

**MINUTES OF THE MEETING OF THE BOARD OF PUBLIC WORKS &  
SAFETY  
VALPARAISO, INDIANA  
JUNE 28, 2007**

The Board of Public Works & Safety of Valparaiso, Indiana, met on June 28, 2007 at 10:00 a.m. Present were members Mayor Jon Costas and David Pilz and Clerk-Treasurer Sharon Swihart. John Hardwick was absent. Mayor Costas called the meeting to order and led the Pledge of Allegiance.

Dave Pilz moved to approve the minutes of the meeting of June 14, 2007 as presented, seconded by Mayor Costas and so approved. Dave Pilz moved to approve payment of claims subject to appropriation balances, seconded by Mayor Costas and so approved.

**POLICE DEPT. FURNISHING BIDS**

Clerk-Treasurer Swihart opened the one bid on the Police Dept. furnishings. This bid was from Paraplan, Inc. Atty. Hollenbeck and Chief Brickner proposed that this bid be rejected and that it be re-advertised in the hopes of getting more bids. Mayor Costas moved to reject this bid and re-advertise the bid again, seconded by Dave Pilz and so approved.

**LISTENBERGER DITCH TRANSFER**

Kevin Brietzke, representing the Porter County Drainage Board, advised that they are interested in transferring all of the County's rights of the Listenberger Ditch to the City since it is within the City limits of Valparaiso. It is the drain for the north end of Valpo, specifically the Urschel Complex and the project surrounding K-Mart. It was precipitated earlier by the developers wanting to vacate a portion of the drain to place a building over it. They want to turn over the whole drain from just south of Bullseye Lake Road to Burlington Beach Road where it terminates as a regulated drain. Kevin explained the term "regulated drain" and explained how it is treated by the County. If the County would need to do anything to the ditch it would be done by assessment and most of the properties being assessed would be citizens of Valparaiso. According to new State Statues, they can now legally transfer the rights to another government entity. Kevin advised that it has been discussed with Hardwick and Pilz that the County would turn the ditch over to the City upon teleinspection and he was referred to contractors that could do this. Dave Pilz stated that doing the due diligence is very necessary for us so that we don't accept something that is going to end up being a big problem for us. It is going to take some time for us to work through the issues but in the meantime it is holding up two very important projects- Cumberland Crossing and the YMCA. The Board of Public Works and Safety had previously agreed to accept the portion of the drain from the Urschel property north to Bullseye Lake Road. He would propose that maybe the two boards can work together in good faith if we would reaffirm our acceptance of the portion of the drain already agreed upon and then the County board would release the projects so that they can get underway. We will recommend to the Utility Board that they continue the negotiations and due diligence and if all comes out okay the Utility Board would consider accepting the drain. Kevin said that was a design choice made to place the

buildings over the drain and the City would have total control over the project if the County would give them the whole thing. It is a fragmented drain and they would like a firm commitment that if this line appears to be in good condition it would be agreeable to accept that drain. Pilz said that he finds it offensive to have to negotiate with a gun to his head. There are two very important projects being held up and he does not think it is fair or equitable of the Drainage Board to do this. He does not feel comfortable in making a commitment until we have had a chance to do the due diligence. You never know what is going to crop up. Dave said that he will vote for this if the Mayor makes a motion but he is not in favor of this and does not want to work this way. Mayor Costas said that he can appreciate the fact that the County wants to know what the City's intentions are and assuming that there are not any major problems our intentions are to take on the drain. The Drainage Board seems to be holding up the permits unless we agree to take all the drain. It is our intention to take the whole drain but we want to do the due diligence and yet we want those projects to proceed. Kevin said that they are not holding up the permits. That was a design decision of placing buildings over a tile and in that case there is always a problem with that. It is not a permitting problem on the County's end but a permitting problem in general. He can not imagine that the State is going to release a permit over a tile. Unfortunately the County is in control of the drain in the City's jurisdiction and the County wants to give the drain to the City. Pilz stated that the Drainage has given nothing in this negotiation; they have dug their heels in, refused to grant the permits even though it is a good project. Just because they have the right to do it they are digging their heels in and holding the gun to our head and that is what he really objects to. Mayor Costas said in the big picture we have the same objective. We are saying that we would like the permits granted now, we will reaffirm up to Bullseye Lake Road and we will work and state that we anticipate taking over this drain as soon as we are able to do our due diligence. Joe Harrison, County Drainage Board member, stated that it was the decision of all of the Drainage Board members that the County will have the drain televised and do any cleaning necessary and if all is well the City will take over the drain. Kevin asked who would make the decision if the drain is sound and Dave said it would be both the County and the City jointly. The Mayor made the motion to reaffirm taking the ditch up to Bullseye Lake as was already done, and that we engage immediately in having it scoped and having our due diligence and upon favorable recommendation by the Drainage Board and our Engineers, we will accept the drain up to Burlington Beach with the understanding that the Board will grant the permits immediately. Kevin stated that it is not an issue of them granting permits anymore, it's up to the City. The Mayor said we need the permits now. Kevin stated that the City will have all permitting ability when it is turned over to us. The connections are permitted by the County if it is on their part of the drain. Right now that is one of the issues and other issue is building over the pipe line by their design decision so they are going to vacate that portion and literally move that drainage over the bypass, however that also has to be permitted to us up to know. Once they vacate that becomes the City's jurisdiction and the City can permit as they like. The Mayor asked if the City motions to reaffirm taking the drain up to Bullseye and we will engage in due diligence in a timely fashion and assuming that the due diligence is acceptable to the parties; we will receive the rest of the ditch at the time that is completed. If we make that motion will they vacate the portion up until Bullseye Lake which will take away the permitting question. Everyone agreed

