

March 16, 2020

The Board of Public Works & Safety met on Monday, March 16, 2019, at 10:00 a.m. in the City Council Chambers. Present were, Brian Flynn, Linda Wilk, Dana Gault, and secretary to the board.

Motion to approve the minutes for March 2, 2020-Linda Wilk; seconded Dana Gault

Motion Carried.

Marion Police Department-Rescinding Special Officer

Corporate Counsel Tom Hunt: Good morning everyone. I think Linda you may be the only member of the board that was here last year am I right?

Brian Flynn: I was here.

Attorney Hunt: Brian, you were here?

Brian Flynn: Yes.

Attorney Hunt: Okay. I guess for Dana's benefit I will give a little bit of recap but approximately a year ago and I believe it was in April we came before you (chief Haley and I) and former Marion Police officer Brian Sharp to approve an arrangement because Marion Community Schools was in process of developing their own police department and we needed to carry Brian who had just retired as a special duty officer to facilitate that creation at Marion Community Schools. That was Resolution 2-2019. In looking at the minutes this morning you actually, you adopted it but you amended the resolution to indicate that once the police department had been established the resolution itself would be dissolved and officer Sharp would not be considered a special deputy. Well, we have been notified that the schools does not intend to follow through with creating their own department. That they are just going to continue along the way they have been so we would like for you to affirm what you did in resolution 2-2019 and that is indicate that that's designation of special police officer has been dissolved.

Brian Flynn: Any questions?

Linda Wilk: So that means that Brian Sharp is no longer a member of the Marion Police Department not in any fashion right.

Attorney Hunt: I believe what you did last year indicated an intention to do that but...

Linda Wilk: uh huh.

Attorney Hunt: But I would recommend that you reaffirm that so that there is no question about it.

Linda Wilk: I guess what I am asking is once we do that he is no longer.

Attorney Hunt: Yes. There will be... in fact I am not real sure that there's legally a connection by designating him as special deputy but my concern is that in the course of his duties at Marion Community Schools if a lawsuit is brought they would more than likely join the city and our carrier would say to us wait a minute he is not really an employee so we are not going to cover. Now I think. I really think at the end of the day their insurance carrier will stand first in line and cover those expenses but I don't want to worry about it so.

Linda Wilk: Right, yeah.

Brian Flynn: And I as I recall that was one of the topics, the liability of...

Attorney Hunt: That's in the minutes. There was significant discussion of that and I tried to address that last year so we are actually here this morning just to ask you to reaffirm your decision, that it be dissolved so that we don't have that problem.

Linda Wilk: Yeah.

Brian Flynn: Any other questions, comments.

Dana Gault: Will that be a conflict for me to be a party to any decisions because I am on the school board?

Attorney Hunt: I don't think so because you're voting to dissolve a special status for a former Marion Police Officer and I don't think your connection with the Board of Trustees would constitute a conflict to the point you couldn't vote here to dissolve that special status.

Brian Flynn: This was the body that approved it

Tom Hunt: And in fact I think you in my opinion I would argue that it has already been dissolved because of the way you did the resolution but I would feel more comfortable if you just reaffirmed it.

Brian Flynn: Okay, I will call for a motion that we reaffirm the special officer rescission.

Linda Wilk: The rescinding of the special officer.

Brian Flynn: The rescinding of the special officer.

Motion to rescind the special officer-Linda Wilk; seconded Dana Gault.

Motion carried.

Attorney Hunt: Thanks folks.

In unison: Thank you.

Marion Fire Department-Administrative Order for COVID-19

Fire Chief Paul David: Good morning board how are you? I have a paper here that I want to give you that has a description of exactly what it is. I am sure most of you are not familiar with an administrative order typically we would call those S.O.P.'s. Unfortunately, in times that we are in today sometimes we have to act before we can bring it to you as a board. That is why it is an administrative order and now I would like your approval for an S.O.P., basically what this does is outline our response and what each of our personnel is to do on a COVID-19

call or possible COVID-19 call. Again, I apologize for the circumstances but I can tell you this with this thing unfolding and evolving we will probably have more like this as well as Chief Haley will probably have to make some administrative orders as well prior to reaching the board. Again, I apologize for it but it is a good order we just need it passed for S.O.P., we did talk about it with the union president Steve Johnson. He was privy to the meetings we had and he is all for it. So at this time I would like to get approval for it to be a Standard Operating Procedure versus an Administrative Order.

Brian Flynn: Will this language serve as the S.O.P.?

Chief David: Yes.

Brian Flynn:

Chief David: Yes, it will be verbatim. Yes. The only difference will be it will not say Administrative Order any longer.

Dana Gault: It will say S.O.P.?

Chief David: It will say Standard Operating Procedure. Yes, Ma'am.

Linda Wilk: And this is already in effective.

Chief David: It is, we put it in March 12th as you can see in the corner there. Again, with the circumstances kind of dictating what we do we've got to be ahead of the curve on certain things and that is why we went ahead and enforced it then.

Brian Flynn: If there are no further questions on comments I will call for a motion.

Motion to approve this as an S.O.P. for the Coronavirus- Linda Wilk; seconded Dana Gault.

Motion carried.

Marion Fire Department- Open Positions

Fire Chief Paul David: We have got a promotion of three positions within in the department a captain, an assistant chief and a fire prevention officer. I would like to get those expedited and filled as soon as we can. Particularly the shift commander or assistant chief's position, but we have to bring that before the board to get approval to fill those. Unfortunately, I think that we are one of the only departments that has to do that but I am here today for that because it described in our contract to do so.

Brian Flynn: You said there are three positions?

Chief David: That is right captain, fire prevention officer, and an assistant chief's position.

Brain Flynn: But it will all be filled internally.

Chief David: Yes, absolutely.

