

January 11, 2016

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, January 11, 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; Scott Thomas, Vice President; Dianna S. Bastin, Kevin Farris and Brian Mobley. 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, Jeff Farmer and Mike Farmer.

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting on December 28, 2015. Dianna S. Bastin so moved. Kevin Farris seconded. Motion carried.

Accounts Payable Vouchers

Brian Mobley asked questions on the Accounts Payable Vouchers. Sandra Hash, Clerk-Treasurer, and Jim Davis, Town Manager, answered his questions.

Scott Oldham entertained a motion for action to pay Accounts Payable Vouchers. Kevin Farris so moved. Dianna S. Bastin seconded. Motion carried.

Election of Officers

Kevin Farris nominated Scott Oldham for President. Dianna S. Bastin seconded.

Brian Mobley nominated Scott Thomas for President. Scott Thomas seconded.

The vote was taken on the first motion, nomination of Scott Oldham for President. Roll call vote: Scott Thomas – no; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – no; and Scott Oldham – yes. Motion carried 3-2.

The second motion, nomination of Scott Thomas for President, was moot.

Scott Thomas nominated Brian Mobley for Vice President. The motion died for lack of a second.

Brian Mobley nominated Scott Thomas for Vice President. Mr. Thomas declined.

Kevin Farris nominated Dianna S. Bastin for Vice President. Scott Oldham seconded. Roll call vote: Scott Thomas – no; Dianna S. Bastin – yes; Kevin Farris – yes; Brian Mobley – no; and Scott Oldham – yes. Motion carried 3-2.

Appointments

Plan Commission: One Republican and One Democrat – Appointed by the President

Pat Wesolowski – Term Ended 2015

Russ Ryle – Term Ended 2015

Members from Government – Appointed by Town Council

David Drake – Term Ended 2015

Sandra Hash – Term Ended 2015

Scott Oldham advised he will wait on the presidential appointments because several people are interested.

Scott Thomas resigned from the Plan Commission.

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

Kevin Farris nominated himself to replace Scott Thomas on the Plan Commission. Brian Mobley seconded. Roll call vote: Scott Oldham – yes; Scott Thomas – yes; Dianna S. Bastin – yes; Kevin Farris – yes; and Brian Mobley – yes. Motion carried 5-0.

Kevin Farris nominated Sandra Hash to continue serving on the Plan Commission. Scott Thomas seconded. Roll call vote: Scott Oldham – yes; Scott Thomas – yes; Dianna S. Bastin – yes; Kevin Farris – yes; and Brian Mobley – yes. Motion carried 5-0.

Board of Zoning Appeals

Scott Oldham will wait to make this appointment.

Parks and Recreation Board: Two Republican Appointments by the President
Claudia Kelly – Term Ended 2015
Richard Pease, Resigned – Term Ends 2017

Scott Oldham appointed Claudetta Kelly to the Parks and Recreation Board.

Scott Oldham announced if anyone would like to serve on the Park and Recreation Board to let them know.

Annual Appointments by Town Council

Monroe County Ambulance Advisory Board – Mike Cornman

Monroe County Emergency Management Advisory Board – Jim Davis

Monroe County Solid Waste Management Board – Dianna S. Bastin

Ellettsville Chamber of Commerce – Sandra Hash

Metropolitan Planning Organization (“MPO”) – **Scott Thomas** declined. After a discussion, it was decided to postpone this appointment.

Scott Oldham entertained a motion to leave the annual appointments, with the exception of the MPO they’re putting under advisement for research. Dianna S. Bastin made a motion to leave the annual appointments, with the exception of the MPO they’re putting under advisement for research. Kevin Farris seconded. Roll call vote: Scott Oldham – yes; Scott Thomas – yes; Dianna S. Bastin – yes; Kevin Farris – yes; and Brian Mobley – yes. Motion carried 5-0.

Award Bids for the Construction of Town Hall

Darla Brown, Town Attorney, advised the bids were opened on December 23, 2015, at a public meeting. Neidigh Construction (“Neidigh”) was the low bidder at \$1,245,000. Building Associates and Gillette General Contractors’ bids each came in at \$1,366,000, Fox Construction’s bid was \$1,382,588 and Strauser Construction’s bid was \$1,460,000. She and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, reviewed the bids and they are all in order.

Scott Thomas made a motion to table this until they can have an appropriate session to discuss the pros and cons of the acceptance of the bid based on past history with different contracts and who might be the best in the long run looking beyond maybe just lowest price.

Darla Brown advised it can be tabled but the Town is on a timetable and it has to be awarded to the lowest responsible bidder. If the Town doesn’t award it to the lowest responsible bidder there has to be a reason given.

