

**TOWN OF DUNE ACRES  
COUNCIL MINUTES  
July 16, 2019**

The Town of Dune Acres Town Council met for its regular monthly meeting on Tuesday, July 16, 2019, at the Town Hall. Council President Richard Hawksworth called the meeting to order at 7:00 p.m., with Council Members Peter Bomberger and Alexander Stemer, Clerk-Treasurer Jeannette Bapst, and Attorney Adam Mindel representing Dan Whitten in attendance.

**APPROVAL OF MINUTES:**

It was moved and seconded that the minutes for the June 18, 2019, Town Council Meeting be approved as presented. Motion passed unanimously.

**FINANCIAL REPORT:**

**BANK BALANCES 06/30/2019**

Porter State Bank	\$ 277,176.94
Trust Indiana	\$ 601,734.25
Record Balance	\$ 878,911.19

\*Those funds marked with an asterisk are designated monies and can only be spent for the designated purpose.

**BREAK DOWN OF FINANCES AMONG FUNDS  
As of June 30, 2019**

FUNDS	CASH BALANCE 06-30-19	APP BAL.	% Left
GENERAL	195,902.26	\$207,195.53	52
MOTOR VEHICLE HIGHWAY	45,105.36	\$48,613.75	81
LOCAL ROAD & STREET	13,941.68	\$3,000	50
MOTOR VEHICLE HWY RESTRICT	2,057.64		
PARK & RECREATION	49,212.99	\$49,382	85
RAINY DAY FUND	110,000.00	\$50,000	100
CCI	353.07	\$1,000	100
CCD	27,982.09	\$27,974	79
CEDIT	15,858.75	\$17,000	85
RIVERBOAT REVENUE SHARING	254.14	\$2,500	100
Donations*	31,056.40		
Clubhouse Dune Grant*	.00		
Construction Security Dep*	32,500.00		
SalesTaxClubHouseRental*	274.42		
ClubHouseRentalDeposit*	1,300.00		
Local Road & Bridge Grant*	350,124.80		
<b>TOTAL FUNDS</b>	<b>\$ 875,923.60</b>		

Clerk-Treasurer Bapst presented the June month-end financial report. It was moved and seconded to approve the financial report. Motion passed unanimously.

**PAYMENT OF CLAIMS:**

It was moved and seconded that claims for the month of July 2019, #6516 - #6545, in the amount of \$170,520.84 be approved. Motion passed unanimously.

**CORRESPONDENCE RECEIVED:**

Public Trust Doctrine Workshop – Council President Hawksworth and Clerk-Treasurer Bapst attended a workshop on the Public Trust Doctrine relative to beach access held at the Northwestern Indiana Regional Planning Commission. Hawksworth summarized the major points as follows:

- The Indiana Supreme Court ruled that the waters of Lake Michigan up to the natural high water mark (OHWM) are owned exclusively by the State of Indiana and held in trust for the people of the state.
- The Natural OHWM is a moveable boundary and is consistent with the law of accretion and erosion. It is indicated by natural features such as the presence (or absence) of vegetation, the "trash" line, and other factors. Previously, OHWM was established by Indiana legislature at the administrative level of 581.5'. This boundary has been declared invalid.
- This new determination will affect riparian landowners in DA, including several lakefront property owners and the Town, which owns most of the beach. Under the accretion doctrine, the riparian landowner gains property as the OHWM shifts lakeward due to the gradual deposit of sand or other material. The doctrine of erosion, by contrast, has the opposite effect: the riparian landowner loses property as the boundary shifts landward due to the gradual loss of shoreline.
- We are currently in a period of rapidly rising lake levels. As our beach erodes, we are, essentially, surrendering land to the public trust. The Court held that the general public has the recreational rights to public trust land. Minimally, the Lake Michigan shore can be used for fishing, navigation, commerce, and walking. The Court left it to the General Assembly to define other permitted recreational activities.
- Permits for the construction of seawalls are undergoing additional scrutiny, and increasingly are subject to public hearings, resulting in longer lead times on approval.

