

The Common Council of the City of LaPorte

April 19, 2010

Convene

The Common Council of the City of LaPorte met in regular session in the Council Chambers on April 19, 2010 at 7:00 p.m. Attendance: Councilman Logwood, Present: Councilwoman Renner, Absent: Councilwoman Hammons, Present: Councilman Heichel, Present: Councilman Schmitt, Present: Councilman Luscomb, Present: Councilman Pressler, Present.

Pledge

The Pledge of Allegiance was led by Councilman Luscomb.

Minutes

As each Council member received an advance copy of the minutes from the previous meeting, Mayor Chrobak stated they would dispense with the reading of same and asked if there were any corrections or additions.

Approval of Minutes

Councilman Pressler moved to approve the minutes as presented; motion seconded by Councilwoman Hammons and unanimously carried.

Petitions & Comments

Donna McCleery, 135 W. McClung Road, stated when the Council ran for election they promised to protect the City's parks and lakes. She reported during the last administration the Mayor presented an Ordinance to the Council to sell lake front property. The Council voted down the Ordinance, however, the Mayor vetoed their decision. Mrs. McCleery stated she has nothing against Mayor Chrobak, but in order to protect the City's parks and lakes from future administrations, she requested the Council pass an Ordinance prohibiting such action. She stated she understands the City has a Park Board, however, they are not elected by the people, and the Council is.

Terry Garner, LaPorte County Council, District I, stated he represents about half of the City and is present tonight to observe. Mayor Chrobak thanked Mr. Garner for attending.

Art Peals, 120 W. McClung Road, stated he was here regarding the public hearing for McClung Road and would make his comments when the item was discussed. Mayor Chrobak informed Mr. Peals the meeting and public hearing regarding the McClung Road Project was held at 5:00 p.m. She asked Mary Jane Thomas, Director of Community Development and Planning, to assist Mr. and Mrs. Peals.

Mayor Chrobak noted there were several students in the audience and welcomed them to the meeting.

Standing Committee Reports

Airport Authority: Councilman Luscomb reported the Airport Board meeting scheduled for last Wednesday, April 14th, was cancelled. He noted Airport Board President, Ed Volk, has presented to the

Plan Commission some changes to City Ordinances which will be presented to the Council at the next meeting for consideration.

Veteran's Day: Councilman Heichel reported a meeting was held, however, he was not notified until after the fact. He stated he would find out what took place and give a report at the next meeting. Councilman Heichel stated he knows they talked about Memorial Day. Mayor Chrobak stated she believes they also discussed the brick dedication which is the first Saturday in June.

Park & Recreation: Councilman Pressler reported the Park Board met last Wednesday at which time discussion was held regarding the recent action by the General Assembly recognizing the sport of mixed martial arts as a sanctioned event. A promoter approached the Civic Advisory Board asking permission to hold an event. The Civic Advisory Board decided to not allow the event at this time, until they have an opportunity to learn more about the event and promoter. The Park Board discussed and tabled the issue. Councilman Pressler reported Dean Heise, Director of Parks and Recreation, gave the following press release:

The Parks and Recreation Department park facilities will experience cutbacks in the mowing, trash removal and restroom service levels. All come as a result of budget cuts and little or no cash flow to the City and our department. Our staffing for this season will be seven (7) full time maintenance staff. Typically, the Department employs six-seven seasonal staff to assist April through September. The amount of work will be down-size approximately half the staff. This is not business as usual.

Mowing - The department will immediately establish "no mow" areas in all parks. Larger parks, including Soldiers Memorial, Fox and Kesling will have sizable mowing cutbacks in areas outside of shelters, active ball fields, parking lots and walking trails. Neighborhood parks will be mowed around the playgrounds, shelter and basketball/court areas with the rest of grassy areas not mowed. These mowing cutback procedures include Kiwanis/Teledyne, Scott, Ben Rees, Clarke, Koomler, Allessee, Rumely, Lindewald (City Park) and Warsaw Parks.

Restrooms - Many restrooms will have limited open hours, portable restroom substitutions or possibly not open at all. When department programs require use of the restrooms, staff will be asked to open and close.

Trash Removal - Trash barrels have been reduced in most areas to conserve and reduce trash removal expenses. Some of the users will be asked to bag and remove trash generated at end of events. We have cut the number of barrels in half. Citizen involvement: Taking the trash home that they generate will go a long way in making our work days more productive. Other unnecessary work includes vandalism and litter. The department will be working towards developing use of volunteers in appropriate ways.

