

ST. JOHN TOWN COUNCIL REGULAR MEETING
ST. JOHN MUNICIPAL BUILDING MAIN MEETING ROOM
10955 W. 93RD AVENUE, ST. JOHN, INDIANA
May 28, 2009 – 7:00 P.M.

Mr. Barenie called the meeting to order at 7:08 P.M. and led the Pledge of Allegiance. Roll call was taken with the following members present: Mark Barenie, President; Michael Forbes, Vice-President; Gregory Volk, Member; Michael Fryzel, Member; Jerri Teibel, Member; David Austgen, Attorney; Steve Kil, Town Manager and Sherry Sury, Clerk-Treasurer. Also in attendance were Police Chief Fred Frego, Parks Superintendent Chip Sobek and John Mainwaring, Code Enforcement Officer. Absent were Fire Chief Fred Willman and Director of Operations, Bob Pharazyn.

Approval of minutes: March 19, 2009 Regular Meeting; March 26, 2009 Executive Session; March 26, 2009 Regular Meeting; April 6, 2009 Special Joint Meeting; April 16, 2009 Joint Executive Session, April 16, 2009 Regular Meeting; April 23, 2009 Executive Session; and April 23, 2009 Regular Meeting – Ms. Teibel motioned to approve the minutes of the above listed meetings. Seconded by Mr. Fryzel. Motion unanimously passed. Mr. Forbes abstained from voting on the minutes of the March 26, 2009, meetings; he stated that he was absent from these meetings.

Mr. Barenie referenced a change in the agenda requested by Mr. Kil. Mr. Kil summarized the action taken by the Council about a month ago to defer this item regarding the South Lake County Bus Transportation Service. He stated that based on the data he collected he recommended that the Council donate \$3,500 for fuel. Mr. Barenie stated that based on the price of fuel from last year to this year that this is a considerable increase. Discussion ensued. Mr. Kil and Mr. Austgen both recommended that the money come from the CDBG fund first then the cable TV fund if needed. **Mr. Fryzel motioned to utilize the CDBG money if possible; the donation for the bus would be \$3,500.00 this year and \$3,500.00 next year. Seconded by Mr. Forbes. Motion unanimously passed.**

Mr. Kil referenced items D, E, and F regarding the Schillton Road Project. He stated that he has received the last three contracts for this project and would like to add these with the others that are already on the agenda. He also stated that that a small drainage project at 12020 Wildwood Drive is not to exceed \$4,500.00 and would like a motion to approve. **Mr. Fryzel motioned to approve the drainage project at 12020 Wildwood not the exceed \$4,500.00. Seconded by Mr. Volk. Motion unanimously passed.**

New Business

Ordinance #1494, Town Water Body Ordinance – Mr. Kil stated that this ordinance is about ice fishing and ice-skating on town owned water bodies, and the potential of liability. Mr. Fryzel asked if the ordinance addressed the use of boats. Discussion ensued. Mr. Austgen noted that in Section One there are no uses permitted, no access permitted to town owned water bodies. These bodies are considered to be part and parcel of the Town's storm management system; however, the body may be used in the event of an organized, planned or scheduled public event under the jurisdictional authority of a town entity or department, or as specifically permitted by you, as a Town Council body, in other words, if there is some event by the Park Department and permission is given. Otherwise there is penalty provided for violation.

Ms. Teibel motioned to consider Ordinance #1494 on first reading. Seconded by Mr. Fryzel. Motion unanimously passed.

Ms. Teibel motioned to adopt Ordinance #1494. Seconded by Mr. Forbes. Motion unanimously passed.

Mr. Austgen stated that this Ordinance must be posted and published. Discussion ensued regarding signage being posted and that the areas will be checked to ensure that signs are posted. Discussion ensued. The ordinance calls for signage that is deemed appropriate.

