

**CITY COUNCIL MEETING
CITY ADMINISTRATION OFFICES**

**JANUARY 8, 2004
6:30 PM**

EXECUTIVE SESSION

An Executive Session was held at 6:30 p.m. to address "Threatened Litigation".

**CITY COUNCIL MEETING
CITY ADMINISTRATION OFFICES**

**JANUARY 8, 2004
7:30 PM**

Mayor Marksberry called the meeting to order with the Pledge of Allegiance. A quorum of Council was determined with all of Council present.

MINUTE APPROVAL

Minutes of the December 4th and December 29th meetings had been previously distributed to the Council, Mayor Marksberry and former Mayor Stewart. After discussion a motion was made by Councilman Siekman to accept the minutes of the December 4th and December 29th meetings as written, 2nd by Councilwoman Scott; motion carried 5-0.

REPORTS OF COMMITTEES, BOARDS & DEPARTMENTS

Main Street

Main Street Director, Tammy Elbright informed the Mayor and Council a grant was received from the Regional Foundation for preliminary design of the old Presbyterian Church on Main Street in the amount of \$7,500. Architect Bruce Goetzman is preparing a report of preliminary design to be reviewed within the next week or so.

Elbright also reported Acapulco's Restaurant is planning to open January 19th. The shop operated by Terry Kraft and Nanci Ross on Main Street is being filled by Home Among Friends, which is operated by Michelle Hamilton, who is bringing her business to Rising Sun from Aurora.

Economic Development Commission

Jim Thies representing EDC requested Council's approval to share in one third of the funding of a study to be prepared by Thomas P. Miller Associates (TPMA) in an amount of approximately \$50,000. The other two thirds funding will be requested as follows: one third to be requested from the County EDC funds, and one third is being requested as an emergency grant request to the Rising Sun Regional Foundation in order to jump start this project. According to Thies, TPMA has met with different City and County groups since October 2003. Their proposal is to prepare a study and action plan that will direct and assist us in generating new jobs while sustaining what we already have in place.

Jim Clements, Vice President of the Rising Sun Regional Foundation informed the Mayor and Council the RSRF had not yet voted on this proposal, but were prepared to do so at their January 28th meeting.

Tammy Elbright informed the Mayor and Council the County EDC funding request would be requested from the County Council at their meeting on January 26th.

After discussion a motion was made by Councilman Siekman to approve one third of the cost of this proposal to be expended from EDC contingent on other funding sources, 2nd by Councilman Brown; motion carried 5-0.

Citizen Comments

Mike Dorney
110 Main Street
Rising Sun, IN 47040

Mr. Dorney questioned what is going to happen with the Downtown, the Historical Society and Tourism? How does this study tie in with what Tourism is looking at or what they should be doing? He also asked why there is never anything done on Main Street by Tourism anymore? No Blue Jeans festival—nothing going on. Tammy Elbright stated the former Tourism Director changed how Tourism funds were to be used from event funding to advertising only. Clerk Gipson stated Tourism is funded by the room tax. There are issues/concerns with Grand Victoria and at the State level with this funding Councilwoman Scott stated Tourism offices across the State were forced to cut staffing and events. The Ohio County Tourism cut one staff person. Scott also requested Mr. Dorney take a look at events and organizations—it is the same group of people that participates or is involved in any event or festival. Mayor Marksberry informed Mr. Dorney this study will help with implementation and direction for current and new businesses. Dorney requested a copy of the proposed TPMA study. Dorney stated he had one other question—Did Acapulco's receive a grant to open in Rising Sun? Councilman Siekman stated Acapulco's has a lease with Redevelopment.

Police Chief Report

Chief of Police, David Hewitt informed Council he will give a brief update of projects/concerns at the monthly Council meetings. Hewitt reported the first week has been very busy with transition and annual issues, budgets etc. He reported some items addressed as follows:

- Firearms qualification schedule—February 8, 2004
- Forced Continuum Policy—address from liability standpoint
- Uniform Policy—alternatives for inclement weather/summer
- Credit Card Policy—to be reviewed by Board of Works
- Cell Phones/Radios—reviewing costs and options
- Introduction meetings with several groups:
 1. Main Street & Local Businesses
 2. Indiana State Police
 3. Prosecutor's Office
 4. Gaming Commission
 5. Sheriff's Department

Chief Hewitt stated he wanted to thank Frank McIntosh for all his cooperation in making the transition run smooth. He informed the Mayor and Council there is always an open door at the Police Department. Call or stop by and voice any concerns you have.

