

**Minutes of Greenville Town Council Meeting
And Executive Session
November 10th, 2008**

Water Board Executive Session:

The Water Utility Board held an executive session at 6:30 PM to discuss job performance and salary proposal for the utility employees. Councilpersons present were Talbotte Richardson, Randal Johnes, Bob Wright; Hanzel Barclay, Patti Hayes, Clerk Jack Travillian and Water Superintendent Gary Getrost. The council agreed upon the salaries to be used for next month's salary ordinance.

November Town Council Meeting Minutes:

President Talbotte Richardson called the regular monthly meeting to order. Councilpersons present were Bob Wright, Patti Hayes, Hanzel Barclay and Randal Johnes, along with Clerk Jack Travillian. Also attending the meeting was Water Utility Superintendent Gary Getrost, Town Attorney Rick Fox, and other concerned citizens.

Chaplain Mark Avery opened the meeting with a prayer.

The minutes for October meeting were discussed. President Richardson said it is rare we have 19 pages of minutes. The three pages submitted by Clerk Travillian were not adequate according to President Richardson. President Richardson said he was concerned that there were things not being recorded in the minutes that would come back to be used on us later on. President Richardson said if we said something was stated in the meeting and someone would question what was said we would not have any proof. I know that Jack doesn't want to tape the minutes because he does not want to type them up. However there were a lot of things said in that last meeting that could cause us problems down the road. The amended version with 19 pages submitted by Councilman Johnes seemed too lengthy per Councilwoman Hayes and she also stated she had a problem because they were not recorded by equipment owned by the town. Councilwoman Hayes said she would prefer that the town tape the meetings. She said that we could have a transcript of the meetings and then have the minutes of the meeting. She stated that if we use an unofficial tape from a private citizen who could be accused of erasing or leaving things out and if it is not here for public record we can't back up that citizen. President Richardson said it was not done for the purpose of a transcript. It was done to help refresh the memory of what had been said. Jack said it can come back and hurt you if you tape the meetings because everything is official and we can be held legally responsible. President Richardson, Vice President Johnes and Councilwoman Hayes said they did not have a problem having the minutes officially taped by Jack. Councilman Johnes said his purpose in reviewing these minutes was to make sure the town and board are protected. There were three things that happened in that meeting that were important that were not in the minutes and he added them. {1} was Don Thieneman and his schedule for annexation of Heritage Springs being a contract with the town, {2} what McKown had to say to this board, {3} the discussions that prompted the hiring of David Moore as a

Deputy Marshal. Attorney Fox stated may I tell you what the law requires in this area. You are not required to keep minutes if the board does not wish. Attorney Fox said you are only required to keep a memorandum of your meeting. In that memorandum, you are to state the date, the time, the place of the meeting, the members of the governing body either recorded as present or absent, a general substance of all matters proposed, discussed or decided and a record of all votes taken by individual members if there is a roll call. That is all that is required so if someone reads the minutes they will understand what was passed by the board. The board conducts its business by motions and voting on those motions. The board also conducts its business by entering into contracts with third parties and those contracts are discoverable by anybody in the public. Fox also stated it was up to the council to determine how they wanted the minutes reported. Councilman Johnes asked Attorney Fox if the minutes were a legal document that can be submitted into a court of law. Attorney Fox said yes. Councilman Johnes said that is why he felt we need to prepare our minutes with more accuracy. Councilwoman Hayes asked which one is the legal document, the transcript or the minutes. Clerk Travillian said the minutes that are approved at the next meeting. Attorney Fox stated those minutes could be used in court but they are not a binding contract with a third party. Attorney Fox said that a contract is something the town enters into with a third party. Attorney Fox said where the minutes are important is that this is what was said, a motion was made and this is a record of the vote that was taken and the contract that you have. These are the important things from a legal perspective that you look at. Yes minutes back up that this vote occurred, and this was the specific motion that was made. Yes, you do go back and look at that because that is what is important. Also what is important is that contract that you have with the third party. You don't do verbal contracts with third parties as a board, you do it in writing. President Richardson said then the minutes are important. The question of Don Thieneman and the agreement for annexation and the water taps paid for and reserved by him. Councilman Johnes said it sounds like we shot ourselves in the foot. Attorney Fox said he would not have any problem seeing in the minutes that Don Thieneman appeared before the board and Don Thieneman indicated that he is going to give his consent to his property being annexed, in consideration for that is that he retains the hookups that he purchased. But in the event he doesn't allow the property to be annexed we are going to return the money. Also the tape made by the public could also be entered as evidence. President Richardson said anyone out there could tape this meeting and it would be legal. Attorney Fox said that is right.

The minutes will be reviewed again and a compromise will be sought before next month's meeting. Councilman Johnes reminded Clerk Travillian that the minutes for August had not been approved. Clerk Travillian will resend the proposed August minutes with corrections requested and both will be discussed at the next meeting.

