

**CITY OF SAINT ALBANS
St. Albans City Council
Regular Meeting
Monday, August 8, 2011**

6:30 Regular Session

Council present: Mayor Martin Manahan; Aldermen Aaron O'Grady, Richard Peters, Chad Spooner, Joseph Luneau, Tim Hawkins. Absent: Jeff Young.

1. Pledge of Allegiance

2. Public Comment: John Meile, resident, commented on the parking meter issue. He cannot see himself running around putting money in the meters. He won't use the meters, and when Walmart comes in, he will just go to Walmart. He is not convinced that it is going to benefit the residents of the City, and it's just going to be a burden on him. In the long run, taxes are going to go up in order to maintain the parking program, and he is not convinced that money in the meters is going to provide extra money to sustain itself. Mayor Manahan asked if he had been to any of the public meetings the City has been having, or if his comments are based on what he read in the newspaper. John responded by saying he has talked to at least ten business owners on Main Street, and has been to City Hall twice to talk to employees there. Mr. Hawkins reports that he talked to him for a half hour to an hour, and gave him some reasoning behind the implementation of the parking meter system and what it would entail. John made his own evaluation based upon Mr. Hawkins' comments.

3. Reports

a. Mayor's Report

(1.) Recognition of Archie Domina, Jr. of Franklin. The Mayor reports they he is still waiting for the final investigation to be completed before doing anything.

b. Public Safety (Chad Spooner). Mr. Spooner would like to give special recognition to First Responders who assisted at the event of the manure truck crashing into the building on Main Street at the foot of Fairfield. First responders did an outstanding job; Mr. Spooner recognized first responders and business owners who helped out.

c. Finance (Tim Hawkins). The committee meets about every two weeks, and are currently taking a look at trash collection throughout the City. They are meeting on Thursdays.

4. End-of-Year Financial Report (City Manager and Finance Director): Mr. Cloud introduced Jonathan Holdsworth, a new staff member, and gave some background information on his credentials, and qualifications in the area of customer service. The Mayor welcomed him, and sees the role of customer service as a key component of city management that should serve as a conduit with the residents to learn how we can help them.

Mr. Cloud continued and called attention to attachments the City Council members received in their packets. He will discuss the figures and explain a number of factors on the revenue side and the expenditure side related to the General Fund deficit of \$22,300. On the revenue side, historically, they have had a 6% to 7% delinquency rate on property tax payments; that deficiency has always been overcome by collections of delinquent funds from previous years. This year the rate was 10%, which is a pretty large number for a budget our size, and we were not able to overcome that deficiency. This represents a shortfall in revenues of \$381,483.

On the expenditure side, when you look at all the departments, the biggest outlay is in the legal expense, with a budget of \$70,000, and an actual expenditure of \$148,000. About half of that overage is due to the Sheriff's law suit. He listed various overages from other departments. Mr. Hawkins asked questions in regard to collections for delinquent taxes, sewer and water bills that amount to up to 15% of legal expenses to recover the cost of collection; are you saying that we are running a deficit with the legal expenses because we are trying to collect those? Legal expenses should be paid for with the money that we are collecting. Mr. Cloud says the lion's share in the deficit results from a shortfall in revenues. He explained

how they flow through the expenditure and revenue sides. The legal expenses are coming in, but they are a legal expense, as well. Mr. Hawkins says that in the collection of delinquent taxes, sewer and water bills, part of collection includes getting back our legal fees, so why should that be a contributing factor to those legal expenses? Mr. Cloud pointed out that we are spending a lot of time focusing on collections; and that time shows up on our legal bills and also shows up in our revenues. Mayor Manahan suggested creating a separate line item for legal costs that are a result of delinquent taxes. The other thing to seriously look at is going after the money we spent on the Sheriff's lawsuit; this is ridiculous what this is costing the City taxpayers. If we could have eliminated that expense alone, we would have enjoyed a surplus this year. Mr. Hawkins noted that it is only the legal fees for the Sheriff's lawsuit, and not the taxes and not the water and sewer bills contributing to the deficit. Mr. Hawkins wishes we did not have to rely on collections on delinquent taxes as a revenue source. We are going to get the money, one way or another, but it is too bad that we have to put it down as a revenue source.

Mr. Luneau asked if the expenses are recoverable through our insurer as a litigation expense. Mr. Cloud answered that they asked to be reimbursed for those expenses, and the insurer declined the request; they gave a lengthy analysis of the documentation for coverage, explaining why the request was denied. Mayor Manahan noted that it is a sizeable amount of money, and we are not done yet. Mr. Hawkins pointed out that we kind of know that the people who work in that arena of the law know what the cost of taking such a case would be, so the insurer must have a pretty good idea of the cost. It is a specialized area of law. Mr. Cloud says it would cost an additional \$10,000 to \$20,000 more for that kind of coverage. At the end of the day, he feels we are being penny wise and pound foolish by not including that coverage in the budget.

