Index Town Council
Monthly Meeting Minutes
April 5, 2010

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
Karen Sample
Patrick Woods
Pete Gott
Sean Horst
Lisa Stowe, Clerk Treasurer
Kim Peterson, Water Manager and Flood Plain Coordinator

Hubbard was ill and his absence excused.

Albert publicly thanked resident Ed Boress for his assistance in repairing the town computer.

Minutes from the March meeting were read. Gott moved to accept the minutes as presented and with a second by Sample the motion carried.

Stowe read the March warrants, numbered 2805 through 2827. Payroll and tax warrants totaled $9972.54 and all others were $5538.76 for a grand total of $15511.30. Berkadia is the new name of Capmark, the company carrying the water bond. The warrant to resident Tim Loftis was for power washing the tennis court of the park. Woods moved to pay the warrants as presented and with a second by Gott the motion carried.

During public comments resident Dana Starfire invited residents to participate in World Labyrinth Day on May 1st at 1:00 at the tennis court. The event will involve fewer than fifty participants and meets all requirements for not needing a Special Events Checklist. Horst said Dana's labyrinths are fun and encouraged attendance.

Resident Etta Hunter complained about pet owners allowing their animals to defecate on public and private property, including the beach. She asked if the town would put up a sign, as well as a garbage can. Sample asked if there was Wojnich money available, which there is. Stowe said a few years ago she attempted to put up a box with doggie bags for the trail to the beach but was told it was private property. She also looked at the garbage can question but there was a fear that it would result in a large garbage bill for the town.

Albert clarified that the beach is State property, and said there have been similar problems in the park and elsewhere in town.

Gott asked if this was addressed in the animal control ordinance, which it is. Residents are required to clean up after their dogs.

Woods said there is a box with doggie bags at the school but it is set so far back that you have to walk up to the school door to see it.

Horst said he would like to see if something like this could be done in public places, although he sees that it would be easy for people to pull in and dump garbage.

Starfire said it would be nice to extend that to the trail under the railroad bridge and asking riders to clean up after their horses.

Boress suggested not allowing dogs on the beach. Sample said she'd hate to see that happen and thought the town should cover the cost of garbage even if it meant raising rates. But if the town provided a place for the garbage then it won't show up elsewhere.

Albert will have Stowe and Cross put up something in the park and will discuss with the Historical Society how to address the beach issue.

Resident Anthony Vega is in litigation with the Forest Service regarding the old trap grounds and using it for a baseball field. He is hoping to hold fundraisers. Currently his baseball team is practicing in Skykomish and up the North Fork.

Resident Susan Susor asked if there was a date set for a Spring Cleanup. Cross was unavailable, but Stowe believed he was working with the County. Since one isn't set yet it will most likely be in May.

Under the Sherriff's report, Sgt. Martin was welcomed back. He would like to set up a Block Watch meeting to start that program, and to go over current crime trends. Resident Sandy Gordon asked if the Block Watch meeting would be for people in town only or if the surrounding areas could be involved. Sgt. Martin would welcome anyone who wanted to attend.

Under council comments Sample continues to work with Verizon and is hoping to have them sell the town a T1 line that could be used until fiber was available.

The Planning Commission did not have a quorum.

Under the maintenance report, Cross was not available due to the fire department call.

Albert presented Resolution 10-02 in support of the Index School Levy. Horst moved to accept the Resolution as presented and Sample seconded the motion. Sample clarified that the Resolution would not benefit her directly or bring her job back, but was only to keep the school operating as it has this past year. Vega said support of the levy could be posted in his local newspaper. With no further discussion a vote was called. Three voted in favor and one abstained.

