

## **NASHVILLE TOWN COUNCIL MEETING THURSDAY, FEBRUARY 19, 2009**

**ATTENDANCE** – Council members present – Vice-President Robert Kirlin, Councilmember Dale Cassiday and Councilmember Charles B. King. Council members not present – President Roger Kelso and Councilmember Arthur Omberg. Also in attendance – Town Marshal Jack Dorsett, Town Attorney James Roberts, Town Superintendent Roger Bush, Chief Administrator Phyllis Carr and Deputy Clerk-Treasurer Debbie Ferry.

### **REGULAR COUNCIL BUSINESS**

1) **CALL TO ORDER** by Vice-President Kirlin at 7:05pm.

2) **PLEDGE OF ALLEGIANCE**

3) **ROLL CALL** – by Deputy Clerk-Treasurer Ferry

4) **APPROVAL OF AGENDA**

Vice-President Kirlin would like to add under the Economic Development Commission in Old Business the Chamber of Commerce request for money. Councilmember Cassiday made a motion to accept the agenda as amended. Councilmember King seconded the motion. All were unanimously in favor.

5) **APPROVAL OF THE MINUTES**

Councilmember King made a motion to approve the minutes for the December 18<sup>th</sup>, 2008 meeting, January 6<sup>th</sup>, 2009 meeting, January 15<sup>th</sup>, 2009 meeting, February 5<sup>th</sup>, 2009 Executive Session Safety Board, February 5<sup>th</sup>, 2009 Safety Board Meeting and February 9<sup>th</sup>, 2009 Village Key Committee meeting as presented. Councilmember Cassiday seconded the motion. All were unanimously in favor.

6) **COMMUNICATIONS**

#### **A. Joyce Jordan-Peek – Parking Request**

Vice-President Kirlin explained there was a request at the last Council meeting to remove a parking space in town. Resident Joyce Jordan-Peek advised she would like the parking space in front of her house removed. Town Superintendent Bush reported he looked at the property and currently there is only six feet of space between the end of the parking space and the resident's driveway. If the car is parked in the space they are very close to the driveway and if they shorten the space it would be too small of a parking spot. Town Superintendent Bush recommended they remove the parking space. Town Marshal Dorsett noted he too looked at the parking space when a vehicle was parked there. He also agreed the best thing to do would be to remove the parking space.

Councilmember Cassiday made a motion accept the recommendations of removing the parking spot in front of 75 South Johnson Street. Councilmember King seconded the motion. All were unanimously in favor.

#### **B. Charlene Marsh – Smoke Free Ordinance Request**

Charlene Marsh addressed the Council explaining she is planning on opening a gallery in Nashville and she needs a smoke-free environment for her gallery and herself. She previously sent an e-mail to the Council where she included the ordinances for Bloomington as well as the ordinances for Greenville, South Carolina. Ms. Marsh noted the Surgeon General has ruled that there is no safe level of second hand smoke. She commented that a person can stand outside her business and smoke but there is

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nothing she can do about it. There are many communities that have gone smoke free and she believes for the health, safety and enjoyment of the citizens and visitors to the county, the Town Council should consider making the town smoke-free. Ms. Marsh also asked the Council to consider having safe areas outdoors as well. Discussion.

Vice-President Kirlin noted Linda Hobbs has addressed the Council at previous meetings about the smoke-free issue. He further explained that the State of Indiana is looking at making this as a state wide policy and the Nashville Town Council has endorsed the smoke-free policy in a letter to the state.

Linda Hobbs reported in the Town Council minutes from 1987, Marshal Sanders advised that municipalities were to be smoke-free. At that time Trustee Pat Reilly made a motion to comply with the law and designate Town Hall as a non-smoking area. Ms. Hobbs noted that the state wide smoke-free policy is the best avenue at this time. She also advised most of the businesses in town are smoke-free and if they could work with a designated outdoor smoking space due to tourism it would be a good idea.

Councilmember King advised he is not a fan of smoking. Councilmember Cassiday noted in his opinion the Greenville ordinance presented to the Council is an attempt to eliminate the right of one group to satisfy the opinions of another. Councilmember Cassiday further commented until the cigarette smoking is banned nationally and they quit supporting the industry he sees no effort that is legal to ban smoking. Discussion. Ms. Hobbs commented this should be looked at as a public health issue not a rights issue.