Mr. Cloud went on to review the expenditure shortfall in the Public Works Department of \$36,000 due to the winter conditions; ironically, a lot of revenue was lost since there was less money coming in for excavation fees for burst pipes, because the snow cover provided a lot of insulation. The Recreation Department exceeded the budget revenues by \$10,000, and expenditures exceeded the budget by \$15,000. The causes included poor gate sales early on because of the weather. Probably we could have overcome that, but we had \$20,000 in expenditures for deferred maintenance that was made during the summer. With the benefit of hindsight we should have built those into the budget. He listed the items that were replaced, and he noted that they had put off doing them for a long time. Mr. Hawkins noted that the pool lost \$23,000 this year, but saw that \$19,000 was for that CIP you were just talking about and some maintenance items. Is this the first time it has been part of the CIP program? Why didn't we do this a year, or two years, ago? Mr. Cloud acknowledged that we should have. He noted that there has been a bit of a culture shift in the last few years from not facing, to facing, some of the deferred maintenance issues. In the past it was "let's put it off as long as possible" year after year. Mr. Hawkins says we can't just say when a liner is going to fail or a gate is going to fall down. They do have some specific maintenance coming up that can be put in the CIP. He pointed out that the department would have met expectations of \$2,000 to \$3,000 surplus this year if they hadn't had to do the deferred maintenance. Kelly agreed. Mayor Manahan feels that the Recreation and Public Works departments' expenditures are probably the most difficult to anticipate. Mr. Hawkins says that we would have been covered if those maintenance items had been included in the CIP program. The Mayor pointed out that the recreation department serves the St. Albans Town, the City, Fairfield, and Georgia, as well as other areas. The entire program ran a deficit of \$5100, and that is pretty good considering the number of people coming in and using these programs. Obviously the pool contributed to that deficit, but as the gate prices rise, people say they are not going to use the pool any more. So what is the balance that you strike to set gate prices and continue to have the funds come in. Mr. Hawkins says that we all decided that the pool has some value to the City at some cost; we just don't know what that cost is. Mr. Cloud thinks we are planning budgets too tight, and that we have to be more realistic in developing the budget. We should start putting money away for inevitable problems. Mr. Hawkins thought we played it too tight during the development of that budget, and that what happens is that we had you strip everyone from everything they could in order to give us as rosy as possible a scenario, so that we could tell our voters and tax payers this is how it's going to be. If you look through this budget analysis, you can see on the revenues there were a lot of departments that came in under 100%, and the expenditures came in for a lot of departments over 100%. We tried it once, and I would rather not do that again. I think we really went too tight this year. Mr. Cloud added that this is for FY11, and we are in FY12 right now, but there were a number of things this year that were outside of our previous experience, such as, the weather and litigation expenses. It was a perfect storm in a lot of ways.

Going on, the Fire Department is about \$20,000 over budget, primarily for a \$17,000 budget for overtime and actual of \$31,000. Is there an observed pattern of use of overtime over a period of years? The Chief said that they did tighten things up a bit on overtime, but were a little late coming to the game in that there are a number of rules in the contract we utilized to apply for overtime. We said that this is what we are going to do from now on; we would use salaried employees to cover some of the shifts that would otherwise have been paid toward overtime. There was no resistance to this change. The \$20,000 over budget was made up for by the Public Safety overcompensation ordinance the Fire Marshal has been running. \$21,000 in revenues smoothed that out. For the Police Department it was \$20,000 under in revenues and \$74,000 under in expenses.

5. Actions to reserve funds or access Budget Stabilization Funds (D&V).

Joe Luneau pointed out that we don't have a policy or practice for showing expenses for CIP items, and when we just save them for a future year. We could have a situation where overages in one department consume all the resources and there isn't anything left to make the reserves you intended to make use of for future years. Mr. Cloud says where we found ourselves this year for FY11, there were capital reserves we were planning to make use of that we haven't been able to make use of because of the deficit. He listed some of those projects they were planning to undertake, but that are not yet funded. Last year they had a Budget Stabilization Fund that they had created of \$74,000 for just this sort of situation. He is asking the City Council to let the staff use the Budget Stabilization Fund to address the FY11 operating deficit, the \$22,300, and the capital improvements that were planned but are not yet funded of \$21,367. It would allow continuation of the CIP program.

