

The Common Council of the City of LaPorte

July 06, 2010

Convene

The Common Council of the City of LaPorte met in regular session in the Council Chambers on July 6, 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 Councilwoman Hammons.

Mayor Chroback noted item number ten would be stricken from the agenda as the attorneys are still working out the details of the agreement and will probably be on the next agenda.

Minutes

As each Council member received an advance copy of the minutes from the previous meeting as well as the executive session on June 21st, the Mayor 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 regular and executive minutes from June 21st as submitted; motion seconded by Councilwoman Hammons and unanimously carried.

Petitions & Comments

Bob Pointon, Fremont Street, announced Senator Jim Arnold would be at the Moose Lodge on July 10th from 1:00 to 2:00 p.m. outlining changes made by the legislators. Mr. Pointon reported the public is invited to attend with the doors opening at 12:30 p.m.

Standing Committee Reports

Airport Authority: Councilman Luscomb reported on Friday, July 2nd, Jim Fleming, a long time resident of LaPorte passed away. He stated one of Mr. Fleming's achievements was to serve on the Airport Board for over 35 years. Councilman Luscomb stated as he did not know Mr. Fleming as well as other members of the Board, he contacted Ed Volk, Airport President, inquiring if Mr. Volk would like to make a comment regarding this matter. Councilman Luscomb read the following statement from Mr. Volk:

"The importance of Jim Fleming to the City of LaPorte cannot be overestimated. We will miss him in ways we cannot yet image.

He was a good husband, a good father, a good employer and a good member of the LaPorte Airport Board for more than thirty years. During that time, he helped guide the airport from the point where it had the shortest municipally owned runway in the State of Indiana to the point where it is now among the finest general aviation facilities in the country.

Jim Fleming was an experienced engineer. He regularly put his expertise to work at the airport and generously donated the resources of his business for the benefit of the City. He was a hands-on person. It was not unusual to see him felling tress, painting a building or wiring circuits. He did what was necessary to get the job done.

While it is sad to lose a good friend and valuable member of the community, we can be thankful for the time that Jim Fleming walked among us. We are a better community because he was here.”

Sincerely,
Edward L. Volk

Mayor Chroback stated Mr. Fleming did a lot for the community and City and will be greatly missed. She asked for a moment of silence in honor of Mr. Fleming.

Councilman Luscomb reported the next regular meeting of the Airport Authority will be held on Wednesday, July 14th, at 5:15 p.m. at the Airport.

BID Board: Councilwoman Hammons reported due to the Fourth of July holiday, the BID Board will meet next Monday, July 12, 2010, at 5:15 p.m. in the Council Chambers.

Finance Committee: Mayor Chroback noted the Finance Committee would meet Monday, July 12th and Monday, July 19th, at 5:30 p.m. in the Mayor’s Office.

Fire Department: Councilman Heichel reported the Fire Merit Commission would meet tomorrow evening at 6:30 p.m. at the 18th Street Fire Station.

Park & Recreation: Councilman Pressler reported the Park Board would meet Wednesday, July 14, 2010, at 7:00 p.m. at the Park Office.

School Board Liaison: Councilman Pressler reported the next School Board meeting would take place Tuesday, July 20th, at 6:30 p.m. at the Educational Services Center.

Traffic Commission: Councilman Schmitt reported the Traffic Commission will meet at their regular time next month as the meeting set for tonight was cancelled.

Joint Ordinance Steering Committee: Councilman Heichel reported the countywide meetings are complete and he is waiting on the date they will reconvene.

Clerk-Treasurer's Report

Teresa Ludlow, Clerk-Treasurer, informed the Council she has provided them with updated figures through the end of June with regard to the cash flow spreadsheet. She noted the City received excise tax revenue from the County in the amount of \$188,753 for the General Fund and anticipated the balance will be received in December. She reported last year, the City did not receive any excise revenue until the end of the year. The Clerk-Treasurer reported the City receives electronic funds from the State and those are placed in a clearing account in the General Fund and then transferred to the appropriate fund. She noted this month the expenditures are up \$192,891 from the original spreadsheet due to this fact. She stated at this time the projection for the General Fund at the end of the year is a negative \$4.9 million if all the loans

are repaid. The Clerk-Treasurer stated originally the spreadsheet showed the receipt of property taxes and the payment of the tax anticipation warrants in June. She stated she has moved those figures to July and will probably have to move them again to August, as that is when she anticipates the City will receive a tax draw. The Clerk-Treasurer advised the growth factor for 2011 is 2.9% and for 2010 it was 3.8%, which is how the levy is increased.

