

MONDAY, FEBRUARY 18, 2019

Pursuant to adjournment comes now the Starke County Council and meet in a regular session at 5:30PM in the Annex Building Meeting Room, Knox, Indiana, with Kay Gudeman, Freddie Baker, Brad Hazelton, Robert Sims, Dave Pearman, Thomas DeCola and Howard Bailey present, and the following proceedings were held to wit:

The meeting was called to order by Council President, Dave Pearman at 5:30PM. Councilman Baker made a motion to approve the minutes of the January 22, 2019 meeting. Councilman Hazelton seconded the motion, the motion passed with all ayes.

ANSWER TO COUNCIL MEMBER ALLEGATIONS

Council President Pearman address Councilman DeCola in saying he was asked to give a response to the allegations that were raised at the last meeting. Councilman DeCola made a motion to strike from the minutes that part of the discussion, regarding the allegations, during the last meeting. Motion failed for lack of second. President Pearman then revisited the response that was requested and approved during the last council meeting regarding the sworn statements regarding his actions at the AIC Meeting. Councilman DeCola stated that his best response is to follow the rules of procedure and that is all he has to say. Attorney Lucas then asked Councilman DeCola if he is not denying those allegations. Councilman DeCola stated he just wants to be clear he wants to follow the Indiana rules of trial procedure. Attorney Lucas advised him that this was not a trial, this is an administrative proceeding. He also stated that this is an administrative board who made a claim at the last meeting of improper behavior and then was given to this meeting to response to those claims. Attorney Lucas asked if Councilman DeCola has a response at this time. Councilman DeCola stated his response is that Attorney Lucas can respond to him in a plenary format. Attorney Lucas stated for the record Councilman DeCola has not response at this time.

Council President Pearman stated hearing no response from DeCola he is going to recommend to the council that the council schedules this matter for a hearing between 10 and 14 days if that works for other council members. He believes the procedure will include the following: First, being that there is not response the council will accept that response and continue on. Second, by statute and the code of conduct that the council has the ability to penalize Councilman DeCola in some way the council decides as a board and they also have the authority to remove Councilman DeCola from the board. President Pearman entertained a motion to move this discussion to a preceding such as that as opposed to delivering that decision tonight. Motion was made from Councilman Sims to have a hearing on this matter. Councilman Baker seconded the motion passed with 5 Ayes and 1 Nay. There was further discussion between Attorney Lucas and Councilman DeCola about the charges, answering the complaint, and hearing. Councilman Bailey stated he understood it as that during the last council meeting sworn affidavits were presented to all council members, then Councilman DeCola asked for 30 days to answer and respond to these charges. President Pearman then asked Councilman DeCola again if he would like to have a hearing on this matter or would he like the council to decide his fate tonight.

After further discussion about the charges, answering the complaint, and a hearing. President Pearman asked Councilman DeCola again whether or he would like to have a hearing on this matter or he would like the council to decide his fate at tonight's meeting. Councilman DeCola stated he would like to have a factual development on this scenario and under what authority the council has to take action. Attorney Lucas stated according to I.C. 36-2-3-9, it says the fiscal body may 1. Expel any member of the fiscal body for violation of an official duty, and 2. Declare that any seat of any member vacant if the member is unable or fails to perform the duties of their office. A 2/3 vote is required to expel or vacate a members seat. Further discussion took place between President Pearman and Councilman Decola. Councilman Bailey that stated the way he understands it at the last meeting Commissioner Norem read a statement, Councilman DeCola was then asked at the last meeting to respond to the statement and Councilman Decola stated he would respond to that statement in writing by the next council meeting. As a member Councilman Bailey asked Councilman DeCola if he is going to respond by a written statement tonight as he said he would during the last council meeting. Councilman DeCola then responded by saying after he had reviewed the paperwork he had decided that it was not worthy of his response because it was not an official documented cause of action and there was no counts presented and no authoritative authority behind anything.

President Pearman asked Councilman DeCola again whether or not he would like to have a hearing on this matter or he would like the council to decide his fate at tonight's meeting. After further discussion between President Pearman, Councilman DeCola, and Attorney Lucas; President Pearman asked Councilman DeCola again whether or he would like to have a hearing on this matter or he would like the council to decide his fate at tonight's meeting. Councilman DeCola stated he has nothing to say. President Pearman then entertained a motion from the board about the decision that is to be made. Attorney Lucas stated at this point it is the board's decision about what they want to do, in his opinion the person who is subject to the complaint has the right to decide whether or not they want a hearing. If he doesn't want a hearing that is his right to not have a hearing. It is the board's decision as far as whether or not they want to have a hearing to develop facts and look at it more closely or if they want to go ahead and make a decision tonight. If a councilman DeCola does not appreciate the decision that is made he has the right to appeal. The appeal must be completed in court. Councilman Hazelton made a motion to have the hearing for Councilman DeCola. Councilman DeCola seconded the motion, the motion failed with 2 ayes and 4 nays. Councilman DeCola made a motion to strike these proceedings of the subject matter and within the last minutes. The motion fails for the lack of a second.

President Pearman asked Attorney Lucas if Councilman DeCola does have the right to appeal. Attorney Lucas verified that Councilman DeCola would have the right to appeal the decisions made at the meeting tonight. The appeal would be completed through trial proceedings. President Pearman asked if he could appeal to the council and the council holds a hearing for the appeal. Attorney Lucas stated it was not clear that Councilman DeCola requested a hearing. Councilman Hazelton addressed Councilman DeCola stating he seconded the motion he made about the hearing and asked if this means he would like to have a hearing. Councilman DeCola stated the council voted no so he will just forgo that motion. Attorney Lucas stated he has the right to a hearing if he wants one, he stated if he requests one then the council has to give him one. Councilman Sims made a motion for expulsion of Councilman DeCola. Councilwoman Gudeman seconded the motion, the motion passed with 5 ayes 1 nay. Attorney Lucas advised that because Mr. DeCola did not request a hearing he would have to appeal this action taken to the court.