Vice-President Kirlin noted he agreed with everything that has been said thus far, but he would like for Ms. Marsh to come back to the Council next month with a petition of one hundred retail stores and four hundred tourists to say they want the town to be smoke free and they would probably get a better reaction from the Council but that is just his opinion. Ms. Hobbs advised the state bill has passed the House and now going to the Senate.

### **C. Johnson and Gould Street Residents – Parking Update**

Vice-President Kirlin explained that in 2008 they blocked off the parking on Johnson between Main and Gould. The residents of that area were to come back to the Council to see how this was working. They sent a letter stating they believe it has worked out and they would like to continue to not allow parking. Vice-President Kirlin does not see a reason why this should not continue. Town Superintendent Bush would also like to leave it the way it is now. Vice-President Kirlin asked what they would have to do to make this a permanent thing. Town Attorney Roberts advised they would have to amend the ordinance that designates no parking spaces. Vice-President Kirlin asked Town Attorney Roberts to come back to the next Council meeting with an ordinance on that.

Councilmember King asked that the yellow triangles that are currently there not be repainted. Town Superintendent Bush noted they have discussed this before and they want the paint to wear off.

### **7) CITIZEN CONCERNS**

Resident Lamond Martin spoke about vehicles parking on streets when snow needs to be cleared during snow emergencies and asked what could be done about it. He advised West Main Street was a nightmare during the last two snows. Discussion. Town Attorney Roberts suggested they integrate the town's ordinance with the county's ordinance or the Indiana Department of Transportation's rules on snow emergencies. Vice-President Kirlin does not want to use the County's ordinance because the last snow the County did not do anything until it was too late. Discussion.

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Town Attorney Roberts will give some options on how to write the ordinance of snow emergencies. Vice-President Kirlin also asked Town Attorney Roberts to research how they can enforce the snow removal on sidewalks as well.

### 8) TOWN MARSHAL – JACK DORSETT

- **Council Inquiries**

Town Marshal Dorsett went over a list of equipment needs submitted by the police department. Town Marshal Dorsett noted he has called around for vests and the level two vests starts out at \$600 each and each officer will have to be fitted for the vest.

Vice-President Kirlin asked Town Marshal Dorsett to take out the pay raises from the list and concentrate on equipment and give the Council a ranking of one to ten on what is most important and how much each item will cost. Council asked to have this information as soon as possible. Town Marshal Dorsett commented on how vests have evolved over time. Vice-President Kirlin reiterated the Council wants a ranked list of items and their costs and to remove pay raises and clothing allowance because those are line items within the budget.

Town Marshal Dorsett commented that Officer Griggs called him about three weeks ago and told him that the desktop computers in the police department are full of viruses and he thinks he can clean them up. He would rather Officer Griggs clean up the computers rather than getting new ones.

Vice-President Kirlin would like to see the list by Thursday, February 26<sup>th</sup>, 2009. Town Marshal Dorsett asked to have until March 12<sup>th</sup>, 2009. Councilmember King asked to have it done by March 5, 2009. Town Marshal Dorsett said that he would try to have it done by that date. Regarding grants, Galls sent him three grant opportunities and he does not believe they fit the criteria for two of them but he is checking into the third grant. B & L Communications in Bloomington advised him they may have someone help them out with the in-car videos. Councilmember King asked if the County has the jaws-of-life for extracting people from vehicles. Town Marshal Dorsett advised the Fire Department has that equipment.

Vice-President Kirlin asked Town Marshal Dorsett to have his officers make a list of those areas that do not shovel sidewalks during a major snow or ice event. Town Marshal Dorsett should then present that list to Council. Councilmember Cassiday noted he was very pleased with the way the town streets were cleaned during the last snow.

### **NEW BUSINESS**

#### **1) BOND COUNSEL PROPOSALS – BARNES & THORNBURG LLP AND ICE MILLER LLP**

Town Attorney Roberts noted the Council asked him to get price quotes on Bond Counsel for the sewer expansion project. He has spoken with Barnes & Thornburg and Ice Miller, Lisa Lee of Ice Miller and Kimberly Blanchet of Barnes and Thornburg were present to speak to the Council.

