

**TOWN COUNCIL REGULAR MONTHLY MEETING  
OGDEN DUNES FIREHALL  
JANUARY 2, 2013 – 7:00 P.M.**

**PRESENT:** CHARLIE COSTANZA, ALLEN JOHNSON, PAUL PANTHER, TOM CLOUSER

**ABSENT:** BILL GREGORY

**MINUTES**

Charlie Costanza moved that the minutes of the December 27, 2012 meeting of the Town Council be approved as submitted. Tom Clouser seconded the motion. All were in favor and the motion was unanimously approved.

**CORRESPONDENCE**

Allen Johnson stated but did not read that a letter was received from Susan Hale of Ogden Dunes dated December 20, 2012.

**CONGRATULATIONS**

Allen Johnson stated that the break-ins which occurred in our Town have been solved and many items have been recovered. Paul Panther commended the Police Department for solving these crimes. He stated that the camera at the entrance of our Town was a big help.

**COMMITTEE REPORTS**

GENERAL CODE REVIEW – Charlie Costanza, a member of the committee, stated that the committee has reviewed Codes 1 and 13 and found no problems. Allen Johnson stated that Marshal Reeder gave him information on increasing revenue to the Town by keeping more of the traffic fine money that normally goes to the County or State. He gave this information to Charlie for the General Code Review meeting to discuss the feasibility and the amount of Town revenue that could be generated. Allen suggested that Charlie speak with Marshal Reeder concerning this and that the final ordinance would have to be done by the Town Attorney.

WATER BOARD – Duane Hibbs stated that the Water Board has a hold on opting out of IRUC for the next several months.

ENVIRONMENTAL BOARD – Susan Mihalo stated that John Morris has reapplied for the Environmental Board and she highly recommends his reappointment as he has been a great asset to the Board. She also stated that the Board will be concentrating on plans to inform residents of the importance of taking care of septic tanks and also encouraging more recycling.

**NEW BUSINESS:**

Allen Johnson said that the Council is required by law to elect a new President and Vice President on a yearly basis. Paul Panther moved that Allen Johnson remain President and Tom Clouser remain Vice President through December 31, 2013. Tom Clouser seconded the motion. Charlie Costanza opposed this motion stating that Allen Johnson is going out of Town for two months. Allen stated that he would only miss the February, 2013 meeting and would return for the March, 2013 meeting. Charlie stated that the Council should approve him as President since he plans to be here for every meeting. Paul Panther stated that with modern communication technology it is not necessary for a member to be here at all times. Charlie stated that the law does not provide for voting by email or telephone. Paul stated that the Council could still conduct business if one person is gone. **A vote was**

**taken on the motion and the vote was as follows: Allen Johnson, yes; Paul Panther, yes; Tom Clouser, yes; Charlie Costanza, no. The motion was passed three to one.**

## **CLAIMS**

Tom Clouser moved to approve regular claims 044793 to 044855 and payroll claims 4364 to 4404. Paul Panther seconded the motion. All were in favor and the motion was unanimously passed.

## **OLD BUSINESS**

Allen Johnson stated that approximately 540 pounds of venison will be given to the Food Pantry as a result of the deer cull. Paul Panther stated that some of this venison has already been given out by the Food Pantry. He stated that approximately 1,500 meals can be provided as a result of the deer cull.

Tom Clouser instructed the Clerk-Treasurer to contact the Clerk-Treasurer of Dune Acres to determine the status of the pending road patching contract between Ogden Dunes and Dune Acres.

Allen Johnson discussed the Building Code Review Committee and stated that they plan to take the Building Code and separate it from the Zoning and Subdivision Control Code (an overhaul of Section 151 and 152). He stated that the Committee plans to deal with site plans, definition of retaining walls, contractor suspension/revocation of registration and Building Commissioner duties and responsibilities. Charlie Costanza stated that these are the same items that have been discussed for over one year. Charlie stated that various recommendations were made by the Building Code Review and the Plan Commission but never passed. Charlie does not feel that all retaining walls should be engineered at a cost to the resident. Charlie made the motion that certification of site plans and specifications shall be certified by an architect or professional engineer licensed by the State of Indiana and the Building Commissioner may waive the architect or engineering certificate at his discretion. Charlie requested that the Council vote on his motion. Allen Johnson stated that this motion was not complete. Charlie also stated that the definition of retaining walls is wrong. He stated that if the wall is called a retaining wall it must be engineered and if it is a landscape wall it does not have to be engineered. Therefore, the definition of a retaining wall needs to be clarified. Charlie feels that his motion would eliminate the need to define the difference between a retaining wall and a landscape wall since the Building Commissioner would have the final say as to engineering of the wall. There was no second to this motion.

Charlie Costanza spoke regarding the emergency exits/bike paths. He stated that a meeting will be held on January 9, 2013 between the NPS, City of Portage, Town of Ogden Dunes at which Kurt Winkle, University of Chicago, and his students will show their emergency exit/bike path presentation. Charlie stated that he will attend this meeting. Paul Panther indicated that he will also attend if he is back in town. Tom Clouser will attend if Paul is unable to do so.

