

Index Town Council
Monthly Meeting Minutes
March 2, 2009

The regularly scheduled meeting of the Index Town Council was called to order at 7:00 PM by Mayor Bruce Albert.

COUNCILMEMBERS AND ADMINISTRATIVE PERSONNEL PRESENT

Bruce Albert	Patrick Woods
Bob Hubbard	Sean Horst
Dean Johnson	Lisa Stowe, Clerk Treasurer
Karen Sample	

Horst arrived at 7:45.

The meeting was dedicated to the memory of Malcolm Rose, a long time resident and former fire chief.

Minutes from the February meeting were read. Hubbard moved to accept the minutes as presented and with a second by both Sample and Woods the motion carried.

Stowe read the February warrants, numbered 2549 through 2566. Payroll and tax warrants totaled \$4441.30 and all others were \$4540.55 for a grand total of \$8981.85. Johnson moved to pay the warrants as presented and with a second by Hubbard the motion carried.

Prior to public comments, Albert reiterated meeting guidelines. These included:

- It is the Council's meeting, conducted openly in public in accordance with State law and sound democratic practice.
- Members of the public shall at appropriate times be accorded the opportunity to speak and ask questions. Both the number and duration of public comments are subject to limitation.
- No one shall speak without being first recognized by the chair.
- When recognized to speak members of the public shall only speak on the topic on the table.
- Comments and questions shall be addressed to the council; members of the public shall not use the privilege of speaking to engage in debate among themselves.
- As always participants in the meeting are expected to conduct their affairs without verbal attacks on individuals or other abusive conduct.

Snohomish County Sheriff Sgt. Martin informed the Council of recent burglaries. They are happening during the day, and Sgt. Martin asks that people keep an eye on neighbor's homes. Albert said there had been increased vandalism at the Bush House.

During public comments Candace Johnson and members of the Department of Natural Resources (DNR) Reiter Foothills project presented maps and information. Candace thanked Albert, Kim Peterson, and resident Cate Burnett for working with the project over the past year. She presented an overview of the planning process, addressing Index's concerns around the town wall and the critical aquifer recharge area above the town water supply.

Regarding the town wall, DNR is working with the State Parks.

Regarding the critical aquifer recharge area, which is on DNR land, Candace said the town is lucky to have Cate Burnett as an advocate. The maps delineate the recharge area. The County sets out specific regulations that affect recharge areas, like toxic uses. Candace is in contact with Kim Peterson, the Department of Health, the Department of Ecology, and the County for gathering information on how best to protect the area. Currently the group is seeking recommendations for what should happen where, and those go back to the committee.

Johnson asked for clarification that the group is suggesting limiting Off Road Vehicle (ORV) use in the recharge area rather than prohibiting it. He asked how much input Index would have, and prefers to see no use in that

area. Candace said the decision is based on good science and she doesn't know of anything science says that would prohibit use.

Hubbard has a concern about Austin Creek and where it sinks into Deer Creek Flats. If DNR wants to run a road through the area, there is an old logging road that would work, but the area around it needs to be protected as it feeds directly into the water system. Regarding the wall, Hubbard said at the time of purchase the hope was to open a road to the top of the wall using an existing bridge. While he notices the map allows motorized traffic, he hopes the group will allow access for motorized traffic other than ORV's.

Cate said her recommendations have been to completely shut down the recharge area if DNR cannot manage it. Just putting a road through it won't work without management as a road just gives access to ORV's.

Caroll Cochran supports Cate and said the bottom line is that there can be no damage to the water system as the water is one of the best things about living in Index. She also said ORV users come into town driving fast and wondered if information could be given to them. Candace coordinates with the Sheriff Deputies to patrol and inform people. DNR has one officer there one day a week. Sgt. Martin said they average 70-80 contacts a day every time they go out there, and reminded people to not hesitate to call 911.

Albert does not use ORV's but believes they need a place to be. He doesn't know if numbers are growing or areas are shrinking, but usage is going up. Erosion is appalling. To that end, just looking at County code isn't all that should be looked at. If there was a logging operation creating the same mess they would be shut down in a heartbeat. The point is to support continued ORV use but at the same time to control usage and impacts.

Sample was curious about funding. She asked if the funds available were for planning only, and if so what happened next. Candace said they were pursuing avenues to continue to work at Reiter, including looking for grants. Sample said she is with Cate that if there is no money to maintain or manage the road then there shouldn't be one. Sample asked if Cate could report back to the Council on how the town is being represented. Albert said Cate is on the citizen panel and both she and Kim Peterson have been in constant communication around town concerns. There is also a website where minutes from meetings can be read. When a formal proposal is finished the town involvement will jump up several notches.

