

June 23, 2014

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, June 23, 2014, 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 Scott Thomas.

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

Supervisors present were: Mike Cornman, Jim Ragle, Tony Bowlen, Connie Griffin and Mike Farmer.

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting on June 9, 2014. David Drake so moved. Dianna Bastin seconded. Motion carried.

Accounts Payable Vouchers

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

Ordinances on Second Reading

Ordinance 2014-09 to Amend Ordinance 2014-05 Regarding Mass Gatherings

Darla Brown, Town Attorney, explained the changes were made to address concerns mentioned at the last Town Council meeting. She split §98.03, subsection A, so that it makes reference to mass gatherings on public property such as the Marci Jane Lewis Park and subsection B refers to gatherings on privately owned property which are reasonably expected to encroach or do encroach upon public streets, sidewalks and rights-of-way or can be expected to interfere or do interfere with the normal flow of pedestrian or vehicular traffic. The Mass Gatherings definition has been moved to subsection C. Normal and usual school activities are still exempt and includes events at a football stadium or athletic field. In Section 4 are the exemptions that generally parallel those of the state statute and she removed the words “arena” or “athletic field” because those are covered in Section D1 as normal and usual school activities. The other exemptions are outdoor events, festivals and the Monroe County Fall Festival. The other exceptions are regularly established permanent places of worship, arenas, auditoriums or similarly permanently established places of assembly. She reviewed other mass gatherings, assemblies, parades and encroachment ordinances from communities across Indiana and other states. She thinks this ordinance is more detailed than a lot of them. Town Council is to let her know of any other concerns or revisions they would like to make.

Scott Thomas asked what is exempt. Ms. Brown replied school activities including athletic events taking place on school grounds, outdoors, events and festivals sponsored by and under the direct supervision of the Town of Ellettsville, Monroe County Fall Festival and the section that parallels the state statute. The state statute refers to regularly established permanent places of worship, arenas, auditoriums or similar permanently established places of assembly. Mr. Thomas asked about weddings at the park which was brought up at the last Town Council meeting. Ms. Brown answered if they expect 250 or more people they would need to get a permit.

Scott Oldham asked about ball games not associated with the school being covered. Ms. Brown replied yes, they would have to get a permit. Mr. Oldham asked about those businesses who are licensed and stay within the confines of their regulated area. Ms. Brown answered, as an example, a restaurant holds and has parking for 100 customers, wants to hold an event in conjunction with the Monroe County Fall Festival and is expecting 500 people. The restaurant can reasonably expect that the gathering may encroach on public streets,

sidewalks, rights-of-way or cause traffic problems so they should approach the Town about getting a mass gathering permit.

David Drake asked if the last version exempted a regularly established athletic field. Ms. Brown replied it did, and because the school events are exempt she removed that exemption under Section 4 because it is covered under Section 1.

Scott Oldham asked where they got the costs they're charging for this. Were they trying to offset the costs of work required for in-house? Ms. Brown replied yes, and what they're charging is in line with what other communities are charging. Mr. Drake would rather have a section about the athletic field under Section 4. Basketball would be an arena. Under Section 4 an arena, auditorium or place of worship is exempt. Why wouldn't an athletic field be exempt? It's already set up with bleachers for a certain number of people. If they're 250 over what they were set up for then they would fall under the ordinance. Is Richland Bean-Blossom Youth Sports going to have to fill out a permit for every ball game? Mr. Oldham said that isn't the intent and it's not why he was asking about the dollar figure. Why wouldn't somebody such as who Mr. Drake mentioned fill out the permit application for a year? It really increases the pedestrian and parking issues in that area of Town. It seems something should be required because they are making an issue for the Town. To say for the privilege of doing this they get to pay the Town \$1,000 is a little off for him.

