

A SPECIAL MEETING OF THE SEWER BOARD OF THE CIVIL CITY OF NEW ALBANY, INDIANA, WILL BE HELD IN THE THIRD FLOOR ASSEMBLY ROOM OF THE CITY-COUNTY BUILDING ON THURSDAY, FEBRUARY 11, 2010 AT 9:00 A.M.

CALL TO ORDER:

Mr. Harbison called the meeting to order at 9:03 a.m.

PLEDGE OF ALLEGIANCE:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Brinkworth moved to approve the January 28th meeting minutes as amended, Mr. Wilkinson second, all voted in favor

BIDS:

COMMUNICATIONS - PUBLIC:

Bill Utz addressed the board and stated that he looked over the Crowe Report and he has some questions on it as well as other documents. He stated that the Crowe Report should include a full year of 2009 so that they can compare apples to apples. He explained that the fees being collected are less than what was listed by two other accounting firms and he doesn't understand why that is. He informed them that the Sewer Board was supposed to receive \$900,000.00 from TIF and they received \$450,000.00 at the end of 2007 but they have never received the second portion. He stated on the Capital Improvement Plan the original capacity assurance plan was based on using transport and treat as a solution for New Albany's problems and all the consulting engineering firms that they spoke with at that time made the same recommendations and those recommendations were followed and by and large were successful at handling that down at the plant. He explained that EPA told them that they would need \$500,000.00 for I&I and now the five year plan has \$9047 over a five year period which is over 50% of the five year plan.

There was a lengthy discussion regarding the Amended Cap and the EPA's new requirements for I&I removal.

Mr. Utz questioned the need for the \$100,000 for easement purchases because he would be hard pressed to see how they are going to use that in 2012 & 2014

Mr. Marinaro explained that they added that in just in case.

Mr. Utz stated that he can understand 2010, 2011 & 2013 it is justified but he questions the need for it in 2012 & 2014. He explained that it looks like they have a reserve of \$1M for emergency pump station projects and he questions whether or not they need that. He stated that they need to carefully go over this five year plan and check some of the numbers. He explained that after some problems at the plant they had an EPA criminal investigator come and they got the problems resolved but he emphasized that the most important responsibility as a board member was to make certain of the financial integrity of the sewer operating fund and he questions whether they should have ever gotten into their current financial condition of not being able to pay their debts. He stated that it is like any other business in that spending cannot exceed revenue. He referenced the reports recommendation to separate the cash for sanitation and sewer operating funds so that the potential of one fund subsidizing the other is eliminated and stated that he knows that the funds are kept in the same checking account and that they keep track of each one

separately but if sanitary revenue isn't sufficient to pay the bills it will come out of sanitary sewers and this needs to be eliminated. He addressed the dramatic increase in sewer wages and benefits and stated that it was almost \$135,000.00 and they need to have a full disclosure of who is being paid from the sewer fund and justify their salaries. He stated that sewer fund can no longer be regarded as a cash cow and it is time for the money taken from the sewer fund to be replaced.

COMMUNICATIONS - CITY OFFICIALS

Mr. Marinaro presented the change order from Pace that was approved at the last meeting for the additional paving on 15th Street, the ban waiver note for Chester Cove, and two claims were presented for approval.

Mr. Brinkworth moved to approve the claims and add them to the list, Mr. Wilkinson second, all voted in favor.

Mrs. Garry reported that the EDIT money has been added to the sewer fund but it all went toward the bond and interest payments. She stated that that leaves a little over \$600,000.00 and she will be going through claims this week to see what she can pay with those funds. She explained that there is one account for sewer and sanitation but there are two different funds and stated that back in the 80's and 90's the sanitation fund used quite a bit of the sewer fund almost to the tune of \$5M and one of the council members got this mixed up with the general fund. She stated that the general fund does not owe the sewer fund any money at all and the last money borrowed from the sewer fund for the general fund was in 2003 and it was paid back in 2004. She explained that the sanitation fund did have a raise on their rate and a CPI raise that will go into effect on the next bill but it is barely paying itself off. She stated that in 2008 & 2009 the sanitation fund owes the sewer \$500,000.00 and that is the only fund that has used any sewer money since 2003. She explained that the money comes into the sewer utility office and they give the controller's office a breakdown of the different fees collected and what funds they go into.

Mr. Brinkworth stated that they are concerned with sanitary and storm water and sanitation is on their own.

Mrs. Garry stated that storm water just goes into their account and then right back out its own account. She explained that sanitation is a problem and they have been talking about that since 1992 and the raise that was given by the council wasn't enough in her estimation but she isn't a policy maker and it is beyond her control. She stated that she spoke with Charlie Pride from State Board of Accounts regarding the question if sewer could borrow from another account and she was told the law is silent on this question and that means that they would not give an answer on it and it would be up to the legal authorities to decide whether or not it was a possibility.

