

August 7, 2012

The Mooresville Town Council met in regular session on Tuesday, August 7, 2012, at 6:30 P. M. at the Mooresville Government Center.

Town Council members present were: President George Watkins, Tony Langley, Virginia Perry, and Jeff Cook. Vice President Mark Mathis was not in attendance. Attorney Tim Currens was present.

Jeff Newton, Free Methodist Church, gave the prayer.

A motion was made by Councilman Langley with a second by Councilwoman Perry to approve the minutes of the July 17, 2012 meeting. Motion carried 4-0.

Next was the public hearing for an additional appropriation from Public Safety LOIT for the \$58,000 extra distribution from the State of Indiana from 2010 and 2011. A motion was made by Councilman Langley with a second by Councilman Cook to approve Ordinance #11, 2012 an additional appropriation of \$58,000 from Public Safety LOIT. Motion carried 4-0.

Next was the public hearing for consideration of an ordinance establishing a municipally owned water utility. Council President stated this was not a question and answer just public comments and for convenience and necessity people who signed up to speak will have five minutes to speak and any utility that signed up will have 30 minutes to give their presentation. There were three from Indiana American Water so they would have 30 minutes total.

Nancy Caldwell was first on the sign up sheet. She asked to speak after the utility company gave their presentation but that wasn't in the rules so she declined to speak.

Randy Haymaker, 1068 Delwood Drive in Mooresville was next. He served on the town council from 1973 to 1976. He works for a consumer-owned utility that serves parts of 48 Indiana and 10 Illinois counties. He said he knew of no other community this size in population and tax base that has better streets, sewers, police, fire, ambulance, library or park services. He listed several advantages to local ownership of the water utility. Some advantages include coordination of fire protection, support for economic development and growth and decreased costs through shared use of staff, heavy equipment and consumer billing with other departments such as street, sewer and clerk departments. The entire comment is attached to the minutes.

David Burns living on Campus Court in Mooresville commented. He said he was curious as to how funds would be allocated from various sources into various areas. He waters his garden and still has to pay a sewer bill and at times have had sewer problems and arguments in the past and it was hard to work out whom and how something was going to get paid. Mr. Burns asked what the Town would do with all the extra money, would it go into a general fund and disbursements made from the general fund. He stated he was just curious how the money would be handled.

Allen DeBoy, president of Indiana American Water stated he had over 30 years of experience with water utilities. His first professional job was engineering support for General Water Works for Mooresville in the 1980's. He is very familiar with the system. Indiana American water bought United water in Mooresville in 2000. Indiana American is a subsidiary of the largest investor water company in the nation called American Water. Indiana American is the largest investor water company in Indiana. Indiana American thought they had an outstanding relationship with the Town Council and other political figures but something must have changed. Mr. DeBoy said they were shocked and stunned the town is taking this approach. His request for tonight was to sit down with the Town Council to discuss issues and concerns before the town goes down the path of eminent domain. Mr. DeBoy commented they have an excellent record of quality service currently at 92% rating. He was also proud of the company's compliance record as they have had no notices of violation with environmental regulations and the fact they have also made investment back to the community. He said typically Indiana American costs for users are less than other utilities a consumer has to pay. He commented Indiana American is an integral part of the community. They are governed by the IURC and they

establish the rates based on cost of service provided. The water company employees live here and work here. The water company is a significant taxpayer at a sum of \$50,000 a year and that helps support the Town and School. Mr. DeBoy stated Indiana American water is not a willing seller and they have every intention of continuing serving and providing water to the customers in Mooresville. He hopes all understand that eminent domain has significant consequences; very time consuming, very costly and very divisive. Indiana American water will not let these proceedings get in the way of continuing to provide quality service.

Troy Bryant a lifelong resident of Mooresville and an employee of Indiana American Water. He has served this water system for 18 years since General Water Works owned the system in 1993. Recently his responsibilities have expanded. He said in his recent conversations with Councilman Langley indicated controlling water rates and controlling growth was discussed. The handouts of documents (attached to these minutes) show water rates history over eight years. During that time frame \$4million were invested in mains, hydrants, valves, meters, plant improvements, and the current tank project. The improvements led to stronger fire flows, added reliability, and improvement of operating efficiencies. He said in spite of the investment they have been able to manage rate increases at a reasonable level. The charts on the table reflect this. They have had a level of commitment to the community through the Chamber of Commerce, Kiwanis, and Revitalization group and have sponsored elementary science fairs at schools, and will sponsor Tox-A-Way days and many other events in the community. He told the council to take time to talk to them and see if they can't resolve the issues together and to not take a vote tonight.