Darla Brown asked their thoughts on changing the fees. Mr. Oldham stated from Ms. Brown's research it doesn't seem like they're out of line with everybody else. Mr. Swafford asked if she looked at Towns the size of Ellettsville. Ms. Brown tried to find towns the size of Ellettsville but sometimes it's just not possible. She looked at Bloomington, Noblesville, Elkhart, Greenfield, Avon, Fishers and Brownsburg. Mr. Oldham asked how Ellettsville is more detailed. Ms. Brown answered it's how the minor and mass gatherings are defined. One community called a mass gathering a residential assembly and a gathering is seven or more persons within 100 feet of a public street or right-of-way. Some of the ordinances exempt funeral processions, and government agencies. One community defined an assembly as a march, demonstration, procession or motorcade on streets or public grounds with the intent of attracting public attention and interfering with the normal flow of traffic. Mr. Swafford asked if they're being too restrictive should they change it to be more general. They can add to this for the next six months and still won't cover everything. The state ordinance would cover the Town for what they're trying to accomplish. Ms. Brown noted under the state statute's mass gatherings are 5,000 or more people. Her thought to address some of the objections the ordinance was too subjective and maybe gave the Town Council too much power. The idea was to narrow the definition as much as possible so everybody would know whether or not they fit within it.

Scott Oldham reminded everyone this is an amendment to an existing ordinance. What's everyone's thoughts on alcoholic beverages? He is under the assumption it would be left to the permit process through the state. The ordinance states "alcoholic beverages will not be allowed at any mass gathering event." He has an issue with this because someone may want to have a wedding with a champagne toast. Mr. Thomas agrees. Mr. Swafford thinks they're being very restrictive and probably need to lighten up a little bit. Mr. Thomas doesn't think they want to get involved in the determination of alcohol because there are governing boards for it and he doesn't want any part of it.

Sandra Hash, Clerk-Treasurer, thinks the fees are substantially higher than any of the other fees in the Town. The biggest fee the Town charges is for land development. Recently, the pawn shop and second hand shop codes were passed and their fees are \$25.

Dianna Bastin remarked with mass gatherings there are going to be expenses to the Town such as trash and property damage. She thinks the fees need to be substantial to cover these costs. Ms. Hash noted the Town currently charges a \$100 deposit for the large shelter house at Marci Jane Lewis Park which has the capacity to do a large show. In the past, there have never been any problems and they've always refunded the deposit because they sufficiently clean-up after themselves.

Darla Brown advised the state statute sets the definition of an assembly to be at least 5,000 people that continues or reasonably expects to continue for at least 18 consecutive hours whether on private or public property. Ms. Bastin thinks fees should stand as they are. She thought the reason they were doing this was for safety and security. Ellettsville absorbs the cost for repair and cleanup so the money should be there for those things. Mr. Swafford asked if nothing is damaged could it be a deposit rather than a fee. Mr. Oldham said that would become difficult for the Clerk-Treasurer in determining whether it's a permit or a fee. Ms. Hash remarked as long as it is clearly defined and they have guidelines they will follow them. When shelter houses are rented they have to pay sales tax. There will be some clarifications as they proceed. Deposits are a good idea. Mr. Thomas agrees. Maybe the dollar amounts needs to stay the same and 80% to 90% gets refunded after the event if they fulfilled the agreement with regards to cleanup and no damages. The Town shouldn't have to incur those costs. He doesn't like planning for one bad apple and hitting everybody every time. The Town needs to cover the cost for filing and notification of departments. Can ten percent of the money cover those costs if they do what they're supposed to? It gives them an incentive to take care of the property and do the right things so they can get their money refunded. Then, they're not financially restricting the amount of people they can have. Mr. Oldham asked if they then run afoul of penalties if they're doing it as a deposit. Ms. Brown replied she would rather make it clear to have separate amounts for the deposit and permit. She thinks there will be issues as to when and under what circumstances the deposit will be returned. Ms. Hash suggested if it's a non-profit and they want them to be exempt then it should probably be clear as to the cost. A lot of people have gone to the Park Board and asked for deposits to be waived. Is this something they want to start happening at Council meetings? Or, do they want to set a policy she can administer when people apply for a permit?

