

January 28, 2013

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, January 28, 2013, at the Fire Department Training and Conference Room. Scott Oldham called the meeting to order at 6:30 p.m. David Drake led the Pledge of Allegiance followed with a prayer by Phillip Smith.

Roll Call: Members present were Scott Oldham – President; Dan Swafford, Vice President; Dianna Bastin, David Drake and Phillip Smith. Sandra Hash, Clerk Treasurer, Darla Brown, Town Attorney, and Rick Coppock, Bynum Fanyo & Associates, Town Engineer, were also present.

Supervisors Present were: Jim Davis, Jim Ragle, Tony Bowlen, Connie Griffin, and Mike Farmer.

Approval of Minutes

Scott Oldham entertained a motion for the approval of the minutes for the regular meeting on January 14, 2013. Dan Swafford so moved. Phillip Smith seconded. Motion carried.

Accounts Payable Vouchers

Scott Oldham entertained a motion for action to pay Accounts Payable Vouchers. Phillip Smith so moved. David Drake seconded. Motion carried.

Appointment to Parks Board and Board of Zoning Appeals – Geraldine McIntyre Term Ending December 31, 2016

Sandra Hash had contacted Geraldine McIntyre about continuing to serve on the Parks Board and Board of Zoning Appeals. She is willing to serve on both boards.

Scott Oldham entertained a motion to appoint Geraldine McIntyre to the Parks Board and Board of Zoning Appeals. Dan Swafford made a motion to appoint Geraldine McIntyre to the Parks Board and Board of Zoning Appeals. David Drake seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – abstained; Phillip Smith – yes; and Dan Swafford – yes. Motion carried 4-0 with one abstention.

Town Council Representative to the Metropolitan Planning Organization (“MPO”)

Scott Oldham appointed Dan Swafford to serve on the MPO.

Ordinances on First Reading

Ordinance 2013-01 to Amend Section 36.018 of the Ellettsville Town Code concerning the Americans with Disabilities Equal Opportunity Policy

Darla Brown, Town Attorney, explained the purpose of the Ordinance is to update the Town Code. This is part of the ADA Transition Plan. This Ordinance calls for deleting a section and replacing it with language which is more definitive about what the civil rights are for people with disabilities.

Supervisor Comments

Connie Griffin, Director of Planning, requested a liaison for the Department of Planning.

Darla Brown explained the Town Code, as a whole, and the Town Council contemplate that every department is going to have a liaison. It doesn't specify anywhere that every department is going to have a liaison or has to be appointed one. Mr. Oldham asked if it is better they provide a liaison. Ms. Brown replied given all the responsibilities that are placed on the supervisor to confer with a liaison in different circumstances such as raises and disciplinary actions it makes sense.

Dan Swafford stated the Planning Department definitely needs a liaison. He was their liaison for several years and there were times he or a Plan Commission member needed to attend meetings. He would be honored to serve as the Planning Department's liaison.

Connie Griffin, Director of Planning, contacted Town Council on January 25, 2013, with a new job description. She wants to create a new job classification in the Department of Planning and has provided a job description and proposed salary range pursuant to Town Code. During budget discussions for 2013, \$520 was allotted in Line 118, which is for the administrative assistant. The new job classification she is recommending is “Americans with Disabilities Act (‘ADA’) Coordinator and Section 504 Compliance Administrative Assistant.” Denise Line has been the ADA Coordinator during this time. She has overseen her work and gave her the directive to work on the ADA Transition Plan. She has done an excellent job and has the knowledge but she now needs the authority in order to adhere to the policies and her training is extensive. Therefore, she is requesting to create a new job classification with an approved job description, salary range and a promotional raise of 50¢ an hour for the extra work Ms. Line has done. The money is in the budget line.

Dan Swafford asked if the raise would be \$14.50 plus the 1.5% raise. Ms. Griffin was under the impression it was passed at \$14.50 when the budget was approved. Later research yielded that was an estimate. If it needs to be 29¢ to bring her to \$14.50 that would represent a 2.4% increase. She has received a 1.5% raise and would increase from \$14.21 to \$14.50. A 50¢ increase from \$14.21 to \$14.71 is a 3.5% increase. Mr. Swafford asked what the pay range is in the current salary ordinance. Ms. Griffin replied it is \$11.00 to \$16.72.

