

July 22, 2013

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, July 22, 2013, at the Fire Department Training and Conference Room. Scott Oldham called the meeting to order at 6:30 p.m. Dianna Bastin led the Pledge of Allegiance followed with a prayer by David Drake.

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

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

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting on July 8, 2013. David Drake so moved. Dan Swafford seconded. Motion carried.

Accounts Payable Vouchers

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

Heritage Trail Project - INDOT

Darla Brown, Town Attorney, advised Connie Griffin had attended a Metropolitan Planning Organization ("MPO") technical meeting earlier today. During the meeting, a representative from the Federal Highway Administration ("FHWA") discussed the Town's options. There is something available to the Town called a "no-build option". If the Town doesn't want to build the project it can select this option and it will not have to reimburse the Indiana Department of Transportation ("INDOT") for funds it has accepted from them. If a no-build option is selected it actually means no-build. It is still an option for the Town to build Phase I with its own work force and/or own funds and build Phase II, the bridge, using federal funds. Information was provided that the Town doesn't have to pay INDOT back as long as there is a finished project at the end. Her concern is when Schneider Corporation ("Schneider") attended the Town Council meeting in June, one of the representatives said even if the Town starts now and contracts with USI, the right-of-way acquisition agent, the project still may not be shelf ready by next fall. This means the Town will miss its second funding window. If the Town wants to use funds for Phase I the project may not be ready in time for the second funding window. Then the Town will have to put more of its own money into it, accept more money from INDOT which will have to be paid back and the Town may not have a finished product at the end. The USI contract states they will have it ready by December 2014, which is too late. It needs to be ready for letting in November 2013. USI states the contract will not exceed \$155,000. The Town can use the MPO funds if the Town builds Phase I with its own funds. It can't use the money that was allotted by INDOT. INDOT allocated \$169,610 for Phase I and \$223,520 for Phase II. If the Town elects to build Phase I with its own funds it can use the MPO funds of \$279,400 for Phase II but it cannot combine the two parts of money.

Scott Oldham asked if it's more viable for the Town to separate the two phases because they could use the \$279,400 to build Phase II and still be in the running for other funds. Ms. Brown replied yes. There are other funds that may become available this fall through the MPO. If the Town selects the second option which is to build Phase I with its own funds or workforce and build Phase II with INDOT money the entire project has to be approved by the FHWA.

Brandy Fishvogt, Project Manager, Indiana Department of Transportation, advised the project should have gone through INDOT's review process. The designer should have been submitting documents to INDOT for review as it was being designed. Mr. Oldham confirmed the current design meets those standards. Ms. Fishvogt said that was correct. If the designer provided the documents for review they should have received INDOT's comments if there was any problem with the way it was designed. Mr. Oldham asked if the Town builds to that standard then can it re-apply or continue with the application for Phase II and basically continue along with the process even though they possess Phase I built. Ms. Fishvogt replied

the FHWA mentioned during the MPO meeting Phase I has federal funds in the design but there is nothing that says the Town has to utilize federal funds for right-of-way or construction. The Town can proceed with constructing the trail with its own money and not have to pay back federal funds. The no-build option is in every environmental study. Any project with federal funds requires an environmental study. The reason it is an option is because sometimes when they get into the environmental study there are things that cannot be mitigated such as wetlands or the trail is no longer logical. This is usually selected during the environmental process. In the Town's case the environmental process has already been approved. The only way the Town could choose no-build is if the cost of the project is substantially higher to where it could no longer afford it. This could now be the case and could be a reason for the Town to choose no-build. No-build is also interchangeable with the term "do nothing".