Scott Oldham suggested changing minor mass gatherings so they will not be charged a fee for one time. If it's a continuous mass gathering and something for which the Town will incur costs then there will be a fee that won't get refunded. This is over a six month period of time. This is for the person who wants to have a wedding so they won't get charged. They will still have to fill out a permit and if they don't get one they will have to pay a fine. Mr. Drake doesn't think \$50 is unreasonable but \$200 may be a little bit much but maybe not for 500 people. Mr. Oldham would like to remove alcoholic beverages. Ms. Brown suggested changing it to *"Alcoholic beverages will not be allowed at any mass gathering event unless the promoter or sponsor of the event has a validly issued license from or by the alcoholic beverage commission."* Mr. Drake remarked this doesn't resolve it for the person who is having a wedding and wants champagne. Mr. Oldham said they wouldn't require a permit under state law. Ms. Brown asked if they want to omit paragraph 9. Mr. Oldham would prefer to do this. Mr. Thomas and Ms. Bastin concurred. Ms. Brown asked if waiving the fee for non-profits should be changed to *"The Town Council shall waive the fee."* After a discussion it was decided to change it to *"The fee will be waived for any non-profit organization as registered with the Secretary of State."*

Scott Oldham entertained a motion to adopt Ordinance 2014-09 as amended. David Drake made a motion to adopt Ordinance 2014-09 as amended. Scott Thomas seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – no; Dan Swafford – no and Scott Thomas – yes. Motion carried 3-2.

Old Business

Discussion of Town Manager Position

Scott Oldham announced there will be an interview which is yet to be scheduled. The interview will be conducted during at an Executive Session

New Business

Street Closure and Temporary Sign Request from the Monroe County Fall Festival – Diana Choate, President

Diana Choate, President of Monroe County Fall Festival, is requesting the closure of Park Street from Ritter Street to Temperance Street from noon on Thursday, September 18, 2014, until midnight on Saturday, September 20, 2014, or until such time as the Town Marshal deems necessary for public safety. They are also requesting closure from Campbell's Park Drive and Hartstraight Road to Park Street. They are also requesting permission for the Town Marshal or Street Commissioner to close, at will, whatever streets, alleys or other facilities they deem necessary for the safety, security and effective administration of the Festival. Also, they are requesting waiver of the signage fee. They're planning to place 3' x 5' banners at the east and west gateways. They will prepare the form for a mass gathering if it is necessary.

Dianna Bastin is opposed to putting signs in the gateways. There are sprinklers. The gateways are beautiful and they have Ellettsville signs. If the signs are put up then she wants the signs far away from the limestone. She thinks the gateways should remain clear with only decorations being flowers and trees.

Scott Thomas understands the gateways are Indiana Department of Transportation ("INDOT") property. The Town can't approve putting signs on something it doesn't own. Ms. Choate spoke with Connie Griffin about contacting INDOT. Mr. Oldham reminded everyone Ms. Choate is requesting a waiver of the fee the Town would charge to put up signs within the Town. Ms. Choate agreed. Ms. Hash advised the signs were placed at the very tip of the gateways and it was far away from the limestone signs.

Dianna Bastin thinks they should allow it. She likes the idea of closing Ritter. People should be prepared because the Town Marshal may find it necessary to close down early because vendors are arriving and Ellettsville employees are there. Ms. Choate said last year they didn't ask for the closure of Campbell's Park Drive and her suggestion this year was not to totally close it off to local traffic. It better for vendors to come down that street where there's no festival traffic. Mr. Oldham likes giving final decision to the Police Chief and Fire Chief and the Street Commissioner. Ms. Choate has talked with the Town Marshal about the parade and he will make sure it is taken care of.

Scott Oldham entertained a motion to approve the street closures as requested and waive the Town signage fee for the signs that were requested and that the Fire Chief will be present. David Drake made a motion to approve the street closures as requested and waive the Town signage fee for the signs that were requested and that the Fire Chief will be present. Dan Swafford seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes and Scott Thomas – yes. Motion carried 5-0.

Proposed Contract between the Richland Bean Blossom Community School Corporation and the Town of Ellettsville for a School Resource Officer

Town Marshal Tony Bowlen explained this is an agreement wherein the Ellettsville Police Department would provide School Resource Officers to the Richland Bean Blossom Community School Corporation ("RBBCSC"). In exchange for this they would make four quarterly payments for expenses and wages totaling \$50,000 to the Town. The agreement was drafted by Darla Brown in which he and Mike Wilcox, Ph.D., Superintendent, provided a lot of input. RBBCSC will be hearing this tonight at their school board meeting.

