

## **PORTER TOWN COUNCIL MINUTES**

**SEPTEMBER 12, 2006**

President Paul Childress called the meeting to order by leading the Pledge of Allegiance to the Flag. Present were Jennifer Granat, Vice President, Council members Lorri Wickberg, William F. Sexton and Sandi Snyder. Also present were Attorney Patrick Lyp, James Spanier, Police Chief; Brenda Brueckheimer, Building Commissioner; Karl Bauer, Public Works Director and Carol Pomeroy, Clerk Treasurer.

### **APPROVAL OF MINUTES**

Wickberg asked that the minutes for August 22, 2006 be amended to read under New Business, Fire Contract; that Sexton said that Wickberg did not have time to review not Sexton. With that amendment Sexton made the motion to approve and Wickberg made the second. Vote 4-0 with Granat voting present.

### **APPROVAL OF CLAIMS**

Sexton made the motion to approve with Wickberg making the second. Vote 5-0.

### **COMMENTS FROM THE FLOOR**

- Barb Miller 500 Riverview Dr. has written letters to Bauer asking the Town to spray for mosquitoes by her home by the Little Calumet River. Bauer stated that with all the rain that we have had recently it would be ineffective. Hopefully if it does not rain any more this week it will be done Friday.
- Jennifer Klug 302 Lincoln St. has attended the recent BZA meeting involving the Town putting a radio tower by U.S. Hwy 20 and the 49 By-pass, which has been continued until next month. She asked Chief Spanier if the police have “dead spots” in their radio communication which Spanier replied yes. Klug said that this is unacceptable for the police to lose communication and would like the problem fixed.
- Earl Graves 1230 Sunset Lane stated that he has been waiting 40 years for water that is available about 2 blocks away. Bauer said that he has been in contact with Indiana American Water Company and has not heard anything yet. Graves also asked if “speed bumps” could be installed on Sunset to slow down the speeders going to work at Signature Graphics. Spanier replied no due to the liability. Spanier said that he would try to extra patrol in the area at around 6:30 am and 3:30 pm if available.

### **CLERK TREASURER**

Pomeroy said that the Town has received the rest of the June tax installment in the amount of \$252,399.37.

Pomeroy also asked the Council approval for repaying CEDIT back in the amount of \$16,500.00 from the Fire Fund. The Council agreed by consensus.

She also asked the Council permission to close the office on October 10<sup>th</sup> for the office personnel to go to training for the Keystone program that was purchased earlier in the year. By consensus the Council agreed.

## **ATTORNEY REPORT**

Lyp stated that the Capital Asset policy is not done yet.

## **POLICE DEPARTMENT**

Chief Spanier asked the Council for a leave of absence for Officer Jason Casbon for 12 to 14 months to go to Iraq to train officers. Sexton said that the Council cannot prohibit it under the employee handbook. Granat stated that they should review after 12 months. Spanier stated that he should be back in 12 months but asked for 14 months in case of delays, Sexton suggested that the Police Commission should review this and come back to the Council with a recommendation.

Chief Spanier asked the Council to hire 2 officers instead of 1 to replace Casbon and that Lieutenant Surgener will be leaving next September before Casbon returns. Childress said to ask the Police Commission.

Chief made another plea to the residents to contact the Police Department about complaints instead of waiting a day or two after. The Council advised the Police Department to use their best judgment about the loud bands playing in town on private property.

## **FIRE DEPARTMENT**

Chief Craig was absent. It was later learned that he was on a call.

## **PUBLIC WORKS DEPARTMENT**

- Bauer said that the road cut permits do not have an expiration date on them. Sexton made the motion to amend the permit to have an expiration date of 12 months and then must reapply and fee the fee again. Wickberg made the second. Vote 5-0
- Bauer said that Verizon has not responded to his calls to pay for the reimbursement to the Town for fixing the hole that they left open at the corner of Waverly Road and Oak Hill Road. They also have not repaired the pavement or shoulder at the same location. The Council told Attorney Lyp to give them a call.
- Bauer also said that the Town has received a \$700,000. grant to build a pedestrian bridge over I94 as part of the Orchard Pedestrian Trail.
- He also said that his Department have been removing dead trees. He was told to check a tree on Franklin Street.

## **BUILDING DEPARTMENT**

Brueckheimer said that there were 6 new contractors making the grand total of 340.