Scott Oldham asked if the Town selects no-build and builds the trail does it positively or negatively impact its ability to use federal funding for Phase II. Ms. Fishvogt replied she talked to the FHWA about that. It is frowned upon because no-build is for unforeseen circumstances. The no-build action could not be utilized if the Town knows it may build in the future. If the Town chooses no-build, its saying it's not building the trail or bridge because that's how the environmental document was prepared. It was the footprint of the project. Mr. Oldham asked what the best course of action is if the Town wants to build the trail while still remaining within the funding window for Phase II. Ms. Fishvogt answered there is a funding window in the contract for Phase II. Her suggestion is to prepare a cost estimate that shows the anticipated costs for building the trail with local funds. Mr. Oldham advised the Town has this. Ms. Fishvogt further advised a 404 Permit is required for a waterway that's in the jurisdiction of the Army Corps of Engineers. If more than one-half acre of property is being disturbed a Department of Natural Resources ("DNR") permit has to be obtained. Utilities are required to relocate. She would look at the finances. If the Town continues as a federal aid project what is the funding shortfall? Mr. Oldham answered this amount is approximately \$600,000. Ms. Fishvogt stated the MPO will be giving an allocation of competitive funds. The Town may have to return year after year to request the funding. It has been designed with federal funds and there is nothing that states they have to continue with federal funds to acquire the right-of-way. However, because there were federal funds used in preliminary engineering ("PE") the Town still has to follow the FHWA's Uniform Act. This Act pertains to consulting with property owners and things of that nature.

Darla Brown asked if the Town builds Phase I with its own funds does it still have to follow the federal guidelines for right-of-way acquisitions. Ms. Fishvogt replied this is correct. Mr. Swafford asked if the Town would have to hire the firm for the right-of-way acquisitions or can the Town do it. Ms. Fishvogt answered if the Town has staff who are aware of the Uniform Act then it can. The Town has to make sure that all federal guidelines are followed because of the funds spent in the design.

Scott Oldham asked if the Town would have to reimburse either the federal government or INDOT for the money if they choose no-build. Ms. Fishvogt replied if the Town chooses no-build, the FHWA has asked that she request a justification letter to INDOT as to why the Town is claiming no-build or do nothing as the preferred alternative. Mr. Oldham asked if there is no happy medium between no-build and the Town builds it versus finding another \$600,000. Ms. Fishvogt replied she didn't know how to answer that question.

Dan Swafford asked if the Town builds it with its own funds and workforce, does the federal funding have to be paid back if it goes by the guidelines set forth in the plan it's already paid for. Ms. Fishvogt answered that's correct. The Town has utilized federal funds for the PE also referred to as design. There is nothing that says the Town is obligated to use federal funds for right-of-way acquisition, utility relocation or construction. The Town is free to continue with local funds. It needs to make sure the property owners are contacted according to the Uniform Act. Mr. Oldham said they were told two meetings prior, the Town has already met the benchmarks for those standards.

Darla Brown is concerned about acquiring the property pursuant to the Uniform Act. Mr. Swafford asked what the contractor's estimate was for acquiring the property. Ms. Brown replied they will charge no more than \$155,592. Mr. Oldham asked if there was a certain

benchmark they had to hit with a certain test before getting to the point of approaching landowners. Ms. Fishvogt replied this was the environmental document. The Town had to have Environmental Policy Act (“EPA”) approval which was done in April. The Town is free to proceed with acquiring properties if it chooses to do so.

Dan Swafford asked if the Town continues to build it with its own work force, is there a time limit for completing Phase I. Can it be stretched out four or five years? Ms. Fishvogt replied not for Phase I because the Town would no longer be using federal funds. Mr. Swafford asked if Phase I has to be completed before Phase II. Ms. Fishvogt answered they need logical termini. If there isn’t anything on the ground, it doesn’t make sense to have a bridge without a trail. The MPO has awarded funding for the bridge and funding questions should go through them. The funding contract with MPO states when those funds are available. Mr. Swafford stated it may be 2014-2015. Ms. Fishvogt summarized the trail can be built with local money and federal aid. The Town needs to figure out its options. It might take several years to get the additional federal funds. Due to inflation the cost of the project is going to increase. If it is built with local funds there are certain things that need to be done but it is not impossible. If the Town needs guidance on the Uniform Act, INDOT has a real estate manager who can help with it. The goal is to do whatever the Town wants. If funding is an issue, they can go back to the MPO and try to get additional funds. She doesn’t know if no-build is an option because it stops everything.

