

January 9, 2012

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, January 9, 2012, at the Fire Department Training and Conference Room. David Drake called the meeting to order at 7:00 p.m. Dan Swafford led the Pledge of Allegiance followed by a prayer led by Phillip Smith.

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

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

Clerk-Treasurer's Report

Sandra Hash, Clerk-Treasurer – At the last meeting, Dan Swafford had requested a report on the unspent appropriations by department and this information was provided to the Town Council. The total unspent appropriations for the General Fund are \$123,784.99. The total unspent appropriations for all budgets are \$215,506.25. Monroe County told her a lot of the citizens had met the property tax cap and that overall the Town would receive \$76,000 to \$79,000 less than expected. When the property taxes were received, the Town lost \$78,000 in the General Fund and combined with all funds the total loss was \$122,077.03. The Clerk-Treasurer's Report for 2011 year end report is as follows:

General Fund:

- Beginning balance is \$388,548.63.
- Year-to-date revenue is \$2,052,538.52.
- Year-to-date expenses are \$1,978,838.43.
- End of year balance is \$462,248.72.
- Increase over the beginning balance of \$73,700.09.

Motor Vehicle Highway:

- Beginning balance is \$31,314.44.
- Year-to-date revenue is \$425,153.07.
- Year-to-date expenses are \$141,340.77.
- End of year balance is \$50,830.82.
- Increase over the beginning balance of \$19,516.38.

Water Operating Fund:

- Beginning balance is \$309,596.10.
- Year-to-date revenue is \$1,595,790.26.
- Year-to-date expenses are \$1,706,250.56.
- End of year balance is \$199,135.80.
- Decrease from the beginning balance of (\$110,460.30).

Waste Water Operating Fund:

- Beginning balance is \$169,042.43.
- Year-to-date revenue is \$2,033,155.75.
- Year-to-date expenses are \$2,011,554.71.
- End of year balance is \$190,643.47.
- Increase over the beginning balance of \$21,601.04.

Approval of Minutes

David Drake entertained a motion for the approval of the minutes for the regular meeting on December 27, 2011 and the Special Session on January 3, 2012. Dianna Bastin so moved. Dan Swafford seconded. Motion carried.

Accounts Payable Vouchers

David Drake entertained a motion for action to pay Accounts Payable Vouchers. Dianna Bastin so moved. Dan Swafford seconded. Motion carried.

Election of Officers:

Dianna Bastin nominated Scott Oldham for President of the Town Council. David Drake seconded. Roll Call Vote: David Drake – yes; Scott Oldham – abstained; Dianna Bastin – yes; Phillip Smith – yes; and Dan Swafford – yes. Motion carried 4-0.

David Drake entertained a motion for Vice President of Town Council. Phillip Smith moved to elect Dan Swafford as Vice-President of Town Council. Scott Oldham seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes; and Dan Swafford – abstained. Motion carried 4-0.

Appointments:

Department Liaisons:

Police Department: Scott Oldham
Fire Department: David Drake
Street Department: Dan Swafford
Utility Department: Dianna Bastin
Planning Department: Phillip Smith
Grievance Officer: Phillip Smith

Dianna Bastin – Suggested placing an ad for the vacancies on the various boards in the paper. Dan Swafford commented this was a good idea except for board members who have stated they would like to continue serving on a particular board. After further discussion Ms. Bastin withdrew her suggestion.

Board of Zoning Appeals: Sandra Hash advised Darlyne Sowder, whose term ended on December 31, 2011, no longer wants to serve on the Board of Zoning Appeals. This creates a vacancy and anyone wanting to serve on the board will need to be a democrat.

Parks and Recreation Board: There is still one vacancy remaining on the Parks and Recreation Board. The person filling the vacancy will have to be a democrat.

Plan Commission: David Drake appointed Phil Rogers and his term will end on December 31, 2015. Ron Wayt no longer wants to serve on the Plan Commission which creates a vacancy. The person filling the vacancy will have to be a Republican. Dan Swafford made a motion to elect Phillip Smith to the Plan Commission. David Drake seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – abstained ; and Dan Swafford – yes. Motion carried 4-0.