Brian Mobley seconded the motion if they can meet before the next Town Council meeting. Ms. Brown explained the statute specifically states it has to be awarded to the lowest responsible and responsive bidder. If the board awards a contract to a bidder other than the lowest bidder they have to state in the minutes, at the time the award is made, the factors used to determine which bidders are the lowest responsible and responsive bidder to justify the award. Mr. Farris asked what the time constraint is. Ms. Brown replied they were hoping to close have the bond sale on February 10, 2016, and closing on February 24, 2016. Mr. Farris asked if that gives them enough time. Ms. Brown answered at the next Town Council meeting they’re scheduled to approve the matters related to financing. If they want to have

a special meeting between now and January 25, 2016, Lisa Lee, Bond Counsel from Ice Miller, wants the parameters for the bond as soon as possible.

Dianna S. Bastin asked who built the Fire Department. Mr. Davis answered Strauser Construction. Ms. Bastin asked who built the Police Department. Mr. Davis answered Neidigh. Mr. Davis noted the next lowest bid is \$120,000 higher. Mr. Farris asked if they could have an Executive Session. Ms. Hash answered this does not qualify for an Executive Session.

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

Scott Oldham opened discussions on managing the project. Mr. Mobley noted Sanders was paid \$124,000 for the Police Department. Ms. Hash stated Sanders was the General Contractor/Project Managers. Mr. Mobley said there were issues with the contractor when he first built the Police Department. The change orders totaled approximately \$144,000. If that happens they can't afford to put anything in the new Town Hall. They need a project manager who has commercial experience. Mr. Davis advised he and Mr. Coppock have to approve change orders. Mr. Farris commented change orders are necessitated by the Town making changes to the plans. A change order isn't necessitated because there was something missing on the bid. Ms. Hash noted change orders were approved by the Building Corporation. Ms. Bastin stated the Fire Department was the first building she had been involved in and she visited the site several times to ask questions. If Kevin Patton and Jim Davis manage the project, every penny will be pinched.

Kevin Farris made a motion to accept the Neidigh Construction bid for \$1,245,000. Dianna S. Bastin seconded.

Scott Oldham asked Ms. Brown if she is comfortable with the bid. Ms. Brown answered the bid met the specs and Rick Coppock did a nice job of setting them up for the bidders. Mr. Oldham asked Mr. Coppock if he is comfortable with the bid. Mr. Coppock replied yes.

Brian Mobley asked if the Street Department and Utilities will do the blacktop because it has not been priced. Will he just be building what is in the specs? Mr. Coppock answered the contract is for the building contractor to build the pad and everything out to the edge of the parking lot and stub the utilities outside of the building. Town crews will build the parking lots and bring water and sewer to the building as a cost saving measure. Mr. Farris asked about the sidewalks and curbs. Mr. Coppock replied the sidewalks are the contractor's responsibility. There are some along the road that will be the responsibility of the Town. Mr. Farris asked who Neidigh will have to manage the job. Mr. Coppock doesn't know whom the superintendent will be. Mr. Mobley asked when they will have prices for black top from Utilities and the Street Department. Mr. Coppock answered they will have an estimate by Friday, January 15, 2016.

The vote on the motion to accept Neidigh's bid was taken. Roll call vote: Brian Mobley – yes; Kevin Farris – yes; Dianna S. Bastin – yes; Scott Thomas – no; and Scott Oldham – yes. Motion carried 4-1.

Darla Brown, Town Attorney, advised there is a companion issue that goes along with this. In 2015, the Town Council passed two ordinances and one resolution with regard to borrowing money from Utilities to pay for the Maple Grove Road property. As part of Ordinance 2015-03, the Town promised it would pay Utilities \$500,000 out of the bond proceeds at closing which is scheduled for February 23, 2016. Because the lowest bid is \$1,245,000, Ryan Feters of Umbaugh and Associates and Lisa Lee also looked at the bids and Mr. Feters estimates the Town has available funds in the amount of \$1,255,000 to build a Town Hall which leaves a contingency of \$10,000. There was a discussion on how the Town could pay for the contingencies and Lisa Lee has set forth a couple of options. Option