The Clerk-Treasurer reported she received a request to address the Riverboat Fund and how it is used. She reported the Riverboat revenue is placed in the fund and is not appropriated for any particular purpose. She stated currently the fund is used to make temporary loans to the Police and Fire Pensions until the City receives reimbursement from the State twice a year, which is at the end of June and the first part of October. She reported the reimbursement from the State is based on the previous year's expenditures. The Clerk-Treasurer advised the Council she does not know of any other fund where the money can be borrowed.

Introduction of an Ordinance Amending Section 2-141 (Cumulative Capital Improvement Fund) of the Municipal Code

Councilman Schmitt moved to introduce an Ordinance; motion seconded by Councilman Pressler and unanimously carried. Councilman Schmitt read an Ordinance Amending Section 2-141 (Cumulative Capital Improvement Fund) of the Municipal Code of the City of LaPorte in its entirety.

Don Baugher, City Attorney, explained the State tends to have specialized funds with limited uses and as money dries up for the State's General Fund the State Legislature is loosening up the restrictions on what those funds can be used. As it turns out the Cumulative Capital Improvement Fund can now be used for such purposes as this body determines by appropriation. The Clerk-Treasurer reminded the Council a few meetings ago they approved a transfer from the CCI Fund to the General Fund to help with the cash flow shortage.

Councilman Pressler stated he understands the importance of using these funds to help with operating expenses, however, he hopes that it will be the practice of the administration to set policy to use this fund for its intended purpose of capital improvements and not operating expenses. He stated over the years the CREDIT Fund has taken on a whole new meaning and he does not want to see that happen with the CCI Fund. The Clerk-Treasurer reported the budget appropriation passed by the Council has always been a capital line item. She stated the majority of the expenditures have been for computers, computer upgrades, software and radios.

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

Introduction of an Ordinance Limiting Capital Expenditures Within the Water & Wastewater Departments

Councilman Logwood moved to introduce an Ordinance; motion seconded by Councilman Heichel and unanimously carried. Councilman Logwood read an Ordinance Limiting Capital Expenditures within the Water and Wastewater Department in its entirety.

Jerry Jackson, Director of Wastewater Department, stated in reading the proposed Ordinance it basically moves the functions of the Board of Public Works to the City Council. He stated as far as the issue of transparency goes, he does not really see the need as they are both public boards. Mr. Jackson stated as long as he has been employed by the City he has always seen in both the Council and Board of Public Works, people who are very interested in seeing the City run in a good fashion and doing the best thing for the City. However, for capital decisions with utilities, the Board of Public Works has some advantages. They meet on a weekly basis and they meet with him weekly. He stated at the same time both the Director

of Water and Director of Street are present and when working on capital projects all of those areas are interlocked. He stated having all those parties together along with the City Engineer, City Attorney and Mayor puts a body of knowledge together on a weekly basis. Mr. Jackson stated these projects are complex and things change on a regular basis and it is easier for a board that meets that frequently to make these sorts of decisions. He stated just as a matter of normal course they are informed on these projects. It would be difficult for the Council to have that level of involvement unless the Council met more frequently. Mr. Jackson stated to him it comes down to a matter of practicality on how much time is available to spend making these decisions.

Councilman Heichel inquired if there is a current set minimum amount. The City Attorney explained once the Council appropriates money, the decision on how that is spent lies with the Board of Public Works and Safety. Mr. Baugher stated apparently there was some thought at one point that there was some number at which it had to come back to the Council, He stated to his knowledge that has never been the law.