Dan Swafford made a motion to reappoint Sandra Hash to the Plan Commission. Phillip Smith seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – no; Phillip Smith – yes; and Dan Swafford – yes. Motion carried 4-1.

Annual Appointments by the Town Council:

Monroe County Ambulance Advisory Board and Monroe County Emergency Management Advisory Board: Dianna Bastin made a motion to leave Fire Chief Jim Davis on the Ambulance Advisory and Emergency Management Advisory Boards. Dan Swafford seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes; and Dan Swafford – yes. Motion carried 5-0.

Monroe County Solid Waste Management Board: Phillip Smith made a motion to leave Dan Swafford on the Monroe County Solid Waste Management Board. David Drake seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes; and Dan Swafford – abstained. Motion carried 4-0.

Ellettsville Chamber of Commerce: David Drake made a motion to nominate Sandra Hash to the Ellettsville Chamber of Commerce. Phillip Smith seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes; and Dan Swafford – yes. Motion carried 5-0.

Resolutions

Resolution 01-2012 Permanent Transfer of Funds from the Rainy Day Fund to the Fire Debt Service Fund

Sandra Hash – Due to the shortfall in taxes, the Town received \$15,368 less than projected in the Fire Debt Service Fund. She is requesting a permanent transfer of cash from the Rainy Day Fund for \$8,430.50. This is less than what they were short and there would have been some extra in the fund if the Town had received all of the taxes. The Town only needs \$8,430.50 to make the payments for the first half of 2012. This will be reassessed in June to find out if there's enough to make the July payment.

Dan Swafford – Asked how much remains in the Rainy Day Fund. Ms. Hash replied the amount remaining before the transfer is \$174,998.98. The Town had borrowed from the Police Debt Reserve Fund in 2011 and it was paid back at the end of the year.

Phillip Smith – Asked why Sandra Hash is wanting to do a permanent transfer. Ms. Hash responded the Town has borrowed so many times to keep the Fire Debt Service Funded and when she met with the Department of Local Government Finance ("DLGF") representative last June on the budgets for 2012, they suggested the Town do this for this fund alone to bring it back up. Mr. Smith asked if the fund is short because of taxes. Ms. Hash replied it has been an ongoing problem since 2008 or 2009. The tax structure changed the year the state stopped the inventory tax. It caused the assessed valuation for the Town to take a huge decrease. The Town is just now, six year later, back to where it was in 2008. When the assessed valuation was down that particular year, the tax rate the Town had advertised multiplied by the assessed valuation brought in less cash. Mr. Smith asked if the funds are taken from the Rainy Day Fund can it be replenished. Ms. Hash answered annually, if the Town has enough cash and at least 10% of the total appropriations remaining at the end of the year, than that amount can be transferred annually to the Rainy Day Fund. Unfortunately, the Town has not had a surplus for the last five years. The Town did receive a couple of annual payments from County Option Income Tax. The state holds those payments for approximately three years. If the calculations show they owe the Town more than they have been paying then they do a special pay out. When these funds are received the state dictates they go into the Rainy Day Fund. One transfer was done to the Rainy Day Fund when it was established. There have been two payments of the County Option Income Tax deposited into the Rainy Day Fund since that time.

Dianna Bastin – Asked if the word "permanent" could be removed from the Resolution and by the end of the year, if it could be repaid to the Rainy Day Fund. Ms. Hash replied the Town has done a temporary loan every year for at least three years. She feels this is in the best interest of the Town. The debt service has to be funded before anything else is paid. This is the number one priority. Ms. Bastin understands this but is asking if this could not be paid back unless it is made permanent. She would like to leave it open to repay the Rainy Day Fund. Ms. Hash stated in government finance you can never say you are absolutely sure of anything. Ms. Bastin said it should not be made permanent but repayable. Ms. Hash reiterated she did this at the direction of the DLGF.

Phillip Smith – Asked if this amount is going up each year. Ms. Hash replied it has gone down a little each year. The temporary loan last year was approximately \$13,000.

Scott Oldham entertained a motion to approve Resolution 01-2012 Permanent Transfer of Funds from the Rainy Day Fund to the Fire Debt Service Fund. David Drake made a motion to adopt Resolution 01-2012 as written. Phillip Smith seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – no; Phillip Smith – yes and Dan Swafford - yes. Motion carried 4-1.

