

**MINUTES OF THE MEETING OF THE BOARD OF PUBLIC WORKS &  
SAFETY  
VALPARAISO, INDIANA  
APRIL 24, 2008**

The Board of Public Works & Safety of Valparaiso, Indiana met on April 24, 2008 in City Hall. Present were Mayor Jon Costas, John Hardwick and Chuck Williams and Clerk-Treasurer Sharon Swihart. Mayor Costas called the meeting to order and led the Pledge of Allegiance.

John Hardwick moved that the minutes from the April 10, 2008 meeting be approved as presented, seconded by Chuck Williams and so approved. John Hardwick moved that claims be approved for payment subject to appropriation balances, seconded by Chuck Williams and so approved.

**DOWNTOWN OUTDOOR DINING STANDARDS**

Craig Phillips presented the Downtown Outdoor Dining Standards. He advised that the standards were in desperate need of a re-haul especially due to outdoor dining. Proof of liability insurance is now required on which the City is to be an additional insured and will be held harmless. Hardwick asked that something be added to direct removal of furniture at a certain point. Betty Troup said that she does not feel that she, who is in a wheelchair, should not have to travel next to the street, that the people who are dining should be next to the traffic. Craig assured her that this would be done according to ADA standards and explained why it is done the way it is. Safety is the top concern of the City in setting how things are done. Dave Pilz advised that one of the reasons the dining is against the billing is due to alcohol issues. In order to serve alcohol outside it has to be done this way. Mayor Costas stated that everyone needs to accommodate each other, the pedestrians, the diners and the traffic. The Mayor closed the public discussion. Chuck Williams moved to approve the standards, seconded by John Hardwick and so approved.

**PIKK'S TAVERN ALLEY USE**

Matt Murphy asked for approval for Pikk's Tavern to use the alley to the west of the building for outdoor dining during the Streetscape Project construction. They would move back to the sidewalk when the construction is done. Pikk's will be the first block done in the project. Mayor Costas stated that he would like the other businesses to be contacted in regard to this. He moved that this request be accepted subject to concerns of Chief Nondorf to leave a car width of space, seconded by Chuck Williams and so approved.

**RE-PLAT EASTPORT CENTRE**

Craig Phillips presented a re-plat for three existing lots in Eastport Centre (Lots 1, 14 & 33) and Parcel B. Mayor Costas moved to approve the re-plat, seconded by Chuck Williams and so approved.

Mayor Costas moved that the Cruise-In Downtown request be tabled until the May 8, 2008 meeting, seconded by John Hardwick and so approved.

### **FARMER'S MARKET LOCATION CHANGE**

Tina St. Aubin presented a request to have the Farmer's Market set up in the city parking lot on Indiana & Lafayette Street during the Downtown Streetscape Project construction. Mayor Costas moved to approve the request to use the parking lot, seconded by John Hardwick and so approved.

### **SECONDARY PLAT-AERO CENTER DEV.**

City Engineer Pilz presented the Secondary Plat for Aero Center Development for approval. John Hardwick moved to approve the plat, seconded by Chuck Williams and so approve.

### **EASTPORT CENTER DRIVE ENTRANCE**

Dave Pilz advised that the Redevelopment Commission would like revise the plans that were prepared for the Eastport Centre Drive entrance so there is a change order to the contract change with Schneider Engineers in the amount of \$16,150. John Hardwick moved to approve the change order subject to the approval of same and the funding by the Redevelopment Commission at their May 8<sup>th</sup> meeting, seconded by Chuck Williams and so approved.

### **STREETSCAPE PHASE 3 BID AWARD**

Tim Burkman advised that the low bidder on the Streetscape Phase 3 Project was Kovilic Construction but there are some components that are looked for in the bids, one of them being the State Form 96 which is required for public works bids. This was not included in the bid submittal nor did they include the supporting documentation required by that form which includes their statement of experience and their financial statements. The second lowest bidder was Michiana Contracting but they did not submit the contractor's financial statement which is required by the State Form 96. The third lower bidder was Gariup Construction. Tim deferred to City Attorney Hollenbeck for his decision on the mandatory requirements and what was not met. Hollenbeck advised that Indiana Law requires a governmental unit to award a bid to the lowest responsive and responsible bidder. We establish responsibility by the State Form 96 and having bidders give us information about themselves, references, other projects they have done and financial statements. Under the bidding documents and State Law, the absence of those are the basis on which bids can be rejected. Out of the five bids received three of them were compliant with all specifications and requirements and the lowest of those bidders was Gariup Construction. There is a representative from Michiana Construction and he wishes to address the Board. Mike Delp from Michiana was present. They turn in bids day after day and the person who put the packet together says that the financial form was included. It would seem to him that if that was all that was missing the City could have called about that and the information would have been sent again. Kovilic did not send any information required by the Form 96. If the bid is given to Gariup he is going to have to go back to his company to see what the ramifications will be because these were all taken and opened in the conference room and Mr. Gariup asked for copies of all of the Forms 96. Mr. Delp stated that he would prefer that no copies of his company's financials be given out and Mr. Gariup agreed saying that he did not want copies of his