Scott Oldham asked if there was a way for the Town to build the trail without claiming no-build. Ms. Fishvogt replied yes, the Town has a federal award for the trail and has used federal funds for the design. There is nothing that says the Town has to continue with federal funds to acquire property or to construct the project. The project just has to be completed. Mr. Oldham asked if the Town builds the trail to federal standards then the federal government doesn’t care and they won’t have to exercise no-build. Ms. Fishvogt replied they can rescind federal funds from this point. If the Town opts to no longer use federal funds for the project then the trail can be built with local funds. Ms. Brown confirmed as long as there is a finished trail then the Town doesn’t have to reimburse INDOT. Ms. Fishvogt replied that is correct. Mr. Oldham asked if she sees any problem with this. Ms. Fishvogt answered this was the point the FHWA made. The federal money is there for the project to use as the Town wishes. In this case it was used for PE. The Town no longer has to use federal funds if it is constructed with local money. Ms. Brown asked if the Town can still get federal funds for Phase II. Ms. Fishvogt can’t speak for them but she assumes the federal funds from the MPO are still in place.

Dan Swafford asked if the Town can ask for additional monies for Phase I from the MPO. Ms. Fishvogt replied because the limits of Phase I now fall within the MPO boundaries, which they did not in 2003, any additional funds awarded for this project, Phase I or Phase II, must come from the MPO.

Rick Coppock, Bynum Fanyo and Associates, Town Engineer, explained proposed costs of the project as follows:

Materials	\$41,029
Schneider Engineering	\$57,585

Darla Brown noted she has been told if there is a finished trail at the end they do not have to reimburse INDOT.

Additional field check for the bridge	\$ 7,006
Hydro study	\$ 1,500

Scott Oldham noted the costs have been reduced from \$107,000 to approximately \$55,000.

Dan Swafford noted there will be the additional costs for land acquisition, DNR permits and a 404 Permit from the U.S. Army Corps of Engineers. Mr. Coppock thought Connie Griffin talked to Schneider who advised a 401 Permit is needed instead of a 404 Permit. This will be part of the additional field check in their contract. Mr. Swafford asked if cutting the threshold cost of \$155,000 for the land acquisition contract in half would be a fair estimate for purchasing the land. Mr. Oldham noted the fee is not to exceed \$155,000 and doesn’t include purchasing

the property. If this is done in-house the cost is nil. Mr. Coppock added if the property owners are going to donate their land the Town could go through this process where it wouldn't cost anything. If property owners aren't going to donate then the Town is going to have to have appraisals. Part of the \$155,000 was for negotiating the right-of-way. A buyer would purchase the right-of-way. Do you have to have appraisals for donations? Ms. Fishvogt replied you do. Mr. Oldham remembers Schneider saying the Town can now talk directly to landowners. They're looking at approximately \$55,000, excluding land acquisition, before they build the trail. Mr. Swafford asked if they get the total down to \$55,000 what other monies are needed to complete the trail. Mr. Coppock replied the main thing is the acquisition of the properties. Other than that, the project can be built according to the plans. Mr. Swafford reiterated he's concerned with the unknown costs of the land acquisitions. Mr. Oldham noted when the entire project was left under the federal funding window it had ballooned to over \$900,000. The Town has reduced the cost to \$55,000 for building the trail. This was a million dollar project for which the Town was going to have to come up with \$600,000. There is a funding window the Town has to meet. Mr. Swafford agrees the way to go is to build it with the Town's own workforce. He is trying to reduce the unknown costs. Mr. Oldham stated the Town can come and go from the federal process as long as the Town doesn't declare no-build. Mr. Swafford asked if the Town decides to do a no-build, does it have to pay back federal funds. Ms. Fishvogt replied when no-build is claimed, it is a preferred alternative in the environmental documents. The additional information portion would be supplemented and the funds are not required to be paid back because it is one of the options. If the trail is built with its own work force, there is a \$150,000 threshold for force account work.

