

The Common Council of the City of LaPorte

May 17, 2010

Convene

The Common Council of the City of LaPorte met in regular session in the Council Chambers on May 17, 2010 at 7:00 p.m. Attendance: Councilman Logwood, Present: Councilwoman Renner, Present: Councilwoman Hammons, Present: Councilman Heichel, Present: Councilman Schmitt, Present: Councilman Luscomb, Present: Councilman Pressler, Present.

Pledge

The Pledge of Allegiance was led by Councilman Heichel.

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

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

Petitions & Comments

Jim Stahl, 1710 Weller Avenue, addressed the Council regarding the proposed installation of mechanical low pressure grinder pumps instead of a gravity drain in the 1700 block of Weller. Mr. Stahl stated grinder pumps are typically used in low topographical areas. He stated the proposed solution will cost each taxpayer a total of \$6,000.00, half of which is for the pump with a cost to the City of \$42,000.00. He stated it is quite obvious this is a cheaper way to go for the City however; it is not for the residents. Mr. Stahl encouraged the City to do the job right, by installing the gravity drain instead of the grinder pumps, or don't do it all.

Ron Zimmer, 1407 2nd Street, stated according to the paper, it is the citizen's fault the City is in this situation regarding property taxes. Mr. Zimmer inquired how that could be when he is one citizen who wants to pay his property taxes and has been told not to because it can't be properly posted. He stated it is up to the government to issue and collect property taxes. He stated somebody needs to take accountability and get involved.

Don Baugher, City Attorney, informed the Council and Mr. Zimmer, at the direction of the Mayor, today he forwarded to the Indiana Supreme Court two documents. One is requesting the City of LaPorte have a voice in the proceedings downstate involving the re-assessment and the second is asking the Supreme Court to assume jurisdiction over those legal issues pending before the Tax Court.

Mr. Zimmer informed the Council people are very anxious about their tax bills and don't want to end up owing a large amount when everything is said and done. Mayor Chrobak stated unfortunately the City does not have any control over the issuing and collecting of property taxes.

Bob Pointon, 544 Fremont, provided to the Council and press, a copy of a utility statement from Goshen and a copy of his bill. Mr. Pointon stated Goshen's minimum utility bill is \$22.00 a month, where his is \$43.89 a month. He reported Goshen expanded their sewage plant which increased their bill from \$20.00 to \$22.00. Mr. Pointon stated during Mayor Gonzalez's term, he was going to do the citizens a favor by changing their utility bill from every three months to monthly. He stated in the end amount residents were paying for a three month bill ended up being their monthly bill. Mr. Pointon stated Goshen's minimum bill is based on a 1,000 gallon schedule where the City's is 5,000 gallons. He stated it is very unfair for residents to have to pay twice as much as Goshen, especially whenever the water or sewage departments have a project or need something; they seem to have the money. He stated there was a 44% increase in sewage to do the CSO Project. Mr. Pointon stated the rates for sewage and water need to be readjusted.

Tim Stabosz, 1307 Monroe, stated on behalf of the LaPorte Historic Preservation Commission, he is respectfully requesting the Council's support of the Ordinance to designate City Hall as a single site historic preservation district. He stated by doing so, it will set an example and encourage residents to do the same. Mr. Stabosz stated historic preservation is part of the City's future and makes the City unique and special.

Henry Kaber, 1714 Weller, stated he has lived in the City for 48 years and now after all this time the City is going to install a sewer in front of his house. He stated he understands the proposed grinder pump will use a 1 1/2" PVC pipe as opposed to a regular gravity system that uses at least a 4" pipe, preferably 6". Mayor Chrobak noted septic systems are no longer allowed in City limits. Mr. Kaber stated his septic system is working just fine.

Mayor Chrobak noted a few students were in attendance and welcomed them to the meeting.

Standing Committee Reports

Airport Authority: Councilman Luscomb reported he was unable to attend the last Airport meeting due to work commitments and deferred to Councilman Pressler who attended. Councilman Pressler reported the final reading of two Ordinances pertaining to the Airport is on tonight's agenda. He noted Mr. Volk, President of the Airport Authority, is present at tonight's meeting to answer questions from the Council.

