

MINUTES OF COUNCIL MEETING OF OCTOBER 19, 1994.

The Greenville Town Council met this date to consider the Water Construction Project.

Attending this meeting were President of the Council Harold Hall and Councilmember Robert Williams and the Clerk of the Council in attendance. Also attending was Janet Riggs (Water Advisory Board), Virgil Bolly and George Gesenhues, Attorneys, Bob Gibson, Janice Gibson, and Gary Getrost. Mr. Roy Kessinger attended for the purpose of ascertaining the lake property.

President Hall called to the meeting at 12:20 p.m.

Mr. Gesenhues advised the Council he had reviewed the Agreement between the Town of Greenville and Indiana Cities-American Water Works and it is his opinion that the Agreement is proper. He stated the Agreement means that I-AWW is the Construction/Funding Agent and they are to do the evaluation, spec. changes and needed communications with contractors; keeping the Town apprised of all phases of construction and paying fees as they become due. I-AWW will approve all contracts. Mr. Gesenhues stated he believed the Mt. St. Francis part of the project presents the biggest obstacle involved in the project and believes this is the issue since the cost of providing water may be expensive. Now that the tank is no longer a part of the project the Council needs to take a hard look at the costs involved and determine if providing this water is feasible.

Mr. Bolly stated it is his belief that a potential liability exists between the Town and Mt. St. Francis over the providing water but he did know nor could he guess whether Mt. St. Francis would initiate legal action should the Town not provide water.

Mr. Gesenhues believes the whole thing rests with I-AWW, whether they will run a line to the area and it is his feeling that they might not want to do so.

Mr. Robert Gibson stated the costs of running a line to the property line could be in excess of \$60,000.

Mr. Hall questioned whether the situation would affect the project. Could it be worked out later. Mr. Bolly explained he did not believe it could be worked out later with I-AWW. Mr. Gesenhues stated Mt. St. Francis would be left out completely for the project; there could be a legal obligation but he believed it is not binding (referring to the contract with Mt. St. Francis), but who can say.

Mr. Bolly stated if they were left out of the project it would be difficult to add them later.

Mr. Gesenhues stated the Contractor's Contract can be signed now then a change order could be initiated later dropping Mt. St. Francis from the project. Mr. Bolly agreed. Mr. Gesenhues questioned whether this problem could be resolved before the contract date of 10/24/94.

Mr. Bolly stated this needs to be resolved now. That the Contract with Mt. St. Francis in his opinion, is legal and if Mt. St. Francis wants to pursue a suit against the Town they can do so. Both Mr. Bolly and Mr. Gesenhues suggested they leave Mt. St. Francis in the contract (project) but express it is the intention of the Town to leave it up to I-AWW to decide. Council agreed this may be the best approach.

Minutes of Town Council Meeting of October 18, 1994 (Cont'd)

Mr. Hall questioned the Attorneys about the I-AWW contract; if including Mt. St. Francis in the project and then use change orders to affect their status.

Mr. Bolly stated he sees no problem that there will be maybe only two (2) change-orders - Mt. St. Francis and Caldwell Tank Co.

Mr. Bolly also suggested to the Council that this meeting be continued until Friday, October 21, 1994 in order for the Council to sign the Construction Contracts before the October 24 deadline.

Mr. Gesenhues will contact I-AWW informing them of the Mt. St. Francis situation, that the tank is included, but that necessary change-orders will be initiated.

Mr. Bolly requested direction from the Council in securing financing should I-AWW not accept the Contract. He also stated the Council needs to decide whether the Town wants to provide water to Mt. St. Francis.

Mr. Hall stated the \$60,000 figure seems to be expensive and should be deleted from the Construction Project. Mr. Gesenhues advised the Council he will pursue the Contract with I-AWW and keep the Council informed of any changes.

The Council approved (2-0) a Contract with Virgil Bolly for Legal Services and a Contract with Robert Gibson for Project Services.

Council on advice of attorneys Bolly and Gesenhues and motion of Robert Williams, seconded by Harold Hall approved (2-0): Continue this meeting to 12:30 p.m., Friday, October 21, 1994; Sign Contract with Caldwell Tank Co; Sign Contract with I-AWW (if not signed before and if available).

CONTINUATION OF MEETING OF THE GREENVILLE TOWN COUNCIL (October 18, 1994) THIS DATE OCTOBER 21, 1994:

MEETING OF OCTOBER 21, 1994 CANCELLED AND CONTINUED TO MONDAY OCTOBER 24, 1994 SINCE THE CONSTRUCTION CONTRACTS COULD NOT BE AGREED UPON.

