

**MINUTES OF THE MEETING OF THE BOARD OF PUBLIC WORKS & SAFETY
VALPARAISO, INDIANA
JULY 27, 2006**

The Board of Public Works and Safety, Valparaiso, Indiana, met on July 27, 2006, at 2:00 p.m. Present were members Mayor Jon Costas, David Pilz and John Hardwick. Mayor Costas called the meeting to order and led in the Pledge of Allegiance.

John Hardwick moved that the minutes from the July 13th meeting be approved as presented, seconded by Dave Pilz and so approved. John Hardwick moved that claims be approved subject to appropriation balances, seconded by Dave Pilz and so approved.

BIDS-SOUTH SIGNALS ON SQUARE

Bids for the south signals on the square were opened. There was only one bid, which was from Midwestern Electric in the amount of \$86,027. If no performance bond is required they will deduct \$860. Pilz moved to accept the bid subject to advisement by the Engineering director and to make a tentative award of the bid if everything is order, seconded by John Hardwick and so approved.

UNION STREET DRNG. PROJECT ASSESSMENT

Dave Pilz advised that this relates to the Union Street Drainage Project that the Stormwater Board is doing. This first phase is located on Valparaiso Street and a part on Union Street. This will set the stage for future extensions of storm sewers in areas as far north as the Canadian National RR and Lynwood Ave. The piece along Valparaiso Street is the subject of what we are doing today. We needed temporary easements to provide room for the contractor to do the work. The owners were asked to dedicate the easements since this work would give the owners an upgrade of their property. There was one owner that would not donate the easement and we need to follow procedure set by statute. This meeting is to be a public hearing to discuss the project and the merits of it and to hear any comments on the proposed assessment role. The assessment role and resolution would be approved today but nothing would be done as far as actually assessing until the project is complete. The schedule of payments with interest would be done at the end of the project. This assessment can be cancelled if the property owner later agrees to donate the easement. Mirko Gross, 6620 E. 84th Drive, Merrillville, Indiana, co-owner of the property in question was present. He advised that they have new sidewalks and curbs. The sidewalk is breaking up because there is a tree on their property and the roots running toward the manhole and breaking up the sidewalk. He would give the easement if the City would remove the tree. He was previously advised that this tree would be removed. Pilz advised that the only trees to be removed are any in the easement that would be a bother to the project. This tree is on private property and we cannot do work on private property. Zora Gross, same address, said that this tree is a few feet from the sidewalk and even if they grant the easement the problem with the sidewalk would be the same since the roots are running under the sidewalk. Matt Kras advised that the tree roots may cause a problem but when doing the work we can cut back the roots, which should last quite a while. Bill Oeding stated that they can trim tree roots just like you trim branches and it would last for many years but he would be concerned about the health of the tree after this is done. Mrs. Gross also stated that this building is a multi-family rental building and all the tenants will be put out, especially with parking and they will have to compensate them in some way. Mayor Costas said that they would gain in totality with this project. Mrs. Gross said that they would grant the easement if the City takes the tree down. Hollenbeck said that he has a problem with going onto private property but if they would sign waivers and if there is a chance that the tree would die if we cut the roots we should be able to make an agreement and get this done. Mayor Costas advised that we will agree to take the tree down and Hollenbeck will contact them when an agreement is

ready to sign and they will agree to give the City the easement. Pilz stated that he would like to proceed just so that it would be out of the way. Pilz moved to approve the project and the preliminary assessment role and resolution in regard to this project, seconded by John Hardwick and so ordered.

BOARD OF WORKS RESOLUTION NO. 2, 2006

WHEREAS, the Storm Water Board for the city of Valparaiso has planned for the construction of a new storm sewer on Valparaiso Street between Lincolnway and Union Street, and

WHEREAS, said construction is known as "Union Street Watershed Drainage Improvements Project 1" according to the plans prepared by Earth Tech, and

WHEREAS, the project will provide for improved drainage and the separation of storm water from the sanitary collection system, and

WHEREAS, the project will allow the extensions of storm sewers to other areas in the watershed, and

WHEREAS, the project will result in benefits to adjacent properties, the watershed and the wastewater utility, and

WHEREAS, the prosecution of the project requires that temporary easements be obtained from the adjacent property owners, and

WHEREAS, the Board of Public Works and Safety has determined that the cost of curb and gutter and sidewalks will be assessed to the adjacent property owners except for those owners who have dedicated said easements, and

WHEREAS, the Board of Public Works and Safety has conducted a public hearing at 10:00 AM on Thursday, July 27, 2006 to hear comments and/or remonstrances from the public and/or those property owners proposed to be assessed costs, and to determine the merits of the project and the Preliminary Assessment Role,

NOW THEREFORE BE IT RESOLVED that the Board of Public Works and Safety finds:

1. The properties on the Preliminary Assessment Role are proper and accurately reflect the lands receiving benefits under the terms and conditions established, and
2. No other properties should be added to those being assessed, and
3. No properties should be excluded from those proposed to be assessed, and
4. The benefits accruing to the properties being assessed, and to the City of Valparaiso, are equal to, or exceed the cost of improvements, and
5. The plans for said project are approved for construction.