Ms. Lee, a partner with Ice Miller, addressed the Council regarding her experience in working with Municipal Bonds and what her company has to offer the town. If chosen as Bond Counsel, Ice Miller would work very closely with Town Attorney Roberts, engineers, financial advisor on the project as well as Rural Development to help the town meet the letter of conditions from Rural Development. They will also draft all the legal documents, rate ordinances and public hearing notices.

Vice-President Kirlin asked how Ice Miller charges for its services. Ms. Lee noted the charges are not based on the size of the project or the size of the bond issue, but in their engagement letter it states their

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fee is proposed to be \$16,000-\$19,000. The variable in the cost relates to how many hours they put into the project. Town Attorney Roberts asked if their time is less would they be charged less. Ms. Lee answered yes, but they come up with the range because they have experience with enough of these projects to know how long it will take to do the work. Ms. Lee explained they would be paid out of the bond proceeds.

Ms. Blanchet of Barnes & Thornburg presented the Council with information regarding bond counsel work she did with another small town which also included working with Rural Development. Ms. Blanchet informed the Council of her work background and what her company could offer the town. Councilmember Cassiday asked what her company is charging for their services. Ms. Blanchet advised their fee would be \$13,800 and not to exceed that amount, noting her hourly rate is not as high as Ms. Lee's. She walked the Council members through a sample bond index so they know the documents that will be prepared and how the process works.

Town Attorney Roberts advised he asked these two particular firms to give a proposal to the Council. Barnes and Thornburg have put on some useful programs in municipal law that he has attended and they look for this type of municipal business. Town Attorney Roberts added Ice Miller has done this type of work for years and the town has had very good past experience with them as well.

Councilmember Cassiday made a motion to accept Barnes and Thornburg as Bond Counsel. Councilmember King seconded the motion. All were unanimously in favor.

### **2) ANY OTHER NEW BUSINESS THAT MAY COME BEFORE THE COUNCIL**

Nothing presented.

### **OLD BUSINESS**

#### **1) PARKING AND PUBLIC FACILITIES UPDATE**

Commission President Lamond Martin informed the Council their last meeting was canceled due to the Public Hearing for the Sewer Expansion that was scheduled for that same evening. He did meet with the planning committee of the Historical Society and started some face to face discussion about the possibility of restrooms in their facility.

#### **2) DEVELOPMENT REVIEW COMMISSION REPORT**

Commission Member Suzannah Zody reported at the last Commission meeting they approved one sign, tabled a COA for a front porch but they are on the agenda for next week. Commission Member Suzannah Zody went over the Development Review Commission agenda for their next meeting on Tuesday, February 24<sup>th</sup>, 2009.

Vice-President Kirlin asked why the Nickel's project for a new front porch was tabled. Ms. Zody answered that it was a friendly discussion but they needed more design information that would match the date of the building. Vice-President Kirlin asked where things stood on the Stanley project. Ms. Zody advised a Technical Review Committee meeting was held and the project was on the agenda for last month, but Mr. Stanley was not ready so it is on the agenda for the next meeting.

#### **3) ECONOMIC DEVELOPMENT COMMISSION REPORT**

Suzannah Zody reported they have held many meetings in order to put together a five year plan and a budget. They have also met with several people regarding stimulus money that is available and they will meet with Congressman Hill's people next week. They have already met with Representative Koch and will meet with Senator Simpson and Representative Welch next week. She advised they have

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met with the Indiana Economic Commission and will attend their meeting in two weeks. Ms. Zody noted the Commission has also met with Matthew Crouch of OCRA regarding the Disaster Recovery Funds that are available.

Ms. Zody reported that the County has given their backing for going after OCRA for a project manager to go after Atterbury and other funding. She is requesting \$5,000 from the Town to add to the \$10,000 they received from the County. Ms. Zody asked the Council to write a letter of support towards the OCRA match, she will not need the money until they receive the grant. Councilmember King made a motion to write a letter of support for the OCRA match. Councilmember Cassidy seconded the motion. All were unanimously in favor.