Tri-Town Appointment to Regional Bus Authority (RBA) – Mr. Austgen commented that this is on the agenda by virtue of discussion and dialog over the appointment that is contemplated for the three towns of the St. John Township entity for the Regional Bus Authority. He was advised by Mr. Kil and others that the Council has never acted on this. There has been action by the Towns of Schererville and Dyer to consider the appointment of an individual councilman, Steve Kramer from Dyer to act in that representative stead. It is their recommendation to the Council, that at this time, given the circumstances that exist between the towns, that the Council act here in public to identify that Councilman Kramer is not your representative, that you have not selected or appointed him to act as your representative individual to this body as contemplated by the Statutory Authority for the Regional Bus Authority, or any other individual at this time unless the Council is prepared to do that. That is his recommendation to the Council. **Mr. Fryzel so moved Mr. Austgen's above recommendation. Seconded by Mr. Forbes. Motion unanimously passed.** Mr. Austgen asked that the Council direct Mr. Kil to send an appropriate letter to the Towns of Schererville and Dyer as well as the Regional Bus Authority advising them of the action tonight.

Consider approval for application of FY2009 "Cops Technology Program" Grant – Chief Frego stated that in 2008 Congressman Visclosky's office advised the Town that the Tri-Town (Dyer, Schererville, St. John) had been awarded a \$475,000.00 Cops Technology Grant. They had initial meetings at that time and they were notified about three or four months ago that the grant is going to come to fruition very shortly. The money has been appropriated as a technology grant; the package indicates what kind of equipment can and cannot be purchased, computers, laptops. Anything that would enhance the safety of the officers and communication between the departments. They are in the process of completing the application, which must be submitted by June 3rd, had a meeting with Mr. Austgen, and a telephone conference with the three towns. He stated that Mr. Austgen recommended that they seek the approval of the Town Council for the grant. It's a no match grant and referenced a list of the items they would like to purchase. Chief Frego stated that the prices are subject to change if the three towns can get a better price.

Mr. Austgen stated that the three towns participating; need to have an understanding in writing because of the nature of the grant issuance. The grant appears to be directed to the recipient Town of Schererville, and for the benefit of the Towns of St. John, Dyer, and Schererville. Schererville has authorized that be prepared at pro rata cost and they recommend St. John do the same. Tonight they do not have to have the Memorandum of Understanding to execute or authorize execution into the grant. The MOU can follow. The Chief has a June 3rd deadline and what the need tonight is for is The Council's favorable consideration and action on approval; entry into and participation in the grant, and perhaps a direction to him on a pro rata basis with the other towns to prepare the document. Chief Frego confirmed that the \$158,000.00 will be coming to the town and it is non-matching funds. **Mr. Forbes motioned to approve the grant**

application and that Mr. Austen would prepare a Memorandum of Understanding with the other applicants. Seconded by Ms. Teibel. Motion unanimously passed.

Schillton Road Improvement Project – Mr. Barenie referenced the three items to be added to the agenda. Mr. Kil stated that the following would pertain to Items D, E, and F as well as the three additional responses that came in, as it relates to the Schillton Drive Road Project:

Mr. Harry and Elizabeth Bielawski - 8780 Schillton Drive – declined participation
Mr. Jeff and Mrs. Marianne McNeil – 8781 Schillton Drive - accepted participation
William and Karen Dodaro, 8760 Schillton Drive – accepted
Mrs. Elizabeth Wilsens, 8761 Schillton Drive – declined
Tony and Rosa Gonzales, 8740 Schillton Drive – accepted
Mike and Marlene Faulkner, 8720 Schillton Drive – accepted

Mr. Kil asked for a motion to accept all the agreements whether that would be a declination or the acceptance as read by the homeowners. He stated that everybody who has accepted to participate in the project has paid their money, requested authorization for himself and the Clerk-Treasurer to execute the agreements as appropriate, and that they will proceed with the project. It was clarified that the road improvement project is being done on Schillton Road; the people who accepted this agreement are paying individually to have their driveway aprons replaced. **Mr. Fryzel so moved the above motion request by Mr. Kil. Seconded by Ms. Teibel. Motion unanimously passed.**