Mr. Brinkworth asked if there were any other funds that were available.

Mrs. Garry stated that they talked about Riverboat, EDIT, Rainy Day and TIF but she would be against all of them.

Mr. Brinkworth stated that they had \$450,000.00 coming from TIF funds that never was paid to them.

Mrs. Garry stated that some of that did come back but she isn't sure of the numbers. She explained that she is trying to be as open as possible regarding their funds and their accounts and she will going back this week to try to pay some of the outstanding claims. She explained that with regards to what salaries are paid out of sewer it includes Mr. Marinaro who is paid from sewer/storm water/BOW, Mr. Kessans who is paid from sewer/storm water, Mrs. Welsh and Mrs. Dickey are paid 90% out of sewer, Mrs. Welsh's

three employees are paid 100% from sewer and she has two in her office that are paid from the sewer as well as herself who gets paid as treasurer of the sewer.

Mr. Wilkinson reviewed the CPI for the last five years and what it cost the sewer utility by not including this into the rates.

There was a lengthy discussion regarding the lack of responsibility to raise the rates in the past and include a CPI into the budgets.

Mr. Wilkinson stated that they are at their limit and have to make a change because they have no borrowing power, no cash flow, and they have been downgraded by the bond insurance companies.

SEWER ADJUSTMENTS:

Ms. Welsh informed the board that she needs them to authorize the board to move forward to file suit against an organization that continuously changes the name of their business so that they do not have to pay the tax liens on their rental properties.

Mr. Fifer stated that this has been going on for a long period of time and they will file a suit saying that the total amount needs to be paid as a judgment and get an injunction to prohibit them from changing their names. He stated that he doesn't see this as an expensive litigation but they may be able to recoup the legal fees.

Mr. Brinkworth moved to give authority to Mr. Fifer to move forward with the law suit, Mr. Wilkinson second, all voted in favor.

Ms. Welsh informed them that they have a request for the refund of a tap fee for a Mr. Greenwell who is currently having financial problems and is unable to build on the lot he purchased a tap for. She stated that no work has been done on the lot and the fee is \$3050.00

Mr. Brinkworth moved to refund the fee, Mr. Wilkinson second, all voted in favor.

Ms. Welsh informed the board that they are sending out liens tomorrow in the amount of \$600,000.00. She informed them that Mr. Fifer has revised their lien letter but they will need to pay Keystone for the revision in the format.

NEW BUSINESS:

Item #1 - Jason Copperwaite re: Chester Cove Subdivision final plat

Mr. Fifer stated that he wants to inform everyone that in the past few years he has represented Mr. Copperwaite's business. He stated that if they come in and he is actively representing a contractor or individual in a pending matter he will let the board know and if they think that they need independent advice he will get someone to come in and give it to them.

Mr. Copperwaite appeared before the board for Mr. Lynn regarding Chester Cover. He reminded them that he came before them in the past and received credits for this subdivision and he has received the waiver from IDEM and approval from the New Albany Plan Commission and City Council. He stated that historically they go to the Plan Commission for secondary approval and then come to the Sewer Board but he was informed that this isn't the correct protocol so he is here for their signatures.

Item #2 - Resolution Adopting the Findings of a Preliminary Rate Report and Making a Recommendation to the New Albany City Council that

**Such findings be implemented into the Schedule of Rates and Charges
For the New Albany Sewage Works by amendment to the Sewer
Use Ordinance**

Mr. Harbison stated that they need to approve the resolution for the recommendations from Crowe Horwath.

Mr. Brinkworth stated that the sewer works can't pay the ongoing operational costs, they are behind on paying the contractors, and they can't pay to move forward on the Capital Improvement Projects. He explained that if they do not do these projects they will be in default of the agreement with the EPA and there will be no growth within the City. He stated that they can no longer borrow money or sell bonds and they need to raise the rates or they will just stand still and lose ground.

Mr. Brinkworth moved to follow the recommendation of Crowe Horwath and recommend to the City Council to pass this increase, Mr. Wilkinson second, all voted in favor.

Mr. Harbison stated that John Skomp indicated that he was getting calls from the bonding company and he needs to make contact with them so they need to officially give him authorization to answer their questions and bring them up-to-date with their status.

Mr. Brintkworth asked Mrs. Garry to call Mr. Skomp and let him know where she is with the payments.

Mr. Wilkinson moved to approve to give John Skomp the authority to discuss business with the bonding companies on behalf of the city, Mr. Wilkinson second, all voted in favor.

OLD BUSINESS:

Item #1 - Clark Dietz Update

CLAIMS

ADJOURN:

There being no further business before the board, the meeting adjourned at 10:10 a.m.

Roger Harbison, President

Marcey Wisman, City Clerk