

April 24, 2017

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, April 10, 2017, at the Town Hall located at 1050 W. Guy McCown Drive. Scott Oldham called the meeting to order at 6:30 p.m. Kevin Farris led the Pledge of Allegiance followed with a prayer by Sandra Hash.

Roll Call: Members present were Scott Oldham, President; Kevin Farris and Brian Mobley. Dianna S. Bastin and Scott Thomas were absent. Sandra Hash, Clerk-Treasurer; Darla Brown, Town Attorney; Rick Coppock, Bynum Fanyo and Associates, Town Engineer; and Jim Davis, Town Manager, were also present.

Supervisors present were: Mike Cornman, Danny Stalcup, Jimmie Durnil, Kevin Tolloty, and Mike Farmer.

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting on April 10, 2017. Kevin Farris so moved. Brian Mobley seconded. Motion carried.

Accounts Payable Vouchers

Scott Oldham entertained a motion for action to pay Accounts Payable Vouchers. Mr. Mobley and supervisors commented on claims. Kevin Farris so moved. Brian Mobley seconded. Motion carried.

Receive Bids for the Chemical Phosphorus Removal Building

Darla Brown, Town Attorney, opened the following bids:

1. Graves Plumbing Co., Inc., Switz City, Indiana, lump sum based bid of \$616,161.
2. Mitchell & Stark Construction, Medora, Indiana, lump sum based bid of \$567,700.
3. Neidigh Construction Corp., Bloomington, Indiana, lump sum based bid of \$620,000.

Ms. Brown suggested the Town Council take the bids under advisement to give Utilities an opportunity to review the bids and specifications. The winning bid will be announced at the next meeting.

Scott Oldham entertained a motion on the request to table. Brian Mobley so moved. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Kevin Farris – yes; and Brian Mobley – yes. Motion carried.

Resolution

Resolution 09-2017 Declaration of Official Intent to Finance \$125,544.20 for Street Department Dump Truck

Sandra Hash, Clerk-Treasurer, explained this request is for the purchase of a dump truck approved in 2016. The truck is ready and the resolution is needed to prepare the loan documents.

Scott Oldham entertained a motion. Brian Mobley made a motion to approve Resolution 09-2017 declaration for financing of the Street Department dump truck. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Kevin Farris – yes; and Brian Mobley – yes. Motion carried.

Resolution 10-2017 Surplus for the Police Department – 90' Communication Tower

Town Marshal Jimmie Durnil explained the tower was never used in 14 years. They are requesting approval to surplus it so they can list it on eBay. If they can't sell it then they will scrap it.

Scott Oldham entertained a motion. Brian Mobley made a motion to pass Resolution 10-2017 Surplus for the Police Department Communication Tower. Kevin Farris seconded. Roll call vote: Brian Mobley – yes; Kevin Farris – yes; and Scott Oldham – yes. Motion carried.

Ordinance on Second Reading

Ordinance 2017-05 to Amend Chapter 97.02 Concerning Street Trees Lying within a Public Right-of-Way

Darla Brown, Town Attorney, explained the purpose of this ordinance is to scale back the area within which the Town will pick up trees in the public right-of-way. The previous ordinance states trees lying in the public right-of-way includes “*those within an area 15 feet in depth from the pavement edge public right-of-way*” which means the Town is going to take care of it. Also included are those trees in “*any town owned or operated park.*” There was a question at a prior meeting about the Town’s liability and responsibility. It comes down to a question of fact as in any lawsuit. If there is a tree in the right-of-way, leaning over the street, has a rotting trunk and falls into the street hitting someone the Town may be responsible. If a strong wind comes along and blows over an otherwise healthy tree the Town wouldn’t be liable. The Tree Ordinance established a Tree Advisory Committee which is to be comprised of a five-member board who decides which trees are going to be culled. A Tree Advisory Committee does not exist. Does the Town want to repeal those sections? If Town Council decides to repeal those sections they may want to wait to pass this ordinance to give her and Danny Stalcup a chance to reword it as to whether or not it’s the Street Department that makes the decision as opposed to the Tree Advisory Committee. The Tree Advisory Committee is to have full power and authority over all trees, plants and shrubs located in street right-of-ways, parks and public places in Town. All trees, plants and shrubs located on private property can constitute a hazard.