Vice-President Kirlin noted a letter from the Brown County Chamber of Commerce requesting to block a street for the weekend of May 8<sup>th</sup> – 10<sup>th</sup> for the Spring Blossom Art Festival. They are requesting Jefferson Street to be blocked from Main Street to Gould Street without blocking any intersection. Discussion. Councilmember King made a motion to allow the street to be closed for this event as described in the letter the morning of Friday, May 8<sup>th</sup> through the evening of Sunday, May 10<sup>th</sup>. Councilmember Cassidy seconded the motion. All were unanimously in favor.

### **4) UPDATE ON SEWER EXTENSION PROJECT**

Town Superintendent Bush reported he met with Lisa Westenberger of ARa today and they have set a public hearing for March 9<sup>th</sup>, 2009 at 6:30pm to announce the commitment of Rural Development Funds and OCRA Funds. A resolution will also need to be signed by the Council therefore they will need to have a Town Council meeting on March 5<sup>th</sup>, 2009 at 6:30pm. The resolution will describe the designation of funds as to how much they will get from Rural Development and OCRA.

Vice-President Kirlin inquired about the rate study. Town Superintendent Bush advised the sooner they can get someone on board with the rate study the better. Town Attorney Roberts reported they have a letter from Umbaugh and Associates quoting a fee about \$17,500 - \$22,000. This quote includes hourly rates and expenses. Vice-President Kirlin asked how long would it take to get more quotes and who would do that. Discussion. Town Superintendent Bush will call IACT to see if they have any additional recommendations.

Town Superintendent Bush spoke about the Income Survey that was conducted. He specified that the company do the study on the Town, Coffey Hill and Orchard Hill. Since the OCRA application for the project was submitted as a whole, the income survey had to be done as a whole. Town Superintendent Bush called back the company doing the Income Survey, they are to resample and put together a new survey in time and for free. The final Income Survey report should be complete by the first week of March.

Town Superintendent Bush advised he and Chief Administrator Carr will be going door to door next week to gather up the remainder of the easements. They have about 15% of the easements fully completed.

### **5) FISCAL PLAN – BLUE ELK CROSSING**

Steve Alexander addressed the Council and explained they have fixed all the issues in the Fiscal Plan. Town Superintendent Bush noted they sent out this final plan last week so Council would have a week to review it. Town Attorney Roberts advised he did not review this final plan, but did review this document in the drafting process and discussed it with Town Superintendent Bush. Councilmember Cassidy made a motion to approve the Blue Elk Fiscal Plan contingent on written Town Attorney

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approval. Councilmember King seconded the motion. All were unanimously in favor. Council scheduled the public hearing for Blue Elk Crossing to be held on March 19<sup>th</sup>, 2009 at 6:30pm.

**RECESS**

A recess was called from 8:59pm to 9:09pm.

**6) ANY OTHER UNFINISHED BUSINESS OR COMMENTS THAT MAY COME BEFORE THE COUNCIL**

Nothing presented.

**REPORTS FROM DEPARTMENT HEADS**

**1) TOWN SUPERINTENDENT – ROGER BUSH  
CHIEF ADMINISTRATOR – PHYLLIS CARR**

**A. Kelley Hill Water Main Extension**

Town Superintendent Bush reported the engineer gave them the information they requested. Since President Kelso was not in attendance for the Council meeting, Town Superintendent Bush recommended they set a special meeting date to discuss this project. There were two options: one putting a pumping station at the end of the line and the other to extend the water tanks which is very expensive. Discussion.

Vice-President Kirlin noted the pumping station on the other side of the road would cost around \$58,000 and advised they would have to find a way get the financing. Town Superintendent Bush commented that they had previously discussed using the loan money they have already secured, the flex line of credit. Vice-President Kirlin noted they would have to go back to the bank and say they are not going to use the money for a different project but instead using it for this project. Discussion.