UNFINISHED BUSINESS

RESOLUTION 2004-3 “REINFORCING THE ORIGINAL 2004 PROPERTY TAX LEVY AND RATE FOR THE MVH FUND AS APPROVED 9/18/03”

Clerk Gipson presented Resolution 2004-3 “Reinforcing the Original 2004 Property Tax Levy and Rate for the MVH Fund as Approved 9/18/03”. According to Gipson there was an incorrect listing of the MVH Fund rate on the County Rate Chart, and the subsequent publication dated October 16, 2003. After discussion and correspondence with Melissa Henson with the Department of Local Government Finance (former State Board of Tax Commissioners) it has become necessary to re-advertise and approve the 2004 property tax levy and rate for the MVH Fund. After discussion a motion was made by Councilwoman Scott to approve Resolution 2004-3, 2nd by Councilman Slack; motion carried 5-0.

RESOLUTION 2004-4 “RESOLUTION AUTHORIZING APPLICATION SUBMISSION AND LOCAL MATCH COMMITMENT”

Mayor Marksberry presented Resolution 2004-4 “Resolution Authorizing the Submittal of the Transportation Enhancement Application” The grant application has been prepared by S. K. Wilson Associates. This application is for Phase 4 of the Riverfront Project. This resolution requires the city commit 50% match towards this effort. After further discussion a motion was made by Councilman Slack to approve Resolution 2003-4, 2nd by Councilman Brown; motion carried 5-0.

RESOLUTION 2004-5 “TRANSFER RESOLUTION”

Clerk Gipson presented Resolution 2004-5, “Transfer Resolution” for Council approval. According to Gipson a transfer is necessary to the 1000 categories of EDC to allow for payment of Debbie Walton’s final check. Gipson attended the EDC meeting and received approval from the Commission to submit the transfer resolution to the City Council. After discussion a motion was made by Councilman Siekman to approve Resolution 2004-5, 2nd by Councilman Padgett; motion carried 5-0.

RESOLUTION 2004-6 “AUTHORIZING THE MAYOR TO EXECUTE SETTLEMENT AGREEMENT WITH LARRY SMITH CONTRACTORS REGARDING OUTSTANDING CONTRACT OVERPAYMENT ISSUES”

City Attorney Lane Siekman presented Resolution 2004-6, “A Resolution Authorizing the Mayor of Rising Sun To Execute A Settlement Agreement with Larry Smith Contractors Inc. Providing for the Resolution of Outstanding Contract Overpayment Issues” for Council approval. According to Siekman this agreement would cause Larry Smith Contractors to pay by check to the Clerk-Treasurer of the City of Rising Sun the sum of \$15,000 per month beginning on February 8, 2004 and ending on June 8, 2004; with the last payment to be in the amount of \$13,123.26 for a total of \$73,123.26. After discussion a motion was made by Councilman Brown to approve Resolution 2004-6, 2nd by Councilwoman Scott; motion carried 5-0.

NEW BUSINESS

RESOLUTION 2004-7 “AUTHORIZING THE MAYOR TO EXECUTE AN EXTENSION OR EXTENSIONS OF CONTRACT WITH LMS CONTRACTING, INC. REGARDING THE RIVERFRONT PHASE 3 CONTRACT”

City Attorney Lane Siekman presented Resolution 2004-7, “A Resolution Authorizing the Mayor of Rising Sun To Execute An Extension or Extensions of Contract with LMS Contracting, Inc. Providing for the Purpose of Extending the Contract Known as Riverfront Erosion Control, Phase 3” for Council approval. According to Siekman this extension is in the best interest of the City at this time. The original contract with LMS Contracting, Inc. will end January 10, 2004 and due to weather related issues the contracted work for this project will not be complete. The initial extension will be for 60 days with 30 day periods thereafter. According to Mike Northcutt, Project Manager, LMS has approximately 6 weeks of work to complete on the project. After discussion a motion was made by Councilman Slack to approve Resolution 2004-7, 2nd by Councilman Siekman; motion carried 5-0.

FRYMAN PROPERTY—PROPOSAL FOR ADDITIONAL TESTING COSTS

Project Manager Mike Northcutt presented Council with information from HC Nutting regarding contract services and costs for additional testing. Councilman Siekman questioned if Nutting could give us any assurances with this additional testing? Northcutt stated they could give more detail of the contaminants which may or may not be assuring. He requested Council review the information and call or stop by with any questions. This will be addressed at the February Council meeting.