Nick Kile, attorney from Barnes & Thornburg, and attorney for Indiana American Water spoke next. He said he was going to cover the last three pages of the handout. Mr. Kile indicated the process the council had used for tonight had denied them adequate opportunity to prepare for tonight. Document A. Indiana Code: The notice of time and place of hearing was not on their notice. He said this did not comply with the statute. He said once they received the notice he tried to figure out what was driving this. The first place he went was the Mooresville website to get copies of minutes and ordinances. In order to access the needed information he said he needed a user name and password. Then he decided to ask for a basic access to records request for ordinances, minutes, any feasibility study and that was sent the day after he received the notice. Then they received a letter from Chris Janak, Bose, McKinney & Evans attorney for Town of Mooresville, indicating the letter had been received. It has been thirteen days later and we still haven't received the information. He said we don't even have the ordinance that is to be for tonight. Then tonight I find out that after we are done speaking there will be a photo presentation by the town. We have not had time to prepare for tonight and this whole process has been very unfair. Mr. Kile said he had extended an invitation through the town's attorney to sit down, talk and see what is driving this proposal, he is extending that invitation to the council tonight. He told the council a hostile government takeover through eminent domain was going to be very contentious and very expensive and at the end of the day only Chris Janak and he will be happy because they were going to be paid a lot of money. He said this process will last longer than the council's terms in office and will create deep divisions in the community. It will take staggering sums of money. Next, Mr. Kile gave the City of Fort Wayne example. He said government takeovers were popular in the Roosevelt administration but were not common today. About ten years ago Fort Wayne started to pursue condemnation and takeover of the North system owned by Utility Center that serves 9,000 customers. Utility Center is owned by a large publically traded national Corporation called Aqua America. Today that pursuit is not completed. It is still pending for the second time in the Indiana Supreme Court. It has been very divisive to the community. He had an article from 2006 that stated Fort Wayne had been through a trial and the legal fees alone had been 1.2 million dollars and did not include consultant fees. Mr. Kile finished by saying this is relevant because Indiana American Water will do everything they can just like Utility Center to stop this government takeover. "We need to sit down and talk".

Council President Watkins announced the public hearing portion was now concluded.

Councilman Langley gave a power point presentation. He started with Hoosier water bank in 1986. He learned water systems from the ground up, then managed Mooresville for a couple of years. He has worked for 17 years in private water utility. He thinks Indiana American has failed to communicate to the general public about rate increases which is the biggest part of the issue in his mind. American Water is the parent company serving 15 million people in 30 states and Canada. Indiana American Water serves 3600 people in Mooresville. This is not about profits but about what is best for the community. Local control of growth-it takes infrastructure and money. Investor owned utilities rely on developers to pay for infrastructure. For municipal owners this is more of a quality of life issue. Municipal owners can run water operations cheaper because no profit, don't have to pay shareholders, don't pay taxes, and no regulatory issues. Municipal owners can do things more economically, for example Mooresville Wastewater Treatment Plant expansion to double the size of the plant cost 15 million, but did not have to pay for 6 million of that due to an OCRA grant being awarded to the Town. Of that 15 million 1.25 million came from the TIF funds and the rest was financed through low interest SRF loan. Coordinating synergies; We already have employees, would have one labor force which is cheaper, billing consolidation; water and sewer would be billed together at the local level, crews would work together, and coordination of infrastructure. Currently the water has an engineer on projects and the town has another engineer and projects overlap each other. We would have one engineer and one contractor for water and street or sewer.

Local control of rates: A big company requests rate increases from IURC. Councilman Langley said what is driving the issue the most is the move toward consolidated rates or single tariff pricing. There are two groups of rates: Group 1 includes bigger cities and towns and Group 2 includes Mooresville, Winchester, and Wabash. Indiana American is interested in combining Group 1 (a lot higher rates) with Group 2. In the most recent rate increase request that was settled on June 15, 2012 the testimony said Indiana American Water is proposing to move Warsaw and West Lafayette to Group 1 and the Group 2 rates closer to Group 1. Also in the testimony was the statement that Indiana American Water's goal is to combine 2 rate groups into 1 group and implement single tariff pricing.

