

## September 12, 2016

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, September 12, 2016, at the Fire Department Training and Conference Room. Scott Oldham called the meeting to order at 6:30 p.m. Kevin Farris led the Pledge of Allegiance followed with a prayer by Scott Thomas.

**Roll Call:** Members present were Scott Oldham, President; Kevin Farris, Brian Mobley and Scott Thomas. Dianna S. Bastin was absent. Sandra Hash, Clerk-Treasurer; and 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, Jimmie Durnil, Kevin Tolloty and Mike Farmer. Kip Headdy represented the Street Department.

### Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting and work session on August 22, 2016. Kevin Farris so moved. Scott Thomas seconded. Motion carried.

### Accounts Payable Vouchers

Scott Oldham entertained a motion for action to pay Accounts Payable Vouchers. Brian Mobley had a question on a claim which was answered by the supervisor. Kevin Farris made a motion to approve the Accounts Payable Vouchers. Scott Thomas seconded. Motion carried.

### Pre-Adoption Public Hearing of the 2017 Budget – Ordinance 2016-10

**Sandra Hash, Clerk-Treasurer,** presented a summary of the 2017 Budget:

- General Fund budget is \$2,557,645 which is \$24,222 less than 2016. The General Fund includes Administration, Planning, Fire and Police Departments. Richland Township will contribute \$464,171 toward fire protection in Richland Township which is a reduction of \$100,000 and Bloomington Hospital will contribute \$59,869 for assisting with the ambulance at the Curry Pike Fire Station.
- County Option Income Tax is estimated at \$654,641, an increase of \$47,437 from 2016.
- Motor Vehicle Highway's Budget is \$570,081, an increase of \$444 from 2016. Payments from the state will be \$228,301 which is \$189 less than 2016.
- The Park and Recreation budget of \$26,157 is the same as 2016.
- Local Roads and Streets and the Cumulative Funds equal \$236,300, a decrease of \$7,949 from 2016.
- Debt Service Fund for Police and Fire is \$300,000.
- Total budget for the civil portion of the Town is \$3,690,183.
- Maximum Levy Growth Quotient is 3.8%.
- Water Utility budget is \$2,043,680, an increase of \$365,700 from 2016.
- Waste Water budget is \$1,449,540, an increase of \$55,760 from 2016.
- Stormwater budget is \$134,912, a decrease of \$1,021 from 2016.

**Scott Oldham** asked if the budget has been published. Ms. Hash explained beginning this year they are only required to publish it on Indiana Gateway for Governmental Units and it has been done.

### Resolutions

#### Resolution 20-2016 to Dispose of Surplus Property for the Fire Department

**Fire Chief Mike Cornman** requested permission to declare a 1987 International Cargo Star Tanker Truck surplus property. It has one small pump attached to the truck and the other fire equipment has been removed. It holds 1,300 gallons, has a stainless steel tank, 250 gallon pump and nine horsepower motor.

Scott Oldham entertained a motion. Kevin Farris made a motion to accept Resolution 20-2016 to Dispose of Surplus Property for the Fire Department. Brian Mobley seconded.

Due to Kevin Farris and Scott Thomas abstaining the motion died. After a discussion, it was decided to list it on the next meeting agenda.

## **Ordinances on Second Reading**

### **Ordinance 2016-11 to Add a New Section to the Ellettsville Town Code to Charge Fees for the Production of Law Enforcement Recordings**

**Darla Brown, Town Attorney**, explained other municipalities either outsource or charge a flat fee of \$150. The Indiana Association of Cities and Towns advised the Town should charge up to \$150 but should only charge for the direct cost as defined by statute. Her suggestion is for the Town Council to give their input and she and Marshal Durnil will revise the ordinance. They need to figure out a reasonable hourly retrieval rate and calculate the copying costs.

**Scott Oldham** explained it could take hours for the Police Department to redact the videos. For example, two police cars at the scene of a call would result in two body and car cameras and each would have to be redacted for victim faces and juvenile faces have to have all identifying markers removed. So, a twenty minute segment turns in 20 minutes x 4 cameras and each video would have to be redacted which could take one to two hours. The software is not cheap and he doesn't agree with outsourcing the videos. A fee of \$150 could be exhausted in two or three hours. Both the original and redacted copy have to be stored for a decade or longer. He recommends Town Council follow other municipalities and charge \$150, the maximum allowed by law. Mr. Farris concurred.

**Scott Thomas** disagrees. He would rather see officers on the road than working on videos. The free market has companies who are capable and willing. He would like to see this removed from the Police Department as well as research on this. Mr. Thomas asked if videos can be provided through a third party. Mr. Oldham doesn't know how this could be done if the video is evidence. Mr. Mobley commented Greenwood outsources their videos. Mr. Oldham stated what one court says is okay for one county may not be allowed by another. Ms. Brown thinks it could be outsourced but there might be practical problems with it. She can call Greenwood's City Attorney to find out what they're doing and how they protect the identity of confidential informants. Mr. Oldham noted they would have to pay the outsource company. Mr. Thomas asked if that is worse than spending \$20,000 to buy the software or \$7,000 to \$8,000 to do it online. He thinks their options should be researched. Is this built into the Police Department budget? Mr. Oldham thinks it is an unfunded mandate with an unintended consequence of the legislature's attempt to make information readily available to the public.

