

**MINUTES
FORD CITY BOROUGH COUNCIL
REGULAR MEETING
LOCATION - FORD CITY PUBLIC LIBRARY
AUGUST 9, 2004**

- CALL TO ORDER Council President Steve Kozuch called the meeting to order at 6:09 p.m.
- AUDIO TAPED Council President Kozuch informed everyone the meeting is being audio and video taped.
- PLEDGE OF ALLEGIANCE
Council President Kozuch led everyone in reciting the Pledge of Allegiance.
- ROLL CALL Terry Tokarek, Tim Malec, Dan Cousins, Steve Kozuch, and John Rudosky. Homer Pendleton was absent because of personal reasons.
- ATTENDANCE Mayor Pyle, Dave Nichols - N.S.E.I., Donna Kornasiewicz - G.F.C.C.D.C., Ron Dillard - Ford City Zoning, Fred Dzugan - Codes Officer, Ron Olsen - Olsen Engineering, and Solicitor Frank Allan Wolfe.

ANNOUNCEMENTS Council President Kozuch read a list of announcements. (Attached)

FCBS FOOTBALL KICKOFF

Rich Farah explained the kickoff for the 2004 Football Season will be held on Sunday, August 15, 2004. This year it will be held at the football field. A parade will start at 4:00 p.m. at the High School on 4th Avenue and proceed to the football field. Everyone is welcome.

EXECUTIVE SESSION

Rudosky made a motion to enter Executive Session to discuss Personnel and Real Estate. Seconded by Malec. Motion carried. 5-0 Unanimous Executive Session entered at 6:08 p.m.

REGULAR SESSION Executive Session ended at 6:56 p.m. and Regular Session was re-entered.

BID AWARD - CARACAL TENANT BUILD OUT

Council President explained the bids for the Caracal Tenant Build out were opened on Monday, August 2, 2004. Ron Olsen explained the low bidder was Landau Building Co. with a bid in the amount of \$3,498,000.00. Olsen recommends the award be made contingent upon (1) the concurrence of the United States Department of Agriculture Rural Development and (2) execution of a lease with Caracal in a form acceptable to Solicitor Wolfe. (Document Attached)

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Rudosky made a motion to award the bid to Landau Building Company, the lowest responsible bidder, at an amount of \$3,498,000.00, conditioned upon the concurrence of any Federal Agency that is required plus a lease proposal be entered into with Caracal to reflect any costs that are required. Seconded by Cousins. Motion Carried. 5-0 Unanimous

CITIZEN COMMENTS

Ragiv Enand - CEO Caracal, explained Caracal will be occupying space in the Shop 2 Building. They will be manufacturing Silicon Carbide Wafers, which is an advanced material that is used in power applications. Enand explained the U.S. Government is moving away from diesel and this will replace diesel. Enand explained the projected employment for the end of 2005 will be 15 to 20. With 169 projected employees within five years. These are both dependent upon how soon they are able to begin working in their space.

G.F.C.C.D.C.

Donna Kornzsiewicz - G.F.C.C.D.C. explained they are continuing to work on the Shop 2 Building. Kornzsiewicz explained their office has moved to 622 3rd Avenue. They are in the same building Warner Printing is in, only on the second floor.

MINUTES

Cousins made a motion to accept the minutes from 7-12-2004 as presented. Seconded by Malec. Motion Carried. 4-0 Rudosky abstains because he was absent.

CITIZENS COMMENTS

Reverend Michael Arrington, Second Baptist Church, just came to observe and he is willing to assist in building the community in any way.

Al Garay, explained the vibrations from the traffic on 5th Avenue are continuing in the homes and is there anything being done? The weight of the vehicles is a problem.

Solicitor Wolfe explained 5th Avenue is a state highway and is open to any suggestions.

Mayor Pyle explained he has spoken to Rich Hogg from Penndot. The speeds have been checked with Vascar and Radar. Speed is not a problem in this area.

Rudosky explained the State Department of Transportation has designated 5th Avenue as a state highway. This vibration problem is not new. Rudosky suggested Mr. Garay contact Rep. Coleman and council will be willing to help in any way.