Sandra Hash explained she does the salary ordinance and the top range was when Connie Griffin was in that position. Since the salary falls in that range she has not adjusted it over the last four years. Mr. Swafford asked if the range in most of the salaries is approximately \$5. Ms. Hash replied she would have to review the Salary Ordinance before she answered. Mr. Swafford said he would like to see the same range in all salaries to keep it consistent.

David Drake asked how that pay compares to other Town departments who are doing similar work. Ms. Griffin responded she’s not certain how to compare someone who has been doing this level of work with a standard clerical administrative assistant position. The increase in responsibilities she has been doing over the last year and a half is amazing and very detail oriented work. It requires a lot of legal interpretation and she has a Bachelor’s degree as a paralegal. Mr. Swafford asked if she would still continue her same job. Ms. Griffin replied yes, and there would not be an elimination of the administrative assistant line and it would not be filled at this time. In case something happened to her then the ADA Coordinator would fall back to Ms. Griffin. She plans on doing more training this year in case that were to ever happen.

Scott Oldham thinks Denise has done a wonderful job with it but his concern is she was hired for one specific job and now to move her into another function would create a second job but not filling the current one. This bothers him in the fact there was a specific need, it was filled and now there’s another need. It seems like they’re repeating things that didn’t go over very well in a prior administration.

Dianna Bastin doesn’t understand the need for an additional position. She works in government work and thought the ADA standards were mandated by the federal government. There have been a lot of changes in public safety and they take on that training and it involves a lot of work. The Town got \$12,000 in grant money and she did a wonderful job. She is arguing on the principal and not the person. There are other departments that could argue the same thing. They found \$400,000 for a new fire truck and no one asked for an additional title. She doesn’t know why she can’t delegate what she is suppose to do and give her the authority to act on all of the things that need to be done. If Ms. Griffin is also going to do the research and the job, and both of them are doing it, then there is another position that opens up. She sees Planning changing in the next few years especially with I-69. She doesn’t have a problem with that and knows the department will grow. They just did the budget and now there’s extra money. She would feel this way no matter who the supervisor was standing up there. She asked Sandra Hash to do a wage plus benefits package for full time employment if Denise was hired at \$14.21. It would be \$42,513.27 and if it was \$14.50 it would be \$43,244.03. This is where they’re headed. It’s a precursor to her

needing another full time person in the Planning Department. They need to get ahead of it and crunch the numbers and decide if that's what they're going to do.

Phillip Smith asked if she was wanting to make this a full time position. Ms. Griffin replied no. Ms. Bastin reiterated eventually this is where they're going to be headed. By that time if they're paying her \$20 an hour the figures will be a lot higher and that's where the Town gets in trouble. They try to grow too fast, don't discuss it and don't get ahead of it to start planning. She's doing a wonderful job now and did all of this work without a title and she doesn't know why it should be changed.

Scott Oldham asked how many hours a week she's working for Planning. Ms. Griffin replied she works 20 hours a week. Ms. Hash added she works 16 hours a week for her department. Mr. Oldham asked beginning with the new healthcare law will the 36 hours take them into mandatory insurance. Ms. Brown answered she counts as a full time employee as she understands the Affordable Care Act ("ACA"). It doesn't matter what department they work in. Mr. Oldham agreed with Ms. Bastin's comments, no matter what they do whether she's full time or not, beginning next year she will be getting benefits. Ms. Bastin commented she has no problem with people getting benefits. Where she works part-time employees have a benefit package. She thinks that's wonderful and if they can figure out a way that would be fine. Mr. Oldham said maybe they would be better off to hire her full time now and be done with it. If this is the realm they're going to be in maybe they're better holding off and creating a full time position now and being exact rather than getting a hodge-podge of different things. She is essentially going to be a full time employee next year. Maybe they're better off making her a full time employee now and going down the road with it. Ms. Bastin differed with Ms. Griffin's comments there were no employees to compare her to. There are a few employees they could compare her to and their salary range is not \$20 an hour.