Resident Dan Miller spoke to the Council and noted he is planning to build a house on Kelley Hill Lane. He noted they have everything ready on their end to build, the last issue in place is the water issue and they are eager to move forward. Town Superintendent Bush noted Mr. Miller has submitted a water availability letter and the Council can sign this letter if they are dedicated to fixing the water issue but this would put them on a time schedule of having the water ready in six months. Town Superintendent Bush advised it would take a minimum six to eight months to get the pumping station constructed and in working order. Discussion. Vice-President Kirlin suggested a committee made up of Clerk-Treasurer Young, Town Superintendent Bush, President Kelso and himself to sit down and figure out financing and come back to Council with their recommendation at the next meeting on March 19<sup>th</sup>, 2009. Vice-President Kirlin noted the consensus of Council at this time is to go with a pumping station.

**B. Hickory Knob Force Main Extension**

Town Superintendent Bush reported the engineer has put together the project and reviewed the plans with the Council. Town Superintendent Bush advised at this point they need to approve the homeowner's application to IDEM. They will then need to decide if they will let the homeowner handle everything and the Town inspects it or will the Town do the work and the homeowner reimburse the Town. Vice-President Kirlin asked which would be preferable. Town Superintendent Bush would prefer the homeowner do the work as this project is not in the Town's budget. Town Superintendent Bush will have the homeowner sign a letter stating he will bear the cost of the project and it will be inspected by the Town.

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### **C. Freeman Ridge Water Main Extension**

Town Superintendent Bush explained they have the engineering on Freeman Ridge and he has a contract document. He spoke with the engineers and they still have a couple of corrections to make and will have it in its final form next week. Town Superintendent Bush will have the plans available at Town Hall for Council to review. The engineer believes they can still make the May shovel date if they want to push that hard. Town Superintendent Bush recommends getting on board with State Revolving Fund as it will be able to take advantage of the stimulus money. Vice-President Kirlin noted as it stands now this project is figured into their line of credit. Town Superintendent Bush advised once they start down one path of financing they have to stay on that path. Councilmember Cassidy commented that they decided to do it through the line of credit and they should go forward and get it done.

### **D. Task List**

Vice-President Kirlin asked if the Christmas lights are staying on or off the trees downtown. Chief Administrator Carr thought the lights were to come off the trees. Vice-President Kirlin said all the lights are not off yet and they should get them all taken down.

### **E. Quotes**

None presented.

### **F. Service Agreements**

None presented.

### **G. Utilities Report**

Town Superintendent Bush advised there was a phosphorus violation. There was a crack in their alum line and they are currently using a temporary line as they will have to dig up the other line and replace it. In the meantime they are making a plan to move the tanks into a better location and re-housing them.

Town Superintendent Bush reported on the 190 N. Johnson Street issue and noted the homeowner gave him some additional information. He advised the Town workers dropped the ball. There was a truck parked over the manhole lid and they should have had the truck moved in order to complete the work. In the meantime, they hired a contractor to do the work but did not follow up and call the homeowner back. She rented a room because she thought she did not have sewer available to her home.

Town Superintendent Bush advised it would not only be fair to reimburse her for the hotel room. Town Superintendent Bush noted she also gave him a letter today wanting damages and he suggests having the homeowner submit this to her insurance company and have them submit this to the Town's insurance company. Town Attorney Roberts advised they should tell their insurance company about this and not pay anything unless they get a release from the homeowner. He suggested they contact the liability carrier because if they make a payment to her they might be admitting some liability and opening a door. Discussion. Chief Administrator Carr is to write a letter to the homeowner stating they will submit her bill to the Town's insurance company and will get back with her at a later date.

### **H. Council Inquiries**

Vice-President Kirlin asked how they are coming along on the Davis project. Town Superintendent Bush reported this is done.

Vice-President Kirlin voiced concern about the meter pits that are sticking up at the Cox project on West Main. He asked Town Superintendent Bush to look at them as soon as possible.

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Vice-President Kirlin asked about the ordinance regarding discharge of water on sidewalks. Town Superintendent Bush advised that downspouts cannot dump water on sidewalks. Town Attorney Roberts reported that he and Attorney Salerno are working on this and have a suit on file against Mr. Cox. They have filed an amended complaint alleging not only the downspout violation but also the leaving of debris and refuse. He has also filed for a violation of causing and failing to remove snow and ice. Town Attorney Roberts noted they are not only asking for an injunction but also asking for a fine and reimbursement to the Town for expenses. He has also spoken with the Planning Director and mentioned the Land Use ordinance, which is Planning and Zoning's duty to enforce, there is a provision to address erosion control. Town Superintendent Bush advised he spoke with Danny Harden of Planning and Zoning and they will not give Mr. Cox the Certificate of Occupancy until the issues are resolved with the Town. Vice-President Kirlin wants this information on paper because he believes they will go ahead and approve the Certificate of Occupancy.

