

MINUTES  
INDIAN LAKE BOROUGH COUNCIL MEETING  
MARCH 9, 2011

The regularly scheduled meeting of the Indian Lake Borough Council was held on March 9, 2011 at 7:00 P.M. at the Indian Lake Borough Building.

THOSE PRESENT:

Charles McCauley  
Robert Marhefka  
Richard Stern  
Paul Cornez  
Michael D. Miscocoe, Mayor  
Dan Rullo, Solicitor  
Theresa L. Weyant, Borough Manager/Secretary

THOSE ABSENT:

Robert Hanson  
Patricia Dewar  
Robert Vogel

Visitors – Sean Isgan, Reggie Musser, and Don Reed.

The meeting was called to order at 7:07 P.M. by Michael Miscocoe, Mayor.

ORDER OF BUSINESS

At the very beginning of the meeting it was necessary to call Bob Hanson to determine if he intended to resign effective that evening or not. He said 'not' until April's meeting.

McCauley made a motion to appoint Richard Stern to preside over tonight's meeting. Marhefka seconded the motion. All ayes, motion carried.

1. Approve the Minutes of the Meeting Held on February 9, 2011 - Stern asked for additions and/or corrections. There being none, Cornez made a motion to approve the minutes as submitted. Stern seconded the motion. All ayes, motion carried.

2. Financial Reports – Stern 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.

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

Stern 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.

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

3. Welcome Visitors – Sean Isgan, Reggie Musser, and Don Reed.

4. Sean Isgan, CME Engineering – Update on Dam Remediation – Council decided to go forward with the option of raising the dam 3' and run it by the DEP for their reaction. Discussion was held concerning reclassification of the dam from B-1 to B-2 as a second course of action.

A. Phase 3 Spillway Rehabilitation Change Order #3 – Cornez made a motion to accept the Change Order Request #3 for Phase 3-Spillway Rehabilitation, in the amount of \$76,000.00 as presented and discussed. McCauley seconded the motion. All ayes, motion carried.

5. Correspondence:

A. Somerset County Boroughs Association–March Dinner Meeting - The Somerset County Boroughs Association March Dinner Meeting will be held on Thursday, March 17, 2011, at the Berlin Community Building. The cost is \$10.50 per person. No one to attend.

B. Somerset County Planning Commission–Twelve Year Transportation Plan Update – Cornez made a motion to refer this to the road committee for review and recommendations. McCauley seconded the motion. All ayes, motion carried.

C. Reggie Musser–Project Narrative for the Kotch Sewage Facilities Planning Module - Reggie Musser provided Council with a revised project narrative for the Kotch Sewage Facilities Planning Module to explain the extinguishment or lack thereof for the 10 foot utility easement.

D. Jerry Mostoller–Sewage Facilities Planning Module for the Kotch Property – Jerry Mostoller provided Council with a report of his findings on the soil testing inspections and limitations of existing sewage systems for the Thomas Kotch Sewage Facilities Planning Module Clear Run Property.

E. Doug Baltzer SFTF-HT O & M Agreement – This was referred to Attorney Rullo and to the Indian Lake Borough Planning Commission for review and recommendations.

F. James Lyons –St. Clair Resort Development’s Lack of a Subdivision for Commercial Docking/Parking Area – Stern made a motion to table this matter until the April Meeting. Cornez seconded the motion. All ayes, motion carried.

6. Committee Reports:

A. Finance Report:

1. 2010 Audit - Cornez made a motion to accept the 2010 audit as submitted. Stern seconded the motion. All ayes, motion carried.

2. Past-Due Invoice from ASAP Court Reporting – Stern reported that the Borough received another past-due invoice from ASAP Court Reporting for the Public Hearing on the Proposed Zoning Ordinance No. 155, which was held on December 19, 2009. This is the hearing that the court reporter showed up approximately 1 hour after the hearing started. Council requested that Attorney Rullo send a letter to them stating that the Borough is only willing to pay for an appearance fee. Manager reported that she did not receive any response to the letter. McCauley made a motion to remit a check in the amount of \$50.00 for the appearance fee as payment in full. Cornez seconded the motion. All ayes, motion carried. Attorney Rullo asked that the Manager forward the check to him and he will put the restrictive endorsement on the back of the check and will issue a letter.

