

**MINUTES OF MEETING
INDIAN HILL VILLAGE COUNCIL
MAY 18, 2009**

A meeting of the Indian Hill Village Council was held on May 18, 2009 at 7:30 p.m. The meeting was held in the Village Fire Department Training Room.

Officials present:

Mr.	Eppa Rixey IV, Mayor
Mr.	Joseph Beech, III, Council member
Mrs.	Susan K. Holzapfel, Council member
Mrs.	Lindsay B. McLean, Council member
Mr.	Keith M. Rabenold, Council member
Mr.	Mark E. Tullis, Council member
Mr.	Michael W. Burns, City Manager
Mr.	Paul C. Riordan, Clerk/Comptroller
Mr.	Don Crain, Solicitor

Officials absent:

Mr.	David T. Ottenjohn, Vice Mayor
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Visitors present:

Sourushe Zandvakili	7950 Indian Hill Road
Brian R. Redden	300 Pike St., Suite 400 Cincinnati 45202
Jonathan Rosenthal	7956 Indian Hill Road
Sheila Rosenthal	7956 Indian Hill Road
Rob Dowdy,	Community Press, 394 Wards Corner
David M. Couch	Assistant City Manager
Kari Zenni	Indian Hill

PLEDGE OF ALLEGIANCE: Council opened the meeting with the Pledge of Allegiance to the Flag

MINUTES: The Minutes of the regular meeting of April 20, 2009, had previously been distributed to each Council member. Mayor Rixey declared the minutes accepted as corrected.

COUNCIL DELIBERATION REGARDING THE APPEAL OF THE JANUARY 20, 2009 PLANNING COMMISSION DECISION: Mayor Rixey explained that all of the Council members had the opportunity to read and review the testimony that the Planning Commission heard. He said that the decision to be made does not consider the benefits or the quality of the school; it is based on the zoning ordinance and the acceptance of a home business in the Village of Indian Hill. He explained that Council can make one of three decisions:

1. Affirm the decision of the Planning Commission
2. Reverse the decision of the Planning Commission
3. Remand the matter back to the Planning Commission for further discussion and review.

He explained that after his thorough review of all the documents, it appears that this is a matter between neighbors that has gotten somewhat out of control. Mayor Rixey said that he does not believe it is the Council's nor the Planning Commission's job to negotiate decisions between neighbors. Therefore, Council's decision has to be based on exactly what the law says, what is written in the code. He said that another option that is not on the table is a mutual agreement between the parties at this time and then if the party making the appeal would remove the appeal, then the Council would not have to make a vote. If this were to happen, then there would not be a decision which would result in the favor of one party or the other. Somebody wins and somebody loses, but, they stay neighbors. He said that he hoped that this matter could be worked out before a vote is made.

Council member McLean said that she viewed the property and she understood how tight the driveway was and she also understood how long the dance studio had been in operation.

Council members Tullis and Rabenold both expressed that they thought the parties to the matter were very close to an agreement and they should consider an agreement this evening.

Council member Rabenold suggested to the party that a possible solution to the matter would be:

1. The Rosenthal's would plant bushes at the appropriate place on the driveway to block car headlights.
2. The dance studio would not start until 4:30 P.M.
3. Students would be required to not show up on the property until 4:15 P.M
4. Limit classes to a total of eight to ten students.
5. The agreement would be for three (3) years until the youngest Zandvakili child is in the 6th grade.

Mayor Rixey explained that the agreement on these stipulations would have to be between the Zandvakili's and the Rosenthal's and would not be an agreement with the Village.

The attorney for Dr. and Mrs. Rosenthal requested time to discuss this matter with Dr. and Mrs. Rosenthal outside the Council Chambers. Permission was granted. Dr. and Mrs. Rosenthal left the meeting with their attorney and after several minutes returned to the Council meeting. Dr. and Mrs. Rosenthal said that they would agree with the stipulations, however, they wanted to split the cost of the greenery which would be used to block the car headlights with Dr. & Mrs. Zandvakili. Dr. Zandvakili said that he was agreeable with this solution. He said he would withdraw his letter of appeal of the January 20, 2009 Planning Commission decision.

