

CITY OF WHITING – DECEMBER 4, 2007

**MINUTES OF A REGULAR MEETING OF
THE COMMON COUNCIL OF THE CITY OF WHITING, INDIANA**

The Common Council of the City of Whiting met in regular session on Tuesday, December 4, 2007, at 6:30 p.m. with Mayor Stahura presiding. The Pledge of Allegiance was recited, followed by the invocation from Councilwoman Unate.

I. ROLL CALL

Councilmembers Greer, Jennings, Sarvanidis, Spebar, Stolman, Unate and Zubeck were present. Also present were Clerk-Treasurer Drewniak, Clerk-Treasurer Elect Adam, City Attorney Sejna, representative from BP, and interested citizens.

II. MINUTES

Mayor Stahura asked for consideration of the minutes of the November 20, 2007, regular Common Council meeting.

Mayor Stahura made the following correction to said minutes:

- *Roll Call:* omit the sentence ‘City Attorney Sejna was absent due to her vacation.’ And include her name in the list of those present. Although on vacation, City Attorney Sejna was present at said meeting.

Councilman Sarvanidis moved to approve said minutes, as corrected. Councilwoman Greer seconded the motion. Roll Call: (Voice) All Councilmembers voted aye. Motion carried unanimously.

III. COMMUNICATIONS, PETITIONS, MEMORIALS OR REMONSTRANCES

None.

IV. REPORT OF THE MAYOR

Mayor Stahura reported that he will be in Lebanon tomorrow for a meeting. He will be gone through this Thursday and Friday while participating in a New Mayors school in Indianapolis. The Mayor stated that he should be back in time for Friday’s Christmas Parade and Tree Lighting Ceremony.

Mayor Stahura informed the Council that, due to the departure of Engineering Administrator Toleikis, his duties will be shared in-house by City Engineering Consultant Manich, Economic Development Director Kark, and Building Commissioner Hrinyo. Mr. Kark will handle the

administrative duties, while Mr. Hrinyo performs the field inspections and Mr. Manich does the engineering work.

Mayor Stahura announced that this will be Administrative Aide Wunder's final Council meeting. He will be taking vacation days through the end of this year, before leaving City employment. Mayor Stahura thanked Rudy Wunder for all he has done for the City and for Mr. Stahura during his many years as Councilman and Administrative Aide.

V. STANDING COMMITTEES

Councilman Spebar stated that the following items will be presented tonight for Council consideration:

- First and possible second reading on Ordinance No. CC-2007-1783, which would allow BP to develop a parcel of land zoned Planned Unit Development (PUD);
- Possible all three readings on Ordinance No. CC-2007-1784, which authorizes the issuance of Tax Anticipation Warrants; and
- Resolution No. CC-2007-27, which authorizes a transfer of funds to pay for the City's Local Homestead Credit.

VI. REPORT OF THE CLERK-TREASURER

Clerk-Treasurer Elect Adam presented Civil City Accounts Payable Vouchers #2512 - #2584 inclusive for approval.

Councilman Stolman moved to approve said Vouchers for payment; seconded by Councilwoman Unate. Roll Call: (Voice) All Councilmembers voted aye. Motion carried unanimously.

VII. REPORT OF THE CITY ATTORNEY

No report was given.

VIII. SPECIAL COMMITTEES

Councilman Stolman reported on the following items from the Shared Services Committee meeting of November 29th:

- The School will be hosting a forum to discuss the topic of teen alcohol use, tentatively scheduled for February 2008. Proposed participants would be School and City officials, parents, and local tavern and liquor store owners.
- School official thanked their City counterparts for resolving a water bill issue. The City agreed to reduce a recent billing by 50% when it was discovered that several automatic valves on school plumbing fixtures malfunctioned, causing water to run continuously over one weekend. This discount was given in the spirit of teamwork toward a positive solution.

- The City team explained the new double key system for vehicles refueling at the City Garage. New keys will be issued to the School. The new system will better track fuel use for each City and School vehicle in an effort to become more efficient in our energy usage behaviors.
- Bob and Steve will get together at year-end to reconcile the shared service hours for the 2008 Memorandum of Understanding, after School custodians complete a thorough cleaning of City Hall.
- The School team reported that students' ISTEP scores have significantly improved. A Proclamation might be prepared to announce this accomplishment.
- A discussion of recent Halloween activities took place, with concern voiced over the number and ages of children trick-or-treating, and whether or not the children were City residents. It was agreed that people viewing our community as a safe place for trick-or-treating was desirable.

