

Council Meeting

September 21, 2010 – 5:30 pm

The meeting was called to order by President Spaetti. Councilmen Spaetti, Ebert, Winsett, Kress, Waninger, Kroeger, Bunner, and Attorney Wetherill were present.

Minutes

08/17/2010 minutes; Winsett made a motion to approve the minutes. Bunner seconded. All in favor.

Additional Appropriations

County General

Auditor – Auditor Shelton requested \$105 for deputy payroll. Bunner made a motion to approve \$105. Ebert seconded. All in favor.

Advisory Plan – Administrator Cail requested \$5,500 for legal fees. Kress made a motion to approve \$5,500. Waninger seconded. All in favor.

Commissioner / Health Insurance – An additional of \$200,000 is needed to cover health insurance expenses. Discussion was had on paying the additional from the Rainy Day fund. Shelton stated funds are needed now to cover expenses, and another request will be made next month for \$100,000. Winsett made a motion to approve \$100,000, advertise a request of \$300,000 from Rainy Day, and reimburse County General the \$100,000. Ebert seconded. All in favor.

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Commissioner / Legal Publications – Shelton requested \$2,800 for legal publications to cover the rest of the year. Ebert made a motion to approve \$2,000. Bunner seconded. All in favor.

Commissioner / Courthouse - \$600 to correct a calculation in the balance in the Maintenance Supervisor's payroll. Ebert made a motion to approve. Waninger seconded. All in favor.

Jail / Jailer, Dispatcher, and Senior Dispatcher – Chief Deputy McDurmon, Shelton, and Roth discussed the need for \$30,000 for Jailer payroll, \$15,000 for Dispatcher payroll, and \$60,000 for Senior Dispatcher payroll. The funds are needed to cover the 27th pay for the hourly workers and the dispatcher positions that were moved from the E911 budget to the Jail budget in County General. Roth presented a chart showing the amount of payroll to be paid through the end of the year. Kroeger requested more information. Winsett made a motion to approve \$10,000 in each line item to allow for more time for review. Bunner seconded. All in favor.

Circuit Court / Psychiatric Services – Judge Dartt requested \$5,000 for psychiatric services required in the prosecution of a case. Kress made a motion to approve. Waninger seconded. All in favor.

EMA / Grant – Director Perdue requested \$6,500 for a cargo trailer to be paid for with a 100% reimbursable grant. Bunner stated a free trailer still costs the county in storage and maintenance. Commissioner Gogel stated the trailer is for training for a new program. Ebert said the county is training people to help themselves. Bunner said the trailer is not free; the more we have the higher the costs and those costs are not mentioned. Winsett agreed with Bunner. Ebert made a motion to approve \$6,500. Kroeger seconded. The motion passed with a vote of five to two, with Bunner and Winsett opposing.

Cumulative Bridge

Machine Shed and Wiring – Superintendent Painter requested \$90,000 for a 60' x 160' machine shed to be put out for bid. Ebert made a motion to approve \$90,000. Kress seconded. All in favor.

Reassessment

Professional Services – Assessor Arnold withdrew her request for funds.

Health Department

Vaccine Grant – Office Manager Etienne originally requested \$10,000 for a 100% grant for a children's vaccine program, she now corrected the amount to \$7,000. Bunner made a motion to approve. Kress seconded. All in favor.

Previously Advertised Additional

Commissioner / Emergency Lightning Damage Repairs – Shelton stated the insurance company issued a check for a partial payment. She will have better numbers next month so this is no longer needed. Kroeger made a motion to deny the \$250,000. Ebert seconded. All in favor.

Pre-Trial Diversion / Transcript – Prosecutor Wilkinson requested \$1,677 for transcripts. Ebert made a motion to approve. Waninger seconded. All in favor.

Transfer

Wilkinson requested a transfer of \$400 from Depositions to Office Supplies. Winsett made a motion to approve. Bunner seconded. All in favor.

Luce Sewer

LTRSD Attorney Lindsey presented a draft of an ordinance to "firm up" the council's pledge of COIT funds to LTRSD, and re-start the COIT payments. Lindsey stated some easements need to be purchased prior to the bond closing and they cannot be funded by the State Revolving Fund loan or the OCRA grant. Lindsey requested the ordinance to be introduced for a first reading, schedule the second reading for the next meeting, and advertise the additional for the next meeting.