Federal Emergency Management Administration (FEMA) Floodplain Workshop – Council President Hawksworth and Clerk-Treasurer Bapst attended a FEMA workshop that addressed the proposed new coastal floodplain areas along the beachfront. A Porter County public meeting on the proposed velocity hazard areas and on how homeowner insurance is affected will be conducted (in collaboration with the Indiana Department of Natural Resources) in the next few weeks. Notices will be distributed when information becomes available.

#### COMMISSIONERS REPORTS:

**BUILDING:** As recommended by Building Commissioner Tom Roberts, it was moved and seconded to approve Building Permit #2019-15, 33 Crest Drive, \$18,250 driveway refurbish and Permit #2019-16, 64 East Road, \$11,900 deck/railing repairs and painting. Motion passed unanimously.

It was then moved and seconded to approve Building Permit 2019-17, Oak Drive, new home construction, contingent on Plan Commission review of the proposed foundation system and contingent on Commissioner Roberts' review of the electrical and plumbing schematics. All requested documents have been provided by the homeowner. Motion passed unanimously.

Roberts then reported that Crest Drive paving to be completed by residents on the 21 Crest/23 Crest spur has been delayed by weather. He expected the work to be done soon.

Extensive discussion was held regarding minor excavation, along with brush and small tree removal that had taken place at the proposed new home site on West Road, adjacent to the 70 West Road Evans' property. Plan Commission President Tom Cornwell and Town Council President Rich Hawksworth had consulted with the architect on-site regarding clearing an area that would provide a visual reference for the homeowners, and subsequently approved the proposed minor clearing that was expected to cost under \$3,000. Cheryl Evans addressed the Council, asserting the named town representatives were not authorized to grant approval, that a permit was required, and that she was offended and upset she had not been personally contacted by town officials and given advanced notice that the work would be taking place. The Council agreed to better address communication and suggested Evans and Tom Cornwell discuss this particular situation and any other suggestions Evans may offer.

**ROADS:** Bapst reported the 2019 Community Crossings Road Grant had been submitted for 2020 paving projects totaling \$200,000, with 75% grant funding requested. The State will announce awards early September.

Roads Commissioner Bruce Riffle had reported continuing communication with Town and Country Construction, the 2019 paving contractor, about completing Circle Drive and Mineral Springs Road repairs. Poor weather conditions have caused delays.

**MAINTENANCE:** Maintenance Commissioner Dick Taylor reported that in-house excavation work had been completed on the Ridge Drive/East Road 'triangle' that will help disburse storm water collections. Site planting will take place this fall.

**SECURITY:** The resignation of security employee Gregory Dommer effective July 10, 2019 was received by the Council.

#### **OLD BUSINESS:**

Seawall Project Contract Award: Following discussion, it was moved and seconded to award the Beach Drive Seawall Project to JCI Bridge at \$146,200 for 105 feet of structure, contingent on the town's receipt of all necessary permits and contingent on JCI Bridge's ability to complete the project by October 31, 2019. Motion passed unanimously.

6 Circle Drive Ordinance Violation Penalty: Discussion was held regarding the homeowner of 6 Circle Drive completing \$280,878 of renovations without a building permit. Following notice of ordinance violation from the town, the homeowner had promptly paid permit fees and provided a detailed list of contractors that conducted work. The town contacted unregistered contractors regarding annual requirements and penalty fees. The Council agreed by consensus to waive homeowner penalties provided plumbing and electrical contractors sign affidavits affirming work is code-compliant. Attorney Mindel will prepare the affidavit.

#### **NEW BUSINESS**

2020 Budget: Bapst presented the draft 2020 budget to the Council and asked for feedback prior to the Budget Public Hearing scheduled for August 20, 2019.

County Council "On the Road" Meeting at Clubhouse, August 27<sup>th</sup>: The Porter County Council is holding their regular meetings at various locations throughout the district and will be at the Dune Acres clubhouse on August 27<sup>th</sup>.

