Meeting
Place: Tipton, Iowa 52772
Date/Time: Monday, August 10, 2020, 5:30 p.m.
Web Page: www.tiptoniowa.org
Posted: Friday, August 7, 2020 (Front door of City Hall & City Website)

Iowa Code, Chapter 21, as interpreted, permits public meetings to be held electronically, provided all participants can either hear or see the meeting, and provided the Council and the public can participate. The City of Tipton will be utilizing Go To Meeting to host our council meetings until further notice. Council members and Mayor will be attending from their homes. City staff will be attending either from their homes or City Hall. The Public can attend the meeting on their own computer using the following Go to Meeting link:

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/509328765>

You can also dial in using your phone.

United States (Toll Free): [1 877 568 4106](tel:18775684106)

United States: [+1 \(646\) 749-3129](tel:+16467493129)

Access Code: 509-328-765

Mayor:	Bryan Carney		
Council At Large:	Abby Cummins-VanScoy	Council At Large:	Jason Paustian
Council Ward #1:	Ron Hembry	Council Ward #2:	Dean Anderson
Council Ward #3:	Tim McNeill		
City Manager:	Brian Wagner	City Attorney:	Lynch Dallas, P.C.
Finance Director:	Melissa Armstrong	Gas Utilities Supt:	Virgil Penrod
City Clerk:	Amy Lenz	Electric Utilities Supt:	Floyd Taber
Dir. of Public Works:	Steve Nash	Water & Sewer:	Brian Brennan
Police Chief:	Lisa Kepford	Emergency Med Dir:	Brad Ratliff
Park & Recreation:	Adam Spangler	Economic Dev. Director:	Linda Beck

- A. Call to Order**
- B. Roll Call**
- C. Pledge of Allegiance**
- D. Agenda Additions/Agenda Approval**
- E. Communications:**

If you wish to address the City Council regarding an issue, whether on the agenda or something not on the agenda, please approach the lectern and give your name and address for the public record before discussing your item. Scheduled communications are allowed to speak up to five minutes. Unscheduled communications are allowed to speak up to three minutes.

F. New Business

1. Discussion and possible action concerning the status of holding the fireworks and parade on Labor Day Weekend (September 5th)

G. Reports of Mayor/ Council/ Manager/ Department Heads

1. Mayor's Report
2. Council Reports
3. Committee Reports
4. City Manager's Report
5. Department Heads

H. Adjournment

Pursuant to §21.4(2) of the Code of Iowa, the City has the right to amend this agenda up until 24 hours before the posted meeting time.

If anyone with a disability would like to attend the meeting, please call City Hall at 886-6187 to arrange for accommodations/transportation.

AGENDA ITEM:

**AGENDA INFORMATION
TIPTON CITY COUNCIL COMMUNICATION**

DATE:	08/07/2020
AGENDA ITEM:	Discussion and possible action concerning the status of holding the fireworks and parade on Labor Day Weekend (Sept. 5th)
ACTION:	Motion to Approve, Deny or Table

SYNOPSIS:

Much of what is presented within was done with Melissa's help.

At your last meeting, there was a discussion about shooting off the fireworks on Sept 5 because waiting to July 4, 2021 might invite an unsafe risk, such as the fireworks becoming unstable and even exploding. The options that Melissa found, if one is pursued, should take this concern out-of-play.

Therefore, the remaining questions would seem to be more related to:

--What is the responsible thing to do concerning public health/public safety? This question is applicable whether you go forward with the event or decide not to.

--Does your decision have a good footing from a liability standpoint?

Whatever you decide to do, your decision should be made with your eyes wide-open—meaning that it is done with the most recent health info and legal advice that we can provide.

In order to give you that info and advice, we can offer these two resources:

First, we've asked Bonnie Butler to participate during your Aug 10 Special Meeting so she can offer the latest health-related information concerning mass gatherings of this nature and whether people can be truly relied upon to follow the requirements of social distancing.

Second, Holly Corkery might also be a participant. But, if not, we've attached some of her legal observations concerning the possible liability risks to a city that sponsors this type of event.

Much of your ultimate decision on this goes to the heart of what it means to be an elected representative.

Using Abby's poll as an example, you have far more people encouraging you to go forward with this event than not.

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However, they won't have the same information and advice that you'll be provided on Monday night. And, further, if you go ahead with the event and it results in several COVID-related cases showing up about 2-3 weeks later, no one that's encouraging you to go forward now will be standing with you then.

This is an example of a situation where the elected person ultimately stands alone.

Melissa's part of this write-up begins below:

At the August 3rd council meeting, there was concern brought up regarding the storage of the fireworks if the Labor Day Weekend event was cancelled. I reached out to two different companies to ask them the following set of questions:

- 1) What is a safe way to store our fireworks if we try to do it locally?
- 2) Would their company store our fireworks for us until July 4, 2021 and at what costs?

