

Ogden Dunes Town Council Meeting
February 6, 2012 – 7:00 p.m.
Ogden Dunes Community Church

Present:

Bill Gregory, Tom Clouser, Charlie Costanza, Paul Panther and Allen Johnson

Bill Gregory thanked the Ogden Dunes Community Church for allowing us the use of their building and reminded everyone to respect the place they were in. He also indicated that the March Town Council meeting will likely be held at the Firehouse.

Tom Clouser moved that the minutes of the January 17, 2012 Town Council meeting be approved as submitted. Paul Panther seconded the motion. Motion was unanimously approved. Bill Gregory moved to approve the minutes of the January 23, 2012 meeting and Paul Panther seconded the motion. The motion passed as follows: Bill Gregory – yes, Paul Panther-yes, Allen Johnson-yes, Tom Clouser-yes, Charlie Costanza-nay. Allen Johnson moved to approve the minutes of the January 20, 2012 Executive Meeting. Tom Clouser seconded the motion. All were in favor and motion passed.

Constantine J. Dillon, Superintendent, National Park Service, addressed the Council. He wished to introduce himself and also pass out a National Park Service informational packet to all members which includes contact numbers within the Park. Mr. Dillon indicated that their deer management plan is still in Washington DC and they have not received any final notice. He also indicated that Portage Lakefront and Riverwalk is now the most visited site in the National Lakeshore with 170,000 visitors in 2011 passing Mt. Baldy. He stated no new construction is scheduled for the Park. Charlie Costanza addressed Mr. Dillon regarding additional Ogden Dunes emergency exits. Two exits being considered would involve National Lakeshore property (Boat Club Road and Sand Track Trail) and Charlie requested the cooperation of the National Park Service. Mr. Dillon indicated that he would be willing to meet with Town Council members to further discuss these exits. Bill Gregory then asked Mr. Dillon to listen to a letter written by resident Gerry Lehmann dated February 6, 2012 regarding deer management in conjunction with the National Lakeshore and the Town of Ogden Dunes.

Bill Gregory read a request from Greg DePorter asking for two pieces of additional equipment for Ed Hewitt, Building Commissioner which include a cell phone (with camera) and a laptop computer or tablet. Bill Gregory indicated that this request would be discussed during the “New Business” portion of the meeting. (Note from Clerk Treasurer – this item was not brought up again during this meeting).

Letter read from Congressman Pete Visclosky by Bill Gregory indicated that special funding was available if properly applied for. President Gregory advised all residents to take a copy of the letter should they desire to submit their request for funding for the Town of Ogden Dunes.

Bill Gregory read a letter from Town Marshall James Reeder stating various hostile work

environment allegations against Councilman Costanza. Charlie Costanza indicated that the letter included a lot of false allegations and requested Attorney Lukmann to investigate these allegations. Attorney Lukmann indicated that he would do so if a majority of the Town Council members approved this investigation. Attorney Lukmann indicated that he was very concerned with the wording of the letter where Marshall Reeder alleged that Mr. Costanza's actions resulted in a "hostile work environment" which is a serious legal matter and my advice is that no one on the Council discuss this matter with anyone except myself as an investigator. Again, I have no problem with Charlie's request should the Council want me to do this. Charlie indicated that it was Attorney Lukmann's duty to investigate this; however, Attorney Lukmann indicated that he does not go off on his own without Town Council majority approval. Bill Gregory indicated that this is a personnel matter and an Executive Session of the Town Council should be scheduled. As a result, the Executive Session was scheduled for Thursday, February 9, 2012 at 6:00 p.m. in Town Hall. Attorney Lukmann indicated that he would be present. (Note from Clerk Treasurer: This meeting was later cancelled.)

Bill Gregory read correspondence from Jon and Joan Machuca, 1 Skyline Drive, which discussed their opinion of the composition of the Deer Management Task Force.

January claims were 43897 to 43949 and payroll claims were 3497 to 3542. Charlie Costanza questioned 3 claims (Warrior Arms Limited Liability Company in the amount of \$1,800 for a high power police firearm; Environmental Consulting Group in the amount of \$650 for a mold sample test for the Firehouse and \$25,440 to Lovings Air Conditioning that he feels did work which covered up existing mold. Also, he indicated that some legal bills were mislabeled blaming the litigation on Costanza. Therefore, he does not approve these claims. Allen Johnson made a motion to approve the claims and it was seconded by Paul Panther. Votes were as follows: Bill Gregory-yes; Allen Johnson-yes; Paul Panther-yes; Tom Clouser-yes; Charlie Costanza-nay. The motion was passed.

