

Rising Sun City Council Meeting
Executive Session
May 5, 2011
6:15 PM
City Hall

The City Council of Rising Sun, Indiana met in executive session on Thursday, May 5, 2011 in the conference room at City Hall at 6:15 p.m.

Those noted as present:

Mayor Bill Marksberry, Councilman Lynn Graves, Councilman Mike Padgett, Councilman Roy Powell, Councilman Bud Radcliff, Councilman Steve Slack, Clerk Treasurer Rae Baker Gipson, Attorney Lane Siekman, and Attorney Kay Fleming.

I.C. 5-14-1.5-6.1(b)(2)(B)

“Pending Litigation”

Mayor Marksberry opened the meeting at 6:15 pm.

The meeting adjourned at 6:30 pm.

Rising Sun City Council Meeting
May 5, 2011
7:00 PM
City Hall

Call to order/Pledge

The meeting was called to order with the Pledge of Allegiance led by Mayor Marksberry with all of Council present.

Minutes

Minutes of the April 7, 2011 City Council meeting were distributed to Council and Mayor Marksberry prior to the meeting. After discussion a motion was made by Councilman Padgett to approve the April 7th Council minutes, 2nd by Councilman Graves; motion carried 5-0.

Reports from Boards and Committees

Police Department

Police Chief, David Hewitt informed Council and Mayor Marksberry that John Miller has been in contact with the PD regarding the level of noise considered a nuisance. According to the approved Ordinance the PD can enforce by a visual means or by using a decibel meter. The most recent complaint was at a level of 73 decibels unless Miller was to stand on the accelerator..so according to Hewitt was not a real nuisance, only neighborhood issues. Hewitt stated Miller is being proactive and working with the PD. Hewitt further stated the mower several houses down the block was actually louder than the vehicle on which Miller was doing work.

Project Manager

Northcutt presented a report to Council and Mayor Marksberry on the following items:

- **Phase 4 Riverfront** —Northcutt informed Council and Mayor Marksberry the City had received correspondence from the Advisory Council on Historic Preservation to Michael Striker with Rabbit Hash Historical Society stating there was no adverse effect to Rabbit Hash view shed in reference to the riverfront project. See attached Exhibit A. Northcutt also reported he had a good meeting with Jeff Talkers and INDOT today. Talkers will be sending an informational summary of the meeting regarding next steps for the City and Phase 4. Councilman Powell stated the City lost 5-6 feet of riverbank just this week alone.
- **Main Street Storm Sewer Project Update**—Northcutt reported the drawings are being revised in order to obtain an easement and relocate a driveway for this project.
- **IMPA**--Northcutt informed Mayor Marksberry and City Council IMPA has another grant available for energy audits for city owned buildings the city is researching at this time.

Historic Downtown Main Street

Amy Hoffman, Director of Historic Downtown Main Street submitted a report for Council and Mayor Marksberry of April activities. Attached as Exhibit B. Hoffman reported there are programs available for businesses through Redevelopment—Paint the Town, Awning Grants, Signage Grants, Challenge Grants and Rebuild America Loans. According to Hoffman on April 14th Rising Sun hosted the Main Street Community Exchange which was a huge success. May 20th 3rd Friday Cruise In Music on Main features Rusty Bladen. Council questioned how much was remaining in the Re-Cap project. It was stated approximately \$15,000.

Park Board—Jamie Bell

Park Director, Jamie Bell reported to Council and Mayor Marksberry on March 2011 park activities. See attached report Exhibit C.

Tourism

Mayor Marksberry asked if Eric Scudder was here to report for Tourism. Mary Turner, with the Tourism Board stated he's not here—and he's doing great.

Rising Sun Regional Foundation

Ed Sullivan, Executive Director of RS Regional Foundation informed Council and Mayor Marksberry the group received 31 applications in an amount of \$760,000—with a budget of less than half that number for the 2nd Quarter Grant Round.

Redevelopment—Jim Clements

Jim Clements, President of Redevelopment informed Council and Mayor Marksberry he planned to attend the Indiana Redevelopment Commission Legislative update in Columbus, Indiana tomorrow.