Dan Swafford – Asked how much was needed to fund a balanced budget for 2012. Ms. Hash responded she did not have this information with her. The fact there was \$215,506.25 in left over appropriations goes a long way. She thinks the Town is in the ball park for having a balanced budget. Mr. Swafford requested this information for the next Town Council meeting.

Resolution 02-2012 Cancellation of Outstanding Warrants

Sandra Hash – These are warrants that have been outstanding for over three years. There's a total of \$72.64 in the water fund for overpayments. The sewer fund has \$79.19 in overpayments. The total is \$151.83. These are checks that were mailed to people and haven't been cashed. David Drake asked if checks were good for only six months. Ms. Hash replied that is what is stated on the checks. Scott Oldham asked if these amounts go into the State of Indiana's unclaimed account. Ms. Hash answered they will be deposited into the water and sewer funds.

Phillip Smith made a motion to adopt Resolution 02-2012 Cancellation of Outstanding Warrants. Dan Swafford seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

Ordinances on Second Reading

Ordinance 2012-01 to Amend Various Provisions of Chapter 36 of the Ellettsville Town Code Concerning the Personnel Policy Handbook

Fire Chief Jim Davis – This is for revisions to the Personnel Policy. The committee chaired by Dianna Bastin and made up of supervisors started in March of 2011. During the meetings they reviewed problems over the past 12 months along with the personnel policy. The Personnel Policy Handbook is a living document that is updated yearly. This year specific areas were targeted such as sexual harassment, drug free workplace, drug and alcohol, military leave, etc. They are proposing to remove the job descriptions for the Fire Department. They are the only department that has job descriptions in the personnel policy and it is really not the place for it. There were some miscellaneous changes. The final draft was completed a couple of weeks ago and there have been some additional changes. The Town Attorney has some minor changes for the Personnel Policy Handbook.

Darla Brown, Town Attorney – Since the ordinances were read on first reading there were some comments made as late as January 6, 2012, regarding some very minor suggestions for changes, all of which were well taken and didn't really change the intent of the ordinance. The changes to the ordinances are as follows:

- 2012-01 Miscellaneous Provisions

Section 15 which discusses Section B of §36.112 Performance Evaluation and Exit Interviews. This was changed to read *“every employee upon termination of his or her position, either voluntarily or because the supervisor recommended termination of the employee.”* This is to mesh with another code section that makes it clear that only the Town Council can terminate when the supervisor recommends termination to the Town Council.

Section 8, Emergency Closings. There was another section in the Town Code that discussed emergency closings with regard to how pay is calculated. This was changed to make it clear that this is going be new section 36.011 and not a revised section.

- 2012-04 Drug and Alcohol Policy

36.066 Pre-employment testing makes a reference to the Town's medical review officer and Indiana Testing does the testing so the language was deleted. The new section reads *“the employer must receive a negative test result prior to allowing the employee to drive.”*

36.068 Post Accident, return to duty and follow-up testing. It was suggested it wasn't crystal clear in this provision that it applies to only on duty employees. It was changed to read *“Both drug and alcohol testing is performed on any on duty employee performing a safety sensitive function for the Town following any accident.”* She is requesting the Town Council table this for her to take another look at it. In discussing this with Dan Swafford and Connie Griffin before the meeting, if an employee is doing an errand for the Town in their personal vehicle and there is an accident the

Town may be liable for that and it may be the Town wants those people tested as well.

36.069(B) Reasonable Suspicion testing. The language “*supervisor trained in detecting the symptoms of alcohol misuse*” was deleted. The sentence will read as follows: “*A supervisor must make the observation and determination that a reasonable suspicion exists.*” The next sentence in the old version reads, “*The supervisor making the determination is not to conduct a reasonable suspicion test on that employee[;] the employee must be referred to a hospital or immediate care facility for testing.*” The semi-colon was added to this sentence. This is to make it clear that they’re talking about the employee going to Promptcare or some other similar place for testing.

- 2012-05 Military leave, family leave, etc.