Councilman Logwood asked Mr. Jackson if what he is saying is this governing body does not have any control over financial issues such as capital expenditures. Mr. Jackson stated that is not the case. When the Council approves the rates and annual budget that is when the Council has the big picture of what goals the department is trying to achieve. The Board of Works oversees the day-to-day operations. Councilman Logwood asked Mr. Jackson what he would say to those that would like to take part in the Board of Works meetings but find it difficult with their work schedule to make those meetings. Mr. Jackson stated that is why the Board of Public Works has the advantage as they meet on a weekly basis with all the pertinent departments in attendance. Mr. Jackson invited the Council to get involved and contact him as he would be more than happy to meet with them to discuss their concerns and thoughts. He stated he understands normally Council members have regular jobs and it makes it difficult for them to them to be involved day to day. Councilman Logwood asked what aspects of the current members of the Board of Works gives it any more bearing in expertise on governing issues such as capital expenditures. Mr. Jackson stated mainly the composition and the frequency they meet. He stated the Mayor, Engineer, Street Department, Water Department, Wastewater Department and City Attorney are all together at regular meetings. Councilman Logwood stated aren't those people in the room right now. Mr. Jackson stated that is because of the issue of the Ordinance, but again, the Council only meets twice a month. The rest are full time people who consult or meet on a daily basis. Councilman Logwood asked how many capital expenditures on average does the City have. Mr. Jackson stated he does not have that figure in front of him but would get that information to him later. Councilman Logwood inquired if it was more or less than five. Mr. Jackson stated more than five. He stated capital projects require day-to-day management, change orders and things that if you are not involved would be difficult to make. Councilman Logwood asked when was the last change order. Mr. Jackson reported he presented a change order to the Board of Works last week. Councilman Logwood stated so the Council could have handled it this week. Mr. Jackson stated if the Council was involved in the day-to-day management of the Darlington Street Project. Councilman Logwood stated grants are excluded from this Ordinance. Mr. Jackson stated that project is being funded through the City's State Revolving Fund. Councilman Logwood asked what Mr. Jackson would say to the residents of LaPorte that very much think that the Council have an opinion or say when it comes to capital expenditures, for example, should the City handle sewer under water on Lakeside or septic in backyards. Mr. Jackson stated he would invite them to talk to Council and invite the Council to talk to him and the Board of Public Works, attend meetings if possible, which is what went on in the project that he is referring to. He stated he believes everyone who wanted to got the chance to express his or her opinion on the project. Councilman Logwood stated everyone was able to express their opinion, however, whether their opinion was heard or not is another question and that is the reason for this Ordinance. Mr. Jackson stated for example on the Weller Avenue project there was a lot of opposition to using pumps. He reported some residents called other communities that use pumps and it changed their opinion because they did their homework and got all the facts in order to make a well-informed decision. Councilman Logwood stated some residents did not change their mind. Mr. Jackson stated there were some residents he couldn't sell gold bars to for a nickel.

Todd Taylor, Director of Water Department, informed the Council the one thing that helps the Water and Wastewater Departments immensely is the availability of the members of the Board of Works and City Attorney. He stated both Mr. Rosenberg and Mr. MacLennan are familiar with the operation of the departments, meet with them and ask questions. He stated there are some Council members who have refused to meet with him. He stated that makes it more difficult to make projects happen when you can't get people together to meet. He stated he believes the State enacted certification requirements for utility directors because decisions that are made pertain to the health and safety of resident and should not be dragged out or made strictly for financial reasons. Mr. Taylor stated he would like to educate the Council and be able to sit down with them. Mr. Taylor inquired if the Council would have had anything to add to the decision to paint the Weber Street tower. He stated the City has been saving the money to have that tower painted for years. Councilman Schmitt asked when the last time the tower was painted. Mr. Taylor stated it was 1987. Mr. Taylor stated that was a \$390,000.00 decision, which was the lowest out of six bidders. Mr. Taylor stated he does not know how that process could have be improved. He stated they use their best judgment to try and decide what comes before the Board of Works or Council. One project that has already come before the Council was the preliminary engineering report for the projects to be paid from the State Revolving Loan Fund. Mr. Taylor stated he is very excited about the overall scope of the projects and the development of the new well fields, which will result in additional water supply. He stated he does not believe the current process is broken and there are State laws that govern how cities are ran which is evident by the fact that other third class cities operate in the same way.

Councilman Heichel apologized for not being able to meet with Mr. Taylor but stated he was able to talk with Terry and the City Engineer. He stated part of his frustration with the preliminary engineering report was not the end result but the fact the design is not finished yet. Mr. Taylor reported with the low interest rates for the State Revolving Loan the information was coming through pretty fast and the City was working under a very tight time frame. He stated the process has since slowed down. The City Attorney stated government and its processes can be absolutely frustrating, but if you are going to do anything you have to follow the process that is dictated. Before the matter is brought back before the Council and they are asked to approve the financing there are a whole lot of blanks that have to be filled in. The City has to have a contract with the State stating they are going to pay back the money it will cost to do their project as well as a contract with the State that says they are going to pay the City for the services that we provide. He stated there will also have to be realistic final numbers, but we are not there yet, this is still in the preliminary process.