Citizen Help - All LaPorte citizens can help by expressing the outrage that we as park facility managers feel regarding tax collection inaction by our elected officials. We need assistance in minimizing our trash collection by taking your trash home. Any vandalism is hurtful to the few dollars we have. The Park Department will be working on the use of volunteers in an appropriate manner.

Dean Heise, Park Supt.

Councilman Pressler stated it was also noted at the meeting Stone Lake Beach will not be open this summer. Those who swim will be doing so at their own risk, there will be no lifeguard on duty.

Plan Commission: Councilman Logwood noted the Plan Commission met and received the fourth revision of the County Wide Plan. Also discussed was the height of towers around the Airport.

Redevelopment Commission: Councilwoman Hammons reported the Redevelopment Commission will meet on Wednesday, April 28th, at 5:30 p.m.

School Board Liaison: Councilman Pressler reported the School Board will meet tomorrow evening, April 20th, at 6:30 p.m. at the Educational Services Center.

Tree Commission: Councilman Schmitt reported there will be a tree giveaway this Saturday, April 24, 2010, at 8:00 a.m. at the Kesling garage. Donations will be gratefully accepted.

Clerk-Treasurer's Report

Teresa Ludlow, Clerk-Treasurer, advised prior to tonight's meeting she passed out an update to the 2010 cash flow which has been updated through the end of March. She informed the Council at the end of each month the cash flow chart will be updated. The Clerk-Treasurer reported the City ended March close to what she had anticipated. The difference between the original estimate and the actual amount in the General Fund is due to the fact the City did not receive CAGIT distributions from the County for January, February and March until April, which she had originally anticipated would be dispersed in March. Currently, as of April 16th, the General Fund cash balance is \$1,652,473.00. She reminded the Council the problem the City is experiencing is cash flow not a budgetary issue. It is not that the City is over its' max at this time, the City is not receiving the cash necessary to support the budget. The Clerk-Treasurer explained in a normal given year (she went back to 2004 and 2005), the General Fund starts going in the red about this time of year until property tax revenue is received the end of June. Currently the General Fund is not in the red because the City owes \$6,887,409.00 in loans. Without those loans the General Fund would be in the red \$5.2 million. The Clerk-Treasurer reported at the end of March the General Fund had spent 24% of the budget, however, the Council needs to keep in mind that there are expenses that are due at the beginning of the year such as worker's comp insurance, liability insurance and PERF. The Clerk-Treasurer informed the Council she believes at the next Council meeting Resolutions to transfer funds from CCI in the amount of \$200,000.00 and the Rainy Day Fund in the amount of \$68,972.00 will be presented for their approval in order to help with the cash flow problem. Currently the balance in the CCI Fund is \$257,000.00; however, she is not comfortable in recommending the entire amount be transferred. State Statute allows a municipality to transfer funds from the CCI Fund, which is funded by cigarette tax, to the General Fund. Councilman Heichel asked what the fund is normally used for. The Clerk-Treasurer stated the fund is used for capital projects. Councilman Heichel inquired how much the City has spent in capital projects to date this year. The Clerk stated that is not something she has in front of her but would provide that information to the Council. Councilman Heichel stated he would like to see what City assets that could be liquidated, such as old cars and old things that could be gotten rid of. Mayor Chrobak reported those types of assets are sold at City auction on an annual basis, which in the past is held sometime in April or May. Councilman Heichel stated maybe the City should have the auction twice a year. Looking at the Cash Flow Chart, the Clerk pointed out it is estimated the City will be in the red \$5.9 million at the end of the year in the General Fund for 2010. The Clerk informed the Council a couple things will come in to play regarding that figure. The transfers from CCI and Rainy Day will lower that number. She reported in projecting the cash flow, she did not take into consideration excise tax as she is not certain the City will receive those funds by the end of the year. If the City receives those taxes it should be about \$300,000.00. Those two items would lower the deficit to \$5.2 million.

The Clerk-Treasurer stated that obviously the City would not want to end the year with a deficit of over \$5 million. She informed the Council she anticipates the Indiana Bond Bank will not collect what is owed