Questions: Mr. Luneau is not concerned about the \$22,300 deficit, but is more concerned with how we deal with capital needs in the future, and that we under-funded a lot of the departments. He highlighted some of the budget figures for specific departments. Mr. Cloud pointed out that with the Fire Department, instead of reserving funds, they put it into future equipment purchase; in Planning and Development the main driver was for the design of the streetscape project, in which we intended to use funds from the Walmart settlement to use as part of our match for that program. Your point of keeping up with capital needs is well taken. Mr. Cloud continued and stated that there is a \$174,000 reserve in the Wastewater reserve fund plus a \$118,000 surplus in the Water Department; the City Council might want to consider reserving that money as a water Budget Stabilization Fund, which could be appropriated for a particular project, or use it for an unanticipated shortfall in another project. The wastewater budget was significantly impacted by heavy rains, so they were required to use extravagant amounts of chemicals, more than was ever used before, to avoid violating the permit. They temporarily shifted staff to the water plant to mitigate a severe shortfall, and were not able to do so entirely. He listed the reserves they were planning to use for sewer and manhole rehabilitation projects, which amounts to \$85,629; they would need to exhaust the wastewater reserve of \$70,844, which is the previous year's allocation fees, and he feels that that doesn't make sense.

Mr. Luneau noted that there are dozens of manhole covers that are defective, and the sewer line camera has been discussed for a couple of years. Mr. Cloud explained that the sewer line camera is a legislative mandate that would cost \$5,000, but the mandate has not kicked in yet. They have been renting a camera when one was needed. The manhole rehabilitation project would cost \$20,000. Some of these are very important projects, but we don't have the cash reserve for them.

5. Actions to reserve funds or access Budget Stabilization Funds. Mr. Cloud is requesting that we establish some reserve funds, and access funds for the General Fund; he requests using the Budget Stabilization Funds to cover the operating budget of \$22,300, and for projects not yet funded for \$21,367.

Chad Spooner made the motion to reserve funds and to access Budget Stabilization Funds to address the operating budget deficit for FY2011 of \$22,300, and capital reserve funds for projects not yet funded in the amount of \$21,367; Richard Peters seconded the motion. The motion carried unanimously.

Chad Spooner made the motion to create a Budget Stabilization Fund of \$118,719 for the Water Department; Joseph Luneau seconded the motion. The motion carried unanimously

Mr. Luneau took issue with the water and wastewater allocations, and advised waiting on wastewater until Allen Robtoy is available to address the City Council.

6. Second Reading of Ordinance Prohibiting Smoking in City Parks.

There were a couple of changes made. Mr. Hawkins noted that the ten days incarceration was taken out. What if the \$25 fine is not paid? The Police Chief explained that they would be issuing Municipal tickets to be brought to Municipal Court, which seemed the wiser route. The court could issue an arrest warrant for failure to pay the fine, once you are adjudicated. Mr. Cloud said they thought the 10 days incarceration was a bit heavy handed; they determined that enforcement costs are a legitimate expense and part of the business, and that it doesn't pay to prosecute. The Chief is unaware of anybody being incarcerated for at least ten years. Mr. Hawkins thinks there needs to be something more added as a penalty to ensure compliance with the ordinance. The Chief says they have to deal with people who drive with license suspensions and outstanding tickets; it's the same thing.

Henry Demar, resident, says that if you can't enforce the law, at what point does it become useless? The Chief says that we do have an option; if you have an ordinance that you can't smoke in the park, and someone insists on continuing to smoke, we can eject them from the park. If they choose not to be ejected, then they can be arrested for unlawful trespassing, which has the full backing of the criminal court. Mayor Manahan cited an example of a smoke-free campus with signs everywhere, but people went outside to smoke on this smoke-free campus; so you can make the effort to be smoke free, but it is difficult to enforce it. Mr. Hawkins says that if you say don't smoke anywhere, then you are going to have people that are just going to say, what are they going to do about it? If some people defy the ordinance, then others will be inclined to smoke, as well. The ordinance will be meaningless if you can't enforce it. Should we amend the penalties? Mr. Spooner feels the objective should be to educate people, not to eject people or throw them in jail. The Chief says that they added the penalty to put some teeth into the ordinance. Mr. Hawkins doesn't think the \$25 fine is enough, and recommends adding further penalties. Mr. Spooner says, such as, if you receive three tickets within a year, you are banned from the park. Mr. Hawkins agreed with that suggestion, and that it would be a trespass violation in any of the parks. Mayor Manahan read and recorded the amendment.