Albert requested permission to enter into the Interlocal for Jail Services. It is essentially the same interlocal as last year, with fees about $65 per day, including charges for booking and any illnesses while incarcerated. He reminded the Council that the town is responsible for enforcing its laws. Gott said he would like to read the interlocal prior to voting. Sample asked if the deadline for signing was before the next Council meeting, could the Council move to enter, and if not could it be delayed to next month. Albert wasn't sure. He said he did not want the contract to lapse and reminded the Council that the Animal Control contract with the County was allowed to lapse at a time when the County was not issuing new contracts and so the Town has been paying a higher fee. He asked the Council what they would do instead if they elected to not sign the contract. He also said that providing each member with a copy of one hundred pages and adding in Stowe's time makes it expensive, and how many of those copies would realistically be read when packets don't get picked up until the day of the meeting. But if the Council wanted to wait a month he'd be happy to let it sit. With no further discussion, Sample moved to enter into the Interlocal for Jail Services and with a second by Woods the motion carried with one abstention.

Albert said the volume of paper through the Town Hall is staggering and he needs at least one full day a week to keep up on it and would like guidance from the Council if they want to see more material.

Albert met with Sgt. Martin and proposed hosting an open house with food, for residents to meet the deputies. He will work out details and get that information back to Sgt. Martin. Sample asked if that could include the Block Watch meeting. Albert felt this was a good idea and Sample will set up a time and contact Sgt. Martin.

Stowe requested point of order information. When motions are voted on the minutes do not reflect the names of each Council member and what their votes were. Is that proper or should minutes reflect names when there is abstaining votes. Albert said votes were public record and when the votes are unanimous it is fine to not list names, but otherwise a name should be listed.

Albert sent a letter to the Sportsmen's group with a list of six things needing to be taken care of on town property abutting the old trap grounds. To date only two things were taken care of and the Sportsmen's have indicated they no longer have anything to do with the property. The letter gave the Sportsmen six weeks to deal with the issues. At that time the town will have to clean up whatever is left. Vega asked what things remained on the list and Albert said issues with wiring, large old tires and plumbing.

Albert reported on the Shoreline Master Plan Update grant. He has set up a tentative meeting between the Department of Ecology and Town staff to discuss difficulties with submitting contract deliverables and reimbursement requests. Items are submitted, are returned with requests for more information, are resubmitted, and then come back with even more requests. The contract recommends hiring a consultant, but Ecology has made it clear if the Town does not hire one the Plan will not be approved. Staff have now reached an impasse. Town funds expended to date are around $1,000. Gott asked if anyone was welcome to attend the meeting. Albert said it was only for staff but a Council member could sit in.

Peterson attended a meeting for the National Hazard Mitigation Plan that affects anyone with flood insurance in Town. The Town's current rating for flood insurance is 6, with ratings starting at 10. A rating of 6 gives a substantial discount for flood insurance rates. In the new plan the Town must address other disasters such as wildfires, earthquakes, terrorism and loss of services. The meeting was long and complicated and involved lots of CD's and paper. Once the Plan is done the government wants to see action items completed. Whatever the Town comes up with will have to be followed by action.

Sample asked if this would include things like drills and retrofitting, and if it could focus on the river. Peterson said yes, and there is a spreadsheet to assist in planning but that the Town did not want to pick so many projects that they can't be managed. Sample asked if there was funding and Peterson said it was imaginary but that the Town could create projects and include wording that they could be done if funding was received. The deadline for this Plan is May 7th and Peterson will work with Stowe. The Plan goes to the Hazard Mitigation group and then the draft comes back to the Council.

Horst said this sounded like a crisis action plan and would the Town find areas where there won't be federal assistance. He also asked if it could focus only on the biggest hazard. Peterson said the Plan has to address all hazards. Stowe created the bare bones of it last year but now it needs more. Horst asked if a committee could work on it. Peterson said Index is mandated to use the formula at this point and then it will come back for everyone's involvement. Albert asked if Peterson could use Horst for legwork and Peterson said yes, she would get him copies. Horst has worked on similar projects for Steven's Pass.

Kory Whitcomb asked if the insurance rating of a 6 included outlying areas. It is only for the Town limits. Albert said one of the best ratings was in King County at a 2. Snohomish County has a rating of 8 and most municipalities run 5's or 6's.