David Drake explained in the early days of the discussions about School Resources Officers he remembered reading in the newspaper that RBBCSC didn't think they would need an armed officer in the school. Ellettsville is not putting an unarmed officer in the school. They will be a regular officer who is armed. Marshal Bowlen said that's correct. They will work on the uniform with the school so it is suitable to both parties. Mr. Oldham added the uniform may change day to day depending on their needs. Marshal Bowlen noted the School Resource Officer acts as the liaison between RBBCSC, the Police Department, Child Protective Services and several other agencies. As their duties change, the uniform may

change but it will be approved by the Police Department and RBBCSC. The decision on the uniform will be made by the Town because they are a Town employee. The contract specifically states they will be Town employees.

Dianna Bastin thought the articles she had read said the school hired the person. Mr. Oldham advised there is a change effective July 1, 2014, in which a school can contract for police services of a municipality or a county. In this case, RBBCSC has chosen to contract with the Town to provide a police officer for the School Resource Officer. Ms. Bastin asked if it will be the same two officers and will there be consistency for the kids. Marshal Bowlen answered the plan is to hire two part-time officers. In order to be a part of the School Resource Officer Program they have to go to a 40 hour certified class recommended by the state. More officers will attend the class so they can fill in on someone's day off. He plans for the officer to be consistent.

Scott Oldham entertained a motion to approve the agreement regarding the school resource officer with the Richland Bean Blossom School Corporation. David Drake made a motion to approve the agreement regarding the school resource officer with the Richland Bean Blossom School Corporation. Dan Swafford seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes and Scott Thomas – yes. Motion carried 5-0.

Area 10 Signage, Farmers Market, Off Premise Signage Request – Connie Griffin and a representative from Area 10

Connie Griffin, Director of Planning, advised the representative from Area 10 cannot be present until July 14, 2014.

Scott Oldham entertained a motion to table Area 10 signage for the farmers market off premise signage request. Dan Swafford made a motion to table Area 10 signage for the farmers market off premise signage request. David Drake seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes and Scott Thomas – yes. Motion carried 5-0.

Agreement between the Town of Ellettsville and JA Benefits Concerning HIPPA Regulations

Darla Brown, Town Attorney, explained this is a proposed business agreement between the Town and JA Benefits. The purpose of the agreement is to have both sides think about what they need to do to comply with HIPPA requirements. The contract states that JA Benefits can disclose the Town employees' protected health information only as necessary to comply with their role as the Town's health insurance plan administrator. JA Benefits is required to notify the Town, in writing, of any suspected breaches or situations that arise where HIPPA information was improperly disclosed. Likewise, the Town has an obligation to notify JA Benefits of something similar. There was an explanatory letter that JA Benefits sent with the contract that set out the purpose of the agreement.

Scott Oldham entertained a motion to approve the agreement between the Town of Ellettsville and JA Benefits concerning HIPPA regulations. David Drake made a motion to approve the agreement between the Town of Ellettsville and JA Benefits concerning HIPPA regulations. Dianna Bastin seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes and Scott Thomas – yes. Motion carried 5-0.

Supervisors Comments

Mike Farmer, Ellettsville Utilities, explained Scott Oldham had asked him to go to a meeting with Bloomington and Monroe County officials today. They are creating a task force who will develop an energy plan for entering a contest, "The Georgetown University Energy Prize". They are asking for Ellettsville to participate and support this endeavor. They are requesting that Town Council approve a letter of support. The premise is to ask communities to develop an energy efficient plan and to implement it over 2015 – 2016. The

competition will evaluate interviews, reductions, overall quality of the plan and the potential for revocation and other factors that will identify a winner. The applicant is to be asked to enter the competition. Once a community is asked to compete they will identify a winner based on the aforementioned items who will then receive a monetary prize. The letter of support says if the community receives a monetary award the Monroe County Community Foundation will be the recipient of the funds. They will be required to use the funds for the benefit of the whole community as prescribed in the competition guidelines. It's a win-win. If they develop a plan they aren't entered into the competition, the plan can be utilized for energy reduction.