Brian Mobley asked if the Tree Advisory Commission should be under the Plan Commission. Ms. Brown does not think it would fall under planning and zoning because it is more of a maintenance and looking for hazards type issue.

Scott Oldham asked if there has ever been an occasion when someone does not want them to cut down a tree. Mr. Stalcup answered people do not want them to trim limbs. The only trees they cut down are those they realize to be a hazard. Usually, the property owner is happy when they cut it down. Chief Cornman commented a Tree Advisory Committee was formed in the mid-1980s. The Ellettsville Chamber of Commerce received a grant and along with their own funds planted several shrubs and trees along State Road 46 and a few other places. Most of the trees were lost to a drought in 1988 so the Tree Advisory Committee didn’t function after that. Mr. Oldham thinks since there hasn’t been a Tree Advisory Committee that it would not be relevant to continue with it.

Kevin Tolloty, Planning Director, came across this last week because of a concern about someone putting up a certain type of tree that should be prohibited. A provision of the Tree Advisory Committee is to put together a list of trees that can/cannot be placed in the right-of-way particularly if part of a subdivision. If the Tree Advisory Committee is disbanded, is there any way this provision can be saved or moved to another section. Mr. Oldham asked how often it happens. Will it be an exception to a rule? Mr. Tolloty answered they do not get many subdivisions but in this case they don’t have any recourse to tell someone they cannot plant a particular species of tree. Ms. Brown asked if he is referring to the approved tree list the City of Bloomington has as part of their Planning and Zoning. Mr. Tolloty would like to have something in the ordinance specifically stating certain trees cannot be planted. Ms. Brown suggested she, Mr. Tolloty and Mr. Stalcup discuss adding a section for prohibited trees.

Scott Oldham entertained a motion to table. Kevin Farris so moved. Brian Mobley seconded. Roll call vote: Kevin Farris – yes; Scott Oldham – yes; and Brian Mobley – yes. Motion carried.

Ordinance 2017-06 to Amend Various Sections of Chapter 152 of the Ellettsville Town Code Concerning Sign Regulations

Kevin Tolloty, Planning Director, explained two years ago the U.S. Supreme Court ruled signs cannot be regulated based on content. Sign regulations can be based on physical characteristics, size, height, etc. The sign code update removes all content based regulations and is replaced by temporary commercial or temporary non-commercial signs. Revisions include clarification, removal of certain definitions, redundant and contradictory

language and increased square footage on freestanding signs. Existing signs will not be affected. The electronic sign section has been modified so that those signs will no longer have to go before the Plan Commission for approval.

Scott Oldham asked if the fee for garage sale signs has been repealed. Mr. Tolloty answered there will be no fees for garage sale or any temporary sign eight square feet and under. Mr. Oldham expressed concern with monument signs. Mr. Tolloty explained pole signs or monument signs are allowed in Commercial 3 districts. Monument signs are currently allowed. Pole signs will remain the same size. An extra 40 square feet for monument signs is allowed. Mr. Oldham asked if monument signs are required. Mr. Tolloty answered not in Commercial 3 districts. In Commercial 1 and 2 districts, between the gateways, monument signs are required for freestanding signs. Mr. Oldham thinks monument signs can be a visible obstruction depending on how they're placed. Mr. Tolloty stated guidelines for the site vision triangle are included in the revisions. Mr. Oldham has a difficult time telling prospective businesses who want to locate in that area they'll be restricted to a particular type of sign while he has safety concerns. Mr. Mobley has a concern about the effect of requiring monument signs on a local mom and pop shop.