Mr. Taylor stated the balancing act that he and Mr. Jackson have to achieve is to provide the service required by law and meet all the regulations at the best price possible. He stated he does not believe this Ordinance is needed

Councilman Pressler stated he kind of agrees with some of the things that have been said by other Council members. He stated it is very frustrating in a sense to be sitting in this position to find out how little control you do have over day-to-day operations. The Council does appropriate the money and set the budget and hold the Mayor and Department Heads accountable, but as far as what happens after that is done, the Council does not have much say so. He stated that can be frustrating and is difficult to understand by not only the Council but also the residents. However, that is the way the State Legislature set up the Council for a third class city. Councilman Pressler stated having said that, he shares the frustration but does not know if this Ordinance is the answer. He stated he understands what is trying to be done but does believe there is a great deal of accountability and transparency with the way things have been done. Things have been done on television, there are minutes of the meetings, the meetings are open and nothing is done behind closed doors. Councilman Pressler stated this Ordinance would give the Council greater involvement in the process however, he also believes it would slow things down. There is a separation of powers for a reason and with this Ordinance we are experimenting with the fine line there. He stated he is fortunate that his schedule is flexible and he is able to attend the Board of Works meetings on a regular basis. He stated he finds it interesting to hear what is being said and the projects that are being discussed.

Councilman Pressler stated if the reason for this is accountability and transparency then he does not believe this Ordinance will achieve that goal anymore than what is already being done. He stated he admits that he does not know what either department head does, the only thing he knows is when he turns on a hydrant he can put out a fire and when he pushes the lever everything goes away. Councilman Pressler stated he knows that he can talk to any department head, Mayor or Board of Works member and share his ideas and what he thinks is important. He stated they may not always agree or take his suggestions but they are always willing to listen. He stated in the end they have been doing their jobs a lot longer than he has and for him to try and reinvent their jobs is not in the best interest of the City. He stated one thing that would be helpful to the Council is for both departments to provide a report to the Council of what is being done and the progress that is being made on projects on a monthly basis.

Councilman Logwood stated he agrees with Councilman Pressler that there needs to be greater communication and not only with the Water and Sewage Departments. He stated there is transparency and the public has access to the minutes and the televised meetings. More importantly as the fiscal body of the City is to cost justify how the money is spent. In this case it is a capital expenditure fund with close to a million dollars in it and the City has a monstrous project with sewer under water that is being overlooked for a septic in a yard. Councilman Logwood stated in his opinion the eighty year return on a gravity flow at that sight on Weller is equal to what would be spent in maintenance and replacement of pumps and everything else over that same eighty year time frame with the pumps. He stated those kind of things is what this offers oversight on. Those are the kind of things the Council needs to pay attention to. Those are the kind of things that really need an outside point of view and objective point of view. He stated as the fiscal body the Council needs to make sure the City is not being penny wise and dollar stupid and somewhere down the road someone is not going to inherit the sins of the past that this Council has created. He stated that is the intention of this Ordinance, is to give a little more oversight a little more inspection of those financial aspects to make sure is this the best financial solution as a City and the long term financial solution as well. Councilman Logwood stated he has heard everything from the Council is not smart enough to make decisions on this stuff to that they just don't have time to make decisions. He stated if you have questions, just ask him and he will tell you what he thinks, but we don't know enough or we don't have time to do a good job just isn't going to get it and that is not going to get it for the public either. Mayor Chrobak stated she does not believe anyone has ever said that we don't have enough time to do a good job and she takes offense to that comment. She reiterated to all Council members who have questions about what is happening at the Sewer or Water Departments to meet with the superintendents. They are more than willing to meet and discuss whatever is on the Council's mind.

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

Other Business

The City Attorney stated in anticipation of bringing a settlement agreement before the Council, he requested an executive session be set prior to the next Council meeting. Discussion was held regarding this matter and the fact there is a Finance Committee meeting that night at 5:30 p.m. It was agreed to hold the executive session at 6:30 p.m.

Councilman Logwood inquired who was appointed to the Finance Committee. Mayor Chrobak stated it has not changed since last year. Councilman Pressler, Councilman Schmitt and Councilwoman Renner serve on the Finance Committee.

Councilman Schmitt stated how sad it was to lose Mr. Fleming who was a great civic leader and will be sorely missed. Mayor Chrobak announced Mr. Fleming's funeral will be Thursday at 11:00 a.m. at Haverstock Funeral Home for those who wish to attend.

Motion/Vote - Executive Session

Councilman Pressler moved to set an executive session for July 19th at 6:30 p.m. in the Mayor's Office to discuss litigation; motion seconded by Councilman Schmitt and unanimously carried.

Adjourn

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

Signatures

APPROVED: _____
Kathleen A. Chroback, Mayor

ATTEST: _____
Teresa L. Ludlow, Clerk-Treasurer

Approved: July 19, 2010