A few weeks ago Albert gave Council members a CD with a FEMA Model Flood Plain Ordinance. It is not currently up for action although when it is at the adopting stage it will be. Changes in this model include broader definitions of the floodway, and more restrictions on development, including requirements for no-rise studies and biological assessments. If adopted, this Ordinance will make it more difficult and expensive to do any development in the flood plain. There are few options, including not adopting the Ordinance or prohibiting all development in flood plains. Failure to comply with this Ordinance will result in elimination of the flood insurance program. Currently there is a comment period open to FEMA on the model. Albert does not have any comments at this time. However everyone got the CD and tomorrow is the deadline so if Council members have comments he asked them to get those comments to Stowe.

Stowe has completed the 2009 Financial Statements and they are available at the Town Hall.

Gott has concerns about trees on public property leaning toward his home, and a ditch that is filling with sediment. Albert will review those problems with Cross. Sample asked when the ditch was put in, which was done in 1994 or 1995. She asked how bad the sediment problem was and if it was a job for heavy equipment. Gott didn't know and Sample wondered if other ditches should be reviewed. Albert said hazard trees threatening houses are exempt from all 'hoopla' and this is true for the Town as well as for the private homeowner. As Horst is in charge of Public Works, he will get together with Gott and make an assessment.

Stowe received a call from a university student working on GIS mapping. He is offering to map Index as part of his university project. It would give the Town much needed information that can be used as part of the Shoreline Master Plan update. Residents may see him around town measuring utility poles and mapping.

The Town computer has had two crashes within a couple months. Options include purchasing a backup battery and a surge protector, which will be needed even if a new computer is purchased, or purchasing a new computer. Stowe has budgeted for the purchase of a fire safe and those funds could be used for a computer although a safe is needed. Sample said to buy the computer, and if needed do a budget amendment for the purchase of a fire safe. The Town needs to be up to date and functioning. Albert said the cost would be spread over all funds. He is in agreement with Sample although a fire safe is also a priority as the Town is in danger of losing paper records. Starfire asked what size fire safe was needed. It should be a four drawer letter size, with a rating of at least one hour. Stowe said she priced them at around $1300.

Stowe received a call from Railroad Management regarding the high charge for the water line crossing Railroad land. Rebecca with the Management Company said the Railroad had made a mistake and charged us for the Crescent Trail which we own, and as such the fee next year should be cut in half. Stowe asked her if that meant there would be a reimbursement to the Town for the last two years and she said the Railroad did not do reimbursements. Stowe requested one anyway since this was a mistake on the part of the Railroad. Rebecca said she would research this and send a letter to the Town regarding the mistake. That was roughly three weeks ago and no letter has arrived. Gott asked if Rebecca gave any reason for the lack of response to repeated calls and letters, and Stowe said no.

At 8:15 pm Albert called into order a Public Hearing to review a Shoreline Exemption request. Charles and Judy Davis have applied to the Town to build a bathroom addition to their home. The site is not in the 100 year flood plain, not in a critical area, and has no zoning issues. But because it is within two hundred feet of the shoreline, the application brings in the Shoreline Management Act and requires a permit for Shoreline Substantial Development, an exemption, or a variance.

Albert reviewed the requirements for a Public Hearing. Comments received can only be relevant to the project, in this case, the Davis's request for an exemption from having to get a Shoreline Substantial Development Permit. WAC 173.27(g) is relevant and was reviewed. All parties requesting that the hearing be continued will be considered. The Council must be impartial and must disclose any communications on this project.

Albert asked if any Council member had visited the site, which none have done. Stowe completed a site visit as part of the Land Use Application process. Gott has talked to the agent, Kory Whitcomb.

Albert asked any persons wishing to be notified of the Council decision to let Stowe know.

Whitcomb is representing the Davis's, and said the application is straightforward, remodeling a bedroom and adding a bathroom. The maps show the new construction and the existing single story home. There may be some impact to the septic system as he has not been able to find any as-builts from the Health Department. Any impact may simply be from lack of knowledge of where the drain field lies. Whitcomb has been in contact with a licensed designer and there is plenty of room in the back to put in a new drain field and reserve if needed. Albert asked if any of the septic area was within the hundred foot buffer of the river, which it is not.