Water Business:

Superintendent Getrost submitted monthly adjustments to the council. Getrost brought two different accounts before the council that were seeking additional adjustments or waivers. The first case involved an account that was three months overdue and in excess of \$600. The customer had been advised about a leak and had done nothing to correct. The council discussed the matter and stated that a payment plan could be worked out at

Getrost's discretion however no additional reduction would be granted. The second hardship involved a customer that had several leaks in past years. Getrost stated that the newer house was using a pre-existing line that was simply worn out. Water Clerk Stone had been in contact with a church about assisting the family. The council stated that they would be willing to grant an extension and council members would seek assistance on getting a new line installed.

Contract for GPS: The project is close to being finished.

Pumping station in Galena: Getrost sent a letter about the remaining easement on an unbuildable lot. Getrost is hopeful that the property owner on Evert Avenue will respond soon.

Financial:

Review/Approval Checks and Expenditures: Clerk Travillian presented the forms for checks written from the utility and the town. Both were approved and signed.

Clerk Travillian presented the proposed employee policy concerning computer usage for the water utility. R. Johnes made a motion and T. Richardson seconded to accept the new administrative rule. Motion passed 5-0.

Clerk Travillian has checked with Indiana Department of Traffic in Seymour about placing the new signs on US Highway 150. INDOT stated that the signs could not be placed on state right-of-way also questioned both safety issues and patent infringement about the "No Jake Brake" signs.

Clerk Travillian asked for an update about the additional invoice that was received from the Parkland Heights Street Widening Project. Councilman Barclay had researched the matter and it is a legitimate invoice. The council will transfer funds to pay the invoice after next month's meeting.

Old Business:

The council has received a letter in response to request for an update on the Cross Street property with cleanup issues. The resident stated she was living in emergency housing since the September storm had damaged her mobile home. The letter also had an attached statement from a contractor about the questionable barn being structurally sound after the June repairs. A copy of the letter and the statement from the contractor were given to Clerk Travillian.

Inter-local Agreement: The Floyd County Planner sent an email to the council announcing a date of January 10, 2009 for the comprehensive plan presentation for all concerned citizens at the Greenville School. The council will be presented with a draft proposal within a couple of weeks.

Storage Facilities Ordinance Enforcement: Ms. Weaver appeared before the council stating that she was expecting a letter telling her about the new ordinance; she did not

realize that in the August meeting that was the official notice. Weaver stated that the Greenville Love Center will be moving out of town within about three months because she really needed the additional space that her trailer afforded the center. The council stated that as long as progress was being made they would not force the issue.

Ms. Simons appeared before the council and stated the storage unit in question on her property was up for sale. She noted that the economical downturn had affected the market and she was not able to give a time table for having the unit sold. The council requested to be kept up to date with the progress. The council stated as long as progress was being made they would not force the issue. Simons also thanked the council for the quick response with the cleanup from September Hurricane Ike storm.

New Business

President Richardson said I asked Randy and we don't have it. But I asked Randy to type up some rules that I had sent him. There will be rules at these meetings. Jack said I have it on my computer if you want it. President Richardson asked Jack to get him a copy of it. I am going to start holding these meeting according to them. So we won't have people talking over the top of each other and have a lot of confusion. This is the way the meetings will be held from now on. I am surprised we did not have them here tonight.

President Richardson stated we have some information I wish to share with the board. You all have the latest transcription of the meeting we had on Oct. 24th with INDOT. We do have another one coming because we had another meeting with the INDOT Chief of Staff on Nov. 3rd. In that meeting we had a lot of town business people here to talk to him. Councilwoman Hayes asked why she was never in the loop. President Richardson explained it is because we cannot have anymore than two town council members there or it constitutes a board meeting. We normally only have a short notice they are coming and so we do not have the time to post the meeting as required by law. The thing that happened here is we had some real sympathetic ears. Councilman Johnes asked President Richardson for permission to address this subject. Councilman Johnes updated the council about an INDOT meeting on Nov. 3 concerning the widening project. At the meeting several business leaders, Floyd County officials and school transportation head had express their concerns about closing the highway for any time. Among the concerns were regarding large trucks hauling hazard materials while meeting school buses on the county back roads.

President Richardson requested an executive session to discuss a possible lawsuit involving the old reservoir located on Voyles Road. Attorney Fox informed the council that the only way to have an executive session is if there is a lawsuit or written notice of a pending lawsuit, therefore no meeting can be scheduled at this time.

Committee Reports

Emergency Services:

Councilman Wright requested purchasing additional equipment for the town marshal department. The department will need approximately \$1,500 to meet the current needs.

The council requested a transfer of funds from the Riverboat Fund. The transfer ordinance will be done at the next meeting.

Marshal's Report:

Marshal Burkhart received a deputy marshal application. The application was passed along to Councilman Wright for review and possible hiring. Burkhart also requested a new ordinance establishing a rate for gun permits. Clerk Travillian will review for next month's meeting. Burkhart gave his monthly report about arrests, stops, tickets and warnings.

No further business coming before the Council the meeting was adjourned.

The next monthly meeting will be held on Dec. 8th at 7:00 pm.


Presiding Officer

ATTEST:

Clerk of the Council