Industrial customers-When Indiana American Water bought the water company in 2000 one particular valuable customer was using 3.5 million gallons of water a month and paying \$4,000, now they are paying \$9,000 a month and will increase to \$12,000 a month in 2013 or 2014. Councilman Langley is concerned about keeping big water users in town.

Councilman Langley said the Mooresville water system is very efficient. It is a groundwater system. Treatment expense is really low. It is on a good aquifer, there is room for expansion, and has low pumping cost, and is 100% metered. Water is pumped out of the ground, chlorinated, iron removed and sent on to the customer.

Capital projects- In the last rate filing by Indiana American Water they identified projects over \$500,000 and there were no projects listed for Mooresville. The water bill said a 1% increase for the whole state beginning June 15, 2012. Group 1 decreased by 3.21%. Mooresville increased by 16.25% and no capital projects. Industrial users in Mooresville pay 39% more for water. There is a move toward single tariff pricing. Rates must increase again in Mooresville to fully implement. Industrial in Mooresville will see another big rate increase.

Council President Watkins asked how often rate increases can happen with the IURC. Someone answered there are 15 months between rate increases and Indiana American Water will file soon for another increase. The council will take the matter under advisement and put on the agenda for the Special meeting on Friday, August 10, 2012 at 3:30 P. M. at the Mooresville Government Center.

Legal: Request to approve Enviro Forensics bond releasing the Town. Motion to approve was made by Councilman Cook with a second by Councilwoman Perry to approve. Motion carried 4-0.

A motion was made by Councilwoman Perry with a second by Councilman Langley to approve pay request #21, (\$196,421.10) from Wilhelm Construction for the Wastewater Plan expansion. Motion carried 4-0.

Next, Councilwoman Perry brought up tasers for the police department. Here are her comments. (Insert written comments)

#### Public Safety Equipment – Police Department – Purchase of Tasers

When I was originally informed of the possible purchase of Tasers for the Mooresville Police Department, I was adamant that my vote would be **no** to such a purchase. I could see a great liability and even with a good Taser policy, the probability of human error still exists. A policy is only as good as it's enforcement. I thought this would be a great waste of taxpayers' dollars and this \$25,863.60 could be better spent on other **needed** equipment.

I based my opinion on events that have taken place in other surrounding counties who use Tasers currently. In the heat of the moment one does not always use the judgment they would ordinarily use. I hope I am never put in that position. I was also of the opinion that just because most of our surrounding police units already have Tasers was not a good reason for us to make this purchase.

However, I am informed that the majority of the officers in Mooresville would like Tasers and may already be using Tasers. I use the word "like" as I do not believe this to be a need for the Department.

I respect the position of the officers on the front line and who would know better what equipment they need to perform their job. I do not believe the Chief is in favor of this purchase, but he does see the consequences of not having this equipment in certain circumstances.

Therefore, based on my conversations with officers, the Chief, a review of the Taser Policy and others, I would vote for such a purchase if presented to this Council. I would caution, however, if a situation occurs that jeopardizes the public or the Police Department, or any other misuse of this equipment, I would immediately vote to remove the Tasers from any further use by the Mooresville Police Department. The use or nonuse of Tasers should be an option to the officers and not mandatory.

I hope the Taser Policy has covered the misuse of these Tasers; and if such an incident should occur, after an internal review by an appointed committee, the termination of the employee.

The penalty for misuse of this equipment should be swift and final.

Virginia Perry, Board Member

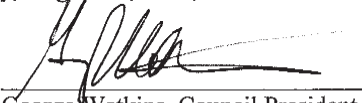
A motion was made by Councilwoman Perry with a second by Councilman Langley to approve tasers as an option for police officers in the amount of \$25,863.60. Motion carried 4-0.

Street Department Head request: one full time employee in Street and a part time in clerical to fill in vacancies, no new positions. A motion to approve was made by Councilman Langley with a second by Councilwoman Perry. Motion carried 4-0.

A motion was made by Councilwoman Perry with a second by Councilman Langley to approve payment of claims in the amount of \$118,566.48. Motion carried 4-0.

There being no further business to come before the council at this time a motion was made by Councilman Langley with a second by Councilman Cook to adjourn the meeting. Motion carried 4-0.

There will be a special meeting on Friday August 10, 2012 at 3:30 P. M. The next regular scheduled meeting will be on Tuesday, August 21, 2012, at 6:30 P. M. at the Mooresville Government Center.

  
George Watkins, Council President

ATTEST:

  
Sandra R. Perry, Clerk-Treasurer

*All Documents are attached to the minutes.*