Park & Recreation: Councilman Pressler reported the Park Board granted permission to Dean Heise, Director of Parks & Recreation, to engage in a contract with Work One for a Worker Assistance Program for the department. He read a short statement from Mr. Heise explaining Work One will pay the wages for a total of five persons, three for park and two for the golf course for a period of 16 weeks. Peg Nauyokas, Director of Recreation, will be asking for additional workers as well. All will be allowed to work weekends as long as they do not exceed 40 hours per week. Councilman Pressler reported the representative from Work One who attended the Park Board meeting, reported those who will be hired will have to meet income requirements and be a LaPorte County resident. All costs involved in the program will be paid by Work One.

Redevelopment Commission: Councilwoman Hammons reported the Redevelopment Commission is scheduled to meet Wednesday, May 26th, at 5:30 p.m.

School Board Liaison: Councilman Pressler reported the School Board will meet tomorrow evening, May 18, 2010, at 6:30 p.m. at the Educational Services Center.

Joint Ordinance Steering Committee: Mayor Chrobak announced the Joint Ordinance Steering Committee will be having a workshop at the LaPorte County Complex on June 2nd, at 6:00 p.m. She reported they are nearing completion of the Plan and are looking for input. There will be a total of four meetings across the County during the month of June and the one for the City is being held on June 2nd.

Clerk-Treasurer's Report

Teresa Ludlow, Clerk-Treasurer, informed the Council on tonight's agenda there are two Resolutions for their consideration for transfers. The transfers are to help with the cash flow shortfall in the General Fund due to the inability to collect normal property taxes over the past two years. Both of these transfers are allowable through State Code. The Clerk-Treasurer reported previously she explained to the Council the money in the Rainy Day Fund is due to the erroneous distribution of CAGIT/CEDIT monies from the State and at the time it was mandated the money be put in a Rainy Day Fund. The Clerk reported the current balance in the CCI (Cumulative Capital Improvement) Fund is \$257,462.73. This is an accumulation of cigarette tax received from the Auditor of State. She noted this year it is anticipated the City should receive approximately \$67,000.00. The Clerk-Treasurer stated as you can tell, the City has been quite frugal over the past several years in not spending out of this fund as the balance is made up of about four or five years of receipts as there is some monies spent out of the fund on an annual basis.

Second & Final Reading of an Ordinance to Amend Article IV of Chapter 82 of the Municipal Code (Airport)

Councilman Luscomb moved to read an Ordinance for the second and final time by title only; motion seconded by Councilman Heichel and unanimously carried. Councilman Luscomb read an Ordinance to Amend Article IV of Chapter 82 of the Municipal Code of the City of LaPorte (Airport) by title only.

Ed Volk, President of the Airport Authority, reported in 1988 or 1989 the name of the Airport was changed however, this Ordinance was not changed. He stated the first Ordinance is to correct that error. Mr. Volk stated the second Ordinance has to do with the Airport's biggest concern, which is encroachment. He stated encroachment can be in several different forms such as; a subdivision at the end of a runway, apartment buildings or tall structures. Mr. Volk informed the Council the City has a tool in controlling these types of situations which is zoning. He reported this tool is encouraged by both the Federal Government and State. Mr. Volk advised most of the money received for development at the Airport is from Federal Government grants. The Airport is required to sign an agreement stating they will do whatever is reasonably necessary to protect the Airport and the investments from the Federal Government which includes zoning. Mr. Volk stated the City currently has a no lights policy on towers with the exception of around the Airport. He stated the Airport knows towers are obstructions and by placing lights on them it will help mitigate danger and safety issues, however, the Airport does not want to mitigate the possibility, they want to eliminate it. Mr. Volk requested the Council's support for both Ordinances.

Motion/Vote - Adopt Ordinance No. 12-2010

Councilman Luscomb made a motion to adopt the Ordinance as presented; Councilman Logwood seconded the motion. The motion passed by vote: Councilman Logwood (Yes), Councilwoman Renner (Yes), Councilwoman Hammons (Yes), Councilman Heichel (Yes), Councilman Schmitt (Yes), Councilman Luscomb (Yes), Councilman Pressler (Yes).

**ORDINANCE NO. 12-2010
ORDINANCE TO AMEND ARTICLE IV OF CHAPTER 82 OF THE MUNICIPAL
CODE OF THE CITY OF LAPORTE
(Airport)**

Second & Final Reading of an Ordinance to Amend Sections 82-655(7), 82-657, 82-658 and 82-1006(b) of Chapter 82 of the Municipal Code (Towers/Encroachments)

Councilman Heichel moved to read an Ordinance for the second and final time by title only; motion seconded by Councilman Pressler and unanimously carried. Councilman Heichel read an Ordinance to Amend Sections 82-655(7), 82-657, 82-658 and 82-1006(b) of Chapter 82 of the Municipal Code of the City of LaPorte (Towers/Encroachments) by title only.