Mayor Rixey said that he would assume that the two parties would work out an amenable solution to the landscaping and if they needed help City Manager Burns would help mediate the decisions on the landscaping.

Mayor Rixey said that Council would consider that the appeal is withdrawn and the matter is concluded.

FINANCE COMMITTEE REPORT: Council member Tullis directed Council's attention to a memo entitled "Finance Committee Meeting Report" dated May 14, 2009. He explained that the Finance Committee met on that date to review and discuss several topics in advance of the Council meeting. Also present at the Finance Committee meeting were Messrs. Thayer, Stubbins, and Cashell for the discussion on the bond financing options.

Council member Tullis said that he had two pieces of very good news; first, the Village has received a AAA rating for its bond issues, which is a very big deal. He said that he wants to thank City Manager Burns, Mrs. Weber, and Mr. Riordan for everything they have done to accomplish this.

He explained that in the year of 2006 there were only 50 communities in the USA and only three in Ohio which had a AAA rating. He said that the AAA rating did not happen easily, and a debt of gratitude goes to City Manager Burns and his staff for the professional way in which the Village and the Village finances have been managed over the years.

Council member Tullis said that the second piece of good news is that the audit is complete and the results are stellar as they were last year. There are no violations, no adjustments, and no negative findings whatsoever. He said this is a credit to City Manager Burns, Mrs. Weber, and Mr. Riordan for everything they have done to manage the finances.

Council member Tullis reviewed the Statement of Receipts and Disbursements. He highlighted that the Income Tax Receipts year to date total \$5,800,000. He reported that \$743,000 of Inheritance Tax was received in April and it is known that the total receipts, year to date, are \$2,200,000 which is \$200,000 over budget.

Council member Tullis also reviewed the notes to the financial statements highlighting that interest income was down because interest rates are low and the Solicitor fees are higher than normal due to the Anderson mining issue.

Receipts exceeded the disbursements by \$4.5 million which is expected for this time of year. He explained that the major expenditures in the C.I.R.F. were for the Ranger/Administration building costs.

Council member Tullis reported that the Water Works statement reflected water receipts of \$127,000 for April, 2009 vs. \$164,000 for April of 2008. The revenue is lower principally because fewer water bills were paid in April of 2009 and the 2009 spring was wetter than the prior year spring.

Council member Tullis highlighted in the statement of cash and investments that the Income Tax Fund had an April 30, 2009 balance of \$11,788,000. The total balance of all funds is \$20,967,000 which is up from the March 31 balance of \$16,924,000.

Council member Tullis also reviewed the Rowe Arboretum Fund and the Green Areas and Recreational Funds and highlighted that the market value of the investments for both funds has increased since February 2009. He also explained that stocks in the Rowe Arboretum Fund were sold at a loss of \$58,000 and it would be necessary to handle this with an ordinance later in the meeting. He also pointed out that the dividends for the Rowe Arboretum are still on track to meet the budget for 2009.

Council member Tullis directed Council's attention to a statement entitled "Income Tax Receipts." He explained that the total 2009 income tax receipts are forecasted to be \$6,400,000 which would be a shortfall from budget of \$904,000. He said that the income tax receipts were budgeted for 2009 at a reduction of 10% but are currently running at about 15% below budget and 25% below the actual 2008 income tax receipts. He said that the income tax shortfall of approximately \$904,000 would partially be offset by an overage of inheritance tax receipts of \$200,000 and a receipt of monies from FEMA in the amount of \$267,000 leaving a net shortfall of \$438,000. He said that in order to be prudent and to build up a reserve going into 2010, City Manager Burns and staff placed a hold on a number of expenditures. He directed Council's attention to a statement titled "2009 Budgeted Items on Hold" This statement shows \$552,000 of expenditures being held in the General Fund and \$1,241,000 being held in the CIRF for a total of \$1,794,000 in both funds. He explained that offsetting the net shortfall of \$438,000 against the amount of expenditures put on hold totaling \$1,794,000 leaves a cushion to carry over to 2010 of approximately \$1,400,000, which is prudent under the current economic conditions. In addition, it was decided that it would be prudent to put a hold on \$177,000 of capital expenditures for Water Works.