## OLD BUSINESS

- ❖ 2007 Annual Budget. Granat made the motion to accept the 2007 budget as proposed, Sexton made the second. Vote 5-0.
- ❖ Sewer agreement with Chesterton. Snyder made the motion to accept the Sewer agreement with Chesterton contract as written, Wickberg made the second. The following discussion took place before the final vote. Childress stated that he was very disappointed with the contract. He said that the Council advised the Attorney to change some wording in the contract some time back and nothing has been changed: litigation, protection, business access, penalty clause nothing has been done. He stated that negotiations is a 2-way street and Porter got nothing. Granat said that 2 meetings ago she asked the Attorney if these points had been changed and he stated that the only sticky part was the money, and it has not been changed. Granat asked how Porter could resolve future problems since the Town has hasn't any bargaining power through the courts. Sexton said that was not true that the penalty clause has been changed and made clearer. Sexton also stated that there was a lot of give and take and Chesterton learned after negotiations broke down that they could charge any amount that they wanted. He also stated that the Town has the Funds to pay the \$799,000 to purchase the 170,000 gallons per day at a rate of \$4.70 per gallon. The contract also offers 42,000 gallons per day, each year for the next 5 years also at the rate of \$4.70 or \$197,400 annually. The additional capacity has to be bought before September 1st of each year. Sexton agreed that the Town does not have the available funds for the upcoming years but the rate will be partially offset by a decrease in the rate that Chesterton will be charging Porter. Sexton also suggested increasing the tap-on fees for new development and Capital charge right away. He said without this contract Porter would not be able to build another house because we are out of capacity. Sexton said that he has compared the rates for communities of our size and that this rate is just below the middle for the state. He said the website is [indiana.gov.org](http://indiana.gov.org) Snyder said that Porter has nowhere to turn, we cannot go to Burns Harbor and we cannot build a new sewer plant. The Town's cash flow will get better when Indiana American Water takes over the billing will help offset some cost, and help the situation. Snyder also stated that we have a good standing with our neighbors in Chesterton. Chesterton has been ethical, open and sincere by not raising the rates in the next 5 years. Granat said that the Town has not checked into building our own plant. Sexton said that he checked and the State is not issuing permits to build a plant at this time. Snyder feels that the rate is fair and the Town needs to move forward. Childress agrees to disagree this is not a good deal for Porter. Sexton said it would cost more than this to go to litigation and in the mean time Porter could not build another thing and the tax rates would go up. Wickberg said her concern is for the residents and is very confident the rates will not be passed onto the residents. Wickberg then called for a vote and Childress said a resident would like to speak and has been waiting patiently. Linda Hodges said her concern is for the elderly residents on fixed income and is taking Sexton as his word that rates will not raise. Sexton explained that if the Town does not continue to grow the real estate tax for residents will rise. Sexton also stated that

- if the Town does not find the need to buy the extra capacity in a given year it does not need to pay but that capacity will be lost, and cannot be bought later. Sexton also said that the Town is doing improvements to avoid infiltration of storm water. Porter Ave has already been relined and the next project is Beam Street. The vote took place with Snyder, Sexton and Wickberg voting yes and Granat and Childress voting no. Vote 3-2. Motion passed. A 5 minute recess took place and Granat left because of not feeling well because her broken ankle was swelling. When the Council returned Sexton made a motion to advise Pomeroy to write a check for \$799,000. from the Sewer Construction Fund to pay Chesterton for the sewer contract. Snyder made the second, Vote 3-1 with Sexton, Snyder and Wickberg voting yes and Childress voting no. Motion passed 3-1.
- ❖ Snyder authorized Lyp, Shem and Bauer\* to write an ordinance for the Capital Construction Fund. Lyp agreed to do this.
  - ❖ Capital Asset Policy. Tabled until next meeting.
  - ❖ Storm water billing plan. Tabled until next meeting. Karen Pisowicz asked the Council if this fee is for each parcel or lot. What is the lot size? The Council responded up to 10 acres is a parcel. Childress said the rate is for each parcel of property. Pisowicz asked if you can not build on a parcel do you still pay this fee? The Council said yes.
  - ❖ Land Donation to the Town. Shem of Haas & Associates said he has reviewed and this donation is basically a road. He also needs a legal description. Linda Hodges asked this is a road, she is worried about houses being built on it. Sexton said you cannot build on it because it is a road named Cardinal Court. Bauer said it is paved up to the lift station and there is a house already there at the end of the road, it cannot be extended. Hodges asked who paved this road and Childress said you need to ask a previous Council. Sexton said the Town needs to accept this as a dedicated road. Sexton made the motion to accept the dedication of this road, subject to the Town Engineer preparing a legal description of the metes and bounds and the owner executing a quit-claim deed. Wickberg made the second. Vote 4-0.
  - ❖ Len Eason sewer request of refund. He owned a home at 319 Michigan Street and was renting it. The renters had a delinquent bill of \$1,791.75 which included \$175.39 in late fees. A lien had been placed on the property. When he decided to sell he needed to pay the bill, which he did in December 2005, to get a clear title. He told the Council that he has had large medical bills and is on a fixed income and asked for a refund since he was not informed of the delinquency. Pomeroy said that he had been called on this matter and the landlord is responsible for his tenant. Wickberg asked if he could recoup any of these costs. Lyp said in small claims court. Lyp cautioned the Council that it has the right under the sewer agreement to forgive fees but be very careful of equal application if another resident makes a similar request to the Council. Sexton made a motion to forgive the \$175.39 in late fees, Snyder made the second. Vote 4-0
  - ❖ Savani/Salvi PUD Worthington Drive. Lyp asked the Council to approve a right-of-way agreement with Nipsco access road so that the hotel may build a road to the hotel that has been approved. Sexton made the motion to accept Nipsco's right-of-way agreement with Snyder making the second. Vote 4-0