Bob Winslow, Engineer, Indiana Department of Transportation, explained when building the trail with your own forces that's considered a force account. By state law, you're only allowed up to \$150,000 on a project by force account. The project has to be kept under \$150,000 to build it with the Town's own forces. If it is built with the Town's own money and a contractor then this amount can increase. The contractor would build it according to plans and specifications. If the Town goes over \$150,000 it's in trouble. Mr. Swafford asked if the Town uses its own people does it have to include the employees' wages and benefits. Mr. Winslow replied if it is done with the Town's own force account there is a lot of record keeping. Wages and fringe benefits have to be kept track of as well as materials, rental, supplies and all other costs. You have to have an hourly rental rate on the equipment. Mr. Swafford noted perhaps the way to build it is to have a contractor to do it cheaper than the \$150,000. Mr. Winslow advised if a contractor builds it you can go over \$150,000. Mr. Swafford asked what would happen if the Town used its own workforce, and goes \$48 over \$150,000. Ms. Brown answered she has discussed this with the State Board of Accounts. As long as the Town has made a good faith effort to attempt to estimate the costs, and it appears the project can be built for \$150,000 or less, if it is a little bit over there shouldn't be an issue.

Scott Oldham said Main Street has a contribution. Is it \$150,000 of Town funds or does it include the total with Main Street's contribution? Mr. Winslow said it's \$150,000 for the project which may include right-of-way but he's uncertain if it does. Ms. Brown noted it's \$150,000 for the cost of the project and the statute isn't clear whether it includes right-of-way. If the Town was to advertise and have a contractor submit bids, they would expect the right-of-way to be in-hand already. She's not convinced that the right-of-way is actually part of the project costs. What you have to look at are the materials, labor and basic amenities. Main Street has set aside money for amenities. Mr. Oldham noted Main Street has additional money to put toward the cost to build. Is Main Street's money included in the \$150,000? Ms. Brown replied it is the total cost of the project. It depends on what Main Street's additional funds are used for. If Main Street funds are going toward materials then it's already included. The amenities Main Street wants to pay for are things that would be nice to have which may not be part of the basic trail and can be added later. Mr. Oldham asked if the field check or survey are more for Phase II would they actually count toward the \$150,000 in Phase I. Mr. Winslow replied if it is part of the bridge it wouldn't be included. Mr. Oldham noted it is almost \$8,500. Ms. Brown added Rick Coppock has asked Schneider to try to estimate how much of the first contract price went toward the bridge. Mr. Coppock didn't know the exact figure but it includes the design for the bridge.

Dan Swafford's concerns are time, labor and materials. He asked Mr. Coppock if his figures include a contingency. Mr. Coppock replied costs are based on normal and usual rates the Town charges the public including man hours, labor and equipment costs. It's the rate the Town always uses. Mr. Swafford asked if this is with the current workforce. Mr. Coppock answered that's correct.

Scott Oldham asked Mike Farmer if he was comfortable with the figures. Mr. Farmer replied yes. Mr. Swafford is still a little nervous on the cost of land acquisition. How long will it take to come up with an estimate on land acquisition? Ms. Brown answered she can talk to the real estate manager at INDOT and get some idea of what it is needed from her and Rick Coppock. As far as what it will cost from the landowners is unknown until someone talks to them. Ms. Hash noted appraisals will have to be done. Mr. Oldham said Ms. Brown's opinion is the appraisals and everything else doesn't count toward the \$150,000. If they vote to build the trail with Town funds it opens up a variety of options including no-build if it gets to the point it's economically unfeasible. Continuing with federal funds is unfeasible. There's no need to continue to drag this along. Mr. Swafford stated this has to be approached cautiously. They do not want to waste more money on this project if it is not feasible. It will cost more money and he's wanting to make sure they do their planning.

Connie Griffin, Director of Planning, explained the matched funds for the bridge are \$223,520 with the \$55,000 match. The MPO wants a consultant to attend the meetings, talk about the projects and keep them on track. Those fees would not be included so there are always hidden costs. They've tried to look at every option. Mr. Oldham appreciates the hard work of Ms. Griffin, Ms. Brown, Mr. Coppock and the guys at Utilities.