7. Discussion of Peddler and Itinerant Vendor Licenses.

Susan Krupp says that she was going over the ordinances, and that, technically, peddlers pay a \$10 license tax fee, and according to the ordinance she needs to know we have something from the State also. She has a call in to the State. What brought this to light for her was that she was told that one needs to get it from her before getting it from the State. Mr. Cloud says the ordinances on this are really kind of archaic. Most of the peddlers want to sell their wares in Taylor Park. "No person should expose any article or thing for sale in any of the said parks unless licensed therefore by the City Council." People have been coming in as licensed peddlers without any opportunity for review or conditions. Do you want to encourage people to sell their wares in Taylor Park subject to approval and conditions imposed by the City Council? Mayor Manahan definitely does and recalls one time we had an individual set up a hot dog cart in the park, and two major restaurants on Main Street opposed it because it was going to take away from their lunchtime crowd, and at that time the City Council put that responsibility on to the manager to decide. The Mayor does not have a problem having that come before the City Council. He doesn't think there are a whole lot of individuals that would be applying. Mr. Cloud thinks the City should have a say; and to be fair to merchants who have to pay rent and go through a lot to set up a business. Itinerant peddlers need to make a contribution like everyone else to maintain the market that we create. A marketplace is better with more people in it, and more people are going to come to lunch here if you have good offerings in Taylor Park and offerings in the restaurants.. Mr. Hawkins pointed out that during the Maple Festival, people make thousands of dollars on what they sell, and the City gets nothing out of it. He suggests a license fee of \$1000. Mayor Manahan asked if the City Council wants to refer the matter to the Legislative Committee under Public Safety, and to have them come up with a plan and present it to the City Council, presenting a blanket fee or percentage of sales, etc. We need to nip it in the bud now as we start to have people coming in and vendors looking for this kind of a market. Ms. Krupp added that the only thing her office has heard

about in the past is that the police need to know who is who, and what is going on. Mr. Luneau pointed out that you have merchants paying rent or supporting a building, and many are barely commercially feasible; and to be fair, we need to scrutinize very carefully how much you want to charge peddlers. In some of these cases peddlers are only here during the best part of the year, while the merchants are stuck here year-round. Mayor Manahan referred the matter to Public Safety to come up with a revised ordinance; for which, the City Council gave informal approval.

7. Other Business.

Mr. Hawkins asked if there is anything we can do about the decibel level of emergency vehicles on Main Street, which seems to be a regularly occurring event almost every hour. He noted that the cruisers have the ability to make adjustments, but the ambulance is loud enough to hear from one end of the City to the other. There have been a couple of complaints about it. The Chief suggests inviting the director to the City Council, as a first step, and he is unaware of restrictions on decibel levels. The argument that they use is that they don't want the liability risks. One of the things we should consider in the future is to invest in a decibel meter, so that we have the ability to factually tell them what it is, and then we could regulate it that way. Mayor Manahan will talk to the director about it, and possibly have him attend the City Council meeting.

Mr. Hawkins called attention to the railroad tracks on Elm Street. His vehicle is pretty good on bumps, but those railroad tracks are down to their worst points in a long time, and wonders what is going on with that. Mayor Manahan reports that Allen Robtoy has spoken with the State as well as the railroad, and they are going to have a site visit to determine what tracks we want left in on Newton Street and then pave that area. The last he heard on Elm Street is that it is going out to bid, and he is hoping that it will be done this construction season. The City has been waiting for three years to have these projects taken care of. Mr. Spooner noted that there are five projects waiting for action, and Elm Street is number five on that list, and the other four have already gone out to bid.

9. Minutes of 5/9; 6/13; and 7/20

Chad Spooner made the motion to approve the Minutes of 5/9; 6/13; and 7/20, with corrections; Richard Peters seconded the motion. The motion carried unanimously.

10. Warrants of 7/20 and 8/3

Chad Spooner made the motion to approve the Warrants of 7/20 and 8/3; Richard Peters seconded the motion. The motion carried unanimously.

11. Action on the Second Reading of the Ordinance Prohibiting Smoking in City Parks. The new wording includes the following: the addition of the Little League Park and the Swimming Pool area to the list of parks, and amendments to Section 319 on penalties to fine not more than \$25 per occurrence, and violators may be banned for one year from the park after three violations within a period of a year. Hard'ack is not to be included in the list of parks.

Chad Spooner made the motion to accept the Second Reading of the Ordinance Prohibiting Smoking in City Parks, with the above adjustments; Aaron O'Grady seconded the motion. The motion carried unanimously.

12. Executive Session:

Chad Spooner made the motion to recess the regular session and enter Executive Session to consider the evaluation of a public officer, and other legal and personnel matters; Aaron O'Grady seconded the motion. The motion carried unanimously.

Submitted by Charlotte Ryan