Clubhouse Rental: It was moved and seconded to approve a clubhouse rental for August 13, 2019. Motion passed unanimously.

Resolution #2019-01 Vacation Pay: It was moved and seconded to approve Resolution #2019-01 Vacation Pay. Motion passed unanimously. The resolution authorizes customary vacation pay, per ordinance, to qualifying maintenance and security employees.

Resolution #2019-02, Title VI Implementation and Plan: It was moved and seconded to approve Resolution #2019-02, Title VI Implementation and Plan. Motion passed unanimously. The resolution names the Clerk Treasurer as town Title VI Coordinator and adopts the town's Title VI Implementation Plan in order to meet minimum compliance requirements established under Title VI of the Civil Rights Act of 1964, and to ensure the town remains eligible to receive grants from the Indiana Department of Transportation (Community Crossings) and other agencies.

Short Term Rentals: In response to a resident's concerns about allowing short-term vacation rentals, town occupancy Ordinance 46-113 was discussed. Attorney Mindel said the town's language on short term rentals is more restrictive than current state legislation allows. He said Dune Acres' 46-113 restrictions are "grandfathered," so making changes to the ordinance would compromise the town's ability to set any limits. The Council requested a report from Security Commissioner Griffin about how rental guests are monitored relative to zoning ordinance compliance.

OTHER MATTERS:

With no other matters brought before the Council, the meeting was adjourned at 8:15 PM.

The next regular meeting and budget hearing of the Town Council is at 7:00 PM, August 20, 2019.

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RICH HAWKSWORTH, Town Council President

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PETER BOMBERGER, Town Council Member

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ALEXANDER STEMER, Town Council Member

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JEANNETTE E. BAPST, Clerk-Treasurer

CLAIMS FOR JULY, 2019

<u>CLAIMANT</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
Payroll, Gross	July payroll, gross	\$ 14,233.37
Payroll, Net	July payroll, net	\$ 11,537.36
Indiana Dept of Revenue	July payroll, state w/h	\$ 668.95
EFTPS	July payroll, federal w/h, fica/medicare	\$ 3,115.93
Comcast	Phone and Internet	\$ 187.43
Sprint	Security Mobile	\$ 61.86
Frontier	Phone and Internet	\$ 63.32
NIPSCO	Mineral Springs & 12	\$ 15.00
Frontier	Phone and Internet	\$ 98.47
NIPSCO	Gas and Electric	\$ 510.45
Applied Ecological Services	Clubhouse Dune Restoration grant	\$ 4,404.00
Capital One VISA	Signs, Road Supplies, misc	\$ 969.27
Hopkins Ace Hardware	Road Supplies	\$ 179.85
Jeaneen Dougherty	Car Wash Reimbursement	\$ 10.00
Menards, Portage	Supplies	\$ 118.64
Menards, Valparaiso	Supplies	\$ 52.87
Pinkerton Oil	Vehicle Fuel	\$ 312.71
Reeders Auto Service	Oil Change	\$ 27.95
Reeves Fence	Emergency Gate Enhancement	\$ 1,335.00
Riggs Outdoor Power	Repairs	\$ 61.83
Site Services	Crackseal, designated roadways	\$ 9,826.00
South Shore Marina, Inc.	Buoys Installation	\$ 1,450.00
Republic Services	Waste Service	\$ 67.25
Whitten & Whitten	Legal, 2nd Q	\$ 2,750.00
Indiana American Water	Clubhouse and Security	\$ 104.69
Pride Toilet	Beach Toilet	\$ 240.00
Town & Country	West Side Paving	\$ 111,552.36
Auditor of State	Grant Refund	\$ 5,552.73
Abonmarche	Engineering, Roads	\$ 825.00
Tilden Enterprises	Supplies	\$ 188.55

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**TOTAL July 2019**

**\$ 170,520.84**