Dianna Bastin thinks the Town needs to keep its word and do something with the trail. She is very pro-employee. They are asking their Utilities and employees to do this. There has never been a time when they have let the Town down. She has faith they will come in under \$150,000. They know what they're doing, they're intelligent, and they've worked with INDOT before. No-build is not an option for her.

Sandra Hash stated INDOT allotted so much money for what has been done already with Schneider and they had a purchase order that has run its course. Now they have another purchase order available to finish paying those reimbursements. She has reimbursements she has to file and she would like to know how to proceed. The money is there and the expenses have been incurred. Mr. Oldham said they will finish dealing with the trail portion and get back to her question.

Scott Oldham made a motion to move forward with the building of the trail using Town personnel and the funds as acquired from the variety of different sources as they exist including Main Street and others and authorizing Sandra Hash, Clerk-Treasurer, and Darla Brown, Town Attorney, to publish a notice with regard to the Town using its own workforce so the Town Council can consider this at the next meeting with a resolution. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin - yes and David Drake – yes. Motion carried 4-0.

Darla Brown noted if the Town builds the trail with its own funds it will have to be published in the paper. At the next meeting there will be a resolution for the Town Council to consider and make a determination it's worthwhile to build it with the Town's own work force and it is doable. His motion authorizes her and Sandra Hash to do what they need to do to get the public notice in the paper.

Dan Swafford asked for clarification from Sandra Hash on how much money she is holding. Ms. Hash replied it is a few thousand dollars. The money was already approved and she feels they need to finish out what they can with the Schneider agreement. Mr. Oldham said it's appropriate, they owe the money and they need to pay it. Ms. Hash advised she will file for reimbursement with INDOT since they have an existing purchase order.

Brandy Fishvogt, INDOT, requested a letter from the Town to INDOT advising where they're going to proceed from here so they can route it to FHWA. Mr. Oldham advised Ms. Brown will draft the letter.

Appointments

Parks and Recreation Board – Amy Slabaugh
Planning and Zoning – Pat Wesolowski

Scott Oldham announced there are two presidential appointments. Amy Slabaugh has agreed to take the seat on the Parks and Recreation Board and Pat Wesolowski on the Planning and Zoning Commission.

Resolution

Resolution 11-2013 to Write Off Uncollectable Utility Accounts

Jeff Farmer, Ellettsville Utilities, explained the State Board of Accounts has been after them about getting their bad debt and books cleaned up. A lot of the uncollectable accounts go back to 1984 and the most recent is 2011. This is to clean up their bookkeeping. The last time all of these bills were sent out was 2012. They've done their due diligence to collect on the bills. These people are no longer available to pay the bills. The total is \$54,244.57. To put it in prospective, their budget is over \$3 Million a year and the bad debts go back over 30 years.

David Drake asked why the bills are uncollectable. He thought bills like this could be a lien on the property. Mr. Farmer replied a lien can only be placed on the sewer portion. Mr. Swafford asked Ms. Brown if she could collect the debts. Ms. Brown said normally on contracts the Statute of Limitations is 10 years which would be the outset. Mr. Swafford asked know if it would be worth the Town Attorney's time to try and collect the debts. Ms. Brown said it may be possible some of these people have moved. Mr. Farmer added some of them are deceased. Mr. Drake asked if they should be attaching liens to properties, if it is legal to do so, or does it cost more than it is worth? Mr. Farmer replied if they can catch them before they sell their property a lien can be attached to their property. Most of these are old bad debt and are not from the last couple of years. Until 2011, there wasn't a bad debt policy. They want to get this cleaned up before they switch over to their new software program.