RIVERFRONT PHASE 3 B—PROPOSAL

Mayor Marksberry requested Council approve a proposal extending the Riverfront Phase 3 project; “Riverfront Phase 3 B”. This would include the area of the Pavilion at the foot of Main Street to the river shore. According to Marksberry this is the only area of the riverfront we currently have permitted and can proceed on at this time. It could be late fall before additional permitting is received to address the next phases of the riverfront. The concept is to construct steps to a platform on the river that will join with the walkway from the boat ramp area. A fountain type structure is being discussed for the Pavilion area. Mayor Marksberry plans to meet with artists about a design that would include history of Rising Sun. Additionally this concept could be carried to Fourth Street at a later date with a completed walk and consistent tiers from Fourth Street to First Street. Marksberry further stated he would like to have authority to proceed with this project and also to apply for funding towards the project from the Regional Foundation (application deadline 1/15/04). Clerk Gipson stated there are appropriation lines available to address the funding of this project. After discussion a motion was made by Councilwoman Scott to give Mayor Marksberry authority to proceed with the design of the Riverfront Phase 3B project, to commit funds to the project and make application to the Regional Foundation for funding; 2nd by Councilman Slack; motion carried 5-0.

MISCELLANEOUS

Mike Northcutt has made contact with Grand Victoria and is working towards alleviating the water/flooding concerns from the area of the Dairy Queen to Sixth Street on the riverside of the street.

Clerk Gipson presented Council with information for business cards. She requested Council choice a style and write out their information and return to the office.

Councilman Siekman stated he had spoken with Jeff Kinnett and he was willing to continue to serve on the Plan Commission. After discussion a motion was made by Councilman Siekman to re-appoint Jeff Kinnett to the Plan Commission, 2nd by Councilman Padgett; motion carried 5-0.

After the reviewing and passage of claims, and with no other business at this time, Councilman Brett made the motion to adjourn, Slack seconded, motion passed 5-0.

Attest:

Rae Baker Gipson,
Clerk Treasurer

William A. Marksberry,
Mayor

RESOLUTION 2004- 3

WHEREAS, The City Council of Rising Sun desires that the 2004 adopted budget amounts be funded as approved at their September 18, 2003 meeting; and

WHEREAS, Due to incorrect listing of the motor vehicle highway fund rate on the County Rate Chart and the subsequent publication thereof, it has been necessary to re-advertise and approve the 2004 property tax levy and rate for the motor vehicle highway fund;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THAT:

SECTION 1. The Indiana Department of Local Government Finance has received written request for consideration of a change in the 2004 property tax levy and rate for the motor vehicle highway fund.

SECTION 2. Because the county tax rate chart included an incorrect motor vehicle highway fund rate, the Common Council of the City of Rising Sun held a public hearing to adopt the appropriate rate for Corp. MVH of .2916 on January 8, 2004.

SECTION 3. The Common Council of the City of Rising Sun wishes to maintain the maximum allowable tax levy.

SECTION 4. This resolution hereby reinforces the original 2004 property tax levy and rate for the motor vehicle highway fund as approved at the September 18, 2003 City Council Meeting;

NAY

AYE

Don Dier
Mike Padgett
Steven J. Street
Paul J. Brown
Stephanie Scott

William A. Marksberry
Mayor William A. Marksberry

Rae Baker Gipson
Attest: Rae Baker Gipson, Clerk Treasurer

RESOLUTION 2004- 4

RESOLUTION AUTHORIZING APPLICATION SUBMISSION
AND LOCAL MATCH COMMITMENT

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RISING SUN, INDIANA,
AUTHORIZING THE SUBMITTAL OF THE TRANSPORTATION ENHANCEMENT
APPLICATION AND ADDRESSING RELATED MATTERS

WHEREAS, the City of Rising Sun, Indiana is responsible for the development plan for the Riverfront including pedestrian access; and


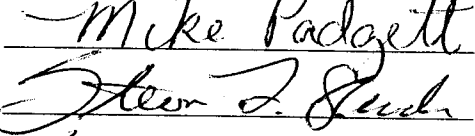
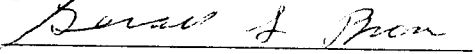
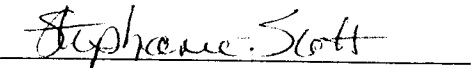
WHEREAS, the City of Rising Sun is commencing the construction of the Riverfront project and walkway; and

WHEREAS, it is a priority of the City of Rising Sun to complete the Riverfront project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rising Sun, Indiana that the Council approves and supports the submission of the Transportation Enhancement grant application and commits from the Riverboat Fund Fifty Percent (50%) as match money for the application contingent upon approval of the application.