Economic Development Commission—Lane Siekman

Lane Siekman informed Council and Mayor Marksberry there would be a site visit by Indiana Economic Development. Representative Jud McMillin will be there from 12-12:30. There will be a tent set up—please come join them.

Petitions and Comments from Citizens

Fred Taylor—Nuisance Concerns

Fred Taylor addressed Council and Mayor Marksberry about concerns in the Main Street area; more specifically behind the properties near Heritage Hall—the Holland property and Hong Kong Kitchen. After discussion Mayor Marksberry stated he will have Street Commissioner Paul Bovard take a look at these locations.

Mary Turner—Public Record Request

Mary Turner presented a Public Record Request to Council and Mayor Marksberry. See attached Exhibit D. Turner stated the information she received from her prior record request had names blacked out and she does not want anything blacked out on this request. It was stated the reason the names were redacted (blacked out) was due to existing confidentiality statements.

County Council—Dill Dorrell

County Councilman Dill Dorrell discussed the potential property tax revenue reduction regarding an appeal on the reduction of assessed value filed by the casino boat. See attached Exhibit E. Mayor Marksberry stated he had talked with Assessor Bobby Joe Keith and Keith had copied information for the City. Dorrell stated the appraisal alone for this appeal could cost \$10,000.

New Business

American Legion Memorial Day Parade Route—Larry Young

Larry Young thanked the City for their support of the Ben Walton Memorial Ride. On behalf of the American Legion Young requested Council and Mayor Marksberry approve a change in the Memorial Day parade route to include 2 blocks on Poplar Street in order to pass the Senior Housing facilities. Young also requested the alley at the Courthouse and Friendship State Bank be barricaded as cars park here early and this causes problems with set up. After discussion a motion was made by Councilman Graves to approve this request, 2nd by Councilman Radcliff; motion carried 5-0. Mayor Marksberry informed Young to work with Street Commissioner Paul Bovard and Chief of Police Dave Hewitt regarding the route changes, signage, and barricades.

OCCF Endowment Distribution—Peg Dickson

Clerk Gipson informed Council that Dickson was out of town for the weekend and this could be addressed at the next meeting if they so desired. After discussion it was determined by Council to address this at the June meeting. This will allow Council to get with Dickson on any questions they might have.

RLF Recommendation—Kay Fleming

Attorney Kay Fleming informed Council and Mayor Marksberry at the last Revolving Loan Fund meeting it was approved to recommend proceeding with filing a complaint or taking other appropriate action against Performance Plus. After discussion a motion was made by Councilman Slack to approve this process upon recommendation of the RLF Board, 2nd by Councilman Radcliff; motion carried 5-0.

INDOT MOU Amendment—INDOT, City/County, and StructurePoint

Kay Fleming informed Council and Mayor Marksberry the amendment to the SR 56 contract is an additional \$7,800 cost to INDOT. The city nor the county will pay any additional funds, but due to the fact that the original amount changes what INDOT pays-- the City and County have to approve the change. According to Fleming INDOT acquired property for the route of the stream (Wilkening parcel) in the amount of

\$7,800 which INDOT pays. After discussion a motion was made by Councilman Padgett to approve this amendment, 2nd by Councilman Powell; motion carried 5-0. Fleming stated this amendment will go to the County for approval as well.

Disposal of Equipment —Declare of No Value

Clerk Gipson presented a request to dispose of an OKIFAX that no longer is of value or use to the City. See Attached Exhibit F. After discussion a motion was made by Councilman Slack to approval this request, 2nd by Councilman Graves, motion carried 5-0.

First Reading Ordinance 2011-4 “An Ordinance Providing for the Control of Animal Waste in the City of Rising Sun”

City Attorney Lane Siekman had presented requested information for Council to review regarding Animal Waste in the Community Park at the April meeting. Siekman included a sample ordinance at that time which has been modified for the City of Rising Sun.

Ordinance 2011-4 “An Ordinance Providing for the Control of Animal Waste in the City of Rising Sun” was offered for First Reading. Second Reading will be held at the June City Council meeting.