Schillton Road Improvement Project – Mike and Marlene Faulkner Agreement – See above

Schillton Road Improvement Project – Tony and Rosa Gonzales Agreement – See above

Schillton Road Improvement Project – Bill and Karen Dodaro Agreement – See above

Ordinance #1493, an ordinance authorizing the acquisition, construction and installation of certain improvements for the Waterworks System, of the Town of St. John, the issuance of revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of such system, the safeguarding of the interests of the owners of such revenue bonds and other matters connected therewith, and repealing the ordinances, or parts thereof, in conflict herewith – Mr. Karl Cender stated that this is the next step; final authorization to issue bonds. He summarized the timetable, confirmed that this does not require a rate increase and that the current rate structure is sufficient for the debt issuance. Mr. Kil confirmed that the bidding process will be complete in July and work could begin in the first part of August. Mr. Austgen stated that with favorable action tonight on adoption reading they are right on schedule as proposed by the consultants and as requested by the Water Board when this project commences...right on schedule. **Mr. Fryzel motioned to adopt Ordinance #1493. Seconded by Mr. Forbes. Motion unanimously passed.**

Consider Petition for Variance of Use submitted by Kenneth J. Ubriaco (unfavorable recommendation by the Board of Zoning Appeals on March 23, 2005) – Mr. Austgen stated that this is a matter that has been resolved by the Consent Decree and Order, an approving Consent Decree entered in a proceeding instituted by the United States of America regarding this variance of use application. His recommendation based on that Consent Decree, is that the Town Council withdraw that, to withdraw and rescind its denial action and to approve the

variance of use as applied for. **Mr. Fryzel so moved Mr. Austgen's recommendation. Seconded by Ms. Teibel. Motion unanimously passed.**

Resolution #09-05-28, a resolution authorizing a reduction of appropriations (eliminating garbage collection appropriation) – Mr. Barenie confirmed that this is a bookkeeping memo action. Ms. Sury confirmed that they are not paying the garbage collection fees out of that fund; they have created another fund for the revenue received and for payment. **Mr. Forbes motioned to adopt Resolution #09-05-28. Seconded by Mr. Fryzel. Motion unanimously passed.**

Resolution #09-05-28A, a resolution authorizing a temporary transfer and loan (\$450,000.00 from TIF to General Fund) – Ms. Sury stated this is a temporary loan until the TAW (Tax anticipated warrant) is approved and received. **Ms. Teibel motioned to adopt Resolution #09-05-28A. Seconded by Mr. Fryzel. Motion unanimously passed.**

Consider approval of Letter of Credit reduction for Three Springs – Phase II to \$494,005.60 (favorable recommendation from Plan Commission) – **Mr. Forbes motioned to accept the Letter of Credit for Three Springs in the amount of \$494,005.60. Seconded by Ms. Teibel. Motion unanimously passed.**

Consider approval and implementation of the amended and re-stated 457(b) Governmental Plan Document, as it pertains to the Town's Deferred Compensation Program – Mr. Kil stated that this is a housekeeping item. It does not change the deferred compensation plan for the employees. Ms. Sury stated that the plan was identified incorrectly, (pertains to Chief Frego) it should be identified as 401 rather than 457(b). Mr. Austgen asked if this can be deferred so it can be discussed further. **Mr. Fryzel motioned to defer to the next meeting. Seconded by Mr. Forbes. Motion unanimously passed.**

Ordinance #1495, an ordinance designating local depositories – Ms. Sury stated that this is being done because the banks have begun charging fees that were previously waived. Proposals were sent out to the banks in Town for the best interest rates and with no banking fees to be charged that included a timeframe. This Ordinance must be updated because the list of authorized depositories in town has grown since this ordinance was initially adopted years ago. **Ms. Teibel motioned to consider Ordinance #1495 on first reading. Seconded by Mr. Forbes. Motion unanimously passed.**

Mr. Fryzel motioned to adopt Ordinance #1495. Seconded by Mr. Forbes. Motion unanimously passed.