Motion/Vote - Adopt Ordinance No. 13-2010

Councilman Heichel made a motion to adopt the Ordinance as presented; Councilman Logwood seconded the motion. The motion passed by vote: Councilman Logwood (Yes), Councilwoman Renner (Yes), Councilwoman Hammons (Yes), Councilman Heichel (Yes), Councilman Schmitt (Yes), Councilman Luscomb (Yes), Councilman Pressler (Yes).

**ORDINANCE NO. 13-2010
ORDINANCE TO AMEND SECTIONS 82-655(7), 82-657, 82-658 AND 82-1006(B) OF CHAPTER
82 OF THE MUNICIPAL CODE OF THE CITY OF LAPORTE
(Towers/Encroachments)**

Second & Final Reading of an Ordinance Designation 801 Michigan Avenue, City Hall, as a Single Site Historic Preservation District

Councilwoman Renner moved to read an Ordinance for the second and final time by title only; motion seconded by Councilman Heichel and unanimously carried. Councilwoman Renner read an Ordinance Designating 801 Michigan Avenue, City Hall, as a Single Site Historic Preservation District within the City of LaPorte by title only.

Motion/Vote - Adopt Ordinance No. 14-2010

Councilwoman Renner made a motion to adopt the Ordinance as presented; Councilman Logwood seconded the motion. The motion passed by vote: Councilman Logwood (Yes), Councilwoman Renner (Yes), Councilwoman Hammons (Yes), Councilman Heichel (Yes), Councilman Schmitt (Yes), Councilman Luscomb (Yes), Councilman Pressler (Yes).

**ORDINANCE NO. 14-2010
ORDINANCE DESIGNATING 801 MICHIGAN AVENUE, CITY HALL, AS A SINGLE SITE
HISTORIC PRESERVATION DISTRICT WITHIN
THE CITY OF LAPORTE**

Introduction of a Resolution Transferring Funds from the Rainy Day Fund to the General Fund

Councilman Pressler moved to introduce a Resolution; motion seconded by Councilman Luscomb and unanimously carried. Councilman Pressler read a Resolution Transferring Funds from the Rainy Day Fund to the General Fund in its entirety.

Councilman Heichel commented that he realizes the City has to do whatever is necessary to pay bills and this is a step in the right direction. He stated he applauds Mr. Heise for finding free workers but wonders why this wasn't done last year or the year before, and does the City have other departments who have excess employees that could be replaced with workers from Work One. Councilman Pressler stated the money that is being utilized by Work One for additional workers at the Park Department is from a Federal

Grant that Work One just received, which is new and different money to them. He reported the representative from Work One stated when reading in the newspaper about the situation the Park Department is having; she approached Mr. Heise with the possibility of using these grant funds to help. Councilman Pressler stated if he did not include this information in his report he apologizes. The Clerk-Treasurer stated it is really important for the Council and public to understand the City is not overspending the budgets. Departments have cut back and the expenditures for 2010 are expected to be less than in 2007. The Clerk stated the problem does not lie in overspending budgets; it is the fact the City is not receiving the expected revenue from the County.

Motion/Vote - Adopt Resolution R-4-2010

Councilman Pressler made a motion to adopt the Resolution as presented; Councilwoman Hammons seconded the motion. The motion passed by vote: Councilman Logwood (Yes), Councilwoman Renner (Yes), Councilwoman Hammons (Yes), Councilman Heichel (Yes), Councilman Schmitt (Yes), Councilman Luscomb (Yes), Councilman Pressler (Yes).

RESOLUTION R-4-2010 RESOLUTION TRANSFERRING FUNDS FROM THE RAINY DAY FUND TO THE GENERAL FUND

Introduction of a Resolution Transferring Funds from the CCI Fund to the General Fund

Councilman Schmitt moved to introduce a Resolution; motion seconded by Councilman Heichel and unanimously carried. Councilman Schmitt read a Resolution Transferring Funds from the CCI Fund to the General Fund in its entirety.