Connie Griffin explained there have been raises in the past that have gone from \$16.10 to \$18.10 an hour which represents a 12.4% increase. So, this request is not out of order. It is a 50¢ raise. They have had raises from \$9.00 to \$9.50 which is 5.6%. Those increases are put into Town Code whereas other staff members do not have anything in Town Code that helps them give promotions when it is due.

Dan Swafford thinks Mr. Oldham has a valid point. The position has a \$5.72 range and he would like to keep it in there. Instead of \$20 it would be \$19.72. If they're going to create the position he would like the salary range to be that instead of \$20. They should stick to what they normally do with the other salary ranges. Mr. Oldham said this opens up a broader discussion because she's not going to be the only current part-time employee who will be in this issue next year. They need to evaluate what they're doing because all these people deserve the benefits. If they're part-time they don't currently get the benefits. Next year they're going to get the benefits. They need to figure out what they can and cannot afford because it's coming and they don't have a choice. They will essentially be full time employees.

Darla Brown explained as she understands it, an employee who provides 30 hours a week of service for the employer counts as a full time employee for determining if the Town is an active employer. If you have 50 or more employees then insurance has to be offered to all full time employees which counts as making "30 or more hours a week." When you count those people there's also a full time equivalent and a formula for people who are part-time to be added into that total. PTO time also has to be counted and all the benefits for which they're entitled to get paid is included in the total, not just hours worked. Mr. Drake commented there are seven people who will be entitled to benefits next year. Mr. Swafford asked if that's true and this is made a full time position would that help with the part-time number. Mr. Oldham replied no, it's apples and oranges as he understands it. These positions have to fall within a unique classification he thinks puts the Town in a tenuous position. They won't get retirement or other benefits. That's not the biggest piece of the financial puzzle, it's the insurance benefits. They will have to deal with this by budget time.

Dianna Bastin commented on the information Ms. Hash provided for a full-time employee is a place to start. It is \$6,746.59 for health and life insurance for one

employee. Ms. Brown added insurance also has to be offered to dependents. Phillip Smith asked if it had to be the same insurance as offered to full time employees. Can there not be a part-time insurance plan? Ms. Brown replied she would argue, based on what she read, it probably needs to be comparable to what the other employees are getting and there are regulations that it can only be less than 9% or 9.5% of what's reported on the employees W-2. It has to be affordable. She's not saying based on what she has read that you can't do two plans but thinks it may be more complicated than the Town may want. Mr. Swafford asked if it is just 50 employees, full time and part-time combined. Mr. Drake replied it is the full time equivalent. Mr. Swafford asked if the insurance would then apply to those working 30 or more hours. Ms. Brown replied that is correct. Everyone who is considered full time by the Internal Revenue Service ("IRS") for the purpose of the ACA and that is 30 hours a week. She wants to talk to J.A. Benefits because it is 50 employees on average each year and they want to count business days. When they first counted they didn't count business days so it's possible their number is a little off. Mr. Smith asked how many employees the Town has under that equation. Ms. Brown said they think it's 57.

Sandra Hash stated there's time to budget for this because it's effective in 2014. Ms. Brown said this all applies to the penalty provisions which are based on a formula under the ACA. Mr. Oldham said it may be less expensive to hire more full time employees than part-time. Ms. Brown said the Town can still hire part-time but someone will have to account for the hours and make sure they don't work over from part-time to full time. A seasonal employee is the same thing. If they work 30 or more hours a week and they do that for eight months then they're a full time employee. Mr. Smith asked if the cut off was eight months. Ms. Brown answered it's what they average. If they average 30 hours or more they're considered a full time employee. For new employees they have to average 30 hours a week and they have to work the first three months of their employment as a full time employee. What she wants to clarify with J.A. Benefits is the regulations as posted in the Federal Register which the IRS agrees to accept until they come out with the final regulations. It talks about a look-back period for both new and current employees. The employer gets to determine what that look-back period is for determining how many full time employees it has. It can be a year, six months but not less than three months. The Town Council may have to decide what the look-back period is going to be for this year. Then go back and count the employees whom were full time during that period and that's what they start with in 2014. Mr. Oldham asked if this has to be every year. Ms. Brown answered the Federal Register says it's optional. Employers don't have to do that and it is recommended for employers who are right on the cusp of the 50 or if it changes from year to year they recommend doing a look back period. It's not clear if it is every year. Fire Chief Jim Davis commented their figures are based on 2012. Mr. Oldham asked if he thought it would change. Chief Davis answered no.