Miscellaneous

- Mayor Marksberry informed City Council a copy of the report for the Community Event Funding Grant for the Health Fair at OCEMS was submitted by Jamie Works and included in their packets.
- Mayor Marksberry welcomed the government class in attendance at the meeting getting some extra credit.
- Mayor Marksberry presented an Arbor Day Proclamation. The Arbor Day Celebration was April 30th. This is the third year Rising Sun has been a Tree City USA member and this year the City also received the Growth Award for tree population increase. Marksberry stated America in Bloom has been a huge asset to the City.

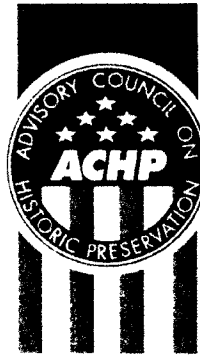
After the reviewing and signing of claims, and with no further business before Council; a motion to adjourn was made by Councilman Padgett, 2nd by Councilman Graves; meeting adjourned at 7:45 pm.

Attest:

Rae Baker Gipson,
Clerk Treasurer

William A. Marksberry,
Mayor

Exhibit A



Preserving America's Heritage

April 15, 2011

Michael Striker
Rabbit Hash Historical Society
11646 Lower River Road
Union, KY 41091

Ref: *Federal Highway Administration (FHWA) Finding of No Adverse Effect for the Riverfront Erosion Control and Riverwalk, Phase 4
DES. No. 0500827
Rising Sun, Indiana*

Dear Mr. Striker:

The Advisory Council on Historic Preservation (ACHP) received your letter dated December 16, 2010, requesting the Advisory Council on Historic Preservation (ACHP) participation in the Section 106 consultation process, and our review the "no adverse effect" finding made by the Federal Highway Administration (FHWA) for the referenced undertaking. FHWA determined that the proposed Riverfront Erosion Control and Riverwalk, Phase 4, will not adversely affect the Rabbit Hash Historic District, located in Boone County, Kentucky. Based on your letter, the Rabbit Hash Historical Society (RHHS) owns and is steward of a large portion of the Historic District which is one of two National Register-listed districts affected by the project. The other is the Rising Sun Historic District, in Rising Sun, Indiana.

We have reviewed the information provided with your letter, including documentation prepared by Indiana Department of Transportation (INDOT) supporting FHWA's finding that the undertaking will have "no adverse effect" on historic properties. The undertaking to be funded by FHWA includes a walkway and bike path from the Grand Victoria Casino on Front Street to the Community Park at Maiden Lane in Rising Sun, Indiana. You have indicated that the proposed undertaking will alter the riverfront in Rising Sun by replacing the existing shoreline with a retaining wall, landscaping, and walkways/bikeways. The proposed alterations to the Rising Sun riverfront will be visible from the Kentucky riverfront, and thus will impact the view of the Ohio River from the RHHD in Kentucky.

FHWA has indicated that the landscaping planned, the Allen block construction for the retaining wall, and the one-half mile distance from Rabbit Hash to the project area, will result in views from the RHHD to be comparable to existing conditions (*Section 5, "Documentation of Section 106 Finding of No Adverse Effect"*). Further, FHWA argues that concerns about lighting raised by the RHHS have been addressed by the elimination of proposed lighting for Phase 4 of the project. The existing lighting, which is also of concern to the RHHS, was added in earlier phases of this project, coordinated by the US Army Corps of Engineers. We agree with FHWA that previous phases are outside of the scope of this

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 513 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8447 • info@achp.gov • www.achp.gov

undertaking. FHWA's agreement to eliminate lighting from Phase 4, therefore, addresses the potential for Phase 4 of the River Walkway Project to contribute to any cumulative visual impacts of the project on the setting and view shed of RHHD.