APPROVED by the Board of Public Works and Safety for the City of Valparaiso, County of Porter, Indiana, this 27th day of July 2006.

/s/Jon Costas
Jon Costas, Mayor

/s/John Hardwick
John Hardwick, Member

/s/David L. Pilz
David L. Pilz, Member

Attest:

/s/Sharon Swihart

Sharon Swihart, Clerk-Treasurer

PARK PT. APARTMENTS SURETY

Pilz advised that the developer of Park Pt. Apartments is very close to completing the improvement required under surety as provided and the surety is scheduled to expire on August 5th. We do not have any more meetings prior to that date and in order to protect the City's interest we need to claim a default on the surety today subject to the City Engineer's determination that it is not done prior to August 5th or an extension provided. Pilz moved to approve claiming a default, seconded by John Hardwick and so approved.

EXTEND SURETY-PINE CREEK ESTATES UNIT 3

Dave Pilz moved to approve an extension of the surety for Pine Creek Estates Unit 3 for another year, seconded by John Hardwick and so approved.

ADV. BIDS-PUMPER & RESCUE SQUAD

Fire Chief Nondorf asked for permission to advertise for bids for a Class A Pumper and a Rescue Squad with opening of the bids set for August 24th. John Hardwick moved to approve the request, seconded by Dave Pilz and so approved.

EDITH HOUSE

Chief Nondorf presented a request for the Mayor to sign a purchase agreement for EDITH House. The old house is beyond repair. Earlier in the year they received a Homeland Security grant in the amount of \$35,000 along with a \$5,000 donation from State Farm Insurance and some various other donations. Dave Pilz moved to approve the agreement, seconded by John Hardwick and so approved.

WAIVER DED. OF RIGHT-OF-WAY-SYNERGY HOMES

Bill Hanna presented a request for waiver of dedication of right-of-way on Axe Avenue, a property owned by Synergy Homes. They have a problem with building a duplex if they have to dedicate the required amount of right-of-way. They presented this to the BZA and it was turned down due to misinformation. It will not be economically feasible to build on this property if a duplex is not allowed and it represents new investment in the area and is positive for the community. Pilz said that there are rules and regulations and you try to do the best accordingly. He has not heard any argument that convinces him that there is anything unique about this case that requires a waiver. There is nothing unique about trying to cram a duplex on a lot that was intended for a small single family home. Craig Phillips advised that the variance request was denied because their sole argument was financial and the BZA cannot consider financial hardship. At this stage the developer would have to wait another year to go back to the BZA for a variance anyway. They did get a rezoning of this property by the Council. There are issues that the staff has not been made aware of in regard to this project. The Mayor said that the City Council looked at the project and felt that it was appropriate for the area. Phillips said that there are other regulatory steps to go through for approval. Mayor Costas said that the issue before this body is whether the right-of-way dedication is a major issue. Hanna said that Synergy is asking what possible damage could this have to the City in our lifetime versus their being able to put in a vital project. Hanna's personal opinion is that it represents a good investment and does not harm the City's ability to conduct business and some of the issues are points of issue between their attorney and our staff. He feels that we are making it difficult for a decent investment in an area that can use it. Mayor Costas said that this is a unique area, there is not exactly a lot of home building going on in that area and a duplex certainly fits that area. Hanna said that any infill project in the city is going to require some flexibility. Hardwick asked the existing versus requested right-of-way. Pilz stated that he has the exact

numbers in the file. Hardwick asked Hollenbeck if this is approved would it affect our future ability to ask for right-of-way dedications in the future. Hollenbeck said from a legal perspective it is not setting a "legal precedent". Hanna said that the ordinance grants the ability to do this. Pilz said he feels that every project in the City can use this argument. Hanna said that he feels this should be looked at on a case-by-case basis. Mayor Costas said that the other issue here is that this is an area that we are doing whatever we can to encourage good construction and we want to do everything we can to build affordable housing and that is an area that needs it. In order to do that we need to make exceptions. Mayor Costas moved to approve the request, seconded by John Hardwick, opposed by Dave Pilz and approved by a 2-1 vote.

COMMUNITY REQUESTS

John Hardwick moved to approve the Popcorn Festival procedure approvals, seconded by Dave Pilz and so approved.

Mayor Costas moved to approve the request for street closure for national Night Out on 8/1/06 from 6:30-900 p.m., seconded by John Hardwick and so approved.

Dave Pilz moved to approve the request for a neighborhood block party on Park Avenue on August 12th, seconded by John Hardwick and so approved.

The meeting was adjourned.