Discussion was had on allowing the first reading of the ordinance. Board member Ingram stated he has not seen the ordinance and it was not voted on by the LTRSD board. Lindsey stated it was mentioned at the last meeting that he would be coming before the council but he did not have the ordinance drafted at the time. It will be presented at the next LTRSD board meeting prior to the next council meeting. Board member Yeager stated the board gave their attorney permission to proceed.

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Kroeger stated the council was not going to vote on the ordinance, just introduce it. Wetherill stated this is not unusual; the council has had first and second readings in the past. Bunner asked why it was not taken to the board first. Yeager stated it was discussed and generally understood Lindsey was coming to the council but it was not yet drafted at the time of the meeting.

Winsett asked Yeager if the secretary working at the LTRSD office is full-time. Yeager stated she is part-time right now and working extra time as needed. Winsett stated the council gave the board money after being told she would be working full-time. Yeager stated she is now prepared to work full-time and she has worked extra hours in the last two weeks.

Ingram stated he is protesting the fact that the bi-laws state that the board must give permission for the attorney to present anything to the council in a public meeting. Ingram read the section of the bi-laws: *Article 4-1 Contracts: The trustees may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation but such authority shall be confined to specific instances.* Wetherill stated when an entity contracts with an attorney, they contract with him to take the steps that are necessary to meet the timeline given. It sounds like this was necessary to make the timeline work and will be going before the board for a vote. Wood stated a specific vote may not have taken place but this was discussed several times at the board meetings and it will be up for a vote at the next meeting. He said they are not trying to hide anything.

Bunner stated this is no surprise to the council and he sees no negative consequence to reading it.

Winsett asked the newspaper reporters if they were present at the LTRSD meeting and if they could verify what was said. Dean Bolin stated he can confirm what Lindsey stated. Ingram said Lindsey said he was bringing it to the council but the board did not vote on it. Bolin said yes, that is what he can verify.

Kroeger re-stated the council cannot take responsibility for what happens in Luce Township. If the council attorney says having the first reading of the ordinance is legal then he will vote to introduce the ordinance. The council's role is the grantor of funds not the manager of the project.

Wood stated the first advertisement for bids has been published. A meeting will be held with contractors at the end of September and the bid opening will be October 14. Further discussion was had on the timeline.

Winsett stated he is in favor of a sewer system but he is against all the same issues; the board misled the council to get money.

Bunner stated in order for things to get done, the Luce Township people are going to have to compromise.

Kroeger made a motion to introduce on first reading Ordinance 2010-10. Bunner seconded. The motion passed with a vote of six to one, with Winsett opposing. The ordinance was introduced as follows:

ORDINANCE NO. 2010-10
SPENCER COUNTY COUNCIL
AN ORDINANCE PLEDGING COIT REVENUES TO
THE LUCE TOWNSHIP REGIONAL SEWER DISTRICT

WHEREAS, the Spencer County ("County") Income Tax Council has imposed the County Option Income Tax ("COIT") under IC 6-3.5-6 ("Act");

WHEREAS, pursuant to the Act, the County is a recipient of a distributive share of the COIT ("COIT Revenues") and receives its COIT Revenues monthly from the County Auditor;

WHEREAS, the County has taken the necessary steps to establish the Luce Township Regional Sewer District ("District") in the County in accordance with IC 13-26 in order to provide sanitary sewer service to the communities of Richland, Sandridge, Hatfield, Eureka and French Island, all areas within the District's jurisdiction ("Area");

WHEREAS, the District has determined to issue bonds to finance the construction of sewer improvements for the Area ("Project") and such bonds will be payable from sewer user fees collected in the Area and from COIT Revenues;

WHEREAS, the District has issued notes in anticipation of the its bonds (BANs) to fund preliminary costs of the Project and such BANs shall be repaid with a portion of the proceeds of its bonds;

WHEREAS, the County Council has received a request from the District to provide a pledge of \$150,000 of the COIT Revenues annually to the District to use for the payment of debt service on the District's bonds;

WHEREAS, the District is now in a position to issue its bonds for the Project and needs to finance land acquisition for the Project from the COIT Revenues, as the costs of land acquisition are ineligible costs under the program providing the financing for the District;