The ACHP appreciates your interest in protecting the historic values associated with the RHHD. However, we find no basis to object to the findings and determinations made by INDOT and FHWA for Section 4 of this Project. Regarding the sufficiency of FHWA's efforts in involving consulting parties, we note that FHWA's administrative record evidences that it engaged consulting parties on several occasions. Moreover, FHWA has documented that it considered the views of the RHHS and Kentucky State Historic Preservation Office (SHPO) in completing the requirements of Section 106 review. As such, we have concluded that FHWA has been inclusive and transparent in coordinating the Section 106 process and negotiating an outcome to balance historic preservation values and project goals. Your concerns with the effects of previously constructed lighting on the RHHD should be brought to the City of Rising Sun, as it may be amenable to modifications that will reduce or eliminate the impact on views from the historic district.

The ACHP has does not believe that our participation in consultation for this undertaking is warranted. Further, based upon our review of the documentation provided by FHWA, we do not object to the agency's finding that the undertaking will have no adverse effect on historic properties as provided in 36 CFR 800.5(b).

We thank you for your letter and your patience while we developed this response. By copy of this letter we are sharing with the Indiana Division of FHWA, the Indiana Department of Transportation, the Indiana State Historic Preservation Office, Kentucky Transportation Cabinet, and Kentucky State Historic Preservation Office our views on this matter. If you have any questions or require our further assistance, please contact Carol Legard, our liaison to FHWA, at 202-606-8522 or via e-mail at clegard@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director, FPLAS
Office of Federal Agency Programs

1/1/2011 6

Historic Downtown Report

www.risingsundowntown.com
(May 2011)

DESIGN

RECAP 2.0 (Façade Grant for the MSB-1 district)

Potts

- Awning
- Tuck Point and Paint (James Sizemore \$13,750)

Hong Kong Kitchen

- Renovations nearing completion
- Billy Hoffman will be painting Hong Kong Kitchen (Lane contracts)

Foutty

- DONE

Dibble

- Approved the door drawings ready to manufacture and paint colors
- Hoffman Construction low quote (\$11,000)

Pendleton Art Center

- DONE

ECONOMIC RESTURCTURING

Business Development

- Waiting for the 223-225 Main Street Pharmacy
- Business Plan Grant
- Partnering with Redevelopment to help administer
 - Paint the Town Grant (237 Main Street)
 - Awning Matching Grant
 - Sign Matching Grant (206 Main Street)
 - Challenge Grant
 - Rebuild America Loan

ORGANIZATION

- April 14. Main Street Community Exchange—great success 33 people
- Arbor Day Celebration and Outdoor Living Expo Saturday. April 30 in Heritage Hall
- Lunch and Learn June 13 with Drug Free as the guest speakers

PROMOTIONS

Music on Main, 3rd Fridays, Your Hometown Friday Night

- February 18... Benjamin Belew (56)
- March 18.... Tyler Brindley (32)
- April 15... RR2 Kick off for cruise in... rained. but had 132
- May 20... Rusty Bladen
- June 17... Stevie and the Johns
- July 25... Retrovibes
- August 19... Scott McKenna Band
- September 16... Acoustic Blue
- October 21... Chuck Brisbin and the Tuna Project
- November 18... Slow Ride

Rising Sun Biggest Loser

- April 19, 2011 is the reception and announcing the biggest loser winners at Heritage Hall
- 222 started program 102 finished (87 finished last year)
- 1898 pounds lost collectively
- Male winners Philip Markland lost 32.391% and Brian Gregory lost 27.106 %
- Female winners Debbie Gregory lost 22.280 and Pam Banschbach 20.7543%

Rising Sun Newsletter

- Contact Gary Eldridge at rscommnews@yahoo.com to enter information in the RS Newsletter
- April 29th at 4pm deadline for the June Newsletter

Rising Sun Calendar

- Created and updated the new www.risingsuncalendar.com

Promotion Grant at Rising Sun Regional Foundation

- 7 new brochures—AWARDED \$3,600... just be complete by June 2011
 - Historic Downtown Program
 - Historic Churches
 - Running and Walking
 - Barges
 - Ghost Tours
 - Veteran Tower
 - Fountain

COMMUNITY INVOLVMENT

- Attended the following meetings
 - Revolving Loan
 - Redevelopment
 - Port Authority
 - Board of Works
 - Rotary
 - City Council
 - Rising Sun Ohio County First
 - Navy Bean Festival
 - Historic Downtown Board
 - Design
 - Economic Restructuring
 - Promotions
 - Organization