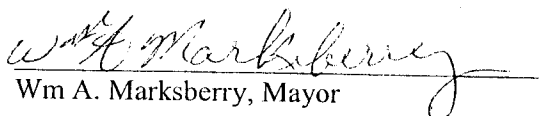
AYE

NAY

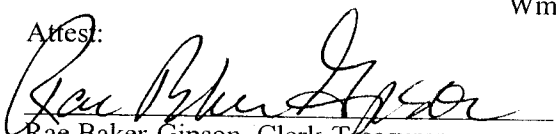

Mike Padgett

Steve J. Smith

Susan J. Brown

Stephanie Scott

ADOPTED THIS 8th day of January 2004.

City of Rising Sun, Indiana
By:


Wm A. Marksberry, Mayor

Attest:


Rae Baker-Gipson, Clerk-Treasurer

RESOLUTION 2004- 5

AN EMERGENCY RESOLUTION PROVIDING FOR THE TRANSFER OF APPROPRIATIONS FOR SEVERAL DEPARTMENTS OF THE CITY OF RISING SUN, INDIANA, FOR THE YEAR 2004, AS REQUIRED BY THE DEPARTMENT HEADS AND FORWARDED TO THE COMMON COUNCIL FOR THEIR ACTION AND PASSAGE PURSUANT TO IC 6-1.1-18-6

WHEREAS, Certain extraordinary conditions have developed since the adoption of the existing annual budget for the year 2004 and it is now necessary to transfer appropriations into different categories than was appropriated in the annual budget for the various functions of the several departments to meet the emergencies.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THAT:

SECTION 1. For that expenses of the City Government, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes specified, subject to the laws governing the same, such funds herein transferred unless otherwise stipulated by law.

SECTION 2. Where it has been shown that certain existing appropriations have obligated balances, which will be available for transferring as follows:

Economic Development Fund

\$ 700.00	From	EDC 371 218650371	✓	To	EDC 111 218650111
\$ 55.00	From	EDC 371	✓	To	EDC 121 121
\$ 50.00	From	EDC 371	✓	To	EDC 123 123
\$ 25.00	From	EDC 371		To	EDC 124 124
\$830.00		Total EDC Transfer			

Adopted this 8th day of January 2004.

NAY

Wm A. Marksberry
 Wm A. Marksberry, Mayor

AYE

Don Gilson
Mike Padgett
Steve Z. Stuch
Paul J. Brown
Stephane Scott

Rae Baker Gipson
 Rae Baker Gipson,
 Clerk Treasurer

RESOLUTION 2004 - 6

A RESOLUTION AUTHORIZING THE MAYOR OF RISING SUN TO EXECUTE A SETTLEMENT AGREEMENT WITH LARRY SMITH CONTRACTORS INC. PROVIDING FOR THE RESOLUTION OF OUTSTANDING CONTRACT OVERPAYMENT ISSUES

WHEREAS, the City of Rising Sun and Larry Smith Contractors, Inc.. are parties to a certain Contract for the Construction of Drainage Improvements Services dated June 18, 2002 (the "Contract"); and

WHEREAS, the City of Rising Sun inadvertently made an overpayment to Larry Smith Contractors, Inc. on the Contract for the Construction of Drainage Improvements Services by issuing a duplicate draw which was accepted by Larry Smith Contractors, Inc. on February 19, 2003; and

WHEREAS, The City is entitled to repayment of the overpayment and the parties have agreed to a settlement of the matter for reimbursement to the City; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THAT:

1. The proposed Settlement agreement is in the best interests of the City of Rising Sun; and
2. The Mayor of Rising Sun is duly authorized to execute said agreement on behalf of the City of Rising Sun, Indiana.
3. This resolution shall be in full force and effect from and after its passage and signing by the Mayor.

ADOPTED AND PASSED BY THE COMMON COUNCIL of the City of Rising

Sun, Indiana this 8th day of January 2004.