Dan Swafford asked if there would be a policy in the future to collect it such as sending it to the Town Attorney. Mr. Farmer replied not in the future because they currently have those policies. They'll try to come up with better ways so they don't get caught in between someone quick selling a house. Mr. Drake noted if a tenant is renting then the owner is still responsible. Mr. Farmer said that's correct. Mr. Swafford asked if there was a deposit to collect. Mr. Farmer said it doesn't always cover it. The ordinance only allows so much for a deposit and it doesn't always cover the past due bill. Mr. Swafford would like to be kept informed on the new procedures. Mr. Farmer commented they are working with Becky Wines and Amber Ragle Wright to come up with better procedures. Mr. Drake asked if this is money they thought they had or had already written off. Mr. Farmer replied it has never been written off and it's not money in the bank. Ms. Hash added it's receivables in the accounting but never in the cash balance. Mr. Farmer said by leaving it on the books, it's a bookkeeping nightmare. Ms. Hash stated it falsifies the bookkeeping outlook by making it appear there is more money to be received than there actually is. Mr. Farmer gave Amber Ragle Wright credit for doing a wonderful job in compiling the data for the Utilities Department so they can move forward.

Scott Oldham entertained a motion to approve Resolution 11-2013 to Write Off Uncollectible Utility Accounts. Dianna Bastin made a motion to approve Resolution 11-2013 to Write Off Uncollectible Utility Accounts. David Drake seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and. Motion carried 4-0.

Resolution 12-2013 to Amend Resolution 08-2013 Which Established the Look Back Measurement Period, Administrative Period and a Stability Period in Order to Comply With the Patient Protection and Affordable Care Act

Darla Brown, Town Attorney, explained the penalty provisions of the Affordable Care Act have been postponed for another year. Earlier in the year, the Town Council established

a Measurement Period, Administrative Period and Stability Period on the assumption the penalty provisions would kick in on January 1, 2014. This resolution revises the previous

resolution so the Measurement Period is now going to be June 1, 2014 ending November 30, 2014. There will be an Administrative Period to enroll people who are entitled to be offered coverage between December 1, 2014 and December 31, 2014. Those individuals who qualify for coverage will have it during the Stability Period of January 1, 2015 and December 31, 2015. This is assuming there are no more changes or postponements.

Scott Oldham entertained a motion to adopt Resolution 12-2013. David Drake made a motion to adopt Resolution 12-2013. Dianna Bastin seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes and David Drake – yes. Motion carried 4-0.

Resolution 13-2013 Police Department Request to Dispose of Surplus Property

Sergeant Craig Davis, Ellettsville Police Department, explained they have been collecting numerous items and a list has been provided to Town Council. Some of the items have been around the Police Department for 10 to 20 years. They are requesting to surplus them. Some of it is old equipment that is no longer usable or unclaimed personal property they've had for 10 years or longer. They are going to dispose of the property by internet auction, hazardous materials recycling center, electronic recyclables. JB Salvage is scheduled to bring a dumpster with no cost to the Town. This property is of no use to the Town or the Police Department.

Scott Oldham asked if the Town owned Item 23, a Suzuki moped, and Item 24, a Veken four-wheeler. Mr. Davis replied no, they did not. The Veken four-wheeler was impounded when someone ran from their officers, ditched it and took off into the woods about ten years ago. Mr. Oldham asked if they have been in touch with the Bureau of Motor Vehicles about the abandoned vehicles. Mr. Davis answered on the four-wheeler the VIN was scratched off or altered. The moped is a 1980 and rather old. The numbers were run through NCIC and they came up negative. Mr. Oldham also questioned Lot 27, 10 M17 military gas masks. He prefers they not be sold but destroyed.

Scott Oldham entertained a motion to adopt Resolution 13-2013 with an amendment to Lot 27. David Drake made a motion to adopt Resolution 13-2013 with an amendment to Lot 27. Dan Swafford seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; and David Drake – yes. Motion carried 4-0.

Ordinances on First Reading

Ordinance 2013-06 to Amend Ordinance 2012-13 and 2012-14 Regarding Nepotism

Darla Brown, Town Attorney, explained in 2012 the Town Council passed three ordinances on nepotism. The first was a general ordinance that had language required by state statute. When she prepared the ordinance the section number which tells where it is to go in the code was excluded. In the recitals clause she stated the purpose of this ordinance is to clarify in the Town Code the ordinance shall be codified and specifically it was the first ordinance that was passed. It's now going to go under old Section 36.108. The second ordinance that was passed will go right behind it in the code.

