

## August 22, 2016

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, August 22, 2016, at the Fire Department Training and Conference Room. Dianna S. Bastin called the meeting to order at 6:30 p.m. Dianna S. Bastin led the Pledge of Allegiance followed with a prayer by Scott Thomas.

**Roll Call:** Members present were Dianna S. Bastin, Vice President; Kevin Farris, Brian Mobley and Scott Thomas. Scott Oldham was absent. Sandra Hash, Clerk-Treasurer; and Darla Brown, Town Attorney; and Jim Davis, Town Manager; were also present.

**Supervisors present were:** Danny Stalcup, Jimmie Durnil, Kevin Tolloty and Mike Farmer. Deputy Chief Kevin Patton represented the Fire Department.

### Approval of Minutes

Dianna S. Bastin entertained a motion for approval of the minutes for the regular meeting and work session on August 8, 2016. Kevin Farris so moved. Scott Thomas seconded. Motion carried.

### Accounts Payable Vouchers

Dianna S. Bastin entertained a motion for action to pay Accounts Payable Vouchers. Brian Mobley had questions on expenditures and will contact the supervisors. Scott Thomas made a motion to approve the Accounts Payable Vouchers. Kevin Farris seconded. Motion carried.

### Resolutions

#### Resolution 19-2016 Public Safety Fire Department Allocation

**Darla Brown, Town Attorney**, explained the subcommittee of the Monroe County Income Tax Council (“Tax Council”) met on August 10, 2016, and made a determination as to how to distribute funds to the townships. The ordinance passed by the City of Bloomington, Monroe County and the Town of Ellettsville provides for .25% to be collected for the income tax and 30% of which is allocated for Central Dispatch. Pursuant to statute the townships had an opportunity to submit applications and request funds with the remainder distributed to the city, county and Town. The resolution prepared by a city attorney sets forth the amounts the Tax Council recommended go the townships. If passed, Ellettsville’s five votes will go toward the resolution. A total of \$341,560 goes to the townships.

**Fire Chief Mike Cornman** explained the money that comes off the top of the Public Safety Local Option Income Tax is for agencies who otherwise, by state law, are not allowed to get a one-time distribution. The Ellettsville Fire Department, on behalf of Richland Township (“Township”), asked for \$318,000. The Tax Council subcommittee allowed \$93,000 for the Ellettsville Fire Department. For the next year this is extremely important. If the Fire Department does not receive this, more than likely there will be reduction of staff and the station on Curry Pike will not be fully operational. The Township is going to reduce their contract with the Ellettsville Fire Department by \$100,000. It is important this be passed as it would be beneficial for the Town of Ellettsville as well as the Township. Mr. Mobley asked if the Township cannot pay their \$100,000 contract. Chief Cornman answered the Township is proposing to reduce it by \$100,000. Mr. Mobley knows when they asked for the funds it was for personnel and equipment to help Ellettsville. Chief Cornman agreed. Mr. Mobley confirmed the Fire Department isn’t receiving any manpower or equipment. Chief Cornman replied not with this money.

Dianna S. Bastin entertained a motion for Resolution 19-2016, Public Safety Fire Department Allocation.

**Brian Mobley** asked how much the Town will receive from the Public Safety Local Income Tax Option. Ms. Brown thinks the estimates are \$7,520,404 would be collected with 30% or \$2,258,221 allocated for Central Dispatch leaving \$5,269,183 and \$341,560 for the townships is deducted and the rest is divided between the city, county and Ellettsville. Stinesville will receive less than \$1,000. Mr. Davis thinks the Town will receive approximately \$140,000. Ms. Brown reminded everyone this resolution pertains to

township allocations. Mr. Mobley does agree with the resolution but his vote is still no as it pertains to the tax.

Kevin Farris made the motion. Brian Mobley seconded. Roll call vote: Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – no. Motion carried 3-1.

## **Ordinances on First 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 the Indiana Legislature significantly amended the Access to Public Records Act to address when body camera footage or dash cam footage should be made available pursuant to a public records request. The ordinance allows the Town to charge \$150 for the production of the recording. Typically, under the Access to Public Records Act the governmental entity responding to the request can't charge a retrieval fee for the documents but can charge copying costs. For purposes of a law enforcement recording the legislature will allow municipalities to charge a copying fee that may not exceed \$150. The reason for this is there may be something such as a dead body, severe violence, nudity, a young child, confidential informant or undercover officer on the footage that needs to be redacted from the public record. The body cam recordings have to be kept by the Town for 190 days. The legislature is allowing municipalities to charge a \$150 fee because of the work involved in storing the body cam footage and the redactions needed before it can be provided. Under the statute a request for a law enforcement recording has to be in writing. If someone is in the recording or a victim of a crime they get the opportunity to look at it for free. Others would have to pay the copying cost.

**Scott Thomas** asked if the \$150 fee is specific to body cam video. Ms. Brown answered yes. Mr. Thomas asked if this is a standard fee. Ms. Brown replied she does not know and wrote the ordinance with the maximum fee. It may depend on the length of the footage and how much has to be redacted. Ms. Bastin asked where the money will go. Ms. Brown answered the way the ordinance is drafted the Town can put it wherever it wants but similar copying fees are allocated to the Law Enforcement Continuing Education Fund. Mr. Farris asked if the Town will do the redacting or will someone else do it. Marshal Durnil answered they have two officers who can do the redacting in-house. The big factor is the storage. Their policy has been amended to include officer discretion because they won't record entire eight hour shifts. Ms. Brown suggested including an hourly fee for the officer's time to review the footage not to exceed \$150 plus a storage fee. They should keep the original un-redacted recording and a redacted copy would be given to the person making the request. The governmental entity has to decide whether or not the disclosure has a reasonable likelihood of threatening public safety. The governmental entity can refuse to disclose the information then the requestor has the opportunity to obtain a court order and the burden would be on the Town to show the concern is about a public safety threat. Ms. Bastin commented at an officer's hourly pay rate, including benefits, it wouldn't take very long to get to \$150. Marshal Durnil advised NCIC and IDAC information and radio traffic will have to be removed. Mr. Thomas is not opposed to charging \$150. He would like for the Town to do due diligence to make sure it is in line with what other departments charge. Ms. Brown will verify the same.