Vice-President Kirlin asked about the water discharging onto the road from Van Buren and Gould Street. Chief Administrator Carr will write the property owner a letter advising them of the ordinance violation. Town Superintendent Bush explained the process is that they inspect the issue and if it is in violation they send a letter.

Vice-President Kirlin asked about the status of the Candy Emporium issue. Chief Administrator Carr wrote them a letter. Discussion. Town Superintendent Bush will contact the property manager to explain how they can fix the problem.

## **2) TOWN ATTORNEY – JAMES ROBERTS**

### **A. Council Inquiries**

Town Attorney Roberts advised the estate of Patricia Millay needs the consent to administration without court supervision to be signed by some representative of the Town of Nashville. He explained Mrs. Millay passed away and her estate gave money to the Town and all interested parties needed to sign consent. Councilmember Cassidy commented they should sign it and move on. Town Attorney Roberts noted the \$2,500 in the will instructs the Town to use the money towards decorations such as banners and it is the Town of Nashville's total discretion to use the decorations during the Christmas season or Independence Day.

Town Attorney Roberts advised he wrote a response to the Council regarding the comparison of the County limitations on towers. It states there is not a limitation on towers and is permitted in all districts. Town Attorney Roberts' suggestion is to only leave B3(warehouse district) and I1(industrial district) with the availability to have transmission towers.

Town Attorney Roberts noted he sent the Council a memo regarding the proposed ordinance for RVs as mini-hotels. He also sent a letter to Sherriff Buck Stogsdill regarding the payment by the County of the \$4,000 that they agreed to get on Gregg Pittman's lawsuit. He has not received an answer.

Town Attorney Roberts reviewed his things to do list: amend parking ordinance on page 15 to exclude certain spots on Johnson and Gould Streets, prepare a proposed ordinance for snow emergencies and review Blue Elk Fiscal Plan by March 5<sup>th</sup>, 2009.

**3) DEPUTY CLERK-TREASURER – DEBBIE FERRY**

**A. Claims**

Councilmember King made a motion to approve the claims for the period of 1-09-09 through 1-31-09 and for the period of 2-01-09 through 2-12-09. Councilmember Cassiday seconded the motion. All were unanimously in favor.

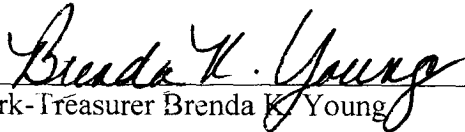
Town Attorney Roberts asked the Council for permission to write a letter to the Planning and Zoning Director and the Building Commissioner about the Cox project. In checking the Town's ordinances they cannot issue a Certificate of Occupancy unless there is compliance with all other ordinances. Council commented this would be a great idea and agreed to have Town Attorney Roberts write the letter.

Vice-President Kirlin asked to let the records show the Council will have a Safety Board Executive Session on February 26<sup>th</sup>, 2009 at 6:30pm. Council asked Town Attorney Roberts to be in attendance for the meeting. Vice-President Kirlin noted they may call a Safety Board meeting following the Executive Session.

**ADJOURNMENT**

The meeting was adjourned by Vice-President Kirlin at 10:09pm.


*The audio recording made at the Town Council meeting on 2-19-09 is retained in the office of the Town Clerk-Treasurer.*

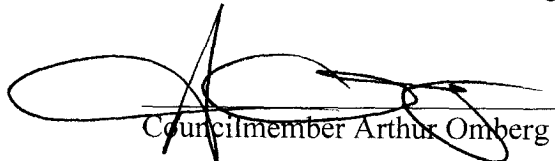
  
Clerk-Treasurer Brenda K. Young

  
President Roger Kelso

  
Vice-President Robert Kirlin

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Councilmember R. Dale Cassiday

  
Councilmember Charles B. King

  
Councilmember Arthur Onberg