

## February 22, 2016

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, February 22, 2016, at the Fire Department Training and Conference Room. Scott Oldham 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 Scott Oldham, President; Dianna S. Bastin, Vice President; Kevin Farris, Brian Mobley and Scott Thomas. Sandra Hash, Clerk-Treasurer, Darla Brown, Town Attorney, and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, were also present.

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

### Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting and Executive Session on February 8, 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. Dianna S. Bastin so moved. Kevin Farris seconded the motion to pay the Accounts Payable Vouchers. Motion carried.

### Appointments

**Plan Commission:** Scott Oldham appointed Pat Wesolowski to the Democrat position on the Plan Commission.

**Board of Zoning Appeals:** Scott Oldham appointed Russ Ryle and Pat Wesolowski to the Plan Commission.

### Resolutions

**Resolution 04-2016 to Adopt a Written Fiscal Plan for the Richland Senior Citizens Housing, Inc. Annexation, 6151 N. Matthews Drive, Ellettsville**

**Kevin Tolloty, Planning Director,** explained the Fiscal Plan is based on the current use of the property. The property will be developed in the future.

**Brian Mobley** asked if the property is in a floodplain. Mr. Tolloty answered a portion of it is but not the part to be developed.

Scott Oldham entertained a motion to approve Resolution 04-2016, the Fiscal Plan for Richland Senior Citizens Housing, Inc. Dianna S. Bastin made a motion to approve Resolution 04-2016, the Fiscal Plan for Richland Senior Citizens Housing, Inc. Scott Thomas seconded. Roll call vote: Scott Oldham – yes; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 5-0.

### Ordinances on First Reading

**Ordinance 2016-02 to Annex Richland Senior Citizens Housing, Inc., 6151 N. Matthews Drive, Ellettsville**

**Kevin Tolloty, Planning Director,** explained on February 4, 2016, the Plan Commission gave a unanimous favorable recommendation for annexation with a recommended zoning of R-3, which serves as the first reading of the Ordinance.

Scott Oldham entertained a motion for a recommendation to approve Ordinance 2016-02 to annex Richland Senior Citizens Housing, Inc., 6151 N. Matthews Drive. Dianna S. Bastin made a recommendation to approve Ordinance 2016-02 to annex Richland Senior Citizens Housing, Inc., 6151 N. Matthews Drive. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 5-0.

### **Ordinance 2016-03 Permit the Use of Town Funds for the Promotion of Town Business**

**Darla Brown, Town Attorney**, advised there is a statute that allows municipalities to develop a policy that discusses how funds are going to be used for the promotion of town business. Section 31.10 under Town code will be repealed and the language from this ordinance will be inserted in its place. Mr. Oldham asked why this was requested. Ms. Brown replied the State Board of Accounts would like a more detailed policy with regard to how municipalities' funds are used for various things.

**Brian Mobley** would like to see a line item in the budget define the amount Town departments can spend. Ms. Hash explained this budget line is Promotion of Town Business and is for things such as the Christmas luncheon, retirement events or employee recognition. Mr. Oldham asked if there is a certain figure on the line item. Ms. Hash replied they budget \$2,500. Mr. Thomas asked if there is a dollar amount for events. Ms. Hash answered it is a total budget of \$2,500.

**Dianna S. Bastin** stated when they put Christmas trees up in the park this fund is used for the lights. Is there somewhere under the ordinance it would be covered? Ms. Brown replied it would be covered under Section 2(C), Promotion of Tourism, but she can include language for decorations. She will change 2(B)(3) to read "*Expenses incurred. . . meeting room rental, holiday decorations, . . .*" Mr. Mobley reiterated he wanted a limit of \$250 without Town Council approval.

**Darla Brown** read a portion of an email from Todd Caldwell, Director of Audit Services, State Board of Accounts, "*We have taken the audit position that the promotion of business ordinances specifically lists the types of promotional expenses that can be paid from monies appropriated for such a purpose. If the intent is to pay for retirement parties, for example, our position is the ordinance should specifically state that.*"

**Scott Oldham** asked the Town Council's thoughts on giving the Town Manager instructions to approve a certain amount and if it is more to tell Town Council. All agreed. Ms. Brown advised the amount does not have to be in the ordinance because it will change from year to year. They want to see the types of allowable expenses listed.

### **Old Business**

#### **Renewal of the Lease Agreement Between the Town of Ellettsville and Tod Wesemann for Property on the Corner of West State Road 46 and Hartstraight Road**

**Scott Oldham** advised this is for cattle grazing on the pasture. Mr. Farris asked if it is the same as last year. Ms. Hash answered it renews the same agreement. Ms. Brown advised it is \$10 a head for adult cattle and a provision for either side to cancel the contract with 30 days advance notice. Ms. Hash added the agreement states the parties may renew the contract year to year by giving notice.