Charlie Costanza discussed the three emergency exits being considered for the Town (access road, Sand Track Trail and Boat Club Road). Charlie met with Portage Mayor Snyder who was willing to cooperate with Ogden Dunes on these exits and has appointed Albert J. Monroe, Director of Public Works, to work on this project. The Mayor agreed to get all parties together including USS, Continental Can, National Park Service and the railroad. Charlie Costanza stated that he would like 3 exits the main one being the access road by the tracks. Portage indicated that they put in requests to the RDA to help fund this project. Charlie Costanza stated that he would report to the Council as things develop. Tom Clouser stated that an agreement was made with USS for the use of the access road and it was only to be used in emergencies. Charlie Costanza stated that the land is no longer owned by USS and is now owned by the City of Portage. Paul Panther indicated that his experience has been that the railroad was extremely reluctant to let us pave the access road because of the close proximity to the tracks if it should be used regularly by cars and plus the fact that it is a very narrow road. We were allowed to pave it if we agreed that it would be used only for an emergency exit. He also indicated that keys to open the road for emergencies have been given to all necessary surrounding areas and the National Park.

Regarding the Hillcrest Wall repairs, Paul Panther indicated that a meeting was held with Ed

Hewitt, Building Commission and Mark Sterns, Engineer. They all determined that the previous quotes were totally inadequate for the purpose of making sure the Hillcrest Road will be safe. Ed Hewitt indicated that bids already received were not site specific. They started with general drawings for retaining walls which were not adequate. We also need insurance requirements for the contractors who will do this work. In order for us to do this in a safe manner for the Town of Ogden Dunes, we need to pre-qualify bidders. It will be opened to bidders but we need to get our site specific drawings from Mark Sterns which will incorporate all of the elevations and wall requirements and it will then go out for bid. Anton Insurance was contacted and gave Ed Hewitt the insurance requirements for the bidders. Tom Clouser asked Attorney Lukmann for explanation of the bid vs. quote process. Attorney Lukmann stated that the first order of business for the Town Council would be to reject all prior quotes submitted for the Hillcrest project. Then you need plans that meet with your specifications. He indicated that Anton Insurance requirements are not legal requirements but rather they are requirements that the Town Council may use when seeking quotes or add to your specifications if seeking full blown bids. He stated that the last time this was discussed the estimated cost was \$30,000. He stated that the Town Council can either invite three quotes from those they have determined fit the insurance requirements and this is allowed because it is under \$50,000 estimated. Second choice is a full blown public bid which requires State Form 96. It is up to the Council how they want to proceed and Attorney Lukmann is suggesting that they make this determination once you have plans that are ready to go out for bids or quotes. Under quotes you can get a 7 day turnaround and under bids you must have legal publication two times and whether it is quotes or bids that come in, they must be opened and read at a public meeting. Under the law, you cannot require that the bidders attend the opening of the bids' meeting. Charlie Costanza indicated that this project has been going on for years and he, himself, has bid on this project several times. He stated that there have already been engineers and bids and the Town money spent on this project. Charlie Costanza wants the bid to go to the lowest bidder which was \$22,000 and compared this project to the fact that Lovings Heating and Cooling did work on the Firehouse without any bids going out and he feels this is a deliberate attempt to prevent the lowest bidder from getting the job. Paul Panther made a motion to reject all previous bids and give Ed Hewitt the power to proceed with this project. Tom Clouser seconded the motion. Charlie Costanza said that he was insulted that no one had asked for his opinion on this wall since he has been doing this type of work for over 30 years. Ed Hewitt indicated that they would certainly like Charlie's input but they must proceed and follow all the necessary codes pertaining to this project plus have the correct drawings. Ed Hewitt said that they were now following all codes and ordinances to bid this project correctly. Charlie Costanza argued that all previous drawings were approved; however, Ed Hewitt indicated that none of the drawings were site specific. Ed Hewitt stated that Jim Matthys has been working on this project for a long time and it may sound like he was not doing what he should have been doing but I would like to say that Jim Matthys has put a lot of time and effort into this project and want it to be clear that this is not a bad reflection on Jim Matthys. Bill Gregory then reiterated that the motion on the floor was to reject all previous bids and give Ed Hewitt the power to proceed with the Hillcrest project. The votes were as follows: Bill Gregory-yes; Tom Clouser-yes; Allen Johnson-yes; Paul Panther-yes; Charlie Costanza-no. Motion was passed. Paul Panther made the motion to allow Ed Hewitt to determine who qualifies for quotes and that he proceeds with them as long as he has the concurrence of both myself and Tom Clouser. Tom Clouser seconded the motion. Attorney Lukmann stated that he wanted to