## **NEW BUSINESS - Committee/Board 2013 Appointments**

Building Code Review Committee – Allen Johnson suggested that the Council again appoint Charlie Costanza and Bill Gregory to this Committee. Paul Panther made the motion to appoint Charlie Costanza, Bill Gregory (as Town Council members) and reappoint Larry Fierst, Ken Thompson and Herb Craig as Council Appointees extending their terms to January 1, 2014. Tom Clouser seconded the motion. Charlie Costanza stated that Bill Gregory missed half of the Building Code meetings and does not feel that he should be reappointed. Allen Johnson stated that it would be problematic to start changing members. The votes were as follows: Allen Johnson, yes; Paul Panther, yes; Tom Clouser, yes; Charlie Costanza; abstain. The motion was passed three to one.

BZA – Frank Stimson appointment ends January 1, 2013 and as a presidential appointment, Allen Johnson appoints Roger Rhodes as a replacement for Frank Stimson with a term ending date of January 1, 2017. No vote

of the Council is necessary as this is a Town Council President appointment. Charlie Costanza disagreed with the handling of this appointment as he believes this is a governmental member because Frank Stimson is a Governmental member on the Plan Commission and stated that the Town Attorney stated that a Governmental Member appointment should be voted on by the Town Council. Allen indicated that this is not a Governmental member on the BZA only the Plan Commission and that if Charlie agreed they could do the Plan Commission appointments first and return to the BZA. Charlie agreed.

Plan Commission – Allen Johnson stated that the Town Council President can appoint all members of the Plan Commission with the approval of the Town Council members. Charlie disagreed with this statement. He indicated that Attorney Lukmann stated that the Governmental Member is appointed by the Town Council members and the Citizen Member is appointed by a vote of the Town Council members. Frank Stimson will not be seeking another term on the Plan Commission. Allen Johnson stated that Mike Falk be reappointed as the citizen member and Roger Rhodes as the governmental member. Charlie Costanza moved to appoint Roger Rhodes to replace Frank Stimson as the governmental member with a term ending date of January 1, 2017. Paul Panther seconded the motion. All were in favor and the motion was unanimously approved. Charlie Costanza made separate motions to appoint the following people to the Plan Commission: Scott Cherry, Susan Proffitt, Mike Schaefer or Connie Collins. There was no second to any of the four motions made by Charlie Costanza. Paul Panther moved to reappoint Mike Falk to the Plan Commission with a term ending date of January 1, 2017. Tom Clouser seconded the motion. The votes were as follows: Allen Johnson, yes; Paul Panther, yes; Tom Clouser, yes; Charlie Costanza, no. The motion was passed 3 to 1.

Charlie stated to the Council the following information regarding Mike Falk:

Charlie stated that Mike Falk is under investigation by the State of Indiana for violation of State laws. Mike Falk has possibly forged and/or misrepresented documents from Alan Block. Mike Falk is involved in a court case involving battery to another resident. This is a criminal case before Porter County Superior Court. Mike Falk has built his own retaining walls on Town property without permission. Mike Falk has built a drain for his driveway without permission. Charlie feels that there are better candidates available.

Waterworks Board – Allen Johnson appointed Gregory Casimer to replace Duane Hibbs with an ending term of January 1, 2016. No vote of the Council is necessary as this is a Town Council presidential appointment.

Park and Recreation – Allen Johnson recommended that Eric Jensen, a Council Appointee, be reappointed. Paul Panther moved to reappoint Eric Jensen as a Council Appointee with a term ending date of January 1, 2017. Tom Clouser seconded the motion. The vote of the Council was as follows: Allen Johnson, yes; Paul Panther, yes; Tom Clouser, yes; Charlie Costanza; abstain. The motion was passed three to one.

Ogden Dunes Community Fund – Allen Johnson made two presidential appointments as follows: Dorothy Kurtz and Bethany Jensen with an ending term of January 1, 2016. No vote of the Council was necessary as both were presidential appointments.

Bridge and Railroad Committee – Allen Johnson made two presidential appointments to the vacant positions on this Committee as follows: Bernadette Slawinski and James Doran with a term ending date of January 1, 2016. No vote of the Council was necessary as these are presidential appointments.

Beautification Committee – Allen Johnson made two presidential appointments as follows: Aurelia Costanza and Dorothy Kurtz. Ann Thompson who was on this Committee has declined reappointment. Charlie Costanza moved to approve the appointments of Aurelia Costanza and Dorothy Kurtz with terms ending January 1, 2016. This will leave a vacant position to be filled by the Beautification Committee. Paul Panther seconded the motion. All were in favor and the motion was unanimously passed. (Note from Clerk-Treasurer – This motion was not necessary since both were Presidential appointments.)

Cable Advisory Board – Charlie Costanza moved to reappoint Tom Tittle with an ending term of January 1, 2017. Paul Panther seconded the motion. All were in favor and the motion was unanimously approved.