Darla Brown advised once the look-back period carries over into 2014, and if there's an employee who's counted as full time that person is considered full time for at least six months regardless of their schedule. Ms. Hash noted Ms. Brown sent her information and in turn she sent a comment to the IRS because firefighters are scheduled for 2,904 hours a year so it doesn't seem very fair that they would be held to the same 30 hour a week standard. They work seven days a week and 24 hour shifts. A police officer has a 28 day schedule and works seven days a week. If the Department of Labor gives a special exception for overtime hours for those two departments it doesn't seem to follow Fair Labor Standards Guidelines.

Deputy Fire Chief Mike Cornman contacted Congressman Todd Young to have him look at this. Based on San Antonio Transit Authority vs. Garcia (1975), the Supreme Court ruled police officers and firefighters are going to have a different schedule which was based on the different hours worked. It appears from the information they read the 30 hour week for ACA was based on a 40 hour work week. So far the Departments of Justice, Treasury and Labor have looked at the Code of Federal Regulations and it doesn't seem like it will change a lot. They have asked the International Association of Firefighters to make it equitable to the hours worked and to not try to circumvent the ACA. That is 40 hours a week or 2080 hours versus 2904 which a firefighter is scheduled to work.

Dan Swafford understands the ACA is going to be quite difficult. It will be a lot of work to figure it out. To get back on point with Ms. Griffin's request. It's a position that is being upgraded because of an additional workload. Mr. Oldham disagrees. If now they create another position it is another phantom employee who will count against their total under the ACA. Ms. Brown clarified if a person fills that position and they work 30 hours or more a week it counts toward your total. Mr. Oldham explained if Denise goes into this specific job function, her other job function remains open. Therefore, there will be two jobs rather than one. Ms. Brown stated you count the person and not the position. Specifically, the people are counted who work 30 hours a week or more regardless of what they do for the employer. Mr. Oldham said as he understands it, she's already been working more than 30 hours a week in her current position. If she moves into the new position where she's still working more than 30 hours a week then does it not become a second true job even though no one has filled the first position? It's still been worked for over 30 hours a week. Ms. Hash replied what they had to count were the actual hours worked. Mr. Swafford said it doesn't matter because Chief Davis has not filled a lot of positions and they don't count them.

Dianna Bastin commented they've been here before. A supervisor has a position and they're not going to fill it. Then things change, descriptions change, the funds are in their budget, they're busy and then they need the position filled. It never works for them to leave a position empty and say they're never going to fill it unless it's in the Fire Department where part-timers pick up the slack. They can call her whatever they want but they don't need a second position with a range of \$14 to \$20 an hour. The request for a raise offends her. She took on a position, did a really good job, agreed in advance she could and knew she could do it, she's a smart lady and she did a good job. She thought this is what they were paying her for all along. When another department comes before them and says they found money they don't offer them extra money and they don't ask for it.