The Clerk-Treasurer noted this transfer is for the same reasons as the transfer from the Rainy Day Fund. She stated it is a transfer she wishes the City did not have to make. The Clerk stated the Council needs to understand the money will not go back into the CCI Fund if the transfer is approved.

Motion/Vote - Adopt Resolution R-5-2010

Councilman Schmitt made a motion to adopt the Resolution as presented; Councilman Pressler seconded the motion. The motion passed by vote: Councilman Logwood (No), Councilwoman Renner (Yes), Councilwoman Hammons (Yes), Councilman Heichel (Yes), Councilman Schmitt (Yes), Councilman Luscomb (Yes), Councilman Pressler (Yes).

RESOLUTION R-4-2010 RESOLUTION TRANSFERRING FUNDS FROM THE CCI FUND TO THE GENERAL FUND

Other Business

Mayor Chrobak announced on May 12th, the City received notification from the Arbor Day Foundation designating the City of LaPorte a Tree City USA Community. This is the fifteenth year the City has earned this national designation.

Councilman Pressler asked the City Attorney if he could explain further the petitions the City filed with the Indiana Supreme Court. Mr. Baugher stated the City is concerned with the re-assessment and the perpetual

delay in coming to a conclusion. The City has never taken a position as to which assessed valuations are proper or correct. The City hasn't sided with the County Assessor or County Auditor nor have we come up with our own numbers. The only thing the City has asked is that a final decision be made. The hope had been that the Tax Court would resolve that issue and move forward. However, because Mr. Wendt has challenged the jurisdiction of the Tax Court, things have frozen. So the City has taken somewhat of a unique position and said the Indiana Supreme Court should assume jurisdiction on all the issues and bring this matter to a final conclusion. Mr. Baugher stated the concern is if this is sent back to the Tax Court and a decision is made, it will be appealed to the Indiana Supreme Court. If it is determined the Tax Court has no jurisdiction, it is highly likely that the parties involved will file litigation in the local courts. Regardless of what decision might come out of the local courts, there is a high probability that decision will be appealed and end up in the Supreme Court. Mr. Baugher stated given the fact there is an urgency and no significant facts are being disputed, the City is asking that the Supreme Court assume jurisdiction and decide the case. Councilman Pressler inquired if all parties from the County have signed off on the agreement that was reached resulting from the mediation. Mr. Baugher stated he believes the critical terms of the mediation agreement in principle have been approved by the parties. He stated one of the difficulties lie in where do you file an agreement if the Tax Court jurisdiction is being challenged. He stated people who are involved in that settlement are going to be concerned as to the legal affect of the settlement adopted by a court that had no jurisdiction. The Mayor stated over the past year or so, the City has attempted, as much as we can, to get this matter settled. Unfortunately, there isn't any means by which the City can make these individuals do their job. She stated this is the City's last resort.

Mayor Chrobak stated the issue of septic systems in the 1700 block Weller Avenue came about because a resident's septic has failed. She stated as the City no longer allows septic systems within City limits, the matter was brought before the Board of Public Works and Safety. At the recommendation of the Director of Wastewater the Board approved the expenditure for a grinder pump gravity drain. The Mayor recommended the residents sit down with Jerry Jackson to discuss the situation and try to work out something as far as the cost. She reported the Council passed an Ordinance about a year ago that addresses these issues. Mayor Chrobak stated there are a number of residents within the City who have septic systems and when something like this happens it has to be addressed. She stated unfortunately it has happened in this neighborhood and the City is trying to solve the problem that is the easiest, less disruptive and probably most cost effective.

Councilman Logwood stated to continue that issue, just a point of order, the original Ordinance passed by the Council was vetoed and that removed 39-2007. He stated the argument made by Mr. Jackson is that this is the most cost effective because the return on the investment is going to be so long. Unfortunately, this \$50,000.00 expenditure isn't touching the \$150,000.00 expenditure that would be in a gravity flow and until we do that, the return on that investment gets progressively longer. Councilman Logwood stated in other words in today's dollars that is never going to get any cheaper than it is today. He stated he does not understand the argument of return on investment on this.

Councilman Logwood stated on Friday he sent out an e-mail requesting a moratorium on this until we can identify all properties in the City that do not have City services. He asked if any further consideration has been given to that. The Mayor responded no.

Adjourn

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

Signatures

APPROVED: _____
Kathleen A. Chroback, Mayor

ATTEST: _____
Teresa L. Ludlow, Clerk-Treasurer

Approved: June 7, 2010