The next Shared Services Committee meeting will be held on January 17th at City Hall.

IX. UNFINISHED BUSINESS

None.

X. ORDINANCES AND RESOLUTIONS

Councilman Spebar reported that BP has petitioned to build a Surge Tank to expand the company's wastewater treatment capability at the refinery. On November 27th, after a Public Hearing on the matter, the Plan Commission gave a favorable recommendation to the petition. Ordinance No. CC-2007-1783 authorizes the following:

- A Planned Unit Development District Ordinance would be approved in accordance with all documents and drawings pertaining to the Whiting Plan Commission Docket No. WPC-2007-01;
- Approval of the legal description, as presented, with the aforementioned Docket Number;
- The Plan Commission will conduct a secondary review of the petition, modify as needed, and grant secondary approval;
- As part of secondary review, the Plan Commission may make minor modifications without public hearing, as long as the changes do not amend the permitted use or development requirements.

There being no questions or comments, Councilman Spebar read Ordinance No. CC-2007-1783 by title only for first reading.

AN ORDINANCE CLASSIFYING CERTAIN LANDS IN THE CITY OF WHITING AS PLANNED UNIT DEVELOPMENT IN ACCORDANCE WITH ORDINANCE NO. CC-2001-1611 UNIFIED ZONING AND SUBDIVISION CONTROL ORDINANCE FOR PROPERTY LOCATED AT THE INTERSECTION OF 121ST STREET AND STANDARD AVENUE IN WHITING, INDIANA

Hearing no questions, Councilman Spebar moved to pass Ordinance No. CC-2007-1783 to second reading. Councilwoman Greer seconded the motion. Roll Call: (Voice) All Councilmembers voted aye. Motion carried unanimously.

Councilman Spebar read Ordinance No. CC-2007-1783 by title only for second reading.

AN ORDINANCE CLASSIFYING CERTAIN LANDS IN THE CITY OF WHITING AS PLANNED UNIT DEVELOPMENT IN ACCORDANCE WITH ORDINANCE NO. CC-2001-1611 UNIFIED ZONING AND SUBDIVISION CONTROL ORDINANCE FOR PROPERTY LOCATED AT THE INTERSECTION OF 121ST STREET AND STANDARD AVENUE IN WHITING, INDIANA

Mayor Stahura noted that representatives of BP and legal counsel from BP were present to answer any questions from the Council.

Councilman Spebar stated that, due to the delay in property tax revenue collections, the Council issued Tax Anticipation Warrants (TAWs) to cover operating expenses in the General Fund and Parks & Recreation Fund. Tax bills still have not been mailed out, and the current TAWs expire at the end of this year. Ordinance No. CC-2007-1784 authorizes the following:

- The issuance of TAWs to retire existing warrants by their maturity date;
- The possible issuance of TAWs to cover 2007 operating expenses is limited by the percentage of the authorized levy;
- The possible use of warrants to cover 2008 operating expenses is limited the percentage of the authorized levy;
- Interest on all potential warrants will not exceed 6%;
- Warrants to cover 2007 operating expenses will mature on December 31, 2007;
- Warrants to retire 2007 warrants will mature on June 30, 2008;
- Warrants to cover 2008 operating expenses will mature on December 31, 2008.

To have the potential to issue the warrants as quickly as possible, the Emergency Clause was attached.

There being no questions, Councilman Spebar read Ordinance No. CC-2007-1784 by title only for first reading.

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WHITING, INDIANA, AUTHORIZING THE CITY TO EXTEND THE MATURITY DATE OF CERTAIN OUTSTANDING TEMPORARY LOAN TAX ANTICIPATION TIME WARRANTS AND TO MAKE ADDITIONAL TEMPORARY LOANS TO MEET CURRENT RUNNING EXPENSES FOR THE USE OF CERTAIN FUNDS OF THE CITY AND CERTAIN DEPARTMENTS THEREOF; AUTHORIZING THE

ISSUANCE AND SALE OF ADDITIONAL TEMPORARY LOAN TAX ANTICIPATION TIME WARRANTS TO EVIDENCE SUCH EXTENSION AND LOANS; AND APPROPRIATING AND PLEDGING A SUFFICIENT AMOUNT OF THE REVENUES ANTICIPATED TO BE RECEIVED IN SUCH FUNDS TO THE PUNCTUAL PAYMENT OF SUCH WARRANTS INCLUDING THE INTEREST THEREON, AND DECLARING AN EXTRAORDINARY EMERGENCY

Hearing no questions, Councilman Spebar moved to pass Ordinance No. CC-2007-1784 to second reading. Councilman Jennings seconded the motion. Roll Call: (Voice) All Councilmembers voted aye. Motion carried unanimously.