from the 2009 Tax Anticipation Warrants until that year has been reconciled. The repayment of the 2010 Tax Anticipation Warrants will probably be handled the same as was done in 2009 with the balance due when the County reconciles. She reported for cash flow purposes she is estimating the City would be short in the General Fund \$1.6 million that would need to be addressed. The current 5% pay cut and the health insurance change along with other budget reductions totals \$1.5 million. A lot of this is based on and can change depending on when the County sends out provisional tax bills for 2010 and the rate of collection. She informed the Council the last she was told, provisional bills are supposed to be mailed by the end of April due the end of May, which means the City should receive tax money by the end of June first part of July. Councilman Heichel asked how much that would be. The Clerk-Treasurer reported there is no way to know until the bills have gone out and whether or not taxpayers pay their bill. Councilman Heichel stated as far as the bonds go, are the City's assets, the City's balance sheet, good enough to sell to the State, stating our assets are in the green or the City is in the black at the end of the year if we have to go that route. Don Baugher, City Attorney, stated the City's assets are the unbilled and uncollected taxes. He stated unbilled in the sense the assessed valuation hasn't been finalized so the bills aren't finalized and uncollected in the sense that people aren't paying provisional bills at the traditional rate. Traditionally, City taxpayers have paid 97% of their tax bill. Councilman Heichel stated as far as the City's owners equity goes, we should be able to sell to the State that the City's credit rating is still good. The Clerk-Treasurer stated the City's credit rating has gone down due to the County not getting the tax bills out. She reported Indiana Bond Bank is working with the City. If the City would put out for bid a Tax Anticipation Warrant, we would not get any takers because of the current property tax situation. Mr. Baugher stated typically the Indiana Bond Bank pools together numerous loans from various communities and markets them as a big package because it can be done cheaper and they can spread out the costs for issuing those Tax Anticipation Warrants over all the entities borrowing the money. They wouldn't put the City in the package because our rating is so low it would bring down the overall package. Councilman Logwood stated earlier the Clerk had indicated the first quarter expenditures were at 24%, which sound about normal. Is there a chance the rest of the year that number will go down? The Clerk-Treasurer stated yes there is, however, you have to remember 80% of the budgets are for personnel and benefits. Councilman Logwood stated HB 1001 has been addressed and basically what the City is looking at is a balance that has nothing to do with HB 1001. The Clerk-Treasurer stated no one knows that for sure. She stated no one knows how much of the 38% delinquency is foreclosures or are people just not paying because they received a provisional tax bills. No one can answer those questions. The Clerk stated if the next collection of tax revenue is down from previous collections, then once again there is a problem and everything will have to be looked at again. Mr. Baugher stated it is fairly clear with the cuts that have been put in place; the City will spend less than 24% per quarter of the budget. That is not the problem; the City always spends within the budget. The problem lies in the flow of cash to fund those budgets. Councilman Schmitt asked if we know how much County wide, including schools and libraries, has been spent in interest to borrow money. The Clerk-Treasurer stated she has no way of knowing that information. The Clerk informed the Council the City has asked the County Treasurer to do a tax sale. They stated they were uncertain if that could be achieved and they would research it and get back to us. The City Attorney stated the DLGF has given the City a written opinion stating the County could do a tax sale with provisional bills. He stated the last time a tax sale was held on delinquent property taxes was in 2005. The City Attorney advised there is a mediation scheduled for April 22nd. It is hopeful, but not necessarily optimistic, that this will get resolved. The Clerk advised several weeks ago she reported the County had indicated they could not disperse CAGIT or CREDIT Distributions as there was no tax rate. After she contacted the DLGF a provisional rate was given to the County to calculate those distributions which the City is now receiving. The City will receive monthly \$78,000.00 for CAGIT and \$109,500.00 for CREDIT which totals over \$2.2 million a year between the two. Councilman Pressler asked why the City has money in the Rainy Day Fund when we are in such dire straits. The Clerk-Treasurer reported several years ago the State discovered CAGIT and CREDIT funds were not dispersed correctly, so they made what they called an "extra disbursement". When that was done it was mandated the funds were to be placed in a Rainy Day Fund. Up until that time the City never had a Rainy Day Fund and no property tax dollars have ever gone into the Rainy Day Fund. The Clerk-Treasurer informed the Council she sent an e-mail to the DLGF this afternoon asking if they could give us their projection for the City's 2010 tax levy and where they think the City will be for 2011 to try and determine how close the City is at this point. She stated at this time she is fairly comfortable but it never

hurts to have someone else confirm where you are at. Mayor Chroback stated to try and wrap your arms around these numbers without an assessed valuation to try to determine where we are with regard to expenditures and budgets is extremely difficult. She stated the Clerk-Treasurer and her department has done an outstanding job and commends her for the job that has been done.

Tax Abatement Compliance Forms

Mary Jane Thomas, Director of Community Development and Planning, reported she has distributed a memo stating that annually the Council is required to review the Compliance Forms for tax abatements. Before the Council are the following:

Real Property Tax Abatement Statement Compliance Forms

B&B Manufacturing
American Renolit
Wilkins/Boss Industries

Ms. Thomas noted all have made their investment, they all have maintained/retained the jobs and all have made an effort to create the jobs they stated they were going to create.