1: This is a lease agreement with the Building Corporation who owns the property and will own Town Hall until the bonds are paid off. After that the Building Corporation will transfer Town Hall to the Town. The Building Corporation can purchase the property from the Town with the bond proceeds for \$500,000. The Town Council and Utilities will agree that all of

the \$500,000 will be used to repay the Utilities' loan which will leave \$10,000 in contingency funds. Option 2: They can agree that only \$300,000 can be repaid to Utilities in exchange for property that's not a part of the lease premises. So, the Town pays back \$300,000 and in exchange for not receiving \$200,000 Utilities gets a portion of the 50 acres excluding the 3.9

acres on which the municipal building is going to be located. The Town has \$200,000 to use as a contingency. The Building Corporation can purchase the property for \$300,000 from the Town. All \$300,000 has to be used to repay the Utilities' loan and \$200,000 left on the bond issue is for construction contingencies. If the \$200,000 is not used the remainder is bond proceeds and cannot be used to repay Utilities. The big difference between the two choices is whether or not the \$200,000 can be used only for the Town Hall or if there is any leftover can the Town use it for some other purpose. Mr. Davis added they had factored in that they would probably have to have \$200,000 from the sale to Utilities to make the project work.

Scott Oldham confirmed under one option if they don't use it they lose it and in the other if they don't use it they can go back in and do other projects with it. Ms. Brown agreed. From the numbers their best guess is out of the \$200,000 there is not going to be much left to be used for something else. Mr. Davis noted they will have to use some of the Rainy Day Funds in order to finish the project.

Scott Thomas asked if they don't pay back the \$500,000, does it ever have to be paid back and is it an additional cost. Ms. Brown answered if they determine they're not going to pay back the entire \$500,000 the ordinance will have to be revised. If they agree the \$300,000 goes back to the Utilities then what they give them in exchange for the \$200,000 is some portion of the 50 acres. Then, Utilities can use the land for a building in the future and it would not be paid back.

Dianna S. Bastin asked if they give Utilities some portion of the 50 acres, do they have to pay for a survey and how do they know where their parcel is. Ms. Brown replied there will have to be an agreement as to what portion gets transferred to Utilities. Bynum and Fanyo and Associates can write the legal description but she is uncertain if there has to be a survey. Mr. Coppock explained there would have to be a subdivision. Mr. Oldham asked when this has to be done. Ms. Brown answered it that the decision on how much to pay back Utilities and whether to transfer a portion of the 50 acres to Utilities has to be done by the closing date. They need to make a decision as to where the Town intends to go with this. It's uncertain whether the subdivision process has to be done by closing. Mr. Coppock said they can do a legal description for however many acres and then they can subdivide it by making it another lot. Mr. Thomas asked how they determine fair market value ("FMV") of the acreage to total \$200,000. Ms. Brown answered there will have to be a discussion on this. They can agree with Utilities as to the amount. Mr. Coppock added they're generally based on comparative values of the property that is sold. There is the original cost of the ground plus the improvements for access which will increase the value.

Kevin Farris asked if they select the option to pay back \$500,000 and later run out of money can they then sell property to Utilities. Ms. Brown doesn't think it would be a problem as long as the 3.9 acres is not encumbered because it has to go to the Building Corporation. Mr. Oldham asked Mr. Davis if there is any way to build the building without selling property back to Utilities with a budget of \$10,000. They're better off to build their cushion now. Mr. Davis answered they cannot build it as designed unless they have the \$200,000.

Jeff Farmer, Bynum Fanyo Utilities, explained the loan came out of the sewer utility. With the \$500,000 the sewer utility is doing fine and they have monies available. The bond of \$700,000 a year for the Waste Water Treatment Plant will be paid off at the end of 2016.

They need a location to move their Utilities building because it is in a floodplain and it's antiquated. He thinks their best decision is to sell a piece of property at FMV. Mr. Farris wants to know how much land. Mr. Farmer answered they take the acreage and divide what they paid for it. Some of the acreage is not buildable. He thinks they need 10 acres. Mr. Oldham asked Mr. Davis if they paid less than the estimate on the property. Mr. Davis explained the owners had appraisals done which were much higher than the Town's. Mr. Farmer thinks by the time it's developed and the infrastructure gets in they could sell it for \$20,000 an acre. Mr. Davis noted there are two and one-half acres currently being developed near the property they could have purchased for \$600,000.

Scott Thomas' records show on December 20, 2015, a payment of \$717,402 was due and on December 20, 2016, a payment of \$708,976 is due. Mr. Farmer explained in 2015, they paid approximately \$59,000 each month and then made a lump sum payment at the end of the year for a total of \$717,402. The last payment is already funded because they had to have

it in Debt Service Reserve. Mr. Oldham said at some point they're going to sell property to Utilities for their building. If they don't do it in such a manner that allows them to recoup the money then they're being foolish with the public's dollars because they would lose it. Mr. Farmer said they would like to secure a spot now if they can. It is a great place for them to be. Mr. Mobley commented he doesn't want to allow the Rainy Day Fund to get too low. Mr. Davis commented that is why it was last on the list of options.