**Brian Mobley** mentioned a news story about two police departments who removed the cameras from the officers because of the cost. They can't give raises so how could they afford this? He understands it is needed for evidence but it should be included in the Police Department's budget. Mr. Oldham thinks not doing it is not an option because the law requires it and it is a time sensitive issue. Ms. Brown advised there are several people who have a right to inspect recordings and may, or may not, want a copy. Someone would have to set with whomever is viewing the video so there would be a cost associated with this. Mr. Farris asked if it is outsourced is the max they can charge \$150. Ms. Brown answered that is the way she reads it. The fee of \$150 would go to the Town but it would have a separate contract with the outsource company. Mr. Thomas asked if they're determining the rate per hour or unit. He thinks that should be set between Ms. Brown and Marshal Durnil. Mr. Oldham remarked they can't have an adjustable rate per unit but a separate rate. Currently, it is suggested to save videos on the Cloud but that gets expensive as videos have to be stored for a substantial time. Ms. Brown advised the statute states they have to charge not more than a fee of \$150 for direct costs and another section defines the same. The issue is if they put in the ordinance it is going to be a flat fee of \$150 and someone challenges it the Town has to prove its cost. By statute, the direct costs are 105% of the sum of, the cost of, the initial development of the program, the labor required to retrieve electronically stored data in any medium used for electronic output for providing a copy of the electronically stored data. They could set an hourly labor rate and what it cost to download it. How do they calculate a fair percentage to spread out over the requests?

**Marshal Jimmie Durnil** stated they could charge for the initial development of the program and currently have \$4,000 invested. Mr. Farris asked if they have had to provide videos in the past. Marshal Durnil answered they have had to provide them but not since they started with the body cameras. Mr. Farris asked how often they provide them. Marshal Durnil replied 10 to 15 times a month. They have software to provide copies and a server to store the videos but do not have the redaction software. Mr. Mobley asked the cost of the software. Marshal Durnil thinks it's approximately \$50,000.

**Scott Thomas** doesn't have a problem with charging \$150. He wants to make sure they have everything in order to understand the direct costs. Mr. Mobley thinks Ms. Brown and Mr. Durnil should calculate the costs. Mr. Oldham doesn't think \$150 covers the costs. Mr. Farris agreed. Mr. Oldham would not be comfortable outsourcing the video. Marshal Durnil agreed. Mr. Thomas reiterated he prefers for this to be researched to determine a breakdown of the costs and their choices so they can make an informed decision.

Scott Oldham entertained a motion. Scott Thomas made a motion to table this until to the next meeting to get a chance for their attorney and our Police Department to investigate this further to provide them an informed decision. Brian Mobley seconded. Roll call vote: Scott Oldham – no; Kevin Farris – no; Brian Mobley – yes; Scott Thomas – yes; and Sandra Hash – no. Motion failed 2-3.

Kevin Farris made a motion to adopt Ordinance 2016-11 to add a new section to the Ellettsville Town Code to charge fees for the production of law enforcement recordings at \$150 per recording. Scott Oldham seconded. Roll call vote: Scott Oldham – yes; Kevin Farris – yes; Brian Mobley – no; Scott Thomas – no; and Sandra Hash – yes. Motion carried 3-2.

## **New Business**

### **Community Crossings Grant Award of \$46,211.45**

**Denise Line, Planning Department and Clerk-Treasurer's Office**, announced the Town of Ellettsville has been awarded four grants from the Indiana Department of Transportation ("INDOT") Community Crossings Grant. This is the first grant solely funded by INDOT. The grant is a 50-50 match and Ellettsville will receive \$46,211.45. The grants are for paving the following projects: Ridge Springs Lane, North Robin Drive, West Dewey Drive and South Tulip Tree Court. Funds are anticipated to be received by November 1, 2016. The Street Department will try to complete the projects this fall. Mr. Mobley thanked Ms. Line and Mr. Stalcup for taking the initiative to get the grants. Ms. Line added Kip Headdy provided the technical information and Kevin Tolloty prepared the maps.

### **Approval of the Street Paving Proposal – Street Department**

**Kip Headdy, Street Department Foreman**, presented a bid from E & B Paving, Inc. for approval to pave the projects listed in the Community Crossings Grant Award. The streets to be paved are as follows: Dewey Drive from First Street to Park Street; Ridge Springs from Cedar Drive to State Road 46; east end of Tulip Tree Court and Robin Drive from Langley Drive to Meadowlands Drive. All of the projects will have milled transition joints at the starting and stopping points, intersections and a liquid asphalt pack will be put down to ensure the bonding of the new mix with 1½" of hot asphalt surface will be put down. They hope to do the paving this fall as soon as the contractor is available and the weather permits.