Section 36.131(F)(a). The original language talks about Section 125 tax saver plan. In parenthesis she put the “*Flex System*” because she thinks that what the Town’s actual plan is called and to make it clear as opposed to the generic language. In subsection (b), “*To participate in this Tax Saver Plan (flexible spending accounts)*” to make it clear that’s what they’re talking about. That’s what the employee has to sign, the salary redirection agreement.

All other ordinances remained unchanged.

Scott Oldham entertained a motion to adopt Ordinance 2012-01, as amended, to amend various provisions of Chapter 36 of the Ellettsville Town Code concerning the Personnel Policy Handbook. Dianna Bastin made a motion to adopt Ordinance 2012-01 as amended to amend various provisions of Chapter 36 of the Ellettsville Town Code concerning the Personnel Policy Handbook. Dan Swafford seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

Ordinance 2012-04 to Amend the Town Personnel Policy Handbook Regarding the Drug and Alcohol Policy

Scott Oldham – Asked with regard to on duty accidents where the employees will go for testing. Ms. Brown replied the reasonable suspicion testing has language added for an alcohol test at a hospital or immediate care facility. If the employee is in an accident the supervisor can ask that he/she go to Promptcare, Bloomington Hospital or someplace like that for immediate testing. Mr. Oldham said there may be some law enforcement needs that preclude that requirement and would the Town be able to accept those results. If there is law enforcement involvement the employee would not be taken to Promptcare. Perhaps this should be tabled until Ms. Brown has time to research this further.

Dan Swafford made a motion to table Ordinance 2012-04. Dianna Bastin seconded. Motion carried 5-0.

Ordinance 2012-06 to Amend the Town Personnel Policy Handbook Regarding Use of Town Property

Scott Oldham – With regard to Ordinance 2012-06 and the use of mobile electronic devices, he has an issue with the paragraph, “*Employees shall not use multimedia electrical . . . not limited to computers, text messages, emails, electronic calendars.*” The problem with this is they have installed mobile data terminals in patrol cars they’re required to use while the vehicle is in motion. Fire Chief Jim Davis said they have 800 mhz single button punch.

Scott Oldham entertained a motion to table Ordinance 2012-06. Dianna Bastin made a motion to table Ordinance 2012-06. Phillip Smith seconded. Motion carried 5-0.

Dianna Bastin – A Town Council member has to chair this committee. There's very little input needed from the Town Council representative. The supervisors do a wonderful job of keeping up on the changing laws.

Ordinance 2012-02 to Amend the Town Personnel Policy Handbook Regarding the Sexual Harassment Policy

Scott Oldham entertained a motion to adopt Ordinance 2012-02 to amend the Town Personnel Policy Handbook regarding the Sexual Harassment Policy. Phillip Smith made a motion to adopt Ordinance 2012-02 to amend the Town Personnel Policy Handbook regarding the Sexual Harassment Policy. Dianna Bastin seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

Ordinance 2012-03 to Amend the Town Personnel Policy Handbook Regarding the Drug Free Workplace Policy

Scott Oldham entertained a motion to adopt Ordinance 2012-03 to amend the Town Personnel Policy Handbook regarding the Drug Free Workplace policy. David Drake made a motion to adopt Ordinance 2012-03. Dan Swafford seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

Ordinance 2012-05 to Amend the Town Personnel Policy Handbook Regarding Military Leave, Family and Medical Benefits and Life Insurance

Scott Oldham entertained a motion to adopt Ordinance 2012-05 as amended to amend the Town Personnel Policy Handbook regarding Military Leave, Family and Medical Benefits and Life Insurance. Dianna Bastin made a motion to adopt Ordinance 2012-05 as amended. Dan Swafford seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

Ordinance 2012-07 to Amend Various Sections of the Town Personnel Policy Handbook Regarding Fire Department Job Descriptions

Scott Oldham entertained a motion to adopt Ordinance 2012-07 to amend various sections of the Town Personnel Policy Handbook regarding Fire Department Job Descriptions. Dan Swafford made a motion to adopt Ordinance 2012-07. David Drake seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

