

MINUTES  
INDIAN LAKE BOROUGH COUNCIL MEETING  
SEPTEMBER 22, 2010

The regularly scheduled meeting of the Indian Lake Borough Council was held on September 22, 2010 at 7:00 P.M. at the Indian Lake Borough Building.

THOSE PRESENT:

Robert Hanson, President  
Patricia Dewar  
Charles McCauley  
Robert Vogel  
Robert Marhefka  
Richard Stern  
Paul Cornez  
Michael D. Miscoe, Mayor  
Dan Rullo, Solicitor  
Theresa L. Weyant, Borough Manager/Secretary  
Dean Snyder, Zoning Officer

THOSE ABSENT:

Visitors – Kenneth Helsel, Donald Reed, Dennis Markferding, Brad Shober, Daniel Black, James Dewar, Ronald Petrina, Donald Newman.

The meeting was called to order at 7:00 P.M. by Robert Hanson, Council President.

ORDER OF BUSINESS

1. Approve the Minutes of the Meeting Held on August 11, 2010 - Hanson asked for additions and/or corrections. Cornez would like to insert the following paragraph on Page #4 immediately following the first motion: Mr. Hanson, the one naye vote, stated that he intended to submit a written dissenting opinion to be entered into the record. After discussion Mr. Hanson agreed to submit a letter to the Zoning Hearing Board stating why he did not believe the letter of violation was correct. Stern also noted on Page 4 that the next meeting date should be September 8<sup>th</sup> not August 11<sup>th</sup>. Secretary noted the additions and corrections and will make the necessary changes. Vogel moved and Cornez seconded to approve the minutes with approved changes. All ayes, motion carried.

Hanson stated for the record that he has elected not to submit his written dissenting opinion to the Zoning Hearing Board.

2. Financial Reports – Dewar made a motion to approve the Finance Committee’s recommendation to approve the Borough’s Financial Reports, including the amendments to the List of Bills Report, and to pay the outstanding bills except for the bills to GAI Consultants, which totals \$54,595.97 and the bill to Marion Hill Associates, in the amount of \$1,757.22, payment should be withheld. Cornez seconded the motion. All ayes, motion carried.

Dewar made a motion, based on the recommendation of the Finance Committee, to approve the Water Works Financial Reports, including the amendment to the List of Bills Report and to pay the outstanding bills. Stern seconded the motion. All ayes, motion carried.

Dewar made a motion, based on the recommendation of the Finance Committee, to approve the Sewer Financial Reports, and to pay the outstanding bills. Cornez seconded the motion. All ayes, motion carried.

Dewar made a motion, based on the recommendation of the Finance Committee, to approve the Summary of Account Balance Report as presented. Stern seconded the motion. All ayes, motion carried.

3. Welcome Visitors – Kenneth Helsel, Donald Reed, Dennis Markferding, Brad Shober, Daniel Black, James Dewar, Ronald Petrina, and Donald Newman.

4. Shanksville Volunteer Fire Department – Daniel Black on behalf of the Shanksville Volunteer Fire Department were here tonight to request funding for 2011 for their capital improvement project, in the amount of \$15,000.00. The fire department would like to replace their lead engine truck, which is a 1994 Spartan. The National Fire Protection Agency states that after twenty years lead pieces of equipment should be placed in secondary service and after twenty-five years they should be taken out of service completely. The approximate cost to replace this engine is \$450,000 and to date, they have \$100,000 in their capital improvement fund. Ms. Dewar reminded SVFD that they had not yet requested last year's Borough allocation, and also stated that 2011 budgeting was just getting underway and SVFD's requested increase would be looked at within the broader budgeting context before we could commit.

5. Dennis Markferding-Requesting Refund of Zoning Hearing Board Fees – Mr. Markferding appealed the denial of his boathouse building permit with the Indian Lake Zoning Hearing Board. The Zoning Hearing Board has decided that they are not hearing Mr. Marferding's appeal because the request was beyond the thirty (30) day appeal time. Therefore, Mr. Markferding is requesting a refund of the \$750.00 Zoning Hearing Board Fee. Hanson made a motion to refund Mr. Markferding the \$750.00 Zoning Hearing Board appeal fee. Cornez seconded the motion. All ayes, motion carried.