Scott Oldham entertained a motion to approve the renewable Lease Agreement between the Town of Ellettsville and Tod Wesemann for the property on State Road 46 and Hartstraight Road. Dianna S. Bastin made a motion to approve the renewable Lease Agreement between the Town of Ellettsville and Tod Wesemann for the property on State Road 46 and Hartstraight Road. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 5-0.

### **New Business**

#### **Proposed Hiring of a Part-Time Police Officer**

**Town Marshal Jimmie Durnil** explained they're in the process of realigning their scheduling and an officer will be gone for military leave this summer so they're looking

for a part-time officer. A part-time officer is an Indiana Law Enforcement Academy certified officer which means he can work by himself and take calls. They have talked to Mark Crouch, a retired Bloomington Police Officer with 25 years of experience. Mr. Crouch worked at Stinesville for a couple of years and, currently, he is a part-time bailiff with Monroe County Courts. The background check indicates a fantastic character, experience, calm under pressure and able to diffuse situations. He is recommending Mr. Crouch be hired as a part-time officer. Mr. Crouch has agreed to work 8 to 16 hours a month which is within their part-time budget.

**Kevin Farris** asked the officer's name who will be going on military leave. Marshal Durnil answered Craig Davis. Mr. Mobley asked how long he will be gone. Marshal Durnil answered three to four weeks, sporadically. Mr. Mobley asked how long Mr. Crouch would have to do the Field Training Officer course. Marshal Durnil answered three to four weeks.

Scott Oldham entertained a motion to approve the hiring of Mark Crouch as a part-time police officer for Ellettsville. Dianna S. Bastin made a motion to approve the hiring of Mark Crouch as a part-time police officer for Ellettsville. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 5-0.

**Sandra Hash** administered the Oath of Office to Mark Crouch.

#### **Mass Gathering Permit Renewal for the Richland Bean Blossom Youth Sports – Mary Ann Raines**

**Mary Ann Raines** advised Richland Bean Blossom Youth Sports (“RBBYS”) is back in swing. They are seeking approval of the Mass Gathering permit. Last year went well with no complaints. Their opening weekend is April 29 – 30, 2016, and regular season starts the following week. Ms. Hash asked if it is the same as last year. Ms. Raines answered yes, everything will be identical to last year. They're expecting approximately 500 children and 1,000 people the evening of April 29, 2016. On Saturday, April 30, 2016, teams will be there all day.

**Scott Oldham** suggested leaving it to the Town Marshal, Street Department and Fire Department as to what times they'll close the streets. All members concurred.

**Dianna Bastin** asked if the Fire Chief should come back to Town Council with any issues. Mr. Oldham replied it is always subject to being revoked. Ms. Raines is the contact for questions or concerns.

**Brian Mobley** asked Ms. Raines to encourage them to hold more all-star games in Ellettsville. Ms. Raines advised their all-star teams operate under RBBYS. If they hold tournaments are they covered by this Mass Gathering permit or do they have submit their own. Mr. Oldham answered they would be covered by this permit. Last year an outside team wanted to participate and it was decided they would need their own permit. Ms. Raines said all of the liability for the all-star teams is under RBBYS. Ms. Brown asked if the host is RBBYS. Ms. Raines answered yes. Is there a possibility after this year or the next to get the permit so they do not have to come back for approval every year? Mr. Oldham replied the ordinance is specific in that they have to obtain approval every year. Ms. Raines also requested a waiver of the fees. Mr. Mobley believes the fees should be waived. Mr. Thomas asked if they're non-profit. Ms. Raines replied they are.

Scott Oldham entertained a motion to waive the fees for the Mass Gathering. Brian Mobley made a motion to waive the fees for the Mass Gathering. Brian Mobley seconded. Roll call vote: Scott Oldham – yes; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 5-0.

Scott Oldham entertained a motion to approve the Mass Gathering for RBBYS. Scott Thomas made a motion to approve the Mass Gathering for RBBYS. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 5-0.

### **Heritage Trail Official Opening June 18, 2016**

**Mike Farmer** provided an update on the Heritage Trail. It is 90% complete. They have some lights put up, the Indiana Department of Transportation needs to put the crossing in and they have a few structures to move. Weather permitting they should get in to finish within the next two to three weeks. They are requesting an opening date of Saturday, June 18, 2016. The Boys and Girls Club is considering having a coordinated event downtown on that date. Ms. Hash mentioned the Shelter House and downtown parking lot have been reserved for the event. Mr. Oldham advised there has been discussion on making this a complete parks event. Mr. Oldham asked if everyone approved of the date. All agreed. Mr. Oldham asked thoughts on giving permission to supervisors to close streets or parking lots as necessary. All concurred.