President Pearman reviewed a couple of items. First, he would like to make it clear to Mr. DeCola that the council is asking him not to represent the council in anything. Until there is further actions taken Mr. DeCola is no longer a member of the board. Second, the council will have to make a motion to have the Republican Party fill the now vacant seat. Councilman Hazelton made the motion to ask the Republican Party to fill the vacant seat. The motion was seconded by Councilman Baker, the motion passed with 5 ayes.

SHERIFF DULIN NEW FUND/TRANSFER REQUEST

Sheriff Dulin came before the board to request the approval of Fund Transfer to Establish Covert Law Enforcement Transaction Fund Ordinance. President Pearman explained to the board that Sheriff Dulin would like to establish a fund to work with their CI's in buying evidence. President Pearman asked where this money has come from in the past for these services. Sheriff Dulin stated the Prosecutors Office use to fund this. President Pearman then asked Sheriff Dulin what happens to the compensated guns and weapons as we use to have auctions, what do we do now. Sheriff Dulin stated we do still have them, a destruct order is needed from the court on that case to destroy that weapon. He explained years ago the weapons were sold back to the public but he does not feel that is the right way to do it now and he will not do it now. After further discussion about funding Councilman Hazelton to approve the Ordinance Fund Transfer to Establish Covert Law Enforcement Transaction Fund in the amount of \$5,000.00. The motion was seconded by Councilwomen Gudeman, the motion passed with all ayes. Sheriff Dulin also requested a line item be made for his Farm Funds. Councilman Hazelton made the motion to have a line item created for the use of farm funds. Councilman Baker seconded the motion, the motion passed with all ayes.

CORONER ROSA REPORT

Coroner Jack Rosa came before the board to give a report on the update on the coroner's building and furnishing needed in the coroner's building. He stated the vehicle is fixed and the body cooler is updated. They are working on the ceiling in the restroom that needs to be fixed. He also stated he finished the first part of the coroner's certification. He also wanted to thank everyone for the help with getting everything going. Coroner Rosa also presented a transfer request from 1000.30202.000.0007 into fund 1000.30600.000.0007 in the amount of \$270.69. Councilman Baker made the motion to approve

the transfer request as presented. Councilman Hazelton seconded the motion, the motion passed with all ayes.

CLERK PERSONAL REQUEST

Clerk Manual came before the board to request a pay increase for her newly approved position title of "Office Manager" within her department, this was approved by the Commissioner's last month. She stated she is not asking for more money she will be funding this out of her current budget. The amount requesting is \$996.00 per year for that employees pay. Councilman Gudeman made the motion to increase the pay of this employee by \$996.00. Councilman Hazelton seconded the motion, the motion passed with all ayes.

HIGHWAY CREDIT APPROPRIATION REQUEST

Superintendent Ritzler came before the board to request 50% of the CREDIT revenue for infrastructure improvements. He stated this year they will be replacing Bridge 140 and Bridge 154, which will be the last of the deficient bridges in Starke County. The department will then move to more of a maintenance program with bridges and will replace bridges as they become deficient instead of keep 10-15 deficient bridges on the list. He stated the bridge money will be transitioning to the hot mix trucks routes in the future. Councilman Pearman stated during the budget hearings they will be looking into the monetary amounts that are put into cumulative bridge for next year. Councilman Bailey made a motion to accept the appropriation request of \$710,843.52 for fund number 1112.30610.000.0000. Councilman Hazelton seconded the motion, the motion passed with all ayes.

COUNTY COMMISSIONER TRANSFER REQUEST

The Commissioners presented a transfer requested from fund 1000.30204.000.0025 into 1000.20100.000.0025 in the amount of \$269.99. Councilman Baker made the motion to approve this transfer as presented. Councilman Hazelton seconded the motion, the motion passed with all ayes.

OTHER BUSINESS

President Pearman stated the county has revisited the first responder medical program regarding the first responder calls that the different fire departments make. The departments feels that they would like some type of reimbursement for these calls. He would like to propose to the Commissioners that a committee is formed to address these concerns.

President Pearman requested a transfer from Rainy Day Fund to Cumulative Capital Development to balance out the negative funds in the Cumulative Capital Development from the recent purchase of a new ambulance. Commissioner Norem advised that there will also be a need for new equipment for the new ambulance which will be around \$57,000.00. In the past they would always retire an ambulance and use the equipment from the ambulance they were retiring. However, this year they will not be retiring an ambulance as they will be using one as a transfer unit. After further discussion about the new transfer unit and possible taking over of some fire calls Councilman Hazelton made a motion to transfer \$67,114.24 from Rainy Day Fund to Cumulative Capital Development. Councilman Baker seconded the motion and the motion passed with all ayes.

With there being no public comments and no further business, Councilman Baker made a motion to adjourn the meeting, seconded by Councilman Bailey. The motion passed with all ayes and the meeting adjourned at 6:35PM.

FEBRUARY 18, 2019

Dave Pearman, President

Brad Hazelton, Vice-President

Kay Gudeman

Thomas DeCola

Howard Bailey

Robert Sims

Freddie Baker

Rachel Oesterreich, Starke County Auditor and
Secretary to the County Council