6. Sean Isgan, Update on Dam Remediation:

A. Ratify Partial Payment to Marian Hill Associates – Cornez made a motion to ratify the action taken to issue a payment in the amount of \$6,700.00 to Marion, Hill Associates and to withhold \$1,757.22. Dewar seconded the motion. 6 ayes and 1 naye. Motion carried.

Vogel made a motion that Council no longer vote via e-mail or by phone on an interim basis and ratified at the next Council Meeting. No second to the motion.

7. Legal Report:

A. F.O.P. Contract – Hanson made a motion to accept the award as presented. Vogel seconded the motion. All ayes, motion carried.

B. Storm Water Management Ordinance – Hanson made a motion to authorize Attorney Rullo to advertise the proposed ordinance for adoption at the October 27, 2010 Council Meeting. Cornez seconded the motion. All ayes, motion carried.

C. Lee Nearhoof, Cherokee 13-Sewage Easement – Hanson made a motion to authorize the Council President to execute the easement document. Stern seconded the motion. All ayes, motion carried.

D. Donald Reed, Fairway 105-Sewage Easement – Vogel made a motion to approve the release of the easement for lot Fairway 109, which is owned by Kha Nguyen, once a survey along with the meets and bounds description is provided. Attorney Rullo is requested to review the easement documents for compliance and to have the easement documents recorded. Cornez seconded the motion. All ayes, motion carried.

E. Red Flag Rules, Fair Credit Act and Post Card Billings and a State Law called the Pennsylvania Fair Credit Extension Uniformity Act – Hanson made a motion to table this matter until the October 27, 2010 Borough Council Meeting. Vogel seconded the motion. All ayes, motion carried.

F. James Lyons-Occupancy Permits for Arrowhead Condominiums and Lodge – Mr. Lyons is also asserting that the Borough maintain and keep copies of all occupancy permits for all residential and commercial buildings. The Borough does receive copies of the residential occupancy permits but the Borough does not get occupancy permits for commercial buildings. Hanson questioned Attorney Rullo whether or not the Borough has that obligation? Attorney Rullo stated that Mr. Lyons contends that the Borough has some kind of liability that flows to the Borough because the Borough does not have a hard copy of the occupancy permits for the Arrowhead Condominiums and Lodge at the office. Attorney Rullo is not aware of any liability issue that the Borough has for not having a copy of these occupancy permits.

Attorney Rullo stated that Somerset County Building Inspectors are the custodians of the Borough records, which are in their possession. If a request is made under the Freedom of Information Act or the Open Records Law, they will need to produce those records. Mr. Lyons should submit a request for whatever documents that he wants to the Borough Secretary and she will get those documents from Somerset County Building Inspectors and will make the necessary copies.

Hanson stated that Lyons has also provided documentation that Labor and Industry is involved in a hearing with a Somerset County Building Inspectors inspector and as a result of this hearing has been decertified for life. Hanson stated that

Council might want to request from Somerset County Building Inspectors what buildings this inspector inspected in Indian Lake Borough and requested that the zoning officer make that request for information on behalf of the Borough.

8. Correspondence:

A Somerset County Planning Commission-Markferding Minor Land Development Exemption – The Somerset County Planning Commission granted the exemption for the Markferding Minor Land Development Plan as submitted.

B. Musser Engineering-Dam Joint Emergency Action Plan – The Joint Emergency Action Plan for Lake Stonycreek and Indian Lake Dams was returned for comments and Musser Engineering and CME Engineering have resolved most of the issues.

9. Committee Reports:

A. Finance Report – Dewar made a motion to authorize the Borough Manager to contact any trust department to evaluate what investment options might be available to the Borough for the Water Quality Control Funds and to weigh those options against the Certificate of Deposits and to invest those funds at the best interest rate available at a term not to exceed 5 years. McCauley seconded the motion. 5 ayes and 2 nays, motion carried.