Ratify Resolution #09-05-22, a resolution authorizing the Town of St. John to enter into agreement with the County of Lake, Indiana in undertaking Community Development activities – Mr. Austgen stated that this is so the Town can continue participating in the CDBG project. **Mr. Forbes motioned to ratify Resolution #09-05-22. Seconded by Mr. Fryzel. Motion unanimously passed.**

Consider ratification Urban County Program – Cooperation Agreement for FY 2010 – 2011 – 2012 - Mr. Forbes motioned to ratify the agreement, executed by the Town Council President and Clerk-Treasurer. **Seconded by Mr. Fryzel. Motion unanimously passed.**

Ordinance #1492, ordinance for temporary loans for the use of General Fund and Lease Rental Fund, sale of such warrants to Indiana Bond Bank – Mr. Austgen stated that this an

item that accompanies the Council's actions in April to institute the necessary steps to secure interim financing for the General Fund and the Lease Rental Fund through the Indiana Bond Bank. This is the recommended ordinance form Bond Bank Counsel. It was only received here Tuesday which is why it is a late addition to the agenda. It is the recommendation of Mr. Austgen, Mr. Kil and Ms. Sury that the Council act unanimously as soon as possible this evening, so the timeline for meeting the requirements to close on or before June 24th can be met. Mr. Austgen has talked to the Attorney's in Indianapolis and they are aware the Council is considering this and if this step can be met they are right in the queue to complete the other requirements for the financing by the end of June. He added that he really needs to leave here tonight with two signed Ordinances as they really need to get to Indianapolis. **Mr. Fryzel motioned to consider Ordinance #1492 on first reading. Seconded by Ms. Teibel. Motion unanimously passed.**

Mr. Fryzel motioned to adopt Ordinance #1492. Seconded by Mr. Forbes. Motion unanimously passed.

Reports & Correspondence

Staff

Mr. Sobek stated that the grass cutting in the parks has been on catch up due the weather the past couple of weeks. The Fishing Derby will be held next weekend; there's been a pretty good turnout on that already and that it will be held at Lake Hills on June 6th. Registration for the Summer Programs is doing quite well.

Chief Frego gave the April Activity Report.

Mr. Mainwaring gave the Code Enforcement Report for the month of April.

Mr. Kil read the Fire Department Activity Report for Chief Willman.

Clerk-Treasurer – None

Town Council

Mr. Fryzel stated that there is a jurisdictional problem with the Town of Cedar Lake. When there is a call within the boundaries of St. John, it is St. John's responsibility to take that call. Cedar Lake has a tendency to arrive early and they want to take the call over even if it is in St. John's community. He would like something drafted for Cedar Lake to advise them of that. Discussion ensued. Mr. Austgen stated that he would draft a letter to the Chief of Cedar Lake's Volunteer Fire Department.

Payment of Bills for the Corporation APV's #7705 - #7892 \$849,521.31 - Mr. Forbes motioned to authorize payment of bills in the amount of \$849,521.31. Seconded by Mr. Fryzel. Motion unanimously passed.

Public Comment

Mr. Ken J. Ubriaco, 8731 Verbena Court – stated that he had a couple of questions. He referenced his request for the variance and asked if the Town sends a letter authorizing that variance. He added that it has been five years that this item has been pushed aside, delayed

and legally wrangled. The action started with the United States Department of Justice that filed a civil lawsuit against the Town of St. John for handicap discrimination for people with MS living in a residential area. As he looks at everyone here he believes Mr. Volk was the only one in favor of this and he would like to thank him personally. He would also like to thank the Fire Department and the Police Department of the Town of St. John, very wonderful people. He has lived here sixteen years and is very impressed. Last night at two in the morning he got a call from the St. John Police Department that his garage door was open. Sherry, nice to talk to, Mike his neighbor and Steve helped him draft the ordinance.