Councilman Spebar read Ordinance No. CC-2007-1784 by title only for second reading.

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WHITING, INDIANA, AUTHORIZING THE CITY TO EXTEND THE MATURITY DATE OF CERTAIN OUTSTANDING TEMPORARY LOAN TAX ANTICIPATION TIME WARRANTS AND TO MAKE ADDITIONAL TEMPORARY LOANS TO MEET CURRENT RUNNING EXPENSES FOR THE USE OF CERTAIN FUNDS OF THE CITY AND CERTAIN DEPARTMENTS THEREOF; AUTHORIZING THE ISSUANCE AND SALE OF ADDITIONAL TEMPORARY LOAN TAX ANTICIPATION TIME WARRANTS TO EVIDENCE SUCH EXTENSION AND LOANS; AND APPROPRIATING AND PLEDGING A SUFFICIENT AMOUNT OF THE REVENUES ANTICIPATED TO BE RECEIVED IN SUCH FUNDS TO THE PUNCTUAL PAYMENT OF SUCH WARRANTS INCLUDING THE INTEREST THEREON, AND DECLARING AN EXTRAORDINARY EMERGENCY

Councilman Spebar moved for suspension of rules to consider Ordinance No. CC-2007-1784 for third and final reading; seconded by Councilman Sarvanidis. Roll Call: Councilmembers Greer, Jennings, Sarvanidis, Spebar, Stolman, Unate and Zubeck voted aye. Vote: 7 ayes, no nays, no abstentions. Motion carried unanimously.

Councilman Spebar moved to pass Ordinance No. CC-2007-1784 to third and final reading. Councilman Stolman seconded the motion. Roll Call: Councilmembers Greer, Jennings, Sarvanidis, Spebar, Stolman, Unate and Zubeck voted aye. Vote: 7 ayes, no nays, no abstentions. Motion carried unanimously.

Councilman Spebar read Ordinance No. CC-2007-1784 by title only for third and final reading.

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WHITING, INDIANA, AUTHORIZING THE CITY TO EXTEND THE MATURITY DATE OF CERTAIN OUTSTANDING TEMPORARY LOAN TAX ANTICIPATION TIME WARRANTS AND TO MAKE ADDITIONAL TEMPORARY LOANS TO MEET CURRENT RUNNING EXPENSES FOR THE USE OF CERTAIN FUNDS OF THE CITY AND CERTAIN DEPARTMENTS THEREOF; AUTHORIZING THE ISSUANCE AND SALE OF ADDITIONAL TEMPORARY LOAN TAX ANTICIPATION TIME WARRANTS TO EVIDENCE SUCH EXTENSION AND

LOANS; AND APPROPRIATING AND PLEDGING A SUFFICIENT AMOUNT OF THE REVENUES ANTICIPATED TO BE RECEIVED IN SUCH FUNDS TO THE PUNCTUAL PAYMENT OF SUCH WARRANTS INCLUDING THE INTEREST THEREON, AND DECLARING AN EXTRAORDINARY EMERGENCY

Mayor Stahura returned the meeting to the regular format of the Common Council.

Councilman Spebar stated that the Common Council approved a 20% Local Homestead Credit for 2006 payable 2007 tax bills. This is the second consecutive year that the Council has approved this measure. The Local Homestead Credit, by Council request, provides tax relief to any property that has a full or partial Homestead Credit. The Council credits Mayor Stahura for pushing legislation downstate to make this credit possible; and Clerk-Treasurer Drewniak for making the funds available. Councilman Spebar noted that BP reached a settlement earlier this year with taxing agencies concerning past tax appeals. A portion of those settlement funds are to be transferred at this time to fund the Local Homestead Credit, as follows:

BP SETTLEMENT #503 (CIVIL CITY) FUND

| | <u>Decrease</u> |
|-------------------------------------|---------------------|
| Services Contractual 326 | \$400,000.00 |
| Improvement Other Than Building 471 | <u>\$175,232.32</u> |
| Total Decrease: | \$575,232.32 |

| | <u>Increase</u> |
|------------------------|---------------------|
| Local Homestead Credit | \$575,232.32 |
| Total Increase: | \$575,232.32 |

There being no question or comments, Councilman Spebar read Resolution No. CC-2007-27 by title only.