RSOC Parks & Recreation Dept. Monthly Report													
	Month: May 2011 Prepared by: Jamie Bell												
Programs	<ol style="list-style-type: none"> 1. "Move-It" Ohio County kicked off January 1. This is a year-long program. We have 82 people enrolled in it. April mileage: 4376.5 Year-to-date mileage: 11,818.5 2. We currently have 19 children enrolled in the Art Academy. 3. Our Cardio Tennis Kids program is full. We added another class. 4. The MLB Pitch, Hit and Run skills competition was April 16th at the varsity baseball field in Shiner Park. We had 15 kids participate. The winners will advance to the Sectional competition which will be held at the Florence Freedom baseball field. 5. The Parks Dept. participated in the OCEMS health fair for grades K-4. We offered information on fitness, nutrition and Park programs. 6. Current Programs are- Art Academy, "Move It" Ohio County, Children's Dance classes, Martial Arts classes for adults and children, fitness classes for adults and Cardio Tennis Kids. 												
Projects	<ol style="list-style-type: none"> 1. We are organizing the summer programs, June Bug Camp and Tyke Hike. 2. Brumblay Gardens completed a free standing courtyard wall around the Senior Center to keep water away from the building. 3. The Park Board submitted a grant to the Rising Sun Regional Foundation in the amount of \$50,000 for restrooms in Shiner Park. The Board submitted a grant to the Ohio County Community Foundation in the amount of \$3000 to purchase a security camera system for the new restrooms. 												
Revenue	<p>April Events at the Senior Citizen Center-26 April Events at the Schroeder Facility- 13</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;"><u>Senior Citizen Center</u></th> <th style="text-align: left; border-bottom: 1px solid black;"><u>Schroeder Facility</u></th> </tr> </thead> <tbody> <tr> <td>Rental- \$1510.00</td> <td>Rental- \$800.00</td> </tr> <tr> <td>Security Deposits- \$1150.00</td> <td>Martial Arts- \$535.00</td> </tr> <tr> <td>Group Fitness- \$262.00</td> <td>Art Academy- \$45.00</td> </tr> <tr> <td>Dance-\$2370.50</td> <td>Tennis- \$360.00</td> </tr> <tr> <td> Total: \$5882.50</td> <td> Security Deposit: \$1150.00</td> </tr> </tbody> </table>	<u>Senior Citizen Center</u>	<u>Schroeder Facility</u>	Rental- \$1510.00	Rental- \$800.00	Security Deposits- \$1150.00	Martial Arts- \$535.00	Group Fitness- \$262.00	Art Academy- \$45.00	Dance-\$2370.50	Tennis- \$360.00	 Total: \$5882.50	 Security Deposit: \$1150.00
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Repairs/ Problems	<ol style="list-style-type: none"> 1. There was a leak in the kitchen at Senior Center which was caused by the exhaust fan on the roof. 												
Misc.	<ol style="list-style-type: none"> 1. Parks received the utility payment from the 4-H on April 26, 2011. This is payment for the 2010 4-H Fair. 												

Exhibit D

The Honorable Bill Marksberry
Mayor of Rising Sun
City Hall
Rising Sun, In. 47040

May 5, 2011

Dear Mayor Marksberry:

Pursuant to the Access to Public Records Act. (Ind. Code 5-14-3), I would like to obtain a copy of the following public records:

- (1) The total monies paid by the City of Rising Sun's regarding the City's involvement in the sale of Grand Victoria and the new owners (Full House) before and after the sale from December 1, 2010 to April 1, 2011.
- (2) **All information is requested. Do not black out, cover up or hide in any manner items such as names, purpose or reason for payment, payment amount or any other information regarding this data and or records.**
- (3) To whom or what entity the monies were paid and what for.
- (4) Detailed invoices submitted explaining what services or information was provided to the City.


I understand that there may be a copying fee. Could you please inform me of that cost prior to making copies? I can be reached at 812-584-6654 or helent@comcast.net.