B. Road Report:

1. LTAP Road Surface Management Seminar - Hanson made a motion to send Frank to the LTAP Road Surface Management seminar in Altoona, on October 5<sup>th</sup> if this does nothing to harm his and/or the Borough's Workmen's Compensation Claim. Stern seconded the motion. All ayes, motion carried.

2. Road Berming – Stern made a motion to authorize the road committee to pursue getting the road berming project organized and to determine what areas need to be bermed and what resources are needed in order to accomplish that. Cornez seconded the motion. All ayes, motion carried.

C. Police Report:

1. Patrol Boat Storage – Hanson made a motion to authorize Mayor Miscoe to store the police patrol boat in his garage and for him to winterize the boat. Dewar seconded the motion. All ayes, motion carried.

2. Purchase of two (2) Glock Model #23 Firearms – Dewar made a motion to authorize Mayor Miscoe to purchase two (2) Glock firearms and three (3) magazine clips at the best available cost not to exceed \$2,000.00. Vogel seconded the motion. All ayes, motion carried.

D. Personnel Report:

1. Act 44 Disclosure Compliance – Council agreed to use the template that was provided by PSAB.

E. Environmental Report:

1. Brush Cutting at Dam – McCauley made a motion to authorize Roy Rininger to cut the brush on the Indian Lake Dam and to authorize the expenditure of \$1,500.00. Cornez seconded the motion. All ayes, motion carried.

F. Water & Sewer Report:

1. CME Invoice for Golf Course Development – Vogel made a motion to remit payment to CME Engineering for services rendered for consulting work related to the Indian Lake Golf Course proposed sewage plant. Stern seconded the motion. All ayes, motion carried.

2. ACT 537 Plan Revision – Vogel made a motion to permit a modification to the Borough's Act 537 Plan to include small flow treatment systems with holding tanks and to prepare the submittal to the DEP. Hanson seconded the motion. 5 ayes, 1 naye, and 1 abstention. Motion carried. Cornez filed the abstention memorandum with the Borough Secretary.

3. Water System Monitoring/SCADA Project - Vogel made a motion to solicit bids for the Water System Monitoring/SCADA Project. Cornez seconded the motion. All ayes, motion carried.

G. Zoning Report:

1. Donald Mateer located at Cayuga 147-No Action on Violation Notice on Dilapidated Pavilion/Gazebo – Council requested that Attorney Rullo file the appropriate citations with Magistrate Cook on Don Mateer’s dilapidated pavilion/gazebo.

2. John Oliver’s Appeal on Zoning Hearing Board Ruling – Cornez made a motion to authorize Attorney Rullo to file a scheduling praecipe with the court to get this matter on the next trial list. McCauley seconded the motion. All ayes, motion carried.

3. Robert and Phyllis Musser Zoning Map Change Request – Hanson reported that a Public Hearing has been scheduled for October 13, 2010, at 6:30 P.M. at the Indian Lake Borough Building, to hear the request for a Zoning Map Change from Robert and Phyllis Musser.

10. Old Business:

A. Fee Schedule - McCauley made a motion to table any action on this matter until the October meeting. Hanson seconded the motion. All ayes, motion carried

11. New Business:

Cornez made a motion that the Borough Council resolves that the litigation efforts associated with development and validity of the Borough Zoning Ordinance are contrary to the best interests of the Borough and its taxpayers. The success of the present and planned developments within Indian Lake Borough is in the Borough’s best interest. Dewar seconded the motion. All ayes, motion carried.

12. Public Comment: None.

With no further business to discuss, McCauley moved and Vogel seconded to adjourn the meeting at 12:22 P.M. All ayes, motion carried.

The next regularly scheduled meeting of the Indian Lake Borough Council will be held on October 13, 2010 at 7:00 P.M. at the Indian Lake Borough Building.

Respectfully submitted,

Theresa L. Weyant  
Borough Manager