Yvonne Lawson asked the Council to give permission for the Art Festival to be held on August 1st. Woods filled out a Special Events Checklist but was not able to get it to Stowe in time for presentation. Albert is happy to see the Festival happening again and the Council will look at the Checklist at the April meeting.

David Cameron asked if it was possible for a water hookup to be installed at the community garden. Sue Cross feels it is reasonable to charge a fee from the users to recoup the installation cost. Albert and Bill Cross are willing to donate labor. The gardeners would be responsible for collecting the fee, and the spigot would be used for the garden only and not general use. Stowe said if there are no gardeners there won't be a way to recoup costs, which should be considered since town revenue is going down. Sample asked if funds could be used from the Wojnich estate, and if those funds could also be used to fence the property, which would help limit use of the spigot.

Horst moved to put in a water service at the community garden on 4th and Avenue A. Sample seconded the motion and then moved to amend it to add using Wojnich estate funds. Johnson seconded the amendment. Horst moved to amend the amendment to add wording charging a \$15 annual fee per plot for use. Sample seconded the amendment. The full amended motion reads as installing a water service at the community garden on 4th and Avenue A, using funds from the Wojnich estate and charging a \$15 annual fee per plot.

David Cameron said the gardeners haven't decided how plots will be allocated. After discussion it was agreed that a plot will have a designated size. The gardeners will be meeting soon and will bring back to the council information on plot size.

Sample moved to table the motion until the next council meeting. With a second by Johnson the motion carried.

During Council comments Sample talked about music in schools and how it has been part of No Child Left Behind, but has not been funded. She presented a petition for funding Arts as a core part of education.

The Planning Commission continued working on the Comprehensive Plan, reviewing the Land Use Element. There is still an open position.

There was no maintenance report as Cross is out of town. His son is defending his doctoral thesis on physics. The Council offered congratulations to Will.

Albert and Peterson worked on, finished, and mailed off a stimulus grant application through the Department of Health for water system improvements. These include upgrading substandard mains, work on hydrants, valves, the water system road, and security. Albert has no idea if Index has a chance but if the town gets the grant there is no matching fund requirement. The challenge is that stimulus grants are coming through on short notice and need to be shovel-ready projects.

Albert presented the Title 14 land use ordinance. He pointed out that creating the ordinance is the job of the Council, but he now has it ready for a vote. He created a resolution to go along with it, setting a fee structure. The resolution is applicable whether the new version of Title 14 is adopted or not. Historically the town has processed applications for free but they are getting more complicated and taking a lot of the mayor's and clerk's time.

Hubbard moved to adopt Resolution 09-02 setting for a fee schedule for land use applications. With a second by Sample the motion carried.

The amended ordinance clarifies time limits, public hearings, and what requires Council action. Sample said she has looked this over and based on reading it feels comfortable with it. She moved to adopt the ordinance and Hubbard seconded. Stowe said there was no ordinance number, or wording typical in the ordinance cover sheet. Albert said if there was any question as to form it should be corrected prior to adoption. The Council elected to create wording at the meeting. The ordinance cover sheet will read: "Whereas the current land use ordinance is in need of amendment and updating, be it hereby ordained by the Index Town Council that Ordinance #404 repeals and replaces the previous Title 14 chapter."

Hubbard moved to amend the motion to add the ordinance wording and with a second by Sample the amended motion carried.

The Bush House is suffering from increased vandalism and there have been questions raised about the town's role. Albert gave the Council a copy of an opinion from Municipal Research stating that there is likely no potential liability for the town.

Stowe presented a letter of intent from Snohomish County Drug Task Force. Index participates with them through an annual interlocal. Last year Albert signed the letter with a notation that the interlocal would still have to be reviewed. The letter will be signed the same way this year.

Stowe presented Resolution 09-03 relating to designating May as the Big Read month, to support reading. Johnson moved to accept the resolution as presented and with a second by Sample the motion carried.

Under Business and Land Use applications, the waterway along 9th street was discussed. At issue is work being done in and around the waterway and the problem of snow. Albert had a handout with follow up information from a meeting with property owners. Of paramount importance is that the waterway drains freely. He thanked both parties for attending, and for their patience.

Susan Susor commented on the snow coming off their roof. There was an extremely heavy snowfall this year, and prior to that they had installed ice dams which were ripped off by the snow. The Susors will continue to look at the problem, but want it known that they had attempted to be pro-active. She asked if she would need permits to plant native plants within the ten foot buffer zone. Hubbard said native plants are allowed, and the critical areas ordinance has a list.