Linda Wilk: We had on the agenda promotion from captain to assistant chief for today on the agenda we have listed promotion from captain to assistant chief.

Aisha Richard: It is open.

Chief David: Yeah those are open.

Linda Wilk: Oh those are open.

Chief David: Yeah those are open and the only other one was fire prevention officer. That we have as well.

Linda Wilk: Okay. So what do we need today?

Chief David: Basically, I have to get approval from you according to the contract. JP could you look that up please, I believe it was section 18 but I am not positive. We have to get approval from you to either fill the positions or vacate them.

Linda Wilk: Okay, alright. I just wanted to make sure I am clear on what you are asking.

Chief David: Yes.

Linda Wilk: So you are not coming to us today to recommend for someone to be promoted from captain to assistant chief?

Chief David: That is correct. We are not going to do that today.

Linda Wilk: You are not, okay.

Chief David: We have announced it and past administration when I was chief the Board of Works said he promote who you want we will back you on it. This contract language restricts that. We did post it and then I realized it and uh oh and I went back to the contract and said okay we have got to do it through this channel.

Linda Wilk: That is what I have been familiar with since I have been on the Board of Works.

Dana Gault: Does today start our thirty (30) days?

Chief David: We are probably beyond the thirty (30) days because we posted it prior to but we have talked with the union and they said we are fine with that. But again I would like expedite it as soon as we can and fill those positions. That would be great.

Linda Wilk: So when you say expedite it are you asking that in two weeks you'll come back with recommendations?

Chief David: That is correct.

Linda Wilk: Okay, and you are saying that the union is okay with that.

Chief David: Yes.

Linda Wilk: So you are looking for a motion today for us to be able to do that?

Chief David: Yes for me to be able to fill the positions as well come back to you in two weeks with the names of those positions.

Motion to approve filling the positions and Chief David come back in two weeks with the recommendations-
Dana Gault; seconded Linda Wilk

Motion carried.

Chief David: That is all I have other than just to keep you guys informed we will be posting on our Facebook page daily updates that we get from the Indiana Health Department. Those meetings are held at 9:00 each day and as you can imagine our days are somewhat consumed with that right now. I believe Chief Haley was also talking about the same thing on her Facebook as well as the city website. That will be able to help our local council members as well answer some questions that maybe their constituents may have. But that is all I have at this time.

Linda Wilk: If I could just ask. The previous chief was working on the handbook or kind of the employee policies and procedures. Is that still going on?

Chief David: It is. You are talking about Lexipol?

Linda Wilk: Yes.

Chief David: It is and him and I have struggled a little bit with that as far as we have put calls into Lexipol to kind of give us some training and insight. Originally we did talk about because of the cost of it, it went up from \$5,000 to almost \$10,000. We did talk about possibly looking at eliminating and deriving our own but I talked with Mr. Huskey and we have kind of come with a solution to that but it is, yes we are working on that and like I said unfortunately things like we are faced with right now taking most of our time.

Linda Wilk: Yeah, I just wanted to make sure because they were on a path and I just didn't know if that was still...

Chief David: Yeah, yeah it is a great program I love it the cost of it I don't like. Thank you board very much.

Brian Flynn: Thank you Chief.

Building Department- Follow-up of Neighborhood Preservation Ordinance

Herb Spitzer: Morning.

In unison: Good morning.

Herb Spitzer: You may recall probably a couple of meetings ago we discussed a provision in this new general ordinance 12-2019. Dealing with adopting a bond schedule and in that language that you were concerned with appears on page 15 about half way down that page, paragraph H. It talks about the board after notice adopting the schedule providing for a maximum amount of performance bonds applicable to the various types of ordered action. We talked about whether or not we had ever done this before because it has been in the law for a long time. And to my knowledge I think I reported to you that in the roughly 10 years that I have been working with this we had not ever utilized this section of the, it is actually in the statute the unsafe building code. So, I called Fort Wayne. Fort Wayne is the city that I have contacted on two or three occasions in the past when we had question about how they were handling their unsafe building law proceedings. The person that I talked to has been there for some time, she handles enforcement. She told me that several years ago Fort Wayne did adopt a schedule but then they just found it very difficult to deal with it and so they haven't for a number of years utilized this section of the statute. Now while this section that I just read to you says "shall" it refers back to another section which is found on page 14 which provides that after you have a public hearing and somebody says well I can't comply now but if you give me some time I'll do and then you continue it for a period of time. That is where this section comes into play and it says "however as a condition for allowing the additional period the Marion Board of Public Works and Safety may require that a person post a performance bond to be forfeited if the action required by the order is not complied with within the additional period. So it is permissive okay. So you don't have to utilize this section of the law, you don't have to have the schedule is what I am telling you. In most cases where people I think come before the board and say just give me some additional time the practice has been in the past okay we will give you an additional thirty (30) days or sixty (60) days but we are going to schedule it again for you to come back in and tell us whether or not you have complied. If they haven't complied then you issue a demolition order and it is done. I think that as a matter of practice I can tell you that is what they have done in Fort Wayne and I would suggest we do the same thing here.

Linda Wilk: As long as by law that is allowable then I would be fine with that.

Herb Spitzer: Right.

Brian Flynn- I agree. I think you explained it very well, I appreciate that. I don't think that requires a motion because it just information. Thank you so much.

Brian Flynn: Next on the agenda is payment of the bills.

PAYMENT OF THE BILLS

Motion to pay the bills for March 16, 2020- Linda Wilk; seconded Dana Gault.

Motion Carried.

ADJOURNMENT

Motion to adjourn- Dana Gault; seconded Linda Wilk.

Meeting adjourned

Brian Flynn-President

Board of Public Works & Safety

ATTEST:

Aisha Richard- Secretary
Board of Public Works & Safety