Dan Swafford disagrees. They've done it with almost every department in the time he's been on the Town Council. The Fire Department has a receptionist who they gave more work to and then they made a new job description for her and gave her a raise. Ms. Bastin noted if he's referring to Donya, she's an administrative assistant. Mr. Swafford noted it has happened a lot. This year, Amber Ragle took on a different position and got a raise. Ms. Hash advised it didn't change her job title. Mr. Drake asked what Amber makes an hour. Ms. Hash replied she makes \$22 an hour. Ms. Bastin stated her salary is split by Utilities which is a self-contained unit. They make their own money and have their own rules and regulations. Ms. Hash said her salary is split into thirds between the General Fund, Water Utility and Waste Water Utility. Mr. Drake asked what Donya earns. Ms. Hash replied it is \$16.96. Mr. Oldham asked what Zach Michael is making. Ms. Hash answered it is \$13.47 and he works 35 hours a week. Mr. Swafford inquired about the salary ranges. Ms. Hash explained customarily she increases the top range by whatever percentage the Town Council gives as a raise. She leaves the bottom range the same and then occasionally a supervisor will say they need to raise the bottom figure. Mr. Oldham asked how many hours a week Donya works. Ms. Hash answered she's a full time employee. Ms. Bastin asked how long she has worked for the Town. Chief Davis replied she has been with the Town since 1997. She started out part-time between his department and the Clerk-Treasurer's office. Mr. Drake asked the range for an administrative assistant position in Planning. Ms. Hash replied \$11 to \$16.72. Mr. Drake asked Mr. Griffin if she wanted to move it to \$14.50. Ms. Griffin replied that's correct. Mr. Drake suggested they keep her title the same, change her job description to add these duties and give her a raise to \$14.50 an hour.

Dan Swafford said the way he understands it they will leave her title the same, add the ADA duties, leave the salary range the same and add a 50¢ an hour raise. Ms. Griffin clarified it is 29¢ an hour. Ms. Bastin stated they met for budgets not long ago. She firmly stated she wanted everyone treated the same. No one said they wanted anything different. She hates they're going to give someone a raise because they did a good job. There are five to six other departments who have also done a good job. They had a blizzard after Christmas and they're not giving the Street Department a raise because they did a good job. Mr. Drake said he didn't really look at it like that. Mr. Swafford

agreed. Ms. Bastin said until they started negotiating they wanted to give her 50¢ because she did a good job. Mr. Drake stated they've given some pretty significant raises to people from Utilities and other departments when they reach a certain point. Ms. Bastin commented it was on a scale and when it was time. Mr. Drake said they don't really have a scale in her position. Ms. Griffin agreed there's not a schedule for raises. Mr. Drake wanted clarification that she was requesting \$14.50. Ms. Griffin said that's what she was proposing during budget time.

David Drake made a motion to give Denise Line a raise to \$14.50 per hour in both the Planning and Clerk-Treasurer's office. Phillip Smith seconded. Roll Call Vote: David Drake – yes; Scott Oldham – no; Dianna Bastin – no; Phillip Smith – yes; and Dan Swafford – yes. Motion carried 3-2.

Sandra Hash advised she will be amending the Salary Ordinance for her line because the ceiling was \$14.42.

Scott Oldham said they need to get some commonality amongst what their people are doing. Mr. Drake said they've tried that for 10 to 12 years. Mr. Oldham said they've got one who's been there for 25 years and she's making less than \$2 an hour more than someone who's been here for two years. One has been here for three or four years who's making over \$1 less.

Dan Swafford suggested the board needs to bring in a professional firm to look at everyone's job classifications and salaries. He has wanted to do this for years.

Dianna Bastin said she would like to see work sessions when a supervisor wants to change something in their department. It sounds personal and you're a bad person if you ask too many questions or disagree. Denise is a wonderful employee. Planning is moving right along and they're growing but not as fast as they want to. The Town is coming out of it financially and they've got a little bit of extra money. They need to be careful because of health care issues and everything that is coming. They need to look ahead.

David Drake thinks Zach Michael is worth more money than \$13.47 an hour. Ms. Hash commented he's at the top of the salary range. Town Marshal Tony Bowlen commented he fulfills so many things that aren't close to being in his job description. He agrees the categories need to be standardized. Ms. Bastin noted the position went from a part-time civilian employee to a part-time fully educated weapon wielding police officer who has been to the Indiana Law Enforcement Academy. Ms. Hash advised there are two part-time police officers in the Salary Ordinance. One is a part-time police officer, which he is, and there is a part-time receptionist, which he is filling. The \$8 to \$13.47 range is for the part-time receptionist. The part-time police officer range is \$12.50 to \$15. Mr. Oldham said there's already a job description and salary ordinance. Marshal Bowlen said he's trying to make his money work to where he can work him the office hours they would like to have. He could give him a raise but the number of hours he could work goes down unless the monies are increased. Mr. Oldham asked if his pay was increased to \$14.50 a week how many hours less would he work a week. Marshal Bowlen replied his hours would probably drop from 35 hours to 30 hours a week. Mr. Swafford commented what's different with this situation is that it was not put in the budget. Whereas, the one before was in the budget with extra money in the line item and the salary ordinance. This is a big subject for the budget next year.