A RESOLUTION TRANSFERRING FUNDS WITHIN THE BP SETTLEMENT #503 (CIVIL CITY) FUND OF THE CITY OF WHITING, INDIANA

Councilman Spebar moved to adopt Resolution No. CC-2007-27; seconded by Councilwoman Greer. Roll Call: Councilmembers Greer, Jennings, Sarvanidis, Spebar, Stolman, Unate and Zubeck voted aye. Vote: 7 ayes, no nays, no abstentions. Motion carried unanimously.

Mayor Stahura noted that the Local Homestead Credit is a convoluted method of providing tax relief. The City actually has to pay into the system to allow this credit for its taxpayers; then will get the money back, only to have that amount withheld from the tax draws. The Mayor noted that the total credit amount has increased since last year, due to increases in the Assessed Valuation. He added that the BP Settlement Money was actually past tax revenue, so the City is trying to return as much of that money to its taxpayers as possible.

XI. NEW BUSINESS

None.

XII. PUBLIC DISCUSSION

Councilman Stolman, noting that Bryan Ciers was present in the audience, stated that the Council did not act on his Zoning Amendment tonight for various reasons, and invited Mr. Ciers to address the Council regarding his special exemption petition to clarify his position.

Bryan Ciers of 1237-121st Street stated that he filed a Zoning Petition for his property at 1831 LaPorte Avenue. Mr. Ciers has followed all procedures, appealed to the Board of Zoning Appeals and notified the neighbors of his intention to use this property as a two-flat. His understanding of the opinion from the Zoning Board was that the property could be rentable as a two-flat. It has been under construction for some time, and not rented; during that time, Mr. Ciers lost the grandfathering that allowed his building to be a two-flat, which was its original use. After a year, the property reverted to the majority zoning of his neighborhood, which is single family residential. He found out about this zoning change when he received his property assessment. Mr. Ciers noted that this building has always been a two-flat; to meet the requirement to be owner-occupied so he could be allowed to rent one apartment, he would have to sell his home on 121st Street, which would not be easy in the current market. He spoke to many issues, including the many rental properties he owns in Whiting; he presented a copy of the lease he currently uses for Council review. He noted that if he cannot sell the property as a two-flat, it will be hard to find a buyer. He listed his problems with paying increasing tax costs, and how that impacts his ability to complete his renovations.

Mayor Stahura stated that the primary issue is that the building in question was unoccupied as a rental for at least one year; Mr. Ciers' other rental properties will not be impacted by this zoning issue at all.

Councilman Sarvanidis asked how long the upstairs apartment was vacant; Mr. Ciers has owned the building since 1996, at which time he had to work on the damaged upstairs apartment and could not rent it. The downstairs has been either occupied by Mr. Ciers or rented during that time. Councilman Sarvanidis asked if the entire building must be vacant, or just one rental unit, to cause the zoning to revert to majority zoning of the neighborhood. City Attorney Sejna stated that the Ordinance language refers to the use of the property; this property was used as a single family dwelling since its purchase in 1996.

Councilman Sarvanidis asked if Mr. Ciers was present at the BZA Public Hearing when these occupancy conditions were made public. Mr. Ciers stated that he was unaware of this change until he needed to appeal to the Lake County Assessor and found his use of the building was in conflict with its zoning. Councilman Sarvanidis clarified that he was referring to the BZA Public Hearing, at which time the condition of owner occupancy was made clear. Mr. Ciers stated that he spoke during that meeting against that requirement and stated that it would be a hardship for him. Mr. Ciers stated that his neighbor, Rich Sobilo, also spoke with general concerns about multiple family dwellings in Whiting at that meeting; but voiced no particular concerns about the Ciers property. Councilman Sarvanidis stated that the Council will take Mr. Cier's petition under advisement.

XIII. ADJOURNMENT

Councilman Jennings moved to adjourn the meeting at 6:58 p.m.; seconded by Councilwoman Unate. Roll Call: (Voice) All Councilmembers voted aye. Motion carried unanimously.

MARGARET DREWNIAK, Clerk-Treasurer