One of the suggestions for the waterway included culverting part of it. Albert said if that was done there should be agreement between both parties on how to maintain it.

Mike Finley does not want to see a culvert installed because of safety. He feels the problem is not the waterway. He said he cut back plants and removed rock as he was asked to. Albert, as a point of order, said he did not ask the Finley's to do that work. Mike feels the problem is the new metal roof and the culvert is just a fix to something that needs a roof fence instead.

Johnson asked if the only area suffering damage was near the roof and laurel plants. Dawna Finley said it wasn't vegetation but snow that obstructed the flow.

Susan said the new roof has the same pitch line as the old one. She said that the relationship between both parties means there was no communication that there was a problem when snow came off the roof. Dawna said there was a tenant.

Albert said it was fair to make the observation that this year was unprecedented in the amount of snowfall. So to a degree the issue this year is an exception. Tom Susor said the snow in the waterway was on top of bushes that were never trimmed and if the bushes weren't in the waterway it wouldn't have dammed. Evidence of the waterway overflowing started above the site, not at the house, and was a result of being dammed by debris and rocks. Mike said it did dam up when it started to flood, and the whole waterway backed up and filled with sediment. He said he called Cross but did not get a response for three hours. Stowe clarified that when Mike called he asked to speak to Cross and she told him Cross was not working for the town that day and she wasn't sure when she'd see him to pass on a message. Mike did not tell Stowe there was any urgency in getting hold of Cross. Stowe also asked both parties what action they wanted from the Council.

Albert asked the Susor's what they expected from the Council. Susan would like clarification of what can be done at the waterway as there has been a lot of digging along the waterway in the buffer. She would like enforcement of only allowing native planting. She knows there are legal issues that won't be dealt with at the Council meeting. She's concerned with erosion. Tom said the drainage is not an issue between the Finley's and them, but also concerns all the properties above them since this waterway drains them all. He feels there should be an easement all the way up the hill giving the town control.

Mike knows the waterway used to be used by the town, and that he owns both sides of the waterway. He sees the problem as the building and the roof that caused flooding. While the building isn't a town issue, he feels the flooding is. Albert asked how, and Mike said that the town allowed the Susor's to replace the deck where the old one was so that now the new roof adds to the problem. He feels the easiest fix is to have something on the roof so snow won't slide into the creek.

Albert proposed tabling the topic until next month in order to allow the Council to investigate. Johnson asked if the main interest is to repair the waterway and its edges. The Finley's main interest is in keeping snow from falling off the roof. The Susor's have no objection to leaving the waterway open. Horst asked if the property lines are clear if he looks at the area. Susan said there are markers in front and back and they can run a line to show where the property line is. Horst asked if the waterbed was town property. Albert said no, his understanding is once it is past the Avenue A right of way it becomes private property.

Albert asked the Susor's if they were adverse to installing a snow fence. Susan said no, that they were already looking into that. Albert asked the Finley's if they were adverse to addressing the vertical cut. Mike said he had already rounded the edge and put in rock.

Albert thanked both parties and said the Council will think it over. He is hopeful as there was no dissension that the waterway needs to be kept clear and sloped, and there is no opposition to preventing the snow from coming off the roof.

Ordinance #400 relating to animal control was presented again. Fines were changed based on feedback from Sgt. Martin and the Evergreen Court. Hearing dates were changed. Animal Control Officer Bob Foster submitted suggestions. Albert said the Council could choose to allow no dangerous dogs at all. Sample moved to table the ordinance, but with no second the motion died.

Sample feels if a dog bites, it is dangerous, period. Her biggest problem with the ordinance is the definition of 'severe injury'. She feels if she is bit where skin is broken, with no harassment or trespass on her part, then the current definition allows a lot of space for someone to not take responsibility. Albert said given Sample's

comments he would like to table the ordinance for a month. Susan Susor agreed with Sample, as even a puncture can result in infections requiring surgery. She said it might be possible to add wording extending to medical treatment.

Hubbard had concerns about bites where there is no recognizable injury and how that has the potential to be used in personal neighbor problems. He felt if a bite was recognizable the dog should be declared dangerous. Albert felt Hubbard raised a good point regarding the question of proof if the only two parties involved are the dog and the victim.

Woods moved to table the ordinance and with a second by Horst the motion carried.

As there was no further business Johnson moved to adjourn. Horst seconded the motion, and the meeting was adjourned at 9:30 pm.

Adopted by the Index Town Council this 6th day of April, 2009.

Signed: _____
Bruce Albert, Mayor

Attest: _____
Lisa Stowe, Clerk/Treasurer