### **Discussion of Town Code 33.16, Purchase of Services as Outlines in Indiana Code 5-22-6-1**

**Scott Thomas** spoke with Darla Brown, Town Attorney, about the expenses for the new Town Hall, policies on spending, the amount needed for Council approval and what needs put out for bids. In the past, it has been done for goods, capital improvements and those kind of things. For some reason services were omitted and he wants a discussion. The service contracts have done a good job and he doesn't want any changes. It would be appropriate for the Town to have a policy for goods and services to normalize the purchasing process in order to make sure they're being the best stewards of tax money for the people of the Town. It is important to add services to §33.16.

**Scott Oldham** asked Ms. Brown if the state law that governs this speaks to \$25,000 and \$50,000. Ms. Brown answered not with regard to services. It is for purchases of supplies and contracts for construction. With regard to services the statute says "*The governmental body may purchase services using any procedure the governmental body or the purchasing agency considers appropriate.*" Case law states that with regard to the purchase of services a municipality has nearly absolute discretion. Mr. Thomas asked if it needs changed to a different amount to go out for bid. Do they need to raise it to a higher level per contract? What is the thought of Council? Mr. Oldham asked Ms. Hash how many contracts have gone over the allotted amount without Town Council approval. Only Town Council can execute a contract. Any service for a certain dollar figure would be required to have a contract. Mr. Thomas is asking to include high-dollar services such as capital improvements in the bid process. Ms. Hash stated the Wessler contract they recently signed was for approximately \$59,000. Mr. Farris asked how many bids were received. Jeff Farmer answered two proposals. Mr. Farris asked Mr. Thomas how many bids he would like to see. Mr. Thomas answered Ms. Brown has advised it should be three bids. Ms. Brown clarified this was for construction or sometimes the purchase of services. Mr. Farris remarked it is already legislated. Ms. Brown agreed. There is a specific procedure in the code for construction and capital improvement projects. Mr. Thomas agreed with a \$50,000 limit for all service contracts. The Town is in its final year with Bynum Fanyo Utilities and that contract would fall under this. He wants to see that they're taking bids and making the best financial decisions going forward. Mr. Oldham stated there are a lot of things that go into a contract which is not necessarily dollars and cents. Are they talking about services such as building the new phosphorus plant? That is a continuation of a contract. Does he want everything at \$50,000 or above? Mr. Thomas thinks there needs to be a policy that says both goods and services are put out for bid over a certain amount. They need to streamline the process.

**Brian Mobley** stated in the private sector three bids are required. He thought the Town Manager could spend a certain amount of money without Town Council approval and beyond that amount he doesn't know why they don't standardize it for everything. Mr. Farris' concern is if they don't put stuff out for bid every single day they don't know what is involved with the time and effort to write bid proposals and research where to send it. He is concerned there will be a time when people will ask why the bids weren't sent to someone in particular. Mr. Thomas said it can be done with public notice. Anyone wishing to respond who meets the criteria set forth in the bid can respond. Mr. Farris asked Rick Coppock how long it took to do the proposal for the new Town Hall. Mr. Coppock answered, generally, bids and specs take at least a week or 30 to 40 hours. They work on

it for at least a week because they included different variables such as paving, grading and putting in the storm structures and utilities. Mr. Coppock said after the bids go out then they have to answer questions. Mr. Farris' concern is at what point do they stop asking more and more of the departments and what they want them to do, especially part-time employees. If an employee works 25 hours a week already and they're adding another 40 hours then there are people waiting for him to get his part done. Mr. Thomas said this is not a weekly issue. Historically, the contracts have been four, five or ten years. It's not like it is going to eat up a lot of his time. Mr. Farris asked if it does happen so infrequently why are they wanting to do it. Mr. Thomas answered the large amount of money that is spent. Mr. Farris noted they have to get Town Council approval. Mr. Thomas asked how do they know what the fair market value is or what the market will bare. Why wouldn't they normalize this across the board for goods and services? Ms. Hash doesn't know that sealed bids have to be done because some things require three proposals. Ms. Brown added under the Town code supervisors can purchase supplies for normal operations not to exceed \$2,500 on the open market without prior approval. Prior to making a purchase Town supervisors are to seek quotes from at least three firms which are not sealed bids. For purchases between \$50,000 and \$100,000 the Town Manager shall invite three firms known to deal in the class of supplies. For purchases of \$150,000 and more the competitive bidding process set forth in the code is to be followed such as sealed bids and advertising ahead of time. Mr. Farris asked what constitutes service. Ms. Brown answered anything not a supply or construction project. Mr. Coppock added professional services such as, engineering, architectural, attorneys and accountants are not subject to bid services according to Indiana Code.