Personal Property Tax Abatement Statement Compliance Forms

B&B Manufacturing
Alpha Baking Co., Inc.
American Renolit
Graphic Packaging
American Licorice
MonoSol

Ms. Thomas noted all have made their investment; American Licorice, Graphic Packaging and Alpha Baking have exceeded their employment goals. The others are working toward completing their employment goals. Ms. Thomas recommended the Council approve the Statement of Benefits forms for American Licorice, Graphic Packaging and Alpha Baking as a substantial compliance and the remainder that the taxpayers made a reasonable effort to comply with the Statement of Benefits.

Councilman Heichel stated the Council passed an Ordinance a few months back to give each other consideration to putting items on the agenda and having the information 72 hours in advance and he just received these ten minutes before the meeting. He stated he would like to have the information in plenty of time in order to be able ask questions if needed.

Ms. Thomas apologized to the Council for the lateness. She stated the compliance forms must be in by May 15th and she asked that they be turned in by April 15th which conflicts with accountants during tax season. She stated that she had extended the deadline to have the information to her office until Friday, which is why the Council did not get it until this evening as she compiled the information today. Ms. Thomas informed the Council in the future she will not extend the deadline. She stated it is up to the Council on whether they want to act on this matter tonight or wait until the next meeting. Councilman Heichel stated it is great that these businesses have gone over and above what was asked and he does not have a problem with voting on it tonight. Councilman Logwood agreed with Councilman Heichel that it would have been nice to have this information in their packet on Friday.

Motion/Vote - Approve Tax Abatement Compliance Forms

Councilman Logwood moved to accept the recommendation of the City Planner; motion seconded by Councilman Schmitt and unanimously carried.

Introduction of an Ordinance Designating 1008 Michigan Avenue, First Church of Christ Scientist as a Single Site Historic Preservation District

Councilwoman Hammons moved to introduce an Ordinance; motion seconded by Councilman Pressler and unanimously carried. Councilwoman Hammons read an Ordinance Designating 1008 Michigan Avenue, First Church of Christ Scientist as a Single Site Historic Preservation District Within the City of LaPorte in its entirety.

Mayor Chroback noted several individuals were present from the Historic Preservation Board as well as Mary Jane Thomas. Ron McAtee, 1034 Indiana Avenue, President of People Engaged in Preservation, came forward to address the Council. He reported they have been working on 1008 Michigan for many years trying to get it preserved. Back in 2003 they made an offer to the church which was turned down. They were finally able to purchase the building this year and are hoping to get it preserved so that it will be an asset to the City, themselves and preservation. Mr. McAtee stated they are hoping the Council will pass the Ordinance at their next meeting.

Councilman Logwood asked for a brief description on designating this property as an historic preservation site and the costs associated. Mr. McAtee reported the people who are looking to purchase the property would have to go before the Historic Preservation Commission to ask permission for any kind of exterior change only, nothing for the interior. They do have the possibility of a group to purchase the property in the future. Councilman Schmitt asked if Mr. McAtee knows what the building would be used for. Mr. McAtee stated at this time they aren't sure there is the possibility it could be a law office, however, the prospective buyers have been somewhat secretive. He reported the prospective owners are well aware People Engaged in Preservation will be preserving the building.

Second and final reading of this Ordinance will take place at the next regular Council meeting.

Introduction of an Ordinance Authorizing the Acceptance of Debit Cards and Credit Cards for Payments Due the City and the Water & Wastewater Department

Councilman Luscomb moved to introduce an Ordinance; motion seconded by Councilman Pressler and unanimously carried. Councilman Luscomb read an Ordinance Authorizing the Acceptance of Debit Cards and Credit Cards for Payments Due the City and the Water and Wastewater Departments of the City of LaPorte in its entirety.