Albert asked if there were any comments or testimony from the public or the Council, which there was not.

Albert asked if the applicant needed to clarify anything, and Whitcomb said there was not.

Albert asked if Whitcomb was uncertain as to the exact location of the drain field. Whitcomb knows where the tank is and believes he knows where the drain field is. He suspects it is a gravity system and is already approved for a three bedroom house and may only require a modification or repair permit from the Health District. He is trying to anticipate problems. Albert asked at what point he will initiate a repair. Whitcomb is going with designing a new drain field and abandoning the old one for a lot of reasons including age and being unable to prove the exact location. Albert asked if there was a design yet and Whitcomb said no because of having to go through the Town process before submitting.

Albert said the septic issue is independent of the function of the hearing, which was for the Shoreline Exemption request. However, with Whitcomb having said he was going to do a repair on the drain field, Stowe will have to have that in hand prior to issuing a letter. Peterson clarified that prior to anything going through Snohomish County the Town had to approve the project.

Albert said what is on the table is the Shoreline Exemption request. What is not subject to the hearing is the details of the land use application. If a Shoreline Exemption was not needed this application would be administrative only, not requiring Council or Planning Commission involvement. If the exemption is granted, a septic design should be presented to the Town since the application states there will be a repair on the drain field.

Whitcomb said he was not told a septic permit would be required under the SEPA application and he's not even sure he needs a septic design. Albert said if the Health District grants a permit the Town can't deny it. Whitcomb said Snohomish County will not grant a permit without being signed off by the Health District.

Sample said the Exemption request needed to be dealt with. If Whitcomb decided he needed to do a septic repair then he should come back to the Council, but that they couldn't work on the septic issue until the Exemption was dealt with. Albert, as a point of information, said the paperwork would not have to come back to the Council because it was not subject to Council review under the Land Use

Ordinance. What is subject for Council review is the Exemption request. After the Exemption is granted all Whitcomb will need is a building permit and if the system is adequate he's good to go and gets a letter from the Clerk. If the system has to be repaired or moved, then the Town needs to approve the design, done by a licensed septic designer. Albert suggested backing up and dealing with what was on the table.

Albert summarized the Exemption before the Council and stated that the Council had the following options: to continue the meeting, hold the record open, take the application under advisement, deny, approve, or deny with conditions.

Sample moved to approve exempting the project from requiring a Shoreline Substantial Development Permit. Horst seconded the motion and the motion carried with Gott abstaining.

The Public Hearing was adjourned by Albert at 8:50.

Stowe told the Council that in the past, the Town has deferred septic issues to the Health District and in one case gave the applicant a letter of project approval that included a stipulation that no construction could start until an approved septic design was presented to the Town. Albert asked if this was acceptable to the Clerk and Stowe said yes. Albert did a final review of what land use applications require Council review, to reiterate the fact that the Davis application does not.

There were no Business and Land Use applications at this time.

Under Other Business, a Special Events Checklist for a 4th of July picnic and parade was presented. Horst moved to accept the Checklist as presented and with a second by Sample the motion carried.

A Special Events Checklist for the Art Festival was tabled last month in order to research costs for hiring off duty deputies. Stowe presented information on costs, minimum time requirements, and how many deputies were recommended for the size of the Festival.

Albert said questioned whether a police presence was needed, and if so, who should pay, the Town or the Festival, and said it could be argued either way. Special Events incur costs and the Town has been reasonable in the past about not charging fees.

Sample would like the cost to be shared. She asked if the Festival had the budget to pay for one deputy while the Town paid for a second. She said the Festival benefits non-residents as well as residents and so the cost should be shared. Albert asked her if she felt there should be a police presence. Sample did see some drunkenness in the park last year but has seen worse cases in the past and most were taken care of by peers. She would like to see some freedom in a small town but does not want people injured or property damaged.