**Kevin Farris** asked if something is missed when editing the footage would the Town be liable. Ms. Brown answered it would depend on what was missed as far as what wasn't redacted. The statute uses the word "obscure". It would depend on what wasn't obscured and what the issue is as to whether or not there would be a liability

## **Ordinances on Second Reading**

### **Ordinances 2016-09 to Amend Chapter 96 of the Ellettsville Town Code Regarding Animals**

**Darla Brown, Town Attorney**, changed the ordinance to make it clear that domestic livestock includes domestic farm animals other than domestic pets whether or not they are kept for commercial purposes.

**Dianna S. Bastin** wanted to find a way before the last meeting for a person to keep her animal she is so bonded with. Scott Thomas made the comment, which she agrees with, in that they don't know what the other half of the story is if no one comes to tell them. This made a huge difference to her. It is one thing to be bonded with an animal and another thing to use that to harass people. When this is passed how long before the animal is removed? Ms. Brown answered the Clerk-Treasurer has to publish notice so it is within 30 days of publication. Ms. Bastin hopes it will resolve itself within 30 days and the Town won't have to find the animal a home. Thank you to the people who came to the last Town Council meeting to tell them what they were going through and she hopes it gets better.

**Dianna S. Bastin** entertains a motion for Ordinance 2016-09. Scott Thomas made the motion. Kevin Farris seconded. Roll call vote: Scott Thomas – yes; Brian Mobley – yes; Kevin Farris – yes; and Dianna S. Bastin – yes. Motion carried 4-0.

## **New Business**

### **Selection of an Alternate Plan Commission Member**

**Darla Brown, Town Attorney**, explained at the last Plan Commission meeting a member recused himself because he thought he had a conflict. Up for consideration was a waiver request for Centennial Park and the vote was 3-3. Under Town Code, Plan Commission rules and Indiana statute it is a no action vote because there has to be four votes on the seven member Plan Commission to have final action. The procedure is to put it on the next Plan Commission agenda. If someone recuses himself because he thought he couldn't be fair or impartial she is unsure whether it does any good to put it back before the Plan Commission knowing there was a 3-3 vote last time. By statute the Town Council can appoint a new Plan Commission member to fill in for the recused member on that particular petition. This person won't have to go to every Plan Commission meeting. They have to be appointed by Scott Oldham who is the appointing authority. Mr. Farris asked if they have to be present to vote or can they vote by proxy. Ms. Brown answered they can't vote by proxy. Ms. Bastin stated Mr. Oldham sent an email advising Jon Hoffmeister was interested. She knows Jon to be a fair person and he is a good man.

## **Town Council Comments**

**Brian Mobley**, on behalf of the Town, conveyed prayers for the family and co-workers of Steve Sturgeon who worked at *The Ellettsville Journal* for many years. He covered all sports and recently retired. Steve will be missed by the community.

## **Town Manager Comments**

**Jim Davis, Town Manager**, provided an update on new Town Hall construction. Shingles are going on the roof and columns are in place on both sides of the building. Ms. Bastin asked if there are any rules or regulations for being on the construction site during working hours. Mr. Davis answered no.

**Brian Mobley** asked if the budget meeting is open to the public. Ms. Hash answered yes, the preliminary hearing for the budget will be on September 12, 2016. She provided the budgets and information on the circuit breaker effect over the last six years. The Town has lost \$504,000 of property tax income due to the circuit breaker tax caps. The budgets will be published on the Gateway and it includes the Town's meeting dates. The budget adoption hearing will be on September 26, 2016. The budgets were revised as directed at the budget meeting in July 2016. At that time it was decided the Town would not give a raise for 2017. All of the budget cuts outlined at the meeting have been made.

## **Supervisor's Comments**

**Darla Brown, Town Attorney**, provided information on the Local Income Tax ordinance. The Department of Local Government Finance is of the opinion that the public safety income tax adopted in June 2016 will not carry forward into 2017. The Tax Council will have to pass a new local income tax ordinance very similar to the County Option Income Tax. The Town Council will hear this during its regular meeting in September. The thought of the attorneys for the city, county and Town is that maybe a joint meeting between all entities of the Tax Council might be appropriate and more efficient since the language is about the same. The proposal is to do this on September 27, 2016, in the Nat Hill Courtroom. It would be advertised to the public 10 days beforehand. Does anyone object to this? They could do a reading in Ellettsville at the September 12, 2016, meeting and council members still attend the joint Tax Council meeting on September 27, 2016. The time has not been decided but it will probably be 6:00 p.m. or 6:30 p.m. Mr. Mobley asked if the City of Bloomington has 15 votes. Ms. Brown answered Bloomington has a majority of the votes.

**Fire Chief Mike Cornman** explained when Town Council goes to the Tax Council meeting they can set the tone. If there is any one on the City Council who is wavering one way or the other could cause something to happen. Please think about this, it is really important to the community. They do listen and understand what is going on in Ellettsville.

### **Adjournment**

Dianna S. Bastin entertained a motion to adjourn. Kevin Farris so moved. Dianna S. Bastin seconded. Dianna S. Bastin adjourned the meeting at 7:00 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