

Council Meeting  
October 19, 2010 – 5:31 pm

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

Budget Adoption

Spencer County – Ebert made a motion to approve the Spencer County Budget. Kroeger seconded. All in favor.

Solid Waste – Bunner made a motion to approve the Solid Waste Budget. Kress seconded. All in favor.

Carter Fire District – Kroeger made a motion to approve the Carter Fire District Budget. Waninger seconded. All in favor.

Minutes

09/15/2010 Budget Hearing minutes; Winsett made a motion to approve the minutes. Kress seconded. All in favor.

09/21/2010 Budget Review minutes; Ebert made a motion to approve the minutes. Bunner seconded. All in favor.

09/15/2010 Budget Hearing minutes; Winsett made a motion to approve the minutes. Kress seconded. All in favor.

Additional Appropriations

County General

EMA Training - \$1,352 was requested for a 100% reimbursable grant to send Director Perdue to the All Hazards Incident Management Team Conference. Kress made a motion to approve. Ebert seconded. All in favor.

Sheriff / Overtime - \$5,000 was requested for Sheriff overtime. Kress made a motion to approve. Bunner seconded. All in favor.

Jail / Overtime - \$10,000 was requested for Jailer overtime. Ebert made a motion to approve. Waninger seconded. All in favor.

Jail / Jailer 27<sup>th</sup> pay - \$11,570 was requested for the 27<sup>th</sup> pay.

Jail / Senior Jailer 27<sup>th</sup> pay - \$441 was requested for the 27<sup>th</sup> pay.

Jail / Dispatchers 27<sup>th</sup> pay - \$48,937 was requested for the 27<sup>th</sup> pay. Kroeger made a motion to approve the three 27<sup>th</sup> pay requests. Kress seconded. All in favor.

Health

PERF - \$3,200 was requested for PERF in the Health Department. Ebert made a motion to approve. Kress seconded. All in favor.

Riverboat

Drug Court Local Match - \$14,452 was requested for the first year of the local match needed for the Drug Court Grant. Richard Hedrick discussed the grant the county received to improve and expand the drug court. Spencer County was one of only six counties to receive the grant from the Office of Justice Programs. The county will receive \$137,621 over a three-year period. The county match is \$45,873. The grant will allow the county to pay for training of two Southern Hills Therapists in the Matrix therapeutic model, pay for an increase in the number of drug court participants, help expand the educational and employment opportunities, and offer life and vocational skills training opportunities. Winsett made a motion to approve. Ebert seconded. All in favor.

Rainy Day

Health Insurance - \$300,000 was requested for Health Insurance. \$100,000 will be used to re-pay County General for the additional approved last month. Kroeger made a motion to approve. Bunner seconded. All in favor. Shelton stated another additional will be requested next month. The council agreed the request should be from Rainy Day.

LTRSD / COIT / Ordinance 2010-10

LTRSD Attorney Lindsey stated the district is requesting the approval of Ordinance 2010-10, the approval of the Agreement Regarding Ordinance 2010-10, and the COIT additional. The Agreement states:

WHEREAS, the Luce Township Regional Sewer District ("District") has requested that the Spencer County Council adopt Ordinance Number 2010-10, "An Ordinance Pledging COIT Revenues to the Luce Township Regional Sewer District" ("Ordinance"); and

WHEREAS, pursuant to Section 1 of said Ordinance, the first semi-annual installment (\$75,000) shall be paid to the District on or before November 1, 2010 and shall be used by the District to acquire land for its Project (as defined in the Ordinance); and

WHEREAS, the District only expects to need approximately \$19,000 of the \$75,000 to acquire land before the closing of the District's bond issue on or before December 31, 2010; and

WHEREAS, the \$56,000 balance of said first semi-annual installment is expected to be needed for land acquisition that occurs during construction of the Project;

WHEREAS, the District expects to sell its bonds to the Indiana State Revolving Loan Fund Program ("SRF Program") to finance the Project;

WHEREAS, the SRF Program requires that all funds for the Project be on deposit with the bank serving as the trustee for the SRF Program ("SRF Trustee Bank");