City Manager Burns said that if the Village received additional funds from inheritance tax receipts, then some of the expenditures on hold could be made during the year. Council member Tullis said that the Finance committee was in agreement that these expenditure deferrals were a good approach under the circumstances.

Council member Tullis also directed Council's attention to a statement titled "Possible Ending Fund Balances, 2009." The total for the General Fund, Income Tax Fund, and CIRF projected at 12/31/2009 is \$8,326,000 which is an increase from the original projected balance of \$6.9 million. This increase reflects the expenditures which have been placed on hold.

Council member Tullis also directed Council's attention to a statement titled "Summary of Revenues and Expenses and Fund balances" He explained that this is a "what if" scenario which assumes that both Income Tax receipts and Expenditures remain the same each year through 2013. He highlighted that the CIRF balance would go to a negative of \$1,400,000 in 2013 under these assumptions. This scenario shows that the Village would be in serious difficulty but that Council and City Manager Burns would not allow this to happen.

The Financial statement for April, 2009 had previously been distributed to each Council member. There being no exceptions noted, the financial statement was accepted as issued.

"AN ORDINANCE TO ESTABLISH A BUILDING IMPROVEMENT FUND, A WATER WORKS IMPROVEMENT FUND, AND MAKING

“APPROPRIATIONS FOR THE EXPENSES FROM THE FUNDS FOR THE FISCAL YEAR 2009 AND DECLARING AN EMERGENCY” was presented and read”

This ordinance establishes special revenue funds for the purpose of accumulated resources for the construction and improvement of the Village Ranger/Administration building.

Upon motion by Council member Tullis, seconded by Mayor Rixey, the rules were suspended by unanimous roll call vote. Upon motion by Council member Tullis, seconded by Council member Holzapfel, the motion was carried by unanimous roll call vote. Mayor Rixey declared Ordinance 13-09 enacted.

“AN ORDINANCE AMENDING ORDINANCE 01-09 AND MAKING APPROPRIATIONS FOR THE EXPENSES OF THE VILLAGE OF INDIAN HILL FOR THE FISCAL YEAR 2009, AND DECLARING AN EMERGENCY” was presented and read.

This ordinance increases the General Fund appropriation totals by \$100,000, the FEMA Grant Fund appropriation totals by \$283,000 and the Rowe Arboretum Fund appropriation by \$200,000.

The General Fund expenditures are increased to cover additional legal fees related to the Martin Marietta mining case, an on going litigation. The Rowe Arboretum Fund expenditures are being increased to cover losses associated with the sale of stocks.

Upon motion by Council member Tullis, seconded by Council member Holzapfel, the rules were suspended by unanimous roll call vote. Upon motion by Council member Tullis, seconded by Council member Holzapfel, the motion was passed by unanimous roll call vote. Mayor Rixey declared Ordinance No. 12-09 enacted.

Council member Tullis also reported that the Finance committee discussed with Mr. Thayer, Stubbins, and Cashell the possibility of increasing the bond issue from \$6 million to \$7 million due to concerns about maintaining a cushion in reserve for the 2010 budget year. It was determined that increasing the bond issue amount would delay the issuance by 45 days which was not considered acceptable, and it was also pointed out that monies could be borrowed on a short term note basis at an even lower interest rate. Therefore, the Finance committee decided to keep the issuance at the \$6 million level. The bond issue will take place before June 1.

LAW COMMITTEE REPORT: Council member Rabenold directed Council’s attention to a memo entitled “Law Committee Meeting Report” dated May 12, 2009. He reported that the Law committee met on May 8 to review and discuss several topics in advance of the Council meeting.