**Scott Oldham** said if they would decide to do this they would have to bid out the Town Attorney, Town Manager and whomever else they hold a contract with. He understands controlling costs. How do they know they're getting an apples to apples comparison? Mr. Thomas said it is their decision to make as stewards of the Town. Maybe they need to establish a high limit so it doesn't affect smaller contracts. He is wanting to make sure they're looking at all options. Mr. Farris reiterated his concern are the department heads who will come to Town Council with something they think should be put out for bids. He does not want to micromanage departments or frustrate them. They have a tough job and he wants them to do their job to the best of their ability without any interference from anybody, especially Town Council. Mr. Thomas agreed. Mr. Mobley would like to move it to \$250,000 which means it would be a major project or service. That would be fair to the taxpayers. Mr. Oldham said every contract they sign has to come before Town Council. If anyone questions something is outside the norm or what they've contracted for in the past then it is clearly where they want to do due diligence. A dollar amount can't be put on experience or expertise. Ms. Bastin commented there is a dollar figure you cannot put on some of the things or services that are done in Ellettsville. She was thinking about the tanks being painted which was a service contract. Utilities looked into it, told them what was needed and they came to two public meetings. It was discussed extensively and the public had a chance to speak. The cost was substantial but it needed to be done. They are good watchers over the money in Ellettsville but the public has a certain responsibility to question what they're paying for contracts and services. She doesn't want to see a dollar amount. You have to look at the service you're getting. It doesn't happen that often. As a taxpayer, she had questions because she wanted to understand the process. She reiterated there doesn't need to be a dollar amount put on it.

**Kevin Farris** commented there will be times when a \$150,000, \$100,000 or \$50,000 limit has to come before them and they have the right to tell them at \$20,000 to put it out for bid. Mr. Thomas stated when they come to the Town Council and present new contracts then they have to say no, they're going to put it out for bid. Mr. Farris said they don't have to take the low bid. Mr. Oldham knows there have been times they've used outside counsel for specific legal expertise that they couldn't attach a dollar amount to it. Mr. Thomas asked if they have spent over \$150,000 on any action involving an outside counsel. Mr. Oldham commented some of these things go on for several years. Ms. Hash noted outside counsel are hourly agreements.

Scott Thomas made a motion to amend Town Code 33.16 to include the need for all purchases over \$150,000 require three bids.

**Scott Oldham** asked what happened if they don't receive three bids. Ms. Brown answered you do the best you can. Depending on the area of expertise they may not be able to find three people who do a certain service. Mr. Thomas said whatever the standard is it can match that.

Brian Mobley seconded the above motion. Roll call vote: Scott Oldham – no; Dianna S. Bastin – no; Kevin Farris – no; Brian Mobley – yes; and Scott Thomas – yes. Motion failed 2-3.

### **Purchasing a Police Car**

**Town Marshal Jimmie Durnil** previously provided Town Council with bids for a new police car. It is an all-wheel drive 2016 Dodge Charger and they won't have to put on snow tires. The low bid was from Bloomington Ford for \$24,596.25.

Scott Oldham entertained a motion and Kevin Farris began to make a motion then Mr. Mobley asked the following question:

Mr. Mobley asked if the funds come out of the Capital Cumulative Development Fund. Marshal Durnil answered yes. They will have two surplus cars this year. Mr. Oldham stated last year there was a discussion about it being the first year Dodge Charger came out with the all-wheel drive pursuit package. At the time, they asked the Police Department about other options. His discussion with Marshal Durnil was he wants to try the all-wheel drive version of the Charger while they have the all-wheel version of the Ford so he can make an accurate comparison to find out which is best. Mr. Thomas had similar conversations with Marshal Durnil because of some concerns and asked him to do the research. Every time he has gone to Marshal Durnil he comes back with answers. Thank you, this makes their decision easier. Ms. Bastin appreciates they will be comparing two different vehicles.

Scott Thomas seconded. Roll call vote: Scott Oldham – yes; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – yes; and Scott Thomas – yes. Motion carried 5-0.

### **Council Comments**

**Brian Mobley** congratulated the Lady Mustangs in regionals and Music Warehouse who got Champion. Congratulations to junior and high school students.

He was contacted to get the cost of the Heritage Trail as they're in the final stages which is approximately \$239,000 paid by the taxpayers.

### **Supervisors Comments**

**Brian Mobley** asked Mike Farmer what is going on at the new Town Hall property. Mr. Farmer replied they are putting in storm sewers. Stormwater is first and then they'll do sewer and water. When it is dry they will be moving dirt and then it will really get active.

### **Adjournment**

Scott Oldham entertained a motion to adjourn. Dianna S. Bastin made a motion to adjourn. Kevin Farris seconded. Scott Oldham adjourned the meeting at 7:33 p.m.

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Scott Oldham, President

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Scott Thomas, Vice-President

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Dianna S. Bastin

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Kevin Farris

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Brian Mobley

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Sandra Hash, Clerk Treasurer