Rudosky stated to Mr. Garay to bring his letter in at his earliest convenience and to not wait until next month.

Terry McGinnis explained he reported to the Police Department that there was some graffiti on a picnic table along the Rails-to-Trails. McGinnis asked if this graffiti could be removed? Council President Kozuch explained the Street Department is aware of the problem and will be correcting the situation.

Marc Mantini explained there is still an issue of High Grass, Weeds, and Junk Cars and asked if anything is being done? Council President Kozuch stated the Police Department is to enforce these violations.

Mayor Pyle explained total fines collected for the month of July 2004 are in the amount of \$1,517.00. Mayor Pyle read the Mayor's Report for July 2004.

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(Police Report and Mayor's Report are Attached)

COMMITTEE REPORTS

Council President Kozuch explained the water reports are available in the Borough Office. (Reports attached)

Rudosky made a motion to accept the July 2004 Police Report, the Mayor's July 2004 Report and the Water Reports. Seconded by Malec.
Motion Carried. 5-0 Unanimous

TREASURER'S REPORT

Council President Kozuch read the Treasurer's report for June 2004. Total Borough funds are in the amount of \$529,352.42. Kozuch explained the bills to approve are in the amount of \$51,987.20. (Reports Attached)

Rudosky made a motion to accept the Treasurer's Report for the month of June 2004 and pay the bills as money becomes available as approved by the Finance Committee. Seconded by Tokarek. Motion Carried. 5-0 Unanimous

ENGINEER REPORT Dave Nichols - N.S.E.I., submitted his report for August 2004. Nichols explained the Borough is still waiting to receive a final release of funds in the amount of \$4000 from the D.C.N.R. Trail Beautification Project. (Report Attached)

OLD BUSINESS

INDEBTEDNESS LOAN

Solicitor Wolfe stated he needed no action on this item at this time.

BRUCE VOLEK - WORKER'S COMP

Rudosky made a motion to pay Bruce Volek for five days of work contingent upon the United Steelworkers agreeing to this being a non-precedent setting case less monies already paid by the Worker's Compensation Insurance. Seconded by Tokarek. Motion Carried. 5-0 Unanimous.

CHRIST PRINCE OF PEACE CHURCH

Rudosky read a resolution concerning the Christ Prince of Peace Church and requested it to be entered in the form of a motion. Seconded by Tokarek.

Council President Kozuch opened the floor for discussion.

Ron Dillard - Zoning Board, explained this property is zoned R-1 and there must be a Conditional Use Hearing.

A discussion followed.

Rudosky amends his motion to change the R-2 designation to R-1.

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The discussion continues.

Cousins asks for Dillard to clear up the difference.

Ron Dillard explains that in the Municipal Planning Codes there are procedures the Zoning Board must follow. The Zoning Board may determine Council must have a Conditional Use Hearing and Council cannot solve this problem with a resolution.

Dillard explained Solicitor Wolfe is the Solicitor for the Borough and not for the Zoning Board. Dillard stated the Zoning Board will obtain a solicitor of there own.

Dillard stated if council moves forward without holding a Conditional Use Hearing, council is making a grave mistake.

Cousins asked Solicitor Wolfe for his opinion.

Solicitor Wolfe stated this situation changes once the Zoning Board made the decision it is a Conditional Use. Zoning lost their jurisdiction once they made their determination. Wolfe stated council doesn't have to agree it is a Conditional Use. Wolfe stated he looks at this as an adjacent lot to a house which has a garage and someone wants to plant grass, trees and sidewalks. Solicitor Wolfe stated this does not fall under the definition of a park according to the Zoning Ordinance definition.

Dillard explained the Zoning Officer made a judgment and the Zoning Board based their decision on the Zoning Ordinance. Dillard stated it was a unanimous decision that the use did not fit under the Residential or the Accessory Use, therefore it was a Conditional Use and moved to requiring a Council decision.

Solicitor Wolfe explained it is up to Council to agree or disagree with the Zoning Board interpretation. The Council acts independently of the Zoning Board. The two boards do not have to agree.

The discussion continued.