MONDAY, October 24, 1994.

The meeting was called to order by President Harold Hall with Councilmember Bob Williams and the Clerk of the Council in attendance.

Also attending was G. Gesenhues, Jr. and Virgil Bolly, Attorneys for the Town/Utility, Fr. Tom Smith and Ed Sinkhorn of Mt. St. Francis along with their Attorney J. Jacobi, Butch Richardson (Advisory Board), Mark Temple (Contractors), Gary Getrost, Bob Gibson, and Janet Riggs (Advisory Board).

Mr. Hall called on Mr. Bolly who stated in his opinion with the intervention of I-AWW they are not likely to put a tank in at Mt. St. Francis.

Mr. Hall stated that since no arrangements have been made with I-AWW no definite plan has been agreed upon but it looks as if the tank will not be installed.

Ed Sinkhorn:(MSF) - Mt. St. Francis made commitments with tank installation and subsequent water supply and they need to know the Council's feeling on the matter of providing a water source. Mt. St. Francis wants to be cooperative but they need to know the dollars needed to extend a line to their property.

Mr. Gesenhues: Initially the project called for a tank but now it seems I-AWW will take the tank out of the project.

Bob Gibson: Feels the tank should be located at MSF but doubts I-AWW will agree.

Bolly: No consideration is being given for either of the two (2) tanks (MSF or Greenville that was included in the initial project so he was informed by I-AWW.

Sinkhorn: Due to warranty arrangements at MSF they will need to know by April 1, 1995 of the tank situation.

Bolly: Greenville Water Utility should know within a few weeks. Contact has been made with Dan Magill who had some questions and Bolly advised the Council to go ahead and sign the Contracts providing Temple has a signed assignment of the Caldwell Contract and initiate Change Orders and Notice to Proceed. Bolly stated he had concerns on line size, rock clause but the Council can use Change Orders to amend the contracts. Mark Temple stated his company will need \$2-3,000 because of the pipe increases. Bolly explained Change Orders can effect additional monies.

Jacobi: Presented the Council with an overview of his involvement with MSF on their tank and water supply issue. He stated he feels MSF agreed to the tank location thus insuring a continued source of water. He is anxious to hear the position of Greenville Water regarding the tank and/or water supply then MSF would review this decision and determine what steps they will need to take.

Hall: Reiterated no final decision has been made on the MSF tank or water source.

Sinkhorn: MSF may be able to work something out but that a final decision will have to come from higher authority.

Fr. Tom Smith: Stated that in his opinion I-AWW is dictating all aspects of the project.

Richardson: Explained the position of the Advisory Board that I-AWW offered to finance the project at a lower rate of interest; that I-AWW would try to obtain a unified rate for their operations and a 26% decrease in Greenville's rates.

Gibson: Stated he believed the sale of the utility to I-AWW is contingent on lower rates.

Gesenhues & Jacobi: Discussed the Easement/Tank agreement. Jacobi stated that this agreement may have to be litigated.

Sinkhorn: MSF will need to look into possible water source with other utilities in the immediate area.

Getrost: Advised that Edwardsville Water Co. has a line in the immediate area and that Floyd's knobs also has one close by.

Sinkhorn: Since MSF has 409 acres of land MSF could provide a viable source of revenue. With this agreement now in effect it may be feasible to run a line to the property.

Richardson: Believe the cost of running the line to MSF could be a cost sharing avenue.

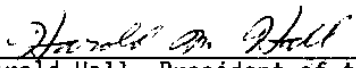
Jacobi: Believes that the viability of MSF as it exists today makes it necessary that MSF proceed with all legal aspects regarding a continued water source.

Gesenhues: Advised Greenville Water's position is that they will not install a tank at MSF or other line, that any agreement should be between MSF and I-AWW.

Bolly: Presented the Council with: Emergency Declaration
Notice of Award
Change Order
Notice to Proceed

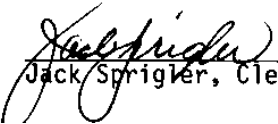
for Temple & Temple Contractors. On advice of Mr. Bolly the Council approved the above, contingent upon Caldwell Tank Co. assigning the contract to Temple & Temple. Should Caldwell not assign any Contract signed between Temple & Temple and Town of Greenville is voided.

The meeting was adjourned at 1:50 p.m. on motion of Bob Williams, seconded by Harold Hall.



Harold Hall, President of the Council

ATTEST:



Jack Sprigler, Clerk of the Council