Council member Rabenold reported that the Law Committee decided to shift the Law Committee meetings from the Bankers Club which is closing, to the Queen City Club for future meetings. Mr. Ottenjohn will be reimbursed for the expenses incurred for the lunches.

Council member Rabenold also advised that the property owner who has been encroaching on a Green Areas tract adjacent to her property on Beech Street in Columbia Township has requested a 45 day extension of time to remove the garage encroachment, but this request had been rejected by Staff and she has been instructed to complete the removal ASAP. City Manager Burns advised Council that the garage has been torn down.

Council member Rabenold reported that the Martin Marietta hearing process testimony continues to be considered by the ATBZA. Expert testimony will probably continue until early June. It is anticipated that public comment sessions will begin in mid June. The overall hearing process will continue until mid to late summer.

Council member Rabenold also reported that the committee reviewed the proposed lease with the Ohio Department of Natural Resources for land adjacent to Grand Valley and the little Miami River. He anticipates additional discussion at the June committee meeting.

GROUNDS COMMITTEE REPORT: Council member McLean directed Council's attention to a memo entitled "Grounds Committee Meeting Report", dated May 13, 2009. She reported that the Grounds committee met on that date to review and discuss several topics in advance of the Council meeting.

Council member McLean reported that Mr. McQueen provided a report on Grand Valley activities, a copy of which was attached to the Grounds Committee meeting minutes.

Council member McLean also reported that Mr. Kipp provided a progress report on several projects. She highlighted that:

1. The first floor concrete slab on metal deck for the west wing (police administrative offices) of Phase 1 has been completed.
2. The block and brick wing are currently being constructed, including the stairwell and elevator shaft.
3. The north wing roof has been concluded and the soffits and copper gutters are being installed.
4. Site work will be initiated within the next week or two.
5. Additional wet weather conditions during the month of April pushed Phase 1 approximately three weeks behind schedule.

Dugan & Meyers Construction Co. still feels that it will be able to make up for the most part the lost time during Phase 2 and complete the project by the scheduled December 15, 2009 date.

Council member McLean reported that Mr. Davis provided a departmental activity report, a copy of which was attached to the Grounds committee meeting minutes. She highlighted that the parking expansion at the gun range is underway; also, the department has been busy with normal seasonal activities.

Council member McLean also reported that the Grounds committee reviewed copies of a draft lease provided with ODNR for the property located adjacent to Grand Valley along the Little Miami River. She said that the lease is still a work in process and needs to be reviewed by

the Law committee in June. She said any Council comments would be appreciated before discussion with ODNR. She reported that City Manager Burns is completing a draft of the required Master Plan of Operation and Maintenance and this will be forwarded to the Grounds and Law committees as soon as it is completed. She said that if the Village accepts the 99 year lease then it will be accepting some of the responsibility for cleaning up litter on the sites but undertaking this task will benefit the Grand Valley in general, because ODNR performs only very limited maintenance at this point in time.

WATER WORKS REPORT: Council member Holzapfel directed Council's attention to a memo entitled "Water Works Committee Meeting Report" dated May 13, 2009. She reported that the Water Works committee met on that date to review and discuss several topics in advance of the Council meeting.

Council member Holzapfel reported that Mr. Kipp reported on the progress of the chemical feed building project. She said the project is ahead of schedule and should be completed sometime in July.

Council member Holzapfel reported that Mr. Davis provided a departmental activity report, a copy of which was attached to the Water Works meeting minutes. She highlighted that a bid opening was held on April 29 for the supply of a radio read meter system. She said that it seems that Utility Sales Agency has provided the lowest bid; however, the equipment they provide fails to meet specifications in several key areas. She said that our meter replacement program is approximately 80% complete and has utilized the Neptune meters thus far. City Manager Burns explained to Council that the bid was ultimately awarded to the Neptune Equipment Co.