Council President Kozuch stated there has been a motion and a proper second. Kozuch asked if there were any additional comments? Kozuch stated if there are none he will call for a roll call vote.

Cousins asked Solicitor Wolfe is Council breaking the law?

Codes Officer Dzugan stated there is nothing in the Zoning Law that permits the governing body, Council, to pass any type of resolution to bypass a Variance or Conditional Use.

Solicitor Wolfe stated this is the problem. Is this the subject of a Conditional Use or not? The Zoning Board is interpreting the answer in one way and Council is interpreting another way. Council is not required to follow the Zoning determination. Council controls what happens in town.

Codes Officer Dzugan stated the process must be followed and Council must have a Conditional Use Hearing.

Solicitor Wolfe stated the only remedy the Zoning Hearing Board has is to sue the Borough and force them to have a hearing. Then a judge will decide whether or not

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to have a hearing.

The discussion continues.

Codes Officer Dzugan stated the Zoning Ordinance must be changed. The Zoning Board has been asking Council to change this ordinance for years.

The discussion continues.

Malec explained he sat on the Zoning Board for seven years. Malec stated he agrees with the Zoning Hearing Board and this should be brought before Council as a Conditional Use Hearing.

Rudosky stated this project has already been delayed and doesn't think this is a park.

Council President Kozuch explained Rudosky made the motion and it was seconded by Tokarek. Kozuch called for a roll call vote.

Tokarek	yes	
Rudosky	yes	
Kozuch	yes	
Malec		no
Cousins	yes	

Kozuch stated the motion is carried with a vote of 4-1.

ZONING BOARD - EDUCATION

Rudosky Motion to grant the request of the Zoning Board to send two of their members, Ron Dillard and Fred Dzugan, to a seminar titled Basic Course of Zoning Officials at a cost of \$75.00 each for a three day seminar to be held on September 1, 8, & 15, 2004 and approve mileage reimbursement and per diem. Seconded by Tokarek. Motion Carried. 5-0

CELL PHONES

Rudosky explained at this time the Borough uses a cell phone plan from Cellular One and the plan has expired. The Borough is on a month to month contract with Cellular One. Rudosky stated he met with a representative from Verizon and at this time Verizon is offering a better plan, in the amount of \$145.16, along with better reception. Rudosky recommends switching the cellular service to Verizon because this plan is an upgrade compared to what the Borough uses at this time.

A discussion took place concerning the Verizon plan and the phone numbers to be used.

Rudosky made a motion to use Verizon as the cellular service provider. Seconded by Malec. Motion Carried 5-0 Unanimous

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Solicitor Wolfe had no comments at this time.

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COUNCIL COMMENTS

MAYOR COMMENTS Mayor Pyle thanked Council for the new police car and that it was done with no additional cost to the town. Officer Browne was thanked for his work doing the competitive shopping for the police car.

Mayor Pyle welcomed Lindy's Candy Cupboard cupboard as a new business in town.

Mayor Pyle asked council to think about replacing the eight police radios and there is a grant available to help with the replacement. Council President Kozuch stated to go ahead with acquiring the funding.

Cousins had no comments at this time.

Malec has become aware of the conditions of sidewalks in town and asked citizens to please make repairs if they are necessary. Citizens are responsible for snow removal and maintenance of the sidewalks.

Malec explained the Zoning Hearing Board is working with an archaic Zoning Ordinance which was passed in 1971.

Malec made a motion to include money in the 2005 Budget to upgrade the Zoning Ordinance. Seconded by Cousins. Motion Carried. 5-0

Tokarek stated he is sorry Council came to an impasse with the Zoning Hearing Board. Tokarek explained he appreciate their hard work.

Tokarek suggested Council coordinate with a local contractor and senior citizens the repair of sidewalks. Tokarek welcomed Rev. Arrington to town.

Rudosky welcomed Rev. Arrington to town also.

Kozuch thanked everyone for all their hard work.

ADJOURNMENT

Rudosky made a motion to adjourn at 8:22 p.m. Seconded by Cousins. Motion Carried. Unanimous 5-0

Lisa Bittner
Borough Secretary

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