that the term “vacating” should be changed to transfer although the one portion of the drain needs to be vacated to get the rights out from under the building. The Mayor moved that the Board will reaffirm it’s acceptance of the drain up to Bullseye Lake Road, will proceed with all due diligence done in a timely manner and assuming that the due diligence is acceptable to both parties that the City will receive the easements and the obligations for the remainder of the ditch up to Burlington Beach Road, seconded by Dave Pilz and so approved.

#### **AUDUBON ESTATES LETTER OF CREDIT**

Dave Pilz presented the continuance of a Letter of Credit for Audubon Estates in the amount of \$28,160 and moved for acceptance of this surety, seconded by Mayor Costas and so approved.

#### **TRAFFIC LIGHT STUDY-DLZ**

Dave Pilz advised that RDC has solicited and received Federal Funds to be used toward upgrading traffic signals at 5 locations in the downtown area owned and operated by the City. In addition, we will be looking at working with INDOT for the interconnection of our signals with theirs to make them more compatible. We are looking to go to a wireless system to have an inner connection that could be worked here in City Hall and internet connection. The agreement that we have for consulting is with DLZ Engineers in the amount of \$70,800 if we use all of the components included. Dave moved for approval of the agreement, seconded by Mayor Costas and so approved.

#### **SILHAVY ROAD CLOSING**

Dave Pilz moved to close Silhavy Road at its south end, north of Hwy. 30, on July 5 and 6 in order to complete sewer work, seconded by Mayor Costas and so approved.

#### **PARK POINTE APTS.**

Dave Pilz moved that we accept the municipal improvements that have been approved by the Engineering Department and to release the surety for Park Pointe Apts subject to receipt of a one-year maintenance surety, seconded by Mayor Costas and so approved.

#### **BEAUTY CREEK/SHERWOOD DR. DRAINAGE**

Dave Pilz advised that we have been working on a drainage project at the north end of Sherwood Drive related to the Oakwood Branch of Beauty Creek. He would like permission to solicit bids on the first two phases of that Project, A & B, which will involved some work on Sherwood Drive and on the existing 36” culvert that goes under Sherwood Drive. The next phase would be to enhance the detention basin associated with this whole area. The last phase would be some armoring of the ravine to prevent the erosion that is taking place. Dave moved to authorize receiving bids for the construction work, seconded by Mayor Costas and so approved.

#### **POLICE GENERAL ORDER**

Chief Brickner presented Police General Orders in regard to fiscal management and operations. Clerk-Treasurer Emerson advised that monies received by the Police Department are to be given to the Clerk-Treasurer’s office on a daily basis, not on a

monthly basis. Mayor Costas moved to approve the General Orders subject to the change by the Clerk-Treasurer, seconded by Dave Pilz and so approved.

#### **RAILROAD R/W-POLICE STATION**

Atty. Hollenbeck presented an assignment of a lease for railroad right-of-way which involves the southern boundary of the new police station. We must enter into a license agreement to give us 20-22 feet that would give us control of the landscaping. There is a license agreement fee of \$478 and a transfer fee of \$750. Dave Pilz moved to accept the assignment of this lease from R.W. Pool, seconded by Mayor Costas and so approved.

#### **CITIZEN REQUESTS**

Request for street closure for block party in Pine Creek Subdivision. Mayor Costas moved to approve, seconded by Dave Pilz and so approved.

The meeting adjourned.