New Business

Property and Liability Insurance Renewal – ISU The May Agency

Fire Chief Jim Davis – Last year there was sticker shock with vehicle insurance on the Town's policy. He met with the May Agency for clarification so they could understand the policy, how to administer it, find out what needs to be done and then he reported back to the supervisors. This year Sandra Hash told him the May Agency was going to send a copy of the renewal which is due January 15, 2012. He reviewed the policy on January 8, 2012, and was quite pleased with the layout and descriptiveness of the four carriers. He compared the current policy, which is HCC, with the other three quotes. His conclusion is the HCC, as proposed, is the best of the group for coverage. HCC has the most coverage for the amount of money spent. The Town needs to devise some way to separate the utilities and General Fund portions of the premium. He doesn't have a problem with each department budgeting so much each year. The clerk should have the latitude, if the Council agrees, to take the funds and pool them so the bills can be paid regardless of what's budgeted. If they happen to be short in one area and long in the other, the bill can still be paid. He asked the insurance company if the Town could go to a semi-annual payment rather than a lump sum at the beginning of the year. The insurance company will check on this. The insurance company is offering a three year rate guarantee. Paul May of the May Agency will explain the insurance in further detail.

Paul May, the May Agency – The spreadsheet was provided to show the comparisons of the four insurance proposals. There were five or six insurance companies who declined to provide quotes. HCC has a three year rate guarantee subject to loss ratios. Loss ratios get measured at 9 months and 21 months out. If your loss ratios are maintained below certain levels the guaranteed rate goes on. The premiums will go up and down depending on the exposures such as buying more police cars. They will be at the same rate. This includes the umbrella coverage. Rates can go down but they're capped from going up. That's exposure for three years without the rate going up. In Downey's, the million dollar umbrella is over all six of the liability exposures on an annual basis. There is a one million dollar pot over all six should the Town start to have claims that go into the umbrella. Every time the Town pays a claim it's going to go down. On the HCC there is \$1,000,000 over each of the general liability, employee liability, public liability and automobile liability. In effect there's \$6,000,000 in the umbrella as opposed to \$1,000,000. The only thing discussed with Jim Davis and Darla Brown is increasing the umbrella limit to \$2,000,000. The state cap is \$5,000,000 for liability. The Town already has \$1,000,000 umbrella. If the Town buys up to \$4,000,000 it will give you \$5,000,000 for \$5,100. This gets the Town to the place it will be safe should there be a catastrophic claim.

There are three properties in the flood zone. They are the old fire station, Town Hall and the maintenance building on Matthews. They are in the federal zone A. The only place you can buy insurance is from the federal government for the flood program they have. He may have this figure on January 10, 2012. The Town has never had flood insurance and this is something to consider. It is a separate policy and could fall on any date. The Town needs to give serious consideration to the umbrella policy. He will get a number for the buildings. The flood insurance can be purchased at any time because it is from the government.

Sandra Hash – Had previously asked a question about earthquake insurance. There is \$5,000,000 for earthquake coverage in the policy and another \$7,000,000 in excess earthquake with an additional policy. Mr. May replied the Town has always had the full value of all of its buildings. They may have 5,000 or 6,000 accounts where earthquake coverage would be suggested and half of them don't buy it and half of them buy full policy limits. It's something they know will happen here sooner or later and there have been a few scares. Due to all of the limestone in the area, it would be devastating if there was a tremor. The Town isn't paying much for earthquake coverage. The \$5,000,000 in earthquake coverage costs \$2,248. Ms. Hash commented they know they have floods and have no flood insurance but then they have earthquake coverage. As Chief Davis said *"insurance is to always protect you against what could happen."* Ms. Hash asked if the renewal is \$77,000 would the coverage of \$7,000,000 for earthquake coverage add an additional cost. In 2011 the total premium paid for property, liability and earthquake was \$94,835. Total appropriations including water and sewer is \$105,700. There is \$41,500 budgeted for water and sewer. This leaves \$63,500 for the civil side. Mr. May commented the Town switched to this carrier last year because they had the best deal. They see the vehicles being a primary exposure to loss so they put a lot more premium there than someone else. The total premium went down. Each company has its own underwriting guidelines about where they think that premium ought to be put. Ms. Hash asked if they needed to provide an answer at this time even though the Town Council doesn't meet again before January 15, 2012. Mr. May said he needs an answer before midnight on January 13, 2012. He assumes the Town will go with HCC and will have to decide if it wants flood insurance or extra umbrella insurance. Ms. Hash confirmed the Town needs to decide whether to add the liability and maintain the full coverage on the earthquake.