Ordinance 2013-07 to Amend Section 72.02 of the Ellettsville Town Code Regarding No Parking Areas

Town Marshal Tony Bowlen asked the Town Attorney to amend Section 72.02. The no parking ordinance has never given them the authority to tow a vehicle that creates a hazard. In

order to do it they've had to work under state statute for parking in the roadway. It allows them to handle a vehicle that's parked in a manner that creates a hazard and issue a citation under the current parking ordinance.

Scott Oldham asked if this also corrects the omission in the Town Code of being able to tow a vehicle for not being able to establish the right to have that vehicle. Marshal Bowlen replied it does not address that. Mr. Oldham asked if it can be addressed in this ordinance. Bloomington has an ordinance which states if you have someone stopped who cannot establish ownership or the right to control that vehicle it can be brought in for safekeeping.

Mr. Drake noted this ordinance is in the parking section about no parking. It may have to be a different section. Ms. Brown will take a look at it for the next meeting.

Dianna Bastin asked if a citizen pulls off the road and into the grass between two no parking signs are they in violation of a no parking zone. Marshal Bowlen replied yes. If they pull completely off the road it becomes a planning issue because there is an ordinance that states you cannot park in the yard. Ms. Bastin stated this is not parking in a residential area. Marshal Bowlen said it would be in violation.

Ordinances on Second Reading

Ordinance 2013-04 Concerning the Annexation of Adjacent and Contiguous Territory to the Town of Ellettsville – CVS

Darla Brown, Town Attorney, explained this ordinance is ready for a vote.

David Drake asked if there has been a response from CVS. Ms. Brown replied no, she hasn't heard from CVS. She went to the Treasurer's Office and asked what address they send tax bills to. They send them to the same address she sent the letter to and they are current on their tax bills. Mr. Oldham asked where this falls within the process with Bloomington. Ms. Brown answered Ellettsville will be finished. The legislature has changed the statute. As of July 1, 2013, Ellettsville does not have to ask the City of Bloomington's permission to annex any property within a three mile radius or fringe. Mr. Oldham and Ms. Brown thanked the City of Bloomington for their time and effort they spent on the annexation. The Bloomington City Council did approve the Town's request to annex this property.

Scott Oldham entertained a motion to adopt Ordinance 2013-04. David Drake made a motion to adopt Ordinance 2013-04. Dan Swafford seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; and David Drake – yes. Motion carried 4-0.

Dianna Bastin asked if the intersection will now belong to Ellettsville. Mr. Drake replied when he did the annexation of Richland Plaza his understanding of the law was if the Town annexes a piece of property it automatically annexes the roadway adjacent to it. Ms. Hash added it's a state highway and the Town doesn't have any authority over that. Mr. Oldham commented it does make a difference on jurisdictional limits for police response. Ms. Bastin said this has already come up. Will it be a Monroe County or Ellettsville intersection? Mr. Oldham replied it should be an Ellettsville intersection. He asked the Town Marshal to consult with the Monroe County Sheriff's Department and unless they have an objection consider it Ellettsville's intersection. Mr. Oldham said this creates a jurisdictional issue if a crash occurs at the intersection. From now on, the Town will respond to accidents at the intersection.

Sandra Hash advised whenever the Town annexed Arrowhead and Prominence Pointe the county asked if the Town wanted to take control of Thomas Road. The Town has not added the section to the road inventory for tax dollars because Monroe County agreed to maintain it. This also came up when the Town annexed the House of Prayer area on Hartstraight Road. There are other areas in which the Town has not taken jurisdiction and added it to the road inventory. Mr. Oldham asked Ms. Hash to compile a list of those roads so this can be rectified. Ms. Bastin noted Ellettsville police do respond to the 4100 block of North Hartstraight Road when anything happens on the roadway.

New Business

Agreement with Point and Pay Concerning Credit Card Charges and Fees

Mike Farmer, Ellettsville Utilities, explained Point and Pay is an online service for paying water and sewer bills. They have a contract which has been reviewed by the Town Attorney. The staff and the Clerk-Treasurer's office have looked into the system and they all agree it would be a good service for the customers. It allows people to pay online with credit/debit cards and E-Checks. In addition, they will also be able to pay with credit cards in the office. Currently, they pay approximately \$2,000 in credit card fees through Utilities but this cost will be passed on to the customer. The fees are three percent for credit/debit cards with a minimum

of \$2. The average sewer or water bill is \$60 and three percent of that would be \$1.80. For E-Checks the fee is \$1.50.