financials going to anyone else either. Atty. Hollenbeck was making copies of the papers but called back into the Board meeting and Tim Burkman continued making the copies. There was confusion and copies of papers going back and forth. If they are going to be rejected only because the financial papers supposedly were not there he is going to have to go back to the company to see what they want to do. His company feels that they were the lowest and most responsible bidder and he questions that their financial information was not there. Atty. Hollenbeck stated that the bids were opened in the meeting and then taken to the conference room and we have been complemented by others on what a good policy we have in making the bid documents available to all bidders. There was a request from Mr. Gariup to receive copies of the bids and Tim did take over making copies when Hollenbeck was called back into the Chambers. All Hollenbeck can say is that Tim had the bids in his possession, he reviewed them and checked off every item that was present in every bid document and there was no financial statement from Michigan in their bid packet. He said that he does not feel that it is appropriate to minimize the absence of that form both by law and by our requirements. Legally there is not much to debate about. We do not call bidders and ask for additional information in any circumstance. Burkman advised that the financial form was not in the bids anywhere. Hollenbeck stated again that the absence of that form is the basis for rejection of the bid. Mr. Delp said that he does understand what we are saying but in the specifications of any firm they can waive all irregularities so he is surprised that because of the dollar amount the City would not ask for a financial statement and waive that irregularity. This is an important project for his company and he has great respect for the City. Hollenbeck stated that nowhere can they find the authority for the City to waive anything in the specifications. The law is that we can waive minor discrepancies. Hollenbeck then read the part of the Form 96 in regard to the mandatory requirement of financial information. Mr. Delp felt that there was confusion in the room and Gariup made several comments in the conference room which make him feel that there could be ramifications following this. He felt that this should be tabled until it can all be sorted out. Mayor Costas moved that the project be awarded to Gariup Construction. Tim Burkman asked for approval to execute the contract and issue a Notice to Proceed. The Mayor amended his motion accordingly, seconded by John Hardwick and so approved. Mr. Delp said that he hopes the Board is considering everything in case there are legal ramifications to follow.

### **CITIZEN REQUESTS**

1. VFW Poppy Days for May 21-24
2. July 4<sup>th</sup> Blast to be held on Friday, July 4<sup>th</sup>, with street closures starting at 9:30 p.m.
3. Valpo Triathlon to be held on Saturday, July 12, 2008.

Mayor Costas moved to approve the requests, seconded by John Hardwick and so approved

### **FIRE DEPT. REQUEST-AMBULANCE AT WALK/RUNS**

Atty. Hollenbeck advised that he and the Fire Department recommend that when groups come before the Board of Works for street closures and other accommodations regarding

both runs and walks that the requestors contact the Fire Department and that accommodations be made to have an ambulance accompany the walk from a safety perspective. Hollenbeck recommended that this be an adopted process. Mayor Costas moved to adopt the recommendation, seconded by Chuck Williams and so approved.

**PURCHASE OF LAFAYETTE CENTER BLDG.**

Hollenbeck also wanted an approval to an offer to purchase the Lafayette Center Building contingent on the City Council appropriating funds to do that. He would like to make an offer to the owners. Mayor Costas advised that this is in regard to the downtown park that has been discussed for awhile and we have decided that this building would be purchased. We had two appraisals made on that building and the average is \$553,000. Mayor Costas advised that we have received a bid to tear it down and haul it away for about \$80,000. Mayor Costas moved to approve the request to allow Hollenbeck to make an offer to purchase to the owners of Lafayette Center Building in the amount of \$553,000, seconded by Chuck Williams and so approved.

There was no more business and Mayor Costas adjourned the meeting.