Grant Committee – Allen Johnson made two presidential appointments as follows: Maryann Schaefer and Carolyn Saxton with term ending dates of January 1, 2016. No vote of the Council was necessary since both were presidential appointments.

Environmental Advisory Board – Tom Clouser moved to reappoint John Morris with a term ending date of January 1, 2016. Charlie Costanza seconded the motion. All were in favor and the motion was unanimously passed.

Beach Nourishment – Allen Johnson appointed Bernadette Slawinski to this committee with a term ending January 1, 2014. No vote of the Council was required since this is a Presidential appointment.

ADA – Tom Clouser suggested that the Council put out an announcement seeking a resident to be a member of this Committee. The Town has received and replied to correspondence from the ADA. Paul Panther stated that our Town has very few ADA issues to deal with. He suggested that a person step forward for this position who is very familiar with ADA laws.

Northern Indiana Regional Planning Commission – Allen Johnson requested that Tom Clouser with Paul Panther as the back-up member be reappointed to this Commission. There was no opposition from any of the Council members.

Safety Director – Allen stated that Marshal Reeder should remain as Safety Director. There was no opposition from any of the Council members.

Animal Control – Allen Johnson stated that no applications were received for this committee. There are 3 vacant positions on this Committee. Two members now presiding have terms ending January 1, 2016.

Liaison Assignments – Allen Johnson stated that he would like these assignments to remain the same. Charlie Costanza stated that he would like to be appointed as the liaison to the Plan Commission. Charlie indicated that he would like to be able to speak at the Plan Commission meetings. Allen Johnson stated that the liaison to any committee is not a voting member nor do they deliberate with the committee but only act as a “go between” for the committee and the Town Council. Charlie stated that a liaison to the Park Board is allowed to speak at Park Board meetings. Allen stated that it is up the Committee what they allow the liaison to do at the meetings. Charlie disagreed. He requested again to be the liaison to the Plan Commission and asked Allen Johnson to appoint him. Allen stated that it borders on a “conflict of interest”. Charlie stated “how about a member of the Plan Commission who accepts money and does not fill out a conflict of interest form and according to the IACT Handbook he does have a conflict of interest. You have members on the Plan Commission with conflicts of interest and you do not address it, answer it or do anything about it”. Charlie stated that he wanted this statement included in the minutes and that he asked to be placed on the Plan Commission but Allen Johnson would not give him a good reason as to why he would not appoint him. Paul Panther asked Charlie who on the Plan Commission has a conflict of interest. Charlie Costanza stated it was Herb Craig and that he has accepted over \$250.00 and has not filed a conflict of interest form.

Allen Johnson stated that for now the appointments are ended. Other vacancies will be addressed at a later time.

## **RESIDENT REMARKS**

Larry Fierst – He was opposed to the cull and stated that he feels the cull was not successful and believes that the Town attracted deer from the Federal and State Parks. He also discussed retaining wall engineering and

stated that many retired people in Town could not afford an engineering expense. He is also opposed to a bike path through Town.

Susan Proffitt – Stated that she has applied to various committees and has considerable experience. She is unhappy with residents who serve on boards but do not attend meetings. Also regarding the deer cull, she stated that none of her plants were damaged by deer as she has natural vegetation. She feels that residents who complained about damage to their landscape had plants that attracted deer.

Jim Slawinski – Stated he is a member of the Plan Commission and is embarrassed to be on the Plan Commission and even more embarrassed with the Town Council appointment that was made at this meeting to the Plan Commission.

Steve Lombardo – Stated that the Town has become horribly divisive over the last several years especially with the deer cull and asked that the Town Council members give their opinion. Charlie Costanza said he agrees; Allen Johnson gave no opinion; Paul Panther stated that he gets along with people on both sides and Tom Clouser has no opinion.

Connie Collins – Stated that the Town Council is here to serve the Town and not show favoritism to any one person or group. She stated that when she and Bill Gregory were liaisons to the Plan Commission, they were allowed to speak and comment on the issues being discussed. She also discussed the sale price of the Water Company and the service pay to the Water Works Manager.

#### **TOWN COUNCIL REMARKS**

Charlie Costanza stated that Mrs. Penn called him today asking when there would be approval for her façade wall. Charlie stated that the Plan Commission called a meeting regarding this topic and did not finalize it. They set a date for another meeting but later cancelled it. Charlie asked that the Town Council bypass the Plan Commission and approve the construction for Mrs. Penn's wall. Allen Johnson stated that they could not approve this tonight but he would talk with the Plan Commission tomorrow. Charlie then read from the Indiana Elected Municipal Officials Handbook regarding the conflict of interest law which he feels pertains to Herb Craig.

Allen Johnson thanked Duane Hibbs for serving on the Water Board for 14 years. Duane has written a letter which was read by Allen Johnson stating that he would be retiring.

No further business coming before the Council, Allen Johnson moved to adjourn the meeting. Paul Panther seconded the motion. All were in favor and the motion was unanimously passed.

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Allen Johnson, President

ATTEST:

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Jean Manna  
Clerk-Treasurer