Flying Phoenix Interstate Display Fireworks Corp. is the first company I spoke with and who we purchased our fireworks from. Below is my conversation with a representative from their company:

Jim,

The fireworks are currently sitting in our fire station which is a fairly new building. There is concern by the fireman that if they sit there through the dry winter and different seasons we will have until July 4th, it could cause a hazard to the people and or building.

If storing them locally isn't an option for us, is there any interest in you storing them for us? What would the fee for that be?

Thanks again for your help!

Melissa

Coming out there to pick them up would be costly because we run semitrucks. About \$3,000.00. You are welcome to have someone bring them back to us for storage if you wish.

I can tell you that the cities are exempt from the storage that license holders and fireworks companies must adhere to. If you have a dry container to store them in that would be the best. Most of us use those steel shipping containers or a dry semi-container to store them in. They have been approved by the atf and we have used them for years. Actually, about 36 years safely.

The best answer would be to rent or buy a 20 ft container and have it placed in the back. That is how most cities do this. You could also use a semitrailer. Please pick one that doesn't leak would be great also. Put two pallets down and place them on those pallets and cover it with a tarp. Born and raised in Iowa and I know the rain and

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damp. I am more concerned about getting them wet than anything else. Like I noted in the other email we have been using these two types of storage for 36 years and no problem.

J&M Displays was the second company I spoke to. This conversation took place over the phone. I asked the same two questions I asked the first company and received the following response.

- 1) The rep agreed with the Flying Phoenix rep regarding our best option to store them locally would be to rent or buy a container that we could store them in. He confirmed that the main thing we would want to make sure of is that they don't get wet.
- 1) Normally, J&M stores fireworks at no charge for their customers. Since we purchased the fireworks from a different vendor, the only way J&M could store our fireworks for us would be to have them purchase them from the City, and then the City would purchase them back at the same price. In order to do this, J&M would need to be our vendor for July 4, 2021 and shoot the fireworks off for us at that time. If we would like to continue having the fire department do this, then storing them at their facility is not an option.

ATTACHMENT: Holly Corkey's email.

PREPARED BY: BW/MA

DATE PREPARED: 08/07/2020

Melissa Armstrong

From: Holly Corkery <HCorkery@lynchdallas.com>
Sent: Friday, August 7, 2020 12:41 PM
To: Bryan Carney
Cc: Brian Wagner, City of Tipton; Melissa Armstrong
Subject: Fireworks Follow Up

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Bryan:

Yesterday on the phone while discussing other matters, you brought up that the City was considering hosting fireworks on Labor Day weekend. As we discussed, there are some legal considerations the City should be aware of when making this decision. Those considerations are as follows:

Earlier this year the Iowa legislature passed and the governor signed the Covid-19 Response and Back-to-Business Limited Liability Act. This law provides a safe harbor defense for individuals sued for civil damages for any injuries sustained from exposure or potential exposure to COVID-19 "if the act or omission alleged to violate a duty of care was in substantial compliance or was consistent with any federal or state statute, regulation, order, or public health guidance related to COVID-19 that was applicable to the person or activity at issue at the time of the alleged exposure or potential exposure." Iowa Code § 668D.5 (2020). In other words, in order to qualify for the safe harbor defense, you have to substantially comply with the law, regulations, and public health guidance related to COVID-19.

The latest governor's proclamation (July 24, 2020) related to mass gatherings provides that for large gatherings, including community events, of more than ten people, the gathering may be held, but only if it complies with the proclamation. This includes enforcing social distancing (i.e., ensuring six feet of physical distance between each group or individual attending alone) and implementing other reasonable hygiene measures consistent with guidance issued by the IDPH. (Proclamation Section Three.) The IDPH guidance on mass gatherings links to the CDC guidance, available here: <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>. To be compliant with the law and to meet the requirements for the safe harbor defense, you would need to reasonably follow this guidance. This includes, but is not limited to, requiring staff to wear masks; encouraging patrons to wear masks; ensuring adequate supplies of soap, water, hand sanitizer, paper towels, tissues, disinfectant wipes, masks, and no-touch trash cans; posting appropriate signage as described in the guidance; cleaning and disinfecting any shared surfaces (i.e., restrooms, etc.); ensuring lines do not form at restrooms and social distancing is enforced; and more. If this is something the City chooses to proceed with, the City will need to sit down and analyze which actions it needs to take based on the guidance and develop a plan to execute that guidance in order to ensure the safe harbor defense remains applicable.

Short story: If you proceed with the fireworks, as the sponsor and organizer of the event, you need to ensure compliance with CDC guidance per the governor's proclamation and to ensure that the safe harbor defense will apply if someone sues you for injury from COVID exposure. If you do not ensure compliance, you risk losing that safe harbor defense.

If you have any questions or concerns, please let me know.

Holly