WHEREAS, the District has requested that the first payment of COIT Revenues to the District be provided by the last day of October, 2010 to allow the District to complete the land purchase required for the Project;

WHEREAS, the estimated total cost of financing the Project and issuance expenses is now estimated not to exceed \$17,000,000 and the District intends to issue bonds in amount not to exceed \$8,500,000;

WHEREAS, the County has previously agreed to provide the Town of Santa Claus with \$100,000 of COIT Revenues annually over a period of twenty years, which began in October of 2006 and will expire with the final payment in calendar year 2025 ("Santa Claus COIT Agreement");

WHEREAS, the total indebtedness of the County, including the amount of the pledge authorized by this ordinance and the Santa Claus COIT Agreement (assuming all such indebtedness constitutes debt in the constitutional sense under the Indiana Constitution), does not exceed any constitutional or statutory limitation on indebtedness and this pledge does not purport to create an obligation in violation of any statutory or constitutional limitation to which the County is subject;

WHEREAS, other than the Santa Claus COIT Agreement, there are no other outstanding obligations of the County payable from COIT Revenues;

WHEREAS, the County shall retain the right to enter into additional obligations payable from COIT Revenues;

WHEREAS, the County desires to adopt this ordinance to finalize the pledge of the COIT Revenues to the District in anticipation of the issuance of the bonds by the District to fund the Project;

NOW, THEREFORE, BE IT ORDAINED BY THE SPENCER COUNTY COUNCIL THAT:

Section 1. The County, in consideration of the District's desire to proceed with the Project, hereby pledges COIT Revenues to the District, subject to Section 6 of this ordinance, on a parity with the payment under the Santa Claus COIT Agreement, pursuant to the Act and IC 5-1-14-4, for the payment of debt service on its bonds in the annual amount of \$150,000, with equal semiannual installments, beginning in this calendar year and continuing under calendar year 2024. The County shall pay its first semiannual installment of COIT Revenues to the District on or before October 31, 2010 and this first payment of COIT Revenues shall be used by the District to acquire land for its Project. Thereafter, the COIT Revenues shall be paid to the District in semiannual installments on May 30 and November 30 of each year, beginning November 30, 2010.

Section 2. The total indebtedness of the County, including the amount of the pledge authorized by this ordinance and the Santa Claus COIT Agreement (assuming all such indebtedness constitutes debt in the constitutional sense under the Indiana Constitution), does not exceed any constitutional or statutory limitation on indebtedness and this pledge does not purport to create an obligation in violation of any statutory or constitutional limitation to which the County is subject.

Section 3. The County further covenants that it will take no action (including action as a member of the Spencer County Income Tax Council) to rescind or repeal COIT or to take any action that would result in the County receiving a smaller distributive share of COIT than the distributive share of COIT to which it was entitled on the effective date of this ordinance. The County further covenants that it will take no action (including action as a member of the Spencer County Income Tax Council) to rescind COIT as long as the bonds of the District are outstanding

Section 4. Other than the Santa Claus COIT Agreement, the County has not pledged or otherwise encumbered its COIT Revenues, and there are no prior liens, encumbrances, or other restrictions on the COIT Revenues or on the County's ability to pledge COIT Revenues to the District.

Section 5. The County reserves the right to issue obligations, or enter into leases, payable from COIT Revenues on a parity with the pledge made to the District hereunder.

Section 6. If the Project of the District is abandoned or otherwise no longer pursued by the District, the pledge of COIT Revenues made by the County under this ordinance shall terminate at the end of calendar year 2010.

Section 7. This ordinance shall be in full force and effect immediately upon its passage.

Larry Blair asked about the use of COIT funds and stated LTRSD has not put any infrastructure in place for the money spent. Steve Buse stated the money could be used for better things and let SRF pay for these expenses. Ebert stated Luce Township needs to work that out on their own.

American Discovery Trail

Brief discussion was had on a letter from Attorney Patmore regarding the American Discovery Trail, a bike trail across the United States that will pass through Spencer County.

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Ebert made a motion to adjourn. Winsett seconded. All in favor. The meeting was adjourned at 7:12 pm.

County Council,

President

Attest:

Cindy Shelton, Auditor

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