be clear on the motion and that the Council is allowing Ed Hewitt to get three quotes on behalf of the Board as long as he has the concurrence of Mr. Panther and Mr. Clouser to invite at least 3 quotes from 3 persons. Paul Panther said that Attorney Lukmann's statement was correct. Attorney Lukmann advised Charlie Costanza to be very careful as he was arguing that it should be awarded to the lowest bidder and I don't want people to accuse you of a conflict of interest. Attorney Lukmann said Charlie should be very careful about voting on these particular topics. Charlie Costanza stated and showed Attorney Lukmann the Conflict of Interest form he had already submitted. The vote for the motion was as follows: Bill Gregory-yes; Paul Panther-yes; Tom Clouser-yes; Allen Johnson-yes; Charlie Costanza-nay. Motion was passed.

Bill Gregory indicated that Firehouse renovation was going very well and should be ready for our March meeting. Charlie Costanza indicated that he heard reports that the mold readings are still high. Ed Hewitt said that a new reading would take place. They have hired a remediation company and they are not doing anything to try to cover up mold. Ed Hewitt said if the next testing is high they will do whatever it takes including removing drywall. He said the good news is that any mold they do have is an outside mold and when they did the demolition it stirred up the mold so there is still a lot in the air. Therefore, we have air scrubbers and remediation scheduled again. Air scrubbers are scheduled for February 20. At that point, we will determine if anything else needs to be done and nothing will be hidden and the results will be made public.

Bill Gregory then discussed Town Council liaison appointments and stated that these positions are not appointments to the Boards but only a person to communicate between the Board and the Town Council. He indicated that he wanted two changes to the Presidential liaison appointments as follows: a single liaison to Building and Zoning which would be Allen Johnson and a single liaison to the Environmental and Public Affairs which would be Tom Clouser. All other boards would remain the same as designated at the January Town Council meeting. Charlie Costanza objected to these changes and stated that there is no restriction on the number of liaisons assigned to each committee and he is interested in being on several other committees. Attorney Lukmann stated that the Town Code states that the Board can advise on the liaisons but the final decision is up to the President. Attorney Lukmann stated that Mr. Costanza is referring to the code that states the President shall appoint one or more Council members as liaison for each committee. Therefore, the President has the discretion to have one person, two people or three to any of those 6 standing committees. I believe the President likes to get input from the Council and I believe that is what Bill is looking for as to whether he has a consensus of the Board to make these revisions. Attorney Lukmann stated that the liaison is merely a Town Council member who reports back to the Town Council the status of the various committees. Attorney Lukmann said a motion was not necessary and Bill Gregory just needed to hear from each member. Tom Clouser, Paul Panther, Allen Johnson and Bill Gregory agree with the appointment changes. Charlie Costanza disagreed. The two changes to the appointments listed above are effective.

Discussion was held on the Town health insurance policy renewal. The Clerk Treasurer stated that Anton Agency received various quotes from several companies all of which were excessive. Therefore, the Agency is quoting the same policy minus one employee who turned 65 and will now be deleted from the Town Policy which eliminates \$1,000 per month. The

new quote does include a 3% increase in rate but is still lower because of the elimination of one employee. The Clerk Treasurer also stated that the Town will be paying in addition to the policy amount quoted a premium for this employee to pay his Medicare and Medicare supplement. Charlie Costanza made the motion to renew the Anton renewal policy as quoted. Paul Panther seconded the motion. All were in favor and motion passed.