Sandra Hash advised when the supervisors submitted their budgets they agreed to a 1.5% raise. There was more than a 1.5% raise in the Planning budget and in the clerks budget. When they started cutting budgets they were told not to touch the personnel lines but to reduce everything else by 10%. That took everyone's attention away from the salary lines and no one messed with them. The supervisors requested it and it was not denied or reduced. This has been a big discussion with firefighters because they start out pretty low. A part-time firefighter starts out at \$10.15 an hour. Mr. Oldham explained he didn't want to scare the part-time employees but they're going to have to evaluate who they're paying to do what and where because this is going to get

geographically more expensive for the Town beginning next year. Everyone needs to keep this in mind as their approving raises through the years, positions and whatever else. Beginning next year that raise is going to cost them “times X.” Mr. Swafford told Chief Davis he may need to look into bringing in a couple of full time firemen and doing away with some of the part-timers to help adjust for the ACA. He will be asking this question when the times comes to look at the ACA. Chief Davis said there’s only one part-time fireman who currently wants health insurance. That doesn’t mean there are not others who are eligible. Mr. Oldham asked if they still have to appropriate the money in case they change their mind. Ms. Brown said in order to avoid the penalty they have to be offered insurance. Chief Davis stated if 2013 mirrors the calculations they did in 2012 there are only seven employees who qualified for health insurance. They are five firemen, Zach and Denise. Each of them were asked if they would want health insurance and two of them said yes and the rest said no. One of the firemen did say it depends on if it would be cheaper with the Town then where he currently has it. These things could fluctuate. There could be nine or four in 2013 who would be eligible for health insurance. He intends to retire in seven months. The guy who will replace him wants to work 40 hours a week and he can’t do this with his current staffing. He could change the hours of some part-time people which would be the cheapest. They won’t gain or lose and the money will be the same but he will still be \$10,000 to \$12,000 short to cover it in 2014. This is ongoing with the part-time people and there’s no one who makes less than \$10.15 an hour and they work every day. They would be happy to get more but they’re not complaining. They get to work 24 hours and some of them don’t want to. Be extremely careful. The Town has a great operating balance coming in to 2013. Ms. Hash commented giving a person who works 35 hours health insurance is still more reasonable then being 40 hours and also getting retirement. Mr. Oldham understands this but wants to point out what they’re getting there. Ms. Bastin wants to see the Town change as they get into wages and start evaluating each department alone, on their own merits. Utilities is a different fish. She’s just celebrated her 25th year with Monroe County and she would hate to think the new guy hired in would get the same wage as her.

Scott Oldham asked Ms. Hash if the Town has filed for the excess levy this year. Ms. Hash replied they did not do a levy appeal. They did a levy appeal three years in a row and they were granted each year. Then the Town hit their circuit breaker which means we aren’t receiving the full taxes. Home owners no longer pay their full taxes it if exceeds 1% of their assessed value. They can re-evaluate it but the Town has not applied for a levy appeal in the last two years. Mr. Oldham said it should be looked at since the Town is growing in excess of where the rest of the communities are as far as size-wise.

Dan Swafford said he was sorry to put everyone through this but they’re subjects that are really going to impact the Town. It really needed to be discussed and should have been on CATS.

Adjournment

Scott Oldham entertained a motion to adjourn. Dan Swafford made a motion to adjourn. Phillip Smith seconded. Motion carried. Scott Oldham adjourned the meeting at 7:33 p.m.

Scott Oldham, President

Dan Swafford, Vice-President

Dianna S. Bastin

Phillip Smith

David Drake

Sandra Hash, Clerk Treasurer, IAMC, MMC