- ❖ Porter Fire Dept. contract. Childress stated that he had a problem with 3C and 3E of the contract. He felt that 3C should be included in 3D and delete 3E entirely. Sexton made a motion to accept the contract as amended that 3C and 3D should be combined and 3E should be deleted and the Funds dispersed when the Town receives the November tax draw. Snyder made the second. Vote 4-0.

## **NEW BUSINESS**

- ✓ Sewer-Mirroring Ordinance 2006-08. Snyder made the motion to number and read by title only. Sexton made the second. Vote 4-0 Sexton made the motion to suspend the rules and have 2<sup>nd</sup> & 3<sup>rd</sup> reading by title only. Snyder made the second. Vote 3-1 with Childress voting no. Ordinance did not pass and will be placed on next agenda.
- ✓ Employee Red Cross Training. Sexton stated that by doing this the Town's insurance rates will drop. The cost is \$80 per employee for 6 1/2 hours to 8 hours of training. The Council agreed to review and table until next meeting. Childress asked if they could have 2 proposals. Sexton will get second proposal.
- ✓ Employee Handbook. Sexton told Spanier that he had added the major medical clause into the handbook but he did not save the changes and it was not printed into the booklet. Sexton will have new booklet with the change at next meeting. Pomeroy said that an amount should be added to the flower policy on page 57, the Council agreed to \$30 for funeral and hospital stay and a definition of immediate family. Snyder made a motion to use the current handbook definition regarding equal opportunity hiring on page 42 & page 3 rather than the expanded language in the new handbook. Sexton made the second. Childress read the new definition "the town to consider potential hirees without regard to race, color, age, sex, disability, religion, national origin, martial status, sexual orientation, ancestry, political belief or activity, or status as a veteran." Lyp says this mirrors the state statue. He also said that the fact remains whether in there or not no matter what language you use does not change the law. He recommends the newer version that covers all laws. Snyder read the old version that reads "The Town of Porter does not discriminate on the basis of race, color, gender, national origin, religion, age, veteran status or disability in employment or the provision of service." Vote 1-3 with Snyder voting yes and Sexton, Wickberg and Childress voting no. Motion did not pass. The newer version is to be used. Chief Spanier asked to change vacation time on page 44 from calendar year to anniversary date, giving an example of a hiree being hired in December would have to take vacation before end of year. Childress asked about 3 personal days leave on page 46, Sexton said this is standard policy, Council agreed to leave in. Sexton will make the adjustments and have ready for next meeting.

**COUNCIL COMMENTS**

**Sexton** said he was informed today that the Governor will be in Valparaiso at the Court House north lawn on Friday September 15<sup>th</sup> at 1:00pm to deliver Major Moves checks to cities and towns. Governor Daniels suggests that the President of the Town Council be present to receive the check. Childress said that he will be there to accept the check.

**Childress** said that there is an opening on the Storm Water Board.

**Snyder** asked the Council to schedule an executive session for department head reviews. The Council set Monday, September 18<sup>th</sup> starting at 5:00pm.

- Chief Spanier at 5:00pm,
- Brueckheimer, Building Commissioner at 6:00pm,
- Bauer, Public Works Director at 7:00pm
- Fire Chief Craig at 8:00pm.

Sexton made the motion to adjourn with Snyder making the second.

Dated this \_\_\_\_\_ day of September, 2006.

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Paul Childress, President

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Jennifer Granat, Vice President

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Lorri Wickberg

\_\_\_\_\_  
William F. Sexton

\_\_\_\_\_  
Sandi Snyder

ATTEST: \_\_\_\_\_  
Carol Pomeroy, Clerk Treasurer

**\*AMENDED SHOULD READ KARL CENDER**