Council member Holzapfel also reported that the Water Works has entered in to an agreement with Henderson Bodwell for engineering services related to the Phase 1 water main improvements. The survey phase should be completed in approximately 4 weeks.

Council member Holzapfel directed Council's attention to a handout from the Ohio EPA which was included in the Council packet, and she highlighted that there are no deficiencies in the water system.

Council member Holzapfel also reported that City Manager Burns advised the committee that he has recently received calls from one resident and two energy brokers regarding the possibility of the Village reentering the aggregate electric purchasing market. He indicated his personal reluctance to do so while we are trying to work cooperatively with Duke Energy on several projects. His views on this situation could change if the market begins to indicate a substantial savings opportunity or if Duke Energy enters the competitive retail energy market. Council member Holzapfel said that the Water Works committee would like to simply watch the market and respond with an appropriate recommendation for action if it is warranted during the coming months.

Council member Holzapfel also reported that Mr. Davis reported that last year a test was performed to determine if any prescription drugs or other chemicals were in the Village water system and none were noted.

PUBLIC WORKS REPORT: Mayor Rixey directed Council's attention to a memo entitled "Public Works Committee Meeting Report" dated May 12, 2009. He reported that the Public Works committee met on that date, to review and discuss several topics in advance of the Council meeting.

Mayor Rixey reported that Mr. Kipp provided a project status report, a copy of which was attached to the Public Works Committee meeting minutes. The report summarized the 2009 budgeted road resurfacing projects which were placed on hold.

Mayor Rixey also reported that Mr. Davis provided a departmental activity report for the month of April, a copy of which was attached to the committee minutes. He said that these were typical activities for this time of year.

Mayor Rixey reported that the Public Works Department was able to reach an agreement with Irvine Wood Recovery on Glendale Milford Road for the acceptance of all the organic material generated thru our yard waste program. Due to the large amount of mulch already on hand, this should have no impact on our mulch program thru at least 2010. After that time the situation will be reassessed and a decision made whether to stockpile a portion of future materials to continue the mulch program for our residents. Either way the Village should realize a significant savings. There could be continuous future savings of approximately \$35,000 annually.

SAFETY COMMITTEE REPORT: City Manager Burns directed Council's attention to a memo entitled "Safety Committee Meeting Report" dated May 15, 2009. He reported that the Safety committee met on that date to review and discuss several topics in advance of the Council meeting.

Council member Beech reported Chief Ashbrock provided a fire EMS activity report for the month of April, a copy of which was attached to the Safety Committee meeting minutes. He said that the EMS remains busy; however, the Fire Department remains very quiet. He said that Chief Ashbrock also reported to the committee that the Fire Board has approved the purchase of a new aerial truck (Quint) at a cost of \$615,000 and the district will finance the purchase by borrowing at a rate of 3.99%. Chief Ashbrock indicated that some improvements to the Madeira station could be needed to accommodate the new truck. Council member Beech explained that the current truck is approximately 18 or 19 years old. It was supposed to have a 20 year life however; it was damaged to some extent in the Cunningham fire. The expenditure is included in the Fire Department budget.

Council member Beech also reported that Colonel Schlie provided the Police activity report for the month of April, a copy of which was attached to the Safety committee meeting minutes. Nothing reflected in the report was out of the ordinary.

He said that the committee was also updated on the status of the Ranger building which had been commented on earlier in the Council meeting.

PLANNING COMMISSION REPORT: Mayor Rixey reported that the Planning Commission meeting was canceled for May; however there will be one in June.

CITY MANAGER'S REPORT: City Manager Burns reminded Council that the Memorial Day service will be held on May 25 at 10:00 AM. He said that he would be sending out an e-mail with some suggestions for a Grand Marshal for the July 4 parade.

There being no further business to come before Council, Mayor Rixey declared the meeting adjourned.

Respectfully submitted,

Eppa Rixey IV, Mayor

ATTEST:

Paul C. Riordan, Clerk