

June 9, 2014

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, June 9, 2014, at the Fire Department Training and Conference Room. Scott Oldham called the meeting to order at 6:30 p.m. David Drake led the Pledge of Allegiance followed with a prayer by Scott Thomas.

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

Supervisors present were: Mike Cornman, Jim Ragle, Jay Humphrey, Connie Griffin and Mike Farmer.

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting on May 27, 2014. Dianna Bastin so moved. David Drake seconded. Motion carried.

Accounts Payable Vouchers

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

Resolutions

Resolution 08-2014 Stewart Property Closing

Darla Brown, Town Attorney, explained this resolution authorizes the Town Council President to sign documents at the closing of the Stewart property real estate. This includes the Sale Disclosure Form, Disbursement Agreements, and HUD Settlement Statement. This resolution was prepared at the request of Bethel Title. Resolution 09-2014 is the Stewart property accepting therefrom the property the Town is going to be using for the Heritage Trail.

Scott Oldham clarified Resolution 08-2014 is for everything but the Heritage Trail portion and Resolution 09-2014 is for the Heritage Trail portion. Ms. Brown stated that was correct.

Scott Oldham entertained a motion to adopt Resolution 08-2014. David Drake made a motion to adopt Resolution 08-2014. Scott Thomas seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes and Scott Thomas – yes. Motion carried 4-0.

Resolution 09-2014 Stewart Property, Heritage Trail

Scott Oldham entertained a motion to adopt Resolution 09-2014. David Drake made a motion to adopt Resolution 09-2014. Dianna Bastin seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes and Scott Thomas – yes. Motion carried 4-0.

Ordinances on First Reading

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

Darla Brown, Town Attorney, explained based on comments from the Town Council changes were made to the ordinance. Specifically, under §98.02, Purpose, the following phrase was added: *“Mass gatherings increase levels of traffic congestion and place high demands on police, emergency and medical services.”* Section §98.03(B)(2) was changed to *“Outdoor events and festivals sponsored by and under the direct supervision of the Town of Ellettsville.”* Paragraph 3 was added to state *“The Monroe County Fall Festival”* and a new paragraph 4 states *“A regularly established, permanent place of worship, a stadium, an athletic field, an arena, an auditorium or other similar permanently established place of assembly for assemblies that do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.”* This is word for word what the state mass gathering statute reads. Dianna Bastin had mentioned at the last

meeting she thought there were some organizations that should have to apply and get a permit but would be exempt for the permit fee. If there are some organizations they would like exempt from the filing fee and not the ordinance she suggests they be put under §98.05.

Under §98.04, Definitions, a Major Mass Gathering is *“500 or more persons for 1 hour or more, at any location at one time.”* A Minor Mass Gathering is *“250 or more persons for 1 hour or more at any location at one time.”* The reason she added the language “at any location at one time” is because when she looked online at American Publishing to find out what other communities were doing with their mass gathering ordinances that language came up a lot. It made sense because if the language is put in the ordinance it takes away the question of whether or not this applies to some restaurants. When researching the ordinances, she didn’t find an exception for restaurants. It was pretty clear they were getting at things such as fairs, festivals and local celebrations. A lot of communities directed their mass gatherings ordinances to outdoor activities or those on public property that spill out in to the street or take place in public parks. There were some communities who had a mass gathering ordinance that regulated what happened on private property but outdoors with the thought it would affect traffic.

Section §98.05(C)(9), Alcoholic Beverages, now reads that it is not to be allowed at any mass gathering events. There are a couple of cases where municipalities were sued because they had enacted ordinances requiring vendors to get a separate liquor license other than what the Alcoholic Beverage Commission would have issued. The courts have said only the Alcoholic Beverage Commission can issue those permits. This is obviously not what the Town is trying to do. She has some question as to whether or not the Town can tell a vendor who already had an alcoholic beverage permit it could have a mass gathering but couldn’t serve alcohol. They want to amend this section to say “alcoholic beverages will not be allowed at any mass gathering events unless the vendor or owner of the property can show a proper license.”