According to the statute, you have 24 hours to respond to this request.

If you choose to deny the request, you are required to respond in writing and state the statutory exception authorizing the withholding of all or part of the public record and the name and title or position of the person responsible for the denial.

Thank you for your assistance on this matter.

Respectfully,


Mary Turner
312 Short St.
Rising Sun, IN 47040

Cc: Councilman Steve Slack
Councilman Dennis Radcliff
Councilman Mike Padgett
Councilman Roy Powell
Councilman Lynn Graves
Clerk Treasure Rae Gipson
City Attorney Lane Siekman,
Ohio County Newspapers Editor Tim Hillman

The Honorable Bill Marksberry
Mayor of Rising Sun
City Hall
Rising Sun, In. 47040

May 5, 2011

Dear Mayor Marksberry:

Pursuant to the Access to Public Records Act. (Ind. Code 5-14-3), I would like to obtain a copy of the following public records:

- (1) The total monies paid by the City of Rising Sun **for all outside legal expenses AND all consulting expenses** records for all of 2010 and from January 1, 2010 to April 1, 2011 and any current invoices received.
- (2) **All information is requested. Do not black out, cover up or hide in any manner items such as names, purpose or reason for payment, payment amount or any other information regarding this data and or records.**
- (3) To whom or what entity the monies were paid and what for.
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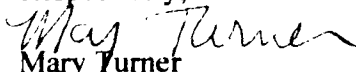
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Councilman Roy Powell
Councilman Lynn Graves
Clerk Treasure Rae Gipson
City Attorney Lane Siekman,
Ohio County Newspapers Editor Tim Hillman

Potential Property Tax Revenue Reduction Casino has filed an Appeal

TAX RATE = TOTAL TAX LEVY / (TOTAL NET ASSESSED VALUE / 100)

The tax rate is computed by dividing total tax levy by the (total net assessed value / 100)

$$\text{TAX RATE} = \frac{\text{Total Tax Levy}}{\text{Total Assessed Value / 100}}$$

2011 Total assessed value of Grand Vic \$58,306,700

Estimated \$58,306,700 AV x \$1.15 tax rate = \$670,527,705 tax revenues

Sale price of Grand Vic to Full House was \$43,000,000 total
This includes both real property & personal property

Total reduction in new assessed value for Grand Vic would be reduced \$28,306,700 if requested appeal is approved (\$58,306,700 - \$30,000,000).

Ohio Co. 2011 total assessed value for 2011 is \$262,328,237

Assumption only (For pay 2012 budget) using pay 2011 figures

\$28,306,700 less assessed value (no other increase in AV)

Same levy as 2011 (Most likely it will increase)

Property tax rate of \$1.15 (same rate as 2011) (likely to increase)

If approved the Casino request to appeal the reduction of AV)
\$28,306,700 AV reduction x \$1.15 (City Tax Rate 2011) per \$100 =
\$325,527 reduction in property tax revenues for county.

Disposal of Equipment Declared of No Value

Request to dispose of the following item(s) declared of no value:

- OKIFAX 5650 Model # FX-060BVP

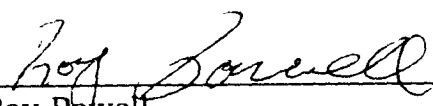
Approved by the City Council of the City of Rising Sun, this 5th day of May 2011.




 Lynn Graves



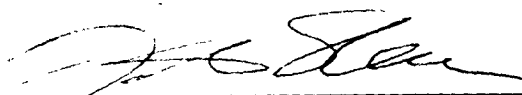
 Mike Padgett



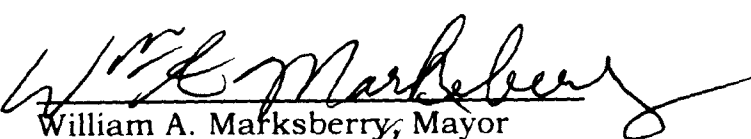
 Roy Powell




 Bud Radcliff



 Steve Slack



 William A. Marksberry, Mayor



 Attest: Rae Baker Gipson,
 Clerk Treasurer