

REGULAR MEETING OF THE MISHAWAKA
BOARD OF PUBLIC WORKS AND SAFETY/UTILITY BOARD
July 5, 2011

The regular meeting of the Board of Public Works and Safety/Utility Board was called to order by President Gary West at 10:04 a.m. All members were present. Mr. Prince moved to dispense with the reading of the minutes of June 28, 2011, and accept them as circulated. Mr. Watson seconded; motion carried.

Mayor's Comments:

Mayor Wood said he was proud to announce that as of June 18, 2011, Jason Dipert and Shane Reynolds had reached the status of Journeyman Lineman. Each has completed over 8,000 of on-the-job training and 576 hours of classroom work. He said they are the 25th and 26th lineman to reach Journeyman status since the NJATC program started in the City in 1989.

Mayor Wood indicated a brief staff meeting would follow today's Board meeting.

Department Head Reports:

Police Chief Ken Witkowski said on May 20, 2011 he was contacted by the South Bend Police Chief notifying him of information he had obtained through a South Bend internal investigation that pertained to Mishawaka Police Officer, Cpl. Willie Davis. Chief Witkowski said he was advised of the circumstances and a complete detailed set of documents was then turned over to the Mishawaka Police Department. Members of the Mishawaka Investigative Division reviewed the documents and determined that an Internal Affairs Investigation was warranted and an IAD was opened on or around the date of June 27, 2011 by following the steps set forth in the Collective Bargaining Agreement between the City of Mishawaka and F.O.P. Lodge #91. Chief Witkowski said the investigation found substantial evidence that Cpl. Davis had engaged in a sexual relationship with a civilian while on duty in derogation of his responsibility to citizens of this City, this State, and this Administration.

Chief Witkowski said based on the facts of the investigation, it was his opinion that approximately sixteen (16) times between the dates of April 4, 2011 and May 4, 2011, Cpl. Davis had violated the disciplinary charges set forth in IC 36-8-3-4(b)(2) – specifically: A) Neglect of Duty; B) Violation of Rules; C) Neglect or Disobedience of Orders; D) Absence without Leave; E) Immoral Conduct; F) Conduct Injurious to the Public Peace and Welfare; G) Conduct Unbecoming an Officer; and recommended the Board of Public Works and Safety terminate the employment of Cpl. Willie Davis as a Police Officer effective either July 10, 2011, or upon the conclusion of a hearing pursuant to IC 36-8-3-4.

Mr. Watson moved to recess after the regular Board meeting to meet and return with a determination. Staff Attorney Cory Hamel said there was no problem with a recess and then reconvening the meeting, but suggested as a safeguard that the Board not meet together as no advance notice was given. The Board can come back together and reconvene the meeting and offer a determination.

Interim Park Superintendent Tom Klaer submitted a request to remove a tree and stump in the right of way at 825 W. 14th Street. The tree has been analyzed and recommended for removal by the Park Department Landscaper. Mr. Prince moved to approve as presented. Mr. Watson seconded; motion carried.

Community Development Director Lory Timmer indicated qualifications for bidders for Mishawaka River Center Apartments construction were received at the June 21, 2011 meeting from the companies listed below and requested the Board accept the ten (10) companies.

Ziolkowski Construction	South Bend
Majority Builders	South Bend
Thompson Thrift Construction	Indianapolis
D. J. Construction	Goshen
Millstone, Inc.	North Salem
Gibson-Lewis Construction	Mishawaka
Casteel Construction	South Bend
Brown and Brown General Contractors	Wakarusa
Robert Henry Corporation	South Bend
Ancon Construction	Goshen

Mr. Prince moved to approve as submitted. Mr. Watson seconded; motion carried.

Mrs. Timmer requested the Board award the contract for the demolition and removal of 646-646 ½ Lincolnway East to Jackson Services, the lowest, most responsive and responsible quoter, in the amount of \$29,600.00. Mr. Watson moved to approve as presented. Mr. Prince seconded; motion carried.