Scott Oldham entertained a motion. Scott Thomas made a motion to approve it. Scott Oldham seconded. Roll call vote: Kevin Farris – yes; Brian Mobley – yes; Scott Thomas – yes and Scott Oldham – yes. Motion carried 4-0.

### **Meeting Dates for 2017**

Scott Oldham entertained a motion concerning the meeting dates for 2017. Scott Thomas made a motion to approve the dates and times of the meetings for 2017. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 4-0.

**Sandra Hash, Clerk-Treasurer**, advised the Plan Commission and the Parks Board have approved their meeting dates for 2017.

### **Town Council Comments**

**Brian Mobley** advised the Town flooded on the evening of September 8, 2016. A building he owns flooded as well as other residences and businesses. Chad Stephens' building had 2' of water in it. The Department of Natural Resources ("DNR") is saying it'll be three to four years before they make a decision. A committee needs formed to determine what can be done locally. The Coin Shop is empty, old Town Hall is empty and he doesn't know if the tenant will stay in his building. He is telling businesses to stay away from downtown until the Town and Town Council do something. Are they going to do anything about it or let the DNR decide? He talked with Mr. Stephens and Danny Stalcup. There is a culvert by McNeely Street that is half full of gravel and they need to find a way to prevent this. There have been discussions on putting pipes under the McNeely Street Bridge. Sale Street at old Town Hall also have a problem with water going into a storm drain and backfilling. A flood gate would help to keep water from the creek going in it. He would like for people to text or call him to discuss this.

**Scott Oldham** asked Rick Coppock if a permit is required from the DNR to put pipes under the bridge. Mr. Coppock advised work above the ordinary high water mark of the creek requires a permit any work done around the creek should have a permit from the DNR. Mr. Oldham asked how long it would take to get the permit. Mr. Coppock replied it depends on the work to be done. Working in the floodplain for an extended period of time will require a permit. Mr. Oldham asked if it will take as long to get a permit as when they wanted to clean out the creek which was a year. Mr. Coppock answered that is typical when you want to do excavations. They can make smaller improvements such as those discussed by Mr. Mobley. He will price the flood gate for the storm drain near old Town Hall.

**Brian Mobley** spoke with Mr. Stalcup and Mr. Headdy about adding a pipe or another drain to move the water. Mr. Coppock noted you get more capacity by making the ditch wider. Mr. Oldham asked if a permit would be required. Mr. Coppock answered the Town could do the work as it would be for erosion control. Mr. Mobley talked to Mr. Headdy about adding a ditch on the side of McNeely Street to make the water flow to another storm drain toward the Utilities building. Mr. Coppock commented there is a certain percentage of work that can be done without getting too much into the permitting process. Mr. Mobley will meet with Mr. Coppock and the Street Department to come up with some solutions. Mr. Coppock stated they have correspondence from the Town to the DNR before State Road 46 and the McNeely Street Bridge were built expressing the Town's concerns about the two or three areas they thought would back up water. However, they didn't receive much of a response. He would appreciate receiving any photographs of the flooding.

**Scott Oldham** congratulated Sandra Hash on being the Grand Marshal of the Monroe County Fall Festival parade.

**Brian Mobley**, on behalf of the Town, conveyed prayers for the family of Kenton Robinson. Mr. Robinson was a long time resident of Ellettsville and business owner. He gave a lot of people jobs when they needed it. Mr. Robinson will be missed.

**Scott Oldham** reminded everyone of the street closures for the Monroe County Fall Festival beginning on Thursday. There will also be a lot of pedestrians in the area. Please use caution when approaching the State Road 46 split.

### **Town Manager Comments**

**Jim Davis, Town Manager**, advised the new Town Hall roof has been shingled. Sidewalks and curbs are being poured. In the next week to 10 days they will start with plumbing and wiring. Mr. Oldham asked if the project is still on track. Mr. Davis answered it is still on budget and he is uncertain about time-wise.

### **Supervisor's Comments**

**Town Marshal Jimmie Durnil** introduced Pastor Randy McCollum of the Spencer Baptist Church who will serve as the Police Department’s Chaplain.

**Pastor Randy McCollum** is pleased to be with the Police Department. His primary responsibility is to provide support and to respond to any emotional crisis of the officers or their families.

**Fire Chief Mike Cornman** announced the Fire Department received their new tanker truck.

**Privilege of the Floor**

**Barbara Davidson** expressed concern about the Water Quality Reports.

**Adjournment**

Scott Oldham entertained a motion to adjourn. Kevin Farris so moved. Scott Thomas seconded. Scott Oldham adjourned the meeting at 7:36 p.m.

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Scott Oldham, President

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Dianna S. Bastin, Vice-President

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Scott Thomas

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Kevin Farris

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Brian Mobley

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Sandra Hash, Clerk Treasurer