B. Water & Sewer Report – McCauley made a motion to purchase a new comminator for the sewage treatment plant for \$2,561.25. Cornez seconded the motion. All ayes, motion carried.

C. Planning /Zoning Report – Mayor Miscoe reported that he and Hanson will be getting together to review Ordinance No. 155 and Planning's comments.

7. Old Business:

A. DEP Clear Run Trust Fund - Cornez reported that Dave Bowers from Severstal will be attending the next Council Meeting on April 13, 2011.

8. New Business:

A. Somerset County Municipal Solid Waste Management Plan – The Somerset County Planning Commission has provided the Borough with a copy of the proposed Somerset County Municipal Solid Waste Management Plan for review and comments.

B. Larry Crespo-2011 Canada Goose Management Program Proposal – Council requested that Richard Stern ask the Indian Lake Service Corporation to fund the 2011 Canada Goose Management Program again this year at a cost not to exceed \$1,777.00. If The Service Corporation will not fund the program, the Borough will.

C. Changing Locks in the Office – McCauley made a motion to authorize the Borough Manager to have the office door re-keyed and to reissue new keys. Cornez seconded the motion. All ayes, motion carried.

At 8:52 P.M Cornez made a motion to move into Executive Session discuss personnel issues, F.O.P. and litigation. McCauley seconded the motion. All ayes, motion carried.

At 9:25 P.M. Council returned to Regular Session.

Cornez made a motion to accept the voluntary resignation from employment for Harry Huzsek effective February 22, 2011, in connection with a resolution to his Workers Compensation Claim. The Borough Manager is authorized to inform Harry Huzsek of his benefit rights including his right to remain on the health insurance plan for a minimum of 9 months under the COBRA benefits. McCauley seconded the motion. All ayes, motion carried.

Attorney Rullo informed Council that on April 14, 2010 Council made a motion to allow Mr. Rohrich to keep the existing structure as is with a stipulation that he would sign stating that no beds will be placed in the garage. As for compensation, a punitive fine of \$20,000.00 would be imposed. Mr. Rohrich has come back with a counter offer of \$7,500.00 and he would sign an affidavit stating that the property would not be used for bedroom purposes.

Cornez made a motion to authorize Attorney Rullo to make a counter offer of a fine of \$20,000.00 and he can negotiate that down to \$15,000.00 if necessary. McCauley seconded the motion.

Mayor Miscoe stated for the record that the higher fine amount is necessary if no form of remediation is being done at all. The \$7,500.00 would be acceptable but only if the plumbing were to be removed and some reasonable assurance that the structure will remain conforming. For Mr. Rohrich to keep and receive a certificate of occupancy for the non-conforming structure and for the Borough just to recover costs of enforcement isn't enough and it doesn't send the right message.

Marhefka feels that Rohrich needs to pay a fine in order for him to keep his non-conforming use. Mr. Raymond was another resident who had also built a structure which was non-conforming, and the Borough issued him a \$35,000.00 fine, he had to cut off an overhang on one (1) side, and he had to plant trees next to the adjoining property owner, but he was allowed to keep his non-conforming structure and gazebo. Marhefka feels that if the Borough accepts the counter offer, it would be an injustice to Mr. Raymond, the Borough set the fine at \$20,000.00 and it should be \$20,000.00 and he gets to keep his non-conforming use.

Stern stated that this is a negotiation and that Council should authorize Attorney Rullo to negotiate further and to bring something else back. When considering all the alternatives, Stern would like to have a better idea as to what the negotiated settlement could be.

Cornez modified his previous motion and would simply like to make a motion to reject the counter offer of \$7,500.00 and to authorize Attorney Rullo to put this on the trial list and to continue negotiations. McCauley seconded the motion. All ayes, motion carried.

With no further business to discuss, McCauley moved and Cornez seconded to adjourn the meeting at 9:48 P.M. All ayes, motion carried.

The next regularly scheduled meeting of the Indian Lake Borough Council will be held on April 13, 2011 at 7:00 P.M. at the Indian Lake Borough Building.

Respectfully submitted,

Theresa L. Weyant  
Borough Manager