Scott Oldham – Asked if any insurance companies other than the May Agency were solicited. Ms. Hash replied the Hylant Group came in but there's a process that she was unaware of. When you have an agency it locks up the market. That agency is free to get quotes from other companies. Hylant Group came in and talked to her. She provided information to them and then they met with Jim Davis and Tony Bowlen. She signed a letter for the Hylant Group that stated she was going to let them go out for quotes and it became very competitive and confusing. It appeared she was using two agencies. The May Agency immediately called and told her they were trying to get

quotes from companies but she signed a letter allowing this other company to be her agent of record and get other quotes. She explained to the May Agency that wasn't her intent. She wanted to get quotes from both companies. Then she had to sign another letter stating the May Agency was, indeed, the Town's agent of record. Hylant Group was only able to get one quote and it was substantially higher.

Paul May – He explained it is called a broker or agent of record. The May Agency had already approached the fourth company on the list. Then someone from Hylant approached them. He doesn't know what was said but the person from Hylant approached Sandra Hash and convinced her that in order to get another quote she needed to sign the letter. The letter stated the May Agency could no longer deliver the quote they had already started. A guy from the Hylant Group called him because he got the letter. Normally, the letter gives five days notice for people to understand what was signed. This letter, however, made it effective immediately with no five day notice. He had never seen this type of letter before. He advised Ms. Hash that they had already been talking to that company and had planned on delivering a quote from them. The letter that was signed took this away from them. He prepared an agent of record letter which reversed the letter for the Hylant Group. He doesn't know where the confusion came from and he certainly didn't contribute to it. It turns out they weren't that competitive. That's not the way he does an agent of record letter. People know what they've signed. Mr. Oldham confirmed that companies aren't free to bid the same quotes. Mr. May replied the first in is the agent of record unless the insured signs an agent of record letter stating they want to use another agent. Ms. Hash said the way she understands it, the Town had Selective a couple years ago and they approached Hylant to let them know they wanted to bid on it. When it was all said and done Selective wouldn't give a bid. Mr. May said they use to have Selective and the Town had them. The May Agency no longer does business with Selective.

Dan Swafford – Asked Darla Brown if she has worked with insurance such as this before and is it common for it to be narrowed down to one broker. Ms. Brown replied she isn't familiar with it and hasn't worked insurance from that end. Mr. May commented they write policies for schools and other towns and it is not uncommon for the insurer to assign companies at bid time. If he's the agent, he gets first choice. Then everyone that wants to bid on it can put out a list, they go back and forth until they're all gone and one after another is assigned. An agent of record letter moves it from one office to another but keeps the same policy. In this case, he had already established a relationship and was an incumbent agent most likely to be able to provide all the information and get the business written. Clearly, the company will want to do business with him. The company called him even though he didn't have the five day waiting period because it was instantaneous. All he did was call Ms. Hash and ask what happened. His comment at the time was it will be a market they won't have.

Scott Oldham – He is confused. When they go to buy fire trucks, police cars or something else they put out a request for proposal and multiple dealerships can bid.

Don Dickerson, Underwriter – From a company standpoint they're only going to release a quote through their agency. There's a multitude of reasons that have to do with errors and omissions and it's the way they do business within the independent agency system such as the Hylant Agency and the May Agency. Whoever is the agent of the record at the time is who they're going to release the quote to. Usually the first submission in is the one who they're going to prepare the quote for. If a letter such as the one signed for the Hylant Group came in it would stop the process and restart the process through another agent. That could have continued but it didn't in this case. All companies that work with public entities will only release a quote through one agent whoever it may be.