Sandra Hash explained the worksheet provided to them by Mr. Davis shows the amounts remaining in all of the budgeted departments under the General Fund. There is \$95,000 in unspent appropriations at the end of 2015. Mr. Oldham asked when they expect the building to be finished. Mr. Brown answered September or October 2016. Ms. Hash stated if they continue to have funds leftover in the next few years they can take a percentage of it annually and put it back in the Rainy Day Fund. They are going to deplete the Rainy Day Fund to build Town Hall but they have a mechanism in place to repay it. The monies leftover helps pad next year's budget. The council can make a decision every January if they want to designate money and move it from the General Fund to the Rainy Day Fund.

Brian Mobley made the motion to sell it now. Ms. Brown clarified it is option 1(C) and (D) presented in an email from Lisa Lee, Bond Counsel from Ice Miller, dated January 8, 2016, and previously provided to Town Council, which means the Building Corporation will purchase the property for \$500,000 from the Town. The Town Council and Utilities will agree that only \$300,000 should be repaid to Utilities in exchange for property not part of the lease premises, and the Town will then have \$200,000 it could use as a contingency for the Town Hall project. If not all of it is needed the remainder is Town Funds and can be used as the Council desires.

Kevin Farris asked how and when do they decide how much land. Mr. Coppock replied they will take a look at the topography and what is needed for the buildings. They will plot out a section and prepare a legal description for the 10 acres. It will be figured based on the lay of the ground. Mr. Farris asked with the building, parking lot, infrastructure, karst and creeks removed how much land is left excluding 10 acres. Mr. Coppock answered he doesn't know at this time. Mr. Farris asked if the 3.9 acres for Town Hall is the whole foot print. Mr. Coppock replied it is the site plan for the whole Town Hall including the parking but excludes the road. On the south side, across from Town Hall, there is an area approximately 175' deep and 1,000' long which is buildable area. There is a buildable site behind Town Hall with quite a ridge on top. Mr. Mobley said technically, if they're looking at four acres for Town Hall and 15 acres for Utilities and the Street Department there will be approximately 20 acres to be used out of 49 acres. Mr. Farris asked how much land is not usable. Mr. Coppock replied there is approximately 15 acres that are not usable.

Dianna S. Bastin seconded the abovementioned motion. Ms. Brown recited the abovementioned motion: *"The Building Corporation will purchase the property for \$500,000 from the Town. The Council and utility will agree that only \$300,000 should be*

repaid to the utility in exchange for some property not part of the lease premises and the Town will then have \$200,000 it can use as contingency for the Town Hall project if not all of it is needed. The remainder is Town funds and can be used as Council desires.” Roll call vote: Dianna S. Bastin – yes; Scott Thomas – yes; Scott Oldham – yes; Brian Mobley – yes; and Kevin Farris – yes. Motion carried 5-0.

Resolutions

Resolution 01-2016 Cancellation of Warrants

Sandra Hash, Clerk-Treasurer, explained this is an annual procedure for warrants that have been outstanding for three to six years. The total is \$194.09. Mr. Oldham summarized they’re basically canceling the checks of people they have sent money to and refuse to cash them.

Scott Oldham entertained a motion to accept Resolution 01-2016. Kevin Farris made a motion to accept Resolution 01-2016 Cancellation of Warrants. Scott Thomas seconded. Roll call vote: Scott Thomas – yes; Dianna S. Bastin – yes; Scott Oldham – yes; Kevin Farris – yes and Brian Mobley - yes. Motion carried 5-0.

Council Comments

Dianna S. Bastin reminded everyone to be aware of their surroundings and know where they are in case they get into trouble. Ellettsville is a big area. Please watch out for snow plows. Be careful and take your cars off of the street as much as possible.

Scott Thomas left this morning and his road and the back roads were great. Thank you Danny and the Street Department for doing the job they do.

Scott Oldham requested that “Town Manager Comments” be added as an agenda item under Council Comments.

Brian Mobley expressed appreciation for Indiana State Master Trooper Todd Durnil’s recent assistance with a distraught father which made the national news. He went above and beyond the call of duty.

Adjournment

Scott Oldham entertained a motion to adjourn. Dianna S. Bastin made a motion to adjourn. Scott Thomas seconded. Scott Oldham adjourned the meeting at 7:27 p.m.

Scott Oldham, President

Scott Thomas, Vice-President

Dianna S. Bastin

Kevin Farris

Brian Mobley

Sandra Hash, Clerk Treasurer