City Planner Ken Prince presented an Acceptance Certificate or Final Acceptance Certificate with Energy Systems Group, LLC, for the energy savings improvements to nineteen (19) buildings and moved for its approval. Mr. Watson seconded; motion carried.

Engineering Director Gary West presented Supplement No. 1 with First Group Engineering for Third Street Design project for an increase of \$59,000.00 for a new not-to-exceed amount of \$126,000.00 and moved for its approval. Mr. Watson seconded; motion carried.

Mr. West presented an Escrow Agreement for Milburn Boulevard Improvement Area, CIPP, Phase II, with Insituform Technologies USA, Inc., and Fifth Third Bank, Franklin, TN, and moved for its approval. Mr. Prince seconded; motion carried.

Mr. West presented a Report of Final Inspection and Recommendation of Acceptance for Contract T-30911-A for McKinley Avenue traffic signal modernization, Division to Logan, and moved for its approval. Mr. Watson seconded; motion carried.

Mr. West requested the Board authorize an emergency to forgo the bidding process and authorize Selge Construction (contractor for INDOT) to proceed with the installation of 16" trunk sanitary sewer east of the relocated SR 331 as part of their SR 331 road project to enable the work to be completed prior to construction of curbs and pavement on the mainline of SR 331 and the local service road, and moved for its approval.

Approval of Claims:

There were no claims to approve.

Approval of SRF Payments:

There were no applications to approve.

New Business:

A request was received from Benge Enterprises to close the sidewalks and parking lane at 102 Lincolnway East and 106 N. Main Street from 7:00 a.m. July 7, 2011 thru 5:00 p.m. July 10, 2011 (alternate dates of July 14 thru July 17) in order to paint the building. Mr. West moved to approve subject to notifying business owners affected by the closure, and contacting State Barricading to "sign" sidewalk closure. Mr. Watson seconded; motion carried.

A request was received from Heritage Square requesting to hold an outdoor concert on July 8, 2011, from 6:30 – 9:30 p.m. in the parking lot in front of Uptown Kitchen. Mr. West moved to approve subject their obtaining appropriate permits for outside sale of alcohol, and normal conditions of approval regarding public safety. Mr. Watson seconded; motion carried.

Old Business:

A request to close Homewood Avenue from the corner to the alley at the east end of the property from noon to 8:00 p.m. on July 9, 2011 for a birthday party was considered by the Board. Fire Chief Freeman indicated he had visited the site and said that closing only one lane of the street wouldn't provide the room necessary for the bounce house the residents had planned on putting in the street. Mr. West moved to approve closing Homewood Avenue from the corner to the alley at the east end of the property. Mr. Prince seconded; motion carried.

Open Items:

Grievance Hearings #10-01 and #10-02 originally scheduled for February 22, 2011 have been rescheduled for Tuesday, August 2, 2011 at 11:00 a.m. in Room 106.

Unfinished Business:

There being no additional business brought before the Board, the meeting was recessed at 10:34 a.m. (Board members met individually with Corporation Counsel, John Gourley, to review statement of charges and Indiana Code as it pertains to disciplinary matters.).

Mr. West reconvened the meeting at 10:44 a.m.

Mr. Watson moved to recommend that the Board of Public Works and Safety place Officer Davis on suspension without pay effective July 5, 2011, pending the outcome of a hearing on his dismissal from the Mishawaka Police Department. If a hearing is not requested by Officer Davis within five (5) days as required in IC statutes the Board of Public Works and Safety will act upon the request to dismiss Officer Davis from the Mishawaka Police Department without a hearing. This action would take place July 12, 2011 if no hearing is requested. Mr. West seconded; motion carried.

Police Chief Witkowski indicated he would notify the City Controller and Cpl. Davis of the Board's decision.

The meeting was adjourned at 10:46 a.m.

Gary West – President of the Board of
Public Works and Safety/Utility Board

Kari Myers, Clerk of the Board of
Public Works and Safety/Utility Board