Dan Swafford – The Town Council needs to vote on this now because it expires on January 15, 2011. They need to get the information quicker next time. Ms. Hash explained Mr. May brought a notebook to her at 3:00 p.m. on Friday, January 6, 2012. Mr. Swafford stated it's hard to make a decision without having time to read over everything. Mr. May stated the farther you back up from the renewal date, the fewer bids you will receive. It has always been a problem for early year renewals. Ms. Hash

commented they started the process over two months ago. Mr. May stated the delay wasn't with the Town or with their agency. If they started the first day after January 1st, they would have had only one bid. He apologized for any delays but he wanted to get as many bids as possible. He had called HCC in August to let them know it was coming up and asked if they wanted to take a look at it which they did. The Town Council can vote to renew the policy as is and make any changes they want after the next meeting. Mr. Swafford asked if the current policy could be extended for 30 days. Mr. Dickerson replied it could be extended but there may be some minor penalties only if the re-insurer has a minimum premium. David Drake commented he didn't know what they had to gain by extending the deadline because they can change the coverage. Chief Davis and other people came up with getting the best possible coverage and by delaying payment doesn't mean they'll come up with any better coverage. There is nothing to gain by putting off the deadline. Mr. May said if the Town wants to change its limits it can do so anytime during the year.

Dianna Bastin – She still doesn't understand why they can't take bids for insurance from different agencies.

Nathan Peterman, Hylant Group – The way it works is one company releases figures to one agency. There is so much negotiation that goes on in a quote for property and casualty so they want to work with one person. The Town can decide who that is. When he began meeting with Sandy earlier last year, he thought it would be appropriate to ask up front for certain insurance companies. He asked for a couple of insurance companies to work with not knowing that the May Agency had already communicated applications to everyone blocking the market. He thinks he was clear about who he would be working with and how that process worked. As he understands it when Mr. May learned he had been assigned to work with one of the insurance companies he asked to have it back which left him with one insurance company. Given they had worked with the Town in the past and had a couple of bad years on the professional liability side they chose to decline and not provide a quote which left the competition out of it. They scrambled and found one insurance company the May Agency forgot to block but they weren't a competitive company. There are a couple of issues with the insurance program and it sounds as if there may have been service issues in the past. He doesn't think the Town has been exposed to the kind of service it could get on a couple of levels. Also, he doesn't think the shortcomings of the policy, specifically the umbrella limits, have been adequately explained. He thinks it has a pretty big impact on the elected officials. The Indiana statute states after 2008 any municipality is liable for up to \$5,000,000 from any one occurrence. The Town has a \$2,000,000 umbrella and what would happen if there is a \$5,000,000 claim. The Town would have to be liable for the other \$3,000,000. The one insurance company they ask to work with is the Indiana Municipal Insurance Program which is administered by the Hylant Group. Through that and other programs they have and through the agency side they insure hundreds of municipalities. He has never seen a municipality be advised to only buy a \$1,000,000 limit. His recommendation would be to buy a \$4,000,000 umbrella so the Town is protected for one maximum occurrence under the statute. He enjoyed working with Sandra Hash and would love to work with the Town. There are ways to do this if the Town would like to pursue it.

Paul May – Mr. Peterman referred to him blocking markets and that's a negative term. He wasn't blocking markets; he was trying to get as many quotes as possible. Whether or not the Town wanted to assign that market to the Hylant Group wasn't his decision. He doesn't think the agent letters were clearly understood. They've been fighting budgets for a long time. A lot of decisions have been made based on how much can they spend. There are options to buy up to \$5,000,000 in coverage. The Town has to decide, he can't tell it how to spend its money. He can only tell what it costs. He and Darla Brown discussed this before the meeting and that's why it's in there.

Phillip Smith – The way he understands it the Town Council has to do something at this meeting. If they don't, after January 15, 2012, they wouldn't have any insurance. He asked Mr. May if they vote this in, can they make changes at the next meeting. Mr. May replied that was correct.

Scott Oldham – He also thinks they need to do something at this meeting. He's not happy with how this all went down. He doesn't know whose fault it is and it may not be anybody's fault. He thinks it would be stupidity on their part not to buy the liability insurance up to the maximum limit. This would leave the Town hanging and it can't afford it. Likewise, it's silly that the Town encourages people to buy flood insurance and it has never purchased it. That's bad management on the part of the Town Council.

Dianna Bastin – As far as the insurance goes, she thinks the Town definitely needs the \$5,000,000. They can't predict what could or may happen. She also thinks the Town needs to buy flood insurance. She had to buy it for her house and didn't have a problem doing so.