Bill Gregory thanked all the residents who applied for the volunteer positions on the Ogden Dunes Boards and Committees. Appointments were made as follows:

Building Code Review Committee

Bill Gregory	Town Council Member
Charles Costanza	Town Council Member
Kenneth Thompson	Council Appointee
Herb Craig	Council Appointee
Larry Fierst	Council Appointee

Board of Zoning Appeals

Glenn Seerup	President Appointee
Clyde Compton	President Appointee

Planning Commission

Allen Johnson	Governmental Member
Paul Panther	Governmental Member

A motion was made by Bill Gregory to accept the names of Allen Johnson and Paul Panther as Governmental Members to the Planning Commission. Allen Johnson seconded the motion.

All were in favor and motion was passed.

Greg DePorter	Citizen Member
Herb Craig	Citizen Member
James Slawinski	Citizen Member

Waterworks Board

Terry Easton	Council Appointee
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A motion was made by Charlie Costanza to appoint Terry Easton to the Waterworks Board. Allen Johnson seconded the motion. The motion was unanimously passed.

Park and Recreation

Eric Jensen	Council Appointee
Brad Wood	Council Appointee

Paul Panther moved that Eric Jensen and Brad Wood be appointed to the Park and Recreation Board. Allen Johnson seconded the motion. The votes were as follows: Bill Gregory-yes; Allen Johnson-yes; Paul Panther-yes; Tom Clouser-yes; Charlie Costanza-nay. The motion was passed.

Environmental Advisory Board

Judy Mollway	Council Appointee
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Allen Johnson moved that Judy Mollway be appointed to the Environmental Advisory Board.

Charlie Costanza seconded the motion. The motion was unanimously passed.

Northwest Indiana Regional Planning Commission

Tom Clouser	Appointment
Paul Panther	In his absence

A motion was made by Charlie Costanza to appoint Tom Clouser and Paul Panther to the Northwest Indiana Regional Planning Commission. Allen Johnson seconded the motion. The motion was unanimously passed.

ADA (Americans with Disabilities Act)

Bill Gregory stated that an appointment will be made when a situation arises that warrants an appointment.

Beach Nourishment/Preservation Committee

Ed Rooks	Council Appointee
Eric Jensen	Council Appointee
Charlie Costanza	Council Appointee
Eric Kurtz	Council Appointee
Jim Kopp	Council Appointee
Jim Combs	Council Appointee

Charlie Costanza moved that the above six residents be appointed to the Beach Nourishment/Preservation Committee. Allen Johnson seconded the motion. The motion was unanimously passed.

Town Beautification Committee

Kitty Cozza	Appt by Beautification Committee
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Charlie Costanza made the motion to recommend to the Beautification Committee to reappoint Kitty Cozza to the Town Beautification Committee. Allen Johnson seconded the motion. The motion was unanimously passed.

Animal Control Committee

Lynn Hicks	Appointed by Town Council
Karen Berrier	Appointed by Town Council

Charlie Costanza moved to appoint Lynn Hicks and Karen Berrier to the Animal Control Committee. Paul Panther seconded the motion. The motion was unanimously passed. Bill Gregory indicated that the Animal Control Committee still has three open positions.

Grant Committee

Robert Schlyer

Bill Gregory indicated that there is still one opened position on the Grant Committee.

Ogden Dunes Community Fund Committee

No applications received; therefore, no appointments made.

Ogden Dunes Cable Advisory Board

No applications received; therefore, no appointments made.

Bridge & RR Committee

Eric Kurtz	TC President Appointee
Roger Rhodes	TC President Appointee
Charlie Costanza	Council Member

Bill Gregory indicated that four positions are still opened for this Committee.

Porter County Emergency Management Advisory Council (EMAC)

Eric Kurtz	TC President Appointee
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Porter County Local Emergency Planning Committee (EMAC)

Michael Shendrick	TC President Appointee
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Porter Township Education Foundation

Eric Kurtz	TC President Appointee
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A discussion was held on the Deer Management Task Force. Bill Gregory indicated that the duties of the Task Force in his opinion should be:

- Assess data on deer count from Ogden Dunes flyover. Bill Gregory stated that we asked him to extend the area covered. The flyover may be included with Beverly Shores which would save our Town money. If not, we would be responsible for the entire charge.
- Research and determine optimal number of deer for Ogden Dunes.
- Assess if reduction in number of deer in Ogden Dunes is needed to meet optimal number.
- Research and identify the causes of lyme disease and the relationship between lyme disease, mice, ticks and deer.
- Research and track the incidence of lyme disease in Ogden Dunes, neighboring communities, regionally and nationally
- Based upon results of #4 and #5 above, research and identify all methods available to reduce deer numbers, advantages and disadvantages of each, costs associated with and permits required for each.
- Study and identify best practices for personal and community tick control and management.
- Study public announcements the National Park Service plans with regards to deer management and identify any opportunities to collaborate with them.
- Make recommendations to the Town Council on the most appropriate and effective method(s) to manage deer and mitigate lyme disease by May 7, 2012 Town Council meeting.