His question is that, did it need to get to all of this? Because five years delayed is five years that several people with MS probably died, several people with MS could have been helped and several people that his whole intention was about, were neglected. So this is discrimination. The Town of St. John should thoroughly be ashamed of that. We're a great community but we discriminated against people with disabilities. He stated that the Town was fined \$10,000.00 and several thousands of dollars in legal fees were spent, of which he has yet to find out how much. People have been laid off in town; they could have been working with those legal fees combined with other legal fees that are being spent in several other ways that he is really disgusted with.

He posed the question as to when does he get notification of the variance, when does he get an apology for the five years delay. He stated that he thinks that's owed, does not appreciate discrimination and he will not accept retaliation. Mr. Ubrico stated that he is in contact with and would like to thank Patricia O'Beirne, Department of Justice Attorney and her staff, and the U.S. Attorney in Hammond who clearly stated in the press release that there will not be discrimination. He stated that you can authorize your ordinances, you can authorize your variances and you can enforce them but that does not include discriminating against people with disabilities.

Mr. Ubrico asked when does he get his variance. He stated that it was approved and wants it in writing, prefers it in certified mail, and wants a letter of apology, he thinks that's owed. Other than that he looks forward to working with the Town of St. John, he loves this Town, it's a very nice Town, it's a great community, there's a lot of great hard working people. But we are all in this together. Every one of us is one minute or second away from being disabled. He stated that he doesn't have to tell you there's been many times when the Police Department are always first on the call or the medical, zoom to the scene. These people, thorough professionals, caring, loving people in the right job. That's what we all hope for all our vocations, that you're in something you love, you want to do something and that is the only reason he did this. Because he was in it to help somebody, take all the other stuff and throw it away, this is what it was about. He thanked the Council and stated that he's looking forward to some response on that.

Mr. Barenie asked Mr. Austgen as far as the couple of comments on the public record portion of the question and the notification portion; he assumed they can get that done rather quickly now that the ordinance and everything has been passed tonight. Mr. Austgen stated that he will recommend that Mr. Kil send a copy of the meeting minutes with a note to Mr. Ubrico when they are prepared.

Mr. Barenie apologized to Mr. Ubrico for the period taking so long.

Mr. Matt Wesley, 8640 Magnolia – stated that he suffered a spinal cord injury playing football at Lake Central last year and is confined to a wheelchair. One way his family has been able to

cope with this is that they have been able to work and he has been able to attend Purdue Calumet. He was able to go there by taking South Lake County Community Services Bus Transportation. It has provided transportation for him in a wheelchair to go to therapy and school without his parents being there. It came to their attention that the funding for the organization for St. John has been dropped and he would like to encourage the Council to fund it. This provides a great service for people with a disability and elderly people to get to places they need to go. Not just him in a wheelchair but elderly people who need to go to doctor's appointments and people of that nature. He would really like the Council to continue the funding.

Mr. Barenie thanked him for coming in tonight to make his point. He advised Matt that he came in a little late, the item has been added to the agenda and the funding has been approved for this year and next. He added that the process has never been considered to be dropped, they had asked for a deferring where they could look at the project cost of the CDBG grant that was going to commit the bids, from there they requested information from the agency to find out where the bus provides services in town. Mr. Forbes added that they never said they were not going to donate, they just needed time to figure out where the money was coming from and stated that they are more than eager to provide the service, but they still must justify it to the residents who are not using the service but technically paying for it.

Adjournment – Mr. Fryzel motioned to adjourn the meeting. Seconded by Ms. Teibel. Motion unanimously passed. Meeting adjourned at approximately 8:45 P.M.

ATTEST:

/s/ Sherry P. Sury
Clerk-Treasurer