The Clerk-Treasurer informed the Council this is a project she has been working on for the past three to four years, however, until recently you couldn't pass on the fee associated with the use of a credit card to the person using the card. The City's Park Department and Beechwood Golf Course having been accepting credit cards for about eight or nine years. The fees associated with the use of credit cards for those areas have been paid by the City. Based on the fees paid by Beechwood during their busy season it would be cost prohibitive to absorb the fees in the Utility Department. The City has received interest from residents to use debit or credit cards in the Utility Department. She reported that Clerk-Treasurer's throughout the State have a data base where we can send e-mails to each other to get information on what other communities are doing. The Clerk-Treasurer reported she sent an e-mail to the other Clerk-Treasurers asking if their municipality allows the use of credit cards in their utility department and if so who do they use. The majority of the responses received indicated other municipalities use PayGov and

they have had no problems. The Clerk-Treasurer advised she talked with LaPorte Savings Bank, Wells Fargo and PayGov. After receiving all the information, LaPorte Savings Bank sat down with us to try and see what company would best suit the City. LaPorte Savings Bank recommended the City go with PayGov as they could not beat their prices. If the Ordinance is passed, the Utility Department will post a sign informing customers the fees assessed if they wish to use a credit or debit card. The minimum fee will be \$2.00, which most utility bills will fall under; some could be around \$3.00. This will be an option given to utility customers if they so choose. Councilman Logwood stated this is what he does for a living, card processing, and asked if PayGov is going to allow the use of pin base debit. The Clerk-Treasurer stated that is not an option as the fee is higher. Councilman Logwood stated that shouldn't be as pin base debit is a standard flat rate. The Clerk-Treasurer stated she believes LaPorte Savings Bank stated the same thing. She reported PayGov will be providing the machines free of charge. When the City started accepting credit cards for the Park Department the fee for the machines was \$375.00 each. Councilman Logwood stated they need to talk because nothing in life is free. The Clerk-Treasurer stated one of the reasons she is comfortable using PayGov is because other municipalities are utilizing them with positive results. The City will have to sign a contract; however, it can be voided with a thirty day notice, so the City isn't locked in for a long period of time. The Clerk-Treasurer stated this is a very hard area to understand because of the possibility of hidden costs. Councilman Logwood stated he agreed. He stated if PayGov is telling her pin base debit is more expensive than a percentage on a charge, but then they are offering free machines, nothing is ever free in life so that is where they are making up their difference. The Clerk-Treasurer explained the City will not pay PayGov one penny, their fees are directly charged to the person using the card, not the City. She stated if that turns out not to be the case, the City has 30 days to void the contract. Councilman Schmitt stated if a retailer takes a credit card, the retailer pays the fee. Councilman Heichel asked the City Attorney if the Council will need to have a public hearing regarding this matter. The City Attorney stated no. The Clerk-Treasurer informed the Council there is the possibility the use of credit card/debit cards will be extended to the Violations Department and Engineering Department as well. Councilman Luscomb asked how large of an outcry has there been for this option. The Clerk-Treasurer reported the City has received quite a few requests. Councilman Luscomb inquired when approached about using credit cards, has she informed the person the fees involved. The Clerk stated, when asked, she has always explained the reason the City has never moved forward on accepting credit cards is because the City couldn't afford to absorb the costs involved. Councilman Luscomb stated it seems to be a bad precedence to have people pay more money for the convenience. The City Attorney explained in some instances the fee charged to use a credit or debit card will be far less than a reconnection fee because they have been turned off. Councilwoman Hammons stated she is self-employed and she has to pay a monthly fee to just have the service as well as the percentage every time a person uses a card, plus an annual fee. Councilman Logwood stated municipalities and NIPSCO are the only two that are allowed to charge the service on because municipalities have to make exactly the service they are providing. So basically the card holder, who uses their card, has to accept the liability of paying that service fee. Councilman Logwood formally requested to look at the information the Clerk-Treasurer received from PayGov. He stated he knows LaPorte Savings Bank has been good to the City in the past, but they are also not a direct processor, they are what is known as an independent sales organization for another processor, which means their people aren't necessarily the most well trained to deal with reviews. The Clerk-Treasurer stated the City Attorney has a copy of the contract for Councilman Logwood. Councilman Logwood requested to see the documents she has received from all the vendors. The Clerk-Treasurer stated the documents are up in her office and she will make copies.

Other Business

Councilman Logwood stated he got his wires crossed with the City Attorney as he was not present at the last Council meeting, so the Resolution he requested be drafted pertaining to landlords is not done and will be ready for the next meeting.

Mayor Chroback reminded everyone we are in the final stretch of the census count and it is very important to get the census forms filled out and returned. She reported the director for the census that is working in

our area stopped in the office last week and reported the City's return rate is 70%, which is pretty good. The next step will be those areas who have not returned the census form will receive a visit from a census worker.

Adjourn

There being no further business, Councilman Pressler moved to adjourn; motion seconded by Councilman Logwood and unanimously carried.

Signatures

APPROVED: _____
Kathleen A. Chroback, Mayor

ATTEST: _____
Teresa L. Ludlow, Clerk-Treasurer

Approved: May 3, 2010