NAY

Michael Padgett

Gerald L. Brown

Gene Siekman

Stephanie Scott

Steven Slack

AYE

Michael Padgett
Michael Padgett

Gerald L. Brown
Gerald L. Brown

Gene Siekman
Gene Siekman

Stephanie Scott
Stephanie Scott

Steven Slack
Steven Slack

Presented by me to the Mayor of the City of Rising Sun, Indiana, for his approval and signature this 8th day of January 2004.

Rae Baker Gipson
Rae Baker Gipson, Clerk Treasurer

This Resolution approved and signed by me on this 8th day of January 2004.

William A. Marksberry
William A. Marksberry, Mayor

ATTEST:

Rae Baker Gipson
Rae Baker Gipson, Clerk Treasurer

RESOLUTION 2004 - 7

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF RISING SUN TO EXECUTE A EXTENSION OR EXTENSIONS OF CONTRACT WITH L.M.S. CONTRACTING, INC. PROVIDING FOR THE PURPOSE OF EXTENDING THE CONTRACT KNOWN AS RIVERFRONT EROSION CONTROL, PHASE 3

WHEREAS, the City of Rising Sun and L.M.S. CONTRACTING, INC. are parties to a certain Contract for Riverfront Erosion Control, Phase 3 dated July 14, 2003; and

WHEREAS, The Original Contract has not been completed according to schedule and will end on January 10, 2004; and

WHEREAS, certain force majeure issues relating to weather have occurred during the execution of the contract making impossible the completion of the project on or before the original contract completion of January 10, 2004; and

WHEREAS, It is necessary for the Mayor of the City of Rising Sun to enter into one or more agreements for the extension of the contract to ensure its completion;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THAT:

1. The Original Contract with L.M.S. CONTRACTING, INC. for Riverfront Erosion Control, Phase 3 dated July 14, 2003; has not been completed according to schedule and will end on January 10, 2004 and it is in the best interest of the City of Rising Sun to grant an extension or extensions of said contract ; and
2. The Mayor of Rising Sun is duly authorized to negotiate and execute said extension agreements on behalf of the City of Rising Sun, Indiana; and

3. That the Common Council shall be updated regularly on the status of the construction of the Riverfront Erosion Control, Phase 3.
4. This resolution shall be in full force and effect from and after its passage and signing by the Mayor.

ADOPTED AND PASSED BY THE COMMON COUNCIL of the City of Rising Sun, Indiana this 8th day of January 2004.

NAY

Michael Padgett

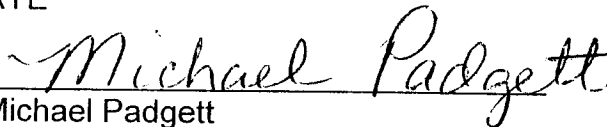
Gerald L. Brown

Gene Siekman


Stephanie Scott

Steven Slack

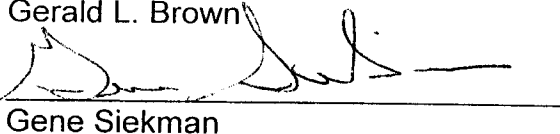
AYE



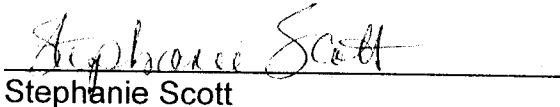
Michael Padgett



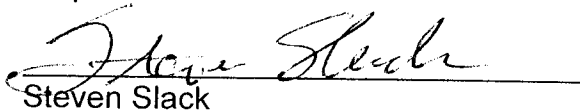
Gerald L. Brown



Gene Siekman

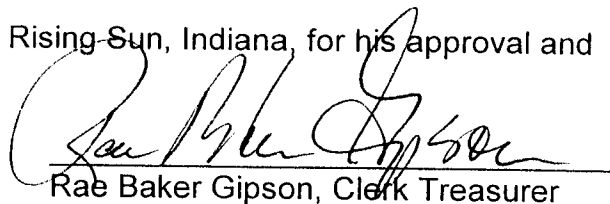


Stephanie Scott



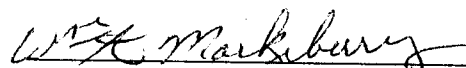
Steven Slack

Presented by me to the Mayor of the City of Rising Sun, Indiana, for his approval and signature this 8th day of January 2004.




Rae Baker Gipson, Clerk Treasurer

This Resolution approved and signed by me on this 8th day of January 2004.



William A. Marksberry, Mayor

ATTEST:


Rae Baker Gipson, Clerk Treasurer

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