Gott feels the way the Festival is growing there will be a need in the future but not necessarily this year and maybe the Town could pay for the first year with the understanding the Festival pays next year. He said the Festival also need to look into providing special events insurance and the Town's insurance carrier, AWC, was appalled that the Town did not require insurance.

Woods said he could foresee needing more of a police presence and for it not to happen because it can't be afforded is hard to swallow. As the Festival continues to grow he anticipates a time when this is inevitable. He feels it is enough of a benefit for the Town to justify the Town paying for the total cost, but can also see the benefit to splitting the cost.

Horst didn't see problems last year from his standpoint performing with the band. He doesn't feel there have been any stories about people being threatened.

Resident Susan Susor said that having one or two deputies won't break the bank and would the Town accept donations. She said it seems for the amount of money this shouldn't be an issue.

Sgt. Martin asked when the date of the Festival was, and said it might be a matter of simply rearranging his schedules so that a Deputy was here during a normal schedule.

Peterson said that as the issue of insurance was brought up at the meeting the Council had a legal responsibility to act on it. She didn't realize the Town was not requiring Events insurance and this was a bigger issue than the police presence. Susor said last year the wind came up and there was a lot of damage and participants could have sued for that damage. Art Festival Chair Yvonne Lawson said that maybe there shouldn't be a Festival if they had to jump through so many hoops.

Albert remembered a Halloween event where a person broke their leg getting out of the Witch Mobile. The Special Events Committee at that time ended up with a claim against the organization and a bill of several thousand dollars. Fair or not, he said this was the world we lived in.

Resident Blair Corson said that his father had offered police presence but that after receiving a rude and offensive letter from the town, his father had decided to not participate. Albert said he was not aware of the Town sending a letter and asked to see it but Corson did not have a copy. Stowe said she did not send a letter. Corson said the letter stated there had to be an agreement in place between jurisdictions, and Gott told him that information was correct.

Starfire asked what the cost for insurance would be. Gott said he believed it was reasonable but that AWC referred the applicant to a different carrier in the insurance pool. Peterson said years ago the Tavern got insurance for the Dart Tournament and she could help Lawson with obtaining the insurance.

Albert said there were two issues before the Council. One was the police presence, and Sgt. Martin will get back to them about the possibility of having deputies available and asking Festival and Town staff to assist in identifying problems. The other is the insurance, and Albert would like the Festival to come up with what the cost will be, and to have the insurance. He is willing to vet the Festival out one more year but wants this on the table for future Festivals. As the Mayor, he also wants parking and traffic dealt with and that 5th Street cannot be blocked like it was last year.

Gott asked for clarification that Albert was not requiring insurance this year. Gott then moved to accept the Art Festival Checklist as originally presented and Sample seconded the motion. Albert asked if there was interest in amending the motion to require an effort to be made to obtain insurance. Horst moved to amend the motion to ask the Festival to make a whole-hearted attempt to obtain insurance. Woods seconded the amended motion and with no further discussion the amended motion carried. Albert said it was a sobering thought that if the planets lined up wrong the promoters of the Festival could stand to lose everything they own, even if they are a non-profit group, and the Town could also stand to lose.

Sample said the Town has been lax in requiring events insurance and the Council should look at this again and think about when it should be required. Lawson asked if this should apply to the 4th of July Checklist and Albert said it should apply to everything. He will have Stowe research this.

Stowe said the proposal from the Art Festival regarding police also stated that there would be an increase in traffic and people because of Sky Fest. She wanted to clarify that in approving the Art Festival Checklist the Council was not approving Sky Fest as no application had been submitted. Corson is working on gaining permits from the Forest Service and once those are approved they will apply to the Town. Stowe thanked him.

Peterson told Corson that there are grant funds available for investments in businesses that depreciate.

As there was no further business Sample moved to adjourn. Horst seconded the motion, and the meeting was adjourned at 9:35 pm.

Adopted by the Index Town Council this 3rd day of May, 2010.

Signed:_____ Attest: _____

Bruce Albert, Mayor Lisa Stowe, Clerk/Treasurer