Charlie Costanza stated that he felt more than seven people (2 Council members and 5 residents) should be on the Deer Management Task Force. He indicated that 18 people applied and have a lot to offer. He also stated that he does not feel that President Gregory should be the one to dictate what the Task Force will do. He feels the Task Force should make their own

determinations. Allen Johnson stated that he agreed with Bill Gregory's list of Task Force functions. Paul Panther suggested that added to Bill Gregory's list should be a study of the effect of deer on our vegetation. Charlie Costanza indicated that since we were going to extend the flyover area, we would now have to pay double rather than the \$1,200 originally quoted. He requested the exact cost of the deer cull including attorney fees, guns, police hours, feed, cameras and any other costs associated with the cull so this information can be given to the Deer Management Task Force.

Allen Johnson gave information about the flyover and stated that he was in touch with the man who owns the plane but has not heard from him since late last weekend. The flyover depends on the weather and the availability of the pilot. The cost is \$2.50 per acre and Ogden Dunes has 600 acres. If you add some of the area to the east of us plus West Beach as far as the parking lot, you will then have 900 acres total. If we have to pay the entire amount for 900 acres plus the cost of getting the plane from Ohio to our area and excluding joining in with Beverly Shores, the cost would be approximately \$3,700. Allen Johnson stated that he is not in favor of the flyover and feels that Ogden Dunes has an over abundance of deer.

Bill Gregory stated that the \$1,200 amount was originally thought as a possible cost but has since learned that we are unable to do this project for \$1,200. He also stated that the flyover is a starting point for the Task Force. Charlie Costanza said that too many acres are being included. Bill Gregory concluded that the flyover will be able to give a count of those deer in town and those deer on the outskirts. We will have 2 separate figures.

Bill Gregory indicated that he will not put pro-cull residents and anti-cull residents on the Task Force.

Paul Panther made the motion to establish the Deer Management and Lyme Disease Task Force and Bill Gregory's list of functions for the Task Force. Tom Clouser seconded the motion. The motion passed unanimously.

Charlie Costanza moved that the Town Council appoint all members of the Task Force which should consist of two Town Council members and seven residents. No second. Motion dies.

Paul Panther made the motion that the Task Force consist of one Town Council member and six residents and the Town Council President will be the appointing authority for the Task Force members. Allen Johnson seconded the motion. Voting was as follows: Bill Gregory-yes; Allen Johnson-yes; Paul Panther-yes; Tom Clouser-yes; Charlie Costanza-nay. The motion was passed.

Allen Johnson stated that the Task Force will make its recommendations and present them to the Town Council for final determination.

Discussion was held on requesting Town Attorney services. Attorney Lukmann stated that ever since he has worked for various towns, the request for attorney services has gone through the Town Council President and to have him research or attend meetings has always been the majority vote of the Town Council. The President has been named the person who interfaces

with me. Tom Clouser made the motion that requests for Town Attorney services that are supported by a majority of the Council be directed to the Attorney by the Town Council President. Paul Panther seconded the motion. The votes were as follows: Bill Gregory-yes; Tom Clouser-yes, Paul Panther-yes; Allen Johnson-yes; Charlie Costanza-nay. The motion was passed.

Paul Panther made the motion to appropriate an amount not to exceed \$5,000 for the flyover which will include 900 acres. Tom Clouser seconded the motion. The vote was as follows: Bill Gregory-yes; Tom Clouser-yes; Allen Johnson-yes; Paul Panther-yes; Charlie Costanza-nay. The motion was passed.

There were several resident remarks concerning the Task Force, feeding of deer, flying of the flag at Town Hall, and opposition to a deadline being set for the Task Force before the actual members are chosen.

Paul Panther moved to adjourn the meeting. Allen Johnson seconded. The motion was unanimously passed.

Bill Gregory, Town Council President

ATTEST:

Jean Manna, Clerk Treasurer