Scott Oldham asked if the Town is required to have a capital outlay. Mr. Farmer replied no. This is a competition and they want Ellettsville to support it and be involved in the recommendations and creation of the competition guidelines. They want to meet with Town officials and particularly utilities officials. To start with they will be looking for information about the energy usage of utilities.

Dan Swafford asked what kind of award they're talking about. Mr. Farmer replied it is a \$5,000,000 prize.

Scott Oldham entertained a motion to approve the letter of support. Dianna Bastin made a motion to approve the letter of support. Scott Thomas seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes and Scott Thomas – yes. Motion carried 5-0.

Connie Griffin, Director of Planning, is requesting to release the bond for Greenbriar Phase 2, Section 2, Lot 97, for completion of roads, storm sewers, water lines, erosion control and landscaping. The site has been inspected and supervisors have signed off.

Scott Oldham asked if everything has been taken care of and nothing is outstanding. Ms. Griffin replied yes, everyone has inspected the site, including Rick Coppock.

Scott Oldham entertained a motion to release Bond No. 5040918. Scott Thomas made a motion to release Bond No. 5040918. Dan Swafford seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes and Scott Thomas – yes. Motion carried 5-0.

Connie Griffin, Director of Planning, explained the Construction in a Floodway Permit is currently in review. Thirty-three people have been contacted as adjacent property owners and there was a public notice in the paper. The public notice allows 25 property owners to request a public hearing. Five sites have been identified through numerous revisions and they had to eliminate several sites due to lack of access by the equipment which has to stay one foot above water level.

Scott Oldham asked when the Town will be eligible to start doing this. Ms. Griffin is uncertain and it is taking longer than she anticipated. The Department of Natural Resources ("DNR") is doing its final analysis. Today she received an email requesting measurements to calculate volume of what will be removed. The maps are on the Ellettsville Planning website on the flood page. The Department of Fish and Wildlife has finished with the Town.

Rick Coppock, Bynum Fanyo and Associates, Town Engineer, met with the appraisers on the Matthews Bridge project Monroe County is going to do by Bybee Stone and north of the old treatment plant site. Part of their appraisal work will be relocating fences and gates. That area goes through the Monroe County Solid Waste District ("Solid Waste") transfer site and part of the property will be taken for the bridge project. It involves relocation of the roll-offs at Solid Waste. The Town has an agreement with the Solid Waste to utilize that site. The agreement states the Town cannot convey any of the property without their approval. The Town will have to work with Solid Waste when Monroe County Highway Department gets back with the part they want to take. The Town will have to get in contact with Solid Waste once they receive something from the appraisers.

Scott Oldham advised the acquisition of the Stewart property is being finalized and will become the Stewart Park. The Town will be able to do some flood control things on the property and come up with a nice little park for the Town.

Privilege of the Floor

James Drake is representing Chad Stevens with regards to the plan to dredge portions of the creek to open bottle necks so water will flow through. In reviewing previous Town Council minutes they noticed questions have been raised before whether anything was going to be done downstream to get the water out of Ellettsville as quickly as it comes in. Mr. Stevens applauds the Town’s efforts to address the problem and he has a similar concern. Specifically, what is going to happen to the business and the people immediately around him who are already the most adversely affected by the flood water? What happens to them when this increased flow of water hits the McNeely Street Bridge which is a choke point? It seems to him his problem just got worse. Mr. Oldham directed them to talk to Connie Griffin about her studies and the DNR.

Adjournment

Scott Oldham entertained a motion to adjourn. Dianna Bastin made a motion to adjourn. Scott Thomas seconded. Motion carried. Scott Oldham adjourned the meeting at 7:28 p.m.

Scott Oldham, President

David Drake, Vice-President

Dianna S. Bastin

Dan Swafford

Scott Thomas

Sandra C. Hash, Clerk-Treasurer, IAMC, MMC