Dan Swafford – If this is approved at this meeting, he asked Darla Brown to check on the \$5,000,000 umbrella mentioned at this meeting and to look at what other municipalities are doing in our area. He would like this to be reported at the next meeting.

Phillip Smith – Asked, before the vote was taken on the motion, how much this would increase the premium. Darla Brown replied it would increase the premium by \$5,106 if the umbrella is increased to \$4,000,000. Mr. Oldham stated the total premium would then be \$82,806. Ms. Hash stated they also have the extra earthquake coverage to maintain what they've had in the past so that would be an additional \$7,300.

Dianna Bastin – Asked Paul May since the flood insurance has to come from the government if it won't be part of the policy they're voting on. Mr. May replied that's correct.

David Drake made a motion to renew the insurance with HCC for 2012 and to raise the umbrella premium up to \$5,000,000 total. Phillip Smith seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

Sandra Hash – Thanked Jim Davis. He has researched it thoroughly and probably understands insurance better now than anyone else in the Town.

Supervisor's Comments

Fire Chief Jim Davis – They have posted a full time job opening they currently have on the Fire Department. Two years ago they insulated the roof deck and they borrowed from the Build Indiana money to pay for it. They have paid the amount back with \$6,000 savings in natural gas last year. Last year the Fire Department had unspent appropriations of \$55,000. Part of the reason is because they had two employees who retired last year and they both received the PTO payout. The only way they can make it work for the employees to get the payout is to not hire somebody for the time period it will take to be at the same point in the budget throughout the year. They have to wait to hire an employee to replace that person for a given period time. They were down two full time employees last year and they asked for an additional encumbrance to carry over from 2010 to 2011. They decided it wasn't right that they should take the \$20,000 and spend it so they paid it back. Again, they have waited to replace the employee and supplemented with part-time people. Now, that money has basically been returned and that's the reason they have \$55,000 left. Next year, they won't see that type of savings because they will have replaced the employee.

Dan Swafford - Asked if the additional appropriation to cover the vacant positions was returned or included in the 2012 budget. Chief Davis replied that's what he thought he said. Mr. Swafford stated he had said he returned it and asked if it is still in the 2012 budget. Chief Davis responded there is not an additional \$20,000 in the 2012 budget. Sandra Hash commented there was a carryover from 2010 to 2011.

Dianna Bastin – Chief Davis mentioned the insulation in the roof and the savings. She asked Chief Davis if he has any idea how much they saved on the electric. Chief Davis replied he never tracked it as close as the insulation. They have done numerous things to curtail the expenses not only in the electrical use but also gas, etc. Timers have been added to the light switches throughout the building and outside to conserve

as much as possible. They’re trying to go green and save as much as they can. They’re trying to do whatever they can to cut back on expenses and they’ve done pretty good so far. Their light bill runs \$600 to \$700 each month, winter or summer.

Connie Griffin, Director of Planning – They’ve been working on soil erosion control measures at the First Assembly of God site. She has been conducting regular inspections with the last one being January 9, 2012. The church has established some staked silt fencing as well as putting Number 2 stone at the entrance which will help with tracking onto the highway. There has been some inlet protection done. The elements that are not complete are in the back portion of the property. They have not established a vegetative cover of 70% which is required. Three enforcement letters have been sent out since October. There is some minor work to be done at the entrance and exit on the west side. There is a trench area that allows capacity for the water to put dirt onto the road and then go into the storm drain inlets as well. They are getting some resolution to the issues but there are a few more minor things that still need to be done. They are in contact with a mediator between the church and the Planning Department which is a parishioner. She believes they will get complete compliancy in the near future. Phillip Smith asked if the church is being fined. Ms. Griffin replied at the time the letter was written it was suggested it be revised from starting to fine them in the December 28, 2011 letter to “may” fine them. So, no fines have been established as of yet.

Adjournment

Dan Swafford made a motion to adjourn. Phillip Smith seconded. Motion carried. Scott Oldham adjourned the meeting at 8:29 p.m.

Scott Oldham, President

Dan Swafford, Vice-President

Dianna S. Bastin

Phillip Smith

David Drake

Sandra C. Hash, IAMC, MMC
Clerk-Treasurer