Dan Swafford asked if this will alleviate running two credit cards for Richland and Northern. Mr. Farmer said this is correct. Ms. Hash noted she sent the agreement to Larry Barker so

they can understand it. Mr. Farmer stated there will also be a web link on the Town's website to make a payment. Ms. Bastin commented the contract states payment can also be made by calling Utilities and using a debit/credit card. Will Utilities do this? Ms. Brown noted it is one of the service modules the Town can select. Mr. Oldham thinks it is a good idea. Mr. Swafford asked if credit card numbers can be kept on file to automatically pay bills. Mr. Farmer will look into this. Ms. Hash replied they do this with checking accounts and is called "direct debit".

Scott Oldham entertained a motion to proceed with the agreement with Point and Pay concerning credit cards charges and fees in Utilities. Dianna Bastin made a motion to proceed with the agreement with Point and Pay concerning credit cards charges and fees in Utilities. Dan Swafford seconded.

After the motion was made and seconded, there was the following discussion:

Dan Swafford asked if the kiosk is set up. Ms. Hash replied the kiosk is very expensive and customers will have to come to the window. This isn't just for the Utilities. She will be able to have a card reader in her office for fines and fees and shelter house rentals. The Police Department will be able to have a terminal in their office for VIN checks and parking tickets.

Dianna Bastin amended the motion as follows: "To proceed with the agreement with Point and Pay concerning credit cards charges and fees for the Town of Ellettsville." Dan Swafford seconded the amended motion. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; and David Drake – yes. Motion carried 4-0.

Council Comments

Dianna Bastin reminded everyone that the Utilities, Street, Police and Fire Departments are working on side streets. Please slow down and get over. If they are standing in the roadway, please give them a minute to get across the street.

Dan Swafford announced Phillip Smith is leaving the Plan Commission. David Drake has volunteered to serve on the Plan Commission. Ms. Bastin requested a formal resignation from Phillip Smith. Ms. Brown agreed. Mr. Drake cannot serve on the Plan Commission until Mr. Smith formally tenders his resignation.

Supervisors Comments

Jim Ragle, Street Commissioner, is seeking approval to replace a 1988 dump truck with a single axle. It will cost approximately \$90,000 to \$100,000. Mr. Swafford asked how it will be paid for. Mr. Ragle answered it will be a lease to own. Mr. Oldham told him to go ahead and ask for bids. He will bring quotes to the next meeting.

Darla Brown, Town Attorney, will forward an email to Mr. Ragle explaining the procedure to follow for supplies under \$100,000 and over \$25,000.

Privilege of the Floor

Anthony Sparks, Boy Scout Troop 119, proposed an ecological project at the Well site behind the softball fields. His plan is to put 15 to 20 signs on wooden posts along the quarter mile trail. They will have facts about native plants and trees and the Well site in general. Mr. Oldham thinks this is a great idea but thinks it needs to go before the Parks and Recreation Board. Ms. Brown will look into whether or not it needs to go before the Parks and Recreation Board.

Jim Bowers is a recreational prospector. He is requesting permission to test sand bars along Turtleback Creek for gold. The state told him he has to have written permission from the Town. Mr. Oldham advised he will have to sign a liability waiver. The Town Attorney will

work with him on executing a liability waiver. After this is done, he is to come back before the Town Council for approval.

Adjournment

Scott Oldham entertained a motion to adjourn. Dianna Bastin made a motion to adjourn. Dan Swafford seconded. Motion carried. Scott Oldham adjourned the meeting at 8:06 p.m.

Scott Oldham, President

Dan Swafford, Vice-President

Dianna S. Bastin

Phillip Smith

David Drake

Sandra Hash, Clerk-Treasurer, IAMC, MMC