Scott Oldham entertained a motion. Kevin Farris made a motion to adopt Ordinance 2017-06 to Amend the Various Sections of Chapter 152 of the Ellettsville Town Code Concerning Sign Regulations. Scott Oldham seconded. Roll call vote: Brian Mobley – no; Kevin Farris – yes; and Scott Oldham – no. Motion failed.

Darla Brown, Town Attorney, advised according to statute if the Town Council rejects the proposal it has to return to the Plan Commission for consideration. The Town Council has to provide the Plan Commission with a written statement of the reasons for rejection. Ms. Brown confirmed the rationale for the rejection was the effect monument signs would have on small business owners and visibility.

Sandra Hash, Clerk-Treasurer and Plan Commission member, noted there is not much difference in cost for monument versus a pole sign. People can choose the type of sign and how much they want to invest. There is somewhat of a setback for monument signs and the section of Town effected are within the one-way pairs. The Plan Commission has extensively debated the issue. They asked for public comment and she took a packet to the Chamber of Commerce and asked for their comments. The Plan Commission did not receive any comments. Aesthetically, with people driving 35 miles per hour, the Plan Commission agreed monument signs would look better and serve the downtown well. Mr. Oldham disagrees in that monument signs will block the field of view and he cannot support it.

Old Business

Flood Report

Brian Mobley received an email from the David Knipe of the Indiana Department of Natural Resources. The email conveyed Mr. Knipe's report which isn't much different than his presentation to Town Council. He will have Ms. Hash put it on the web page. The report discussed McNeely Street, Maintenance Building and Vine Street. He will provide additional information after he has reviewed the report.

Scott Oldham noticed after the last big rain gravel washed into the creek at the pasture. It seems like a lot of gravel as it makes the bend at the bridge. He asked Mr. Stalcup to look at it.

New Business

Darla Brown, Town Attorney, requested the Town Council consider the following not listed on the agenda:

Agreement between the Town of Ellettsville and George Huntington and Jeannette Ley Concerning an Easement to the New Water Line

Darla Brown explained the Town is in the process of building a secondary waterline and homeowners, George Huntington, III and Jeanette Kay Ley, have additional terms for consideration. She requested the Town Council consider their contract at this meeting.

Scott Oldham asked if there is anything objectionable or that would hurt the Town in the contract. Ms. Brown has been assured by Mike Farmer that there is no issue with getting the secondary waterline through that section done by December 31, 2017.

Scott Oldham entertained a motion to approve the contract between the Town and George Huntington, III and Jeanette Kay Ley regarding the construction of the Woodyard waterline. Kevin Farris so moved. Brian Mobley seconded. Roll call vote: Scott Oldham – yes; Kevin Farris – yes; and Brian Mobley – yes. Motion carried.

Town Manager’s Comments

Jim Davis, Town Manager, advised they’re working on the acoustics in new Town Hall. There is no one in the area who tests the acoustics so they may have to get someone from Indianapolis.

Supervisors Comments

Fire Chief Mike Cornman previously forwarded an email to Town Council advising the City of Bloomington borrowed a fire engine which was returned today. This week the Fire Department is sending several people to the Fire Department Instructor’s Conference in Indianapolis. The Bloomington Metropolitan Union Local 586 provided 14 passes at a cost of \$10,500, or \$750 each, to the firefighters. They’re sending 14 people throughout the week to the classes.

Brian Mobley asked if there is an open house at Town Hall. Mr. Davis answered it’s on Saturday, May 20, 2017, from 1:00 p.m. to 3:00 p.m.

Town Marshal Jimmie Durnil reminded everyone the Fraternal Order of Police Memorial Service is scheduled for Monday, May 15, 2017, beginning at 11:00 a.m. at Town Hall. Mr. Oldham requested this and the open house be posted on the website.

Adjournment

Scott Oldham entertained a motion to adjourn. Kevin Farris so moved. Brian Mobley seconded. Scott Oldham adjourned the meeting at 7:00 p.m.

Scott Oldham, President

Dianna S. Bastin, Vice-President

Scott Thomas

Kevin Farris

Brian Mobley

Sandra Hash, Clerk-Treasurer