WHEREAS, funds for the Project must be on deposit with the SRF Trustee Bank on or before the date of delivery of the District's bonds to the SRF Program and such funds include the COIT to be provided to the District for land acquisition; such funds will be held in trust by the SRF Trustee Bank and may only be used for the Project costs;

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. The first semi-annual installment of \$75,000 of COIT funds pledged by the Spencer County Council shall be paid as follows:
  - A. Nineteen Thousand Dollars (\$19,000) shall be paid to the District on or before November 1, 2010 to enable the District to acquire land for the Project prior to the closing of the District's bonds with the SRF Program.
  - B. Fifty-six Thousand Dollars (\$56,000) shall be paid on behalf of the District to the SRF Trustee Bank on or before date of delivery of the District's bonds to the SRF Program to be used by the District for further land acquisition during construction of the Project. The District shall advise Spencer County of the date when funds must be transferred to the SRF Trustee Bank and shall provide Spencer County with instructions for wire transfer of such funds or a mailing address if a check will be submitted.
  - C. In the event that the District's bonds are not delivered to the SRF Program by December 31, 2010, the County shall retain possession and ownership of the \$56,000 balance of said COIT installment, and, any of the \$19,000 installment paid to the District which has not been paid for land acquisition shall be paid back to the County COIT fund.
  - D. Upon delivery of the District's bonds on or before December 31, 2010 the District shall pay to the SRF Trustee Bank any part of the \$19,000 not paid for land acquisition, so those funds may be administered for future land acquisition along with the \$56,000.
2. In the event that upon completion of the Project, the full amount of the \$75,000 first installment is not used for land acquisition, the parties agree to apply the balance to the outstanding balance owing by the District on its bonds.

Winsett stated the original ordinance has been discussed for years and the majority of the council still does not understand it. Winsett also asked John Wood for a copy of the construction permit. Wood said he did not have a copy but he would get one. Winsett stated an email from Kathleen Wiesenberger said the grant funds did not have to be used for the C3 system only, but can be used for a number of systems. He questioned why the bid opening was delayed and stated he heard the district was being investigated. Winsett asked the council to vote no on the requests being made by the district.

Bunner stated it was the LTRSD board that voted to select the C3 project.

Spaetti asked Wood why the bid opening was delayed. Wood said OCRA requested the delay so bids could be obtained from minority owned businesses.

Resident Susan Young stated the following problems she had with the project: \*the original request states 100 residences in French Island and only 50 are year round \*the residents and the council are being given bogus information \*the council should be doing the research \*the project is being done for development \*\$800,000 was borrowed from the bank and \$600,000 was paid back by SRF \*State Board of Health checked 200 residences and only eight were found to have bad systems.

John Wood stated the residents in French Island will be paying a sewer bill year round, even if they only live there part time. The studies have shown that including French Island made the project more economical. Wood also said the reason LTRSD received the grant was because the engineering for the project was complete.

Ebert stated these issues are to be discussed at the LTRSD meetings.

Winsett stated if the council approves the ordinance and agreement there will be no way out.

Lindsey read amended Ordinance 2010-10 as follows:

**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 first day of November, 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 through calendar year 2024. The County shall pay its first semiannual installment of COIT Revenues to the District on or before November 1, 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.

Wetherill stated if the bond does not close before the end of December the county obligation is finished. Kroeger stated the council has to rely on the information from the LTRSD board and the council attorney, and based on that information he made a motion to approve Ordinance 2010-10 as amended. Ebert seconded, stating he feels the community will come together. The motion passed with a vote of five to two, with Winsett and Waninger opposing.

Bunner made a motion to approve the Agreement Regarding Spencer County Council Ordinance 2010-10. Kroeger seconded. The motion passed with a vote of five to two, with Winsett and Waninger opposing.

Bunner made a motion to approve the requested \$150,000 from the COIT Fund, paid out as stated in the agreement. Kroeger seconded. The motion passed with a vote of five to two, with Winsett and Waninger opposing.

Lincoln Heritage Library Appointment

Lincoln Heritage Library requested the appointment of Joy Zook to their board. Ebert made a motion to approve. Kress seconded. All in favor.

Ebert made a motion to adjourn. Bunner seconded. All in favor. The meeting was adjourned at 7:48 pm.

County Council,

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President

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Attest:

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Cindy Shelton, Auditor

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