Dianna Bastin had someone ask her about renting the big shelter house for an outdoor wedding and having more than 250 people. Is that a mass gathering? What if they want to have a champagne toast? This is how much people are worried about the ordinance. She wanted everyone to fill out an application so the police and fire chiefs can know those people are there and if something happens they can have the personnel ready to go.

Scott Oldham advised it is not the intent of the ordinance to infringe on anyone’s right to assemble. Ellettsville is a small community with an finite number of resources and without a lot of surge capability. It does become an issue. Why would they forbid alcoholic beverages when the state already has a method to regulate it? He thought they were not attempting to regulate anyone’s ability to do as they wish but to insure the Town’s capability to respond if something goes wrong. If they have 3,000 to 4,000 people attend an event in Ellettsville that’s an increase of 30% to 50% of the Town’s population which is a significant drain on resources if it goes bad. Thankfully, things haven’t gone bad but if they should they have to be prepared to respond. His original intent was to mimic what the state has done to set the ground work for the ability to respond, if necessary. He doesn’t want this to turn into telling people what they can and can’t do but wants to ensure their safety should something go wrong.

Darla Brown stated the ordinances she looked at were all over the board as far as defining major or minor mass gatherings. One community defined a mass gathering as seven or more people on the sidewalk. A few communities didn’t try to put a number on it but had a definition if the gathering will cause traffic congestion or other like problems then it is a mass gathering. She thinks this is too broad.

Scott Oldham mentioned there is already a process through the Fire Department where they regulate the capacity of structures. A good example is the Fall Festival which has two or three thousand people. It is a significant drain to the resources of the Town which they expect and they plan for it. He originally thought this would be for those events that stretch

throughout the day. They should take another two weeks to look at it and give suggestions to Ms. Brown.

Darla Brown asked Mr. Oldham if he thinks the ordinance should be tailored more toward activities that are either outside or taking place on public property. Mr. Oldham said yes, or over and above the norm. An example is the restaurant which already has a defined space as to how many people can be there legally. If there are more than that the Fire Department or Fire Marshal takes action. If the restaurant wants to have 1,000 people in the parking lot it creates an issue for the Town. Shouldn't there be something consistent with this type of thing? Ms. Brown asked if it is private property and outdoors. Mr. Oldham replied yes, something over the norm.

Dianna Bastin thinks the alcoholic beverages should be allowed if they have a license and the proper permits but not allowed without these things. The Town shouldn't say people can't gather in the park and have a beer. Mr. Oldham agrees.

Scott Thomas thinks the purpose of it is to prepare the Town and its services to respond in the event there is an additional drain. He doesn't think anyone wants to infringe on people's rights or cause additional grief. The Town needs to be prepared to help out in case there is a need.

Dianna Bastin remarked when emergency services respond to an emergency they take a lot of room. They need to know there is a gathering so when they respond they have room to maneuver. Mr. Oldham noted this also includes water and sewer and there needs to be consistency.

Russ Ryle stated the word "periodic" comes to mind which means a unique or randomly occasional event. This wording in some way might get the Town off the hook when there is a business or church who regularly has a large gathering. He thinks the Town is looking for the random or unusual event that might put stress on its services. He suggests anybody who is knowingly going to have a random gathering over 250 people needs to at least file paperwork to notify emergency services. This doesn't mean the Town is saying they can't come or will charge a fee.

Craig Sparks thinks the biggest exception would be the ball fields. There are generally more than 250 and there's never enough parking. Mr. Oldham advised that has been in some of the discussions as well as fireworks and rummage sales. They're trying to draft the best ordinance they can without being over burdensome. Mr. Drake said the ordinance exempts athletic fields. Ms. Bastin noted there is also an argument that activities are going to happen during certain days so emergency services are prepared in advance. Mr. Sparks said by the standard in the ordinance one could argue the ball field would have to get a permit. Mr. Oldham advised they will look into the ability to get a continuing permit.

Council Comments

Dianna Bastin congratulated the 2014 graduates from Edgewood High School.

Scott Oldham conveyed condolences to several families both close to Town Council and the Town whom have lost loved ones this week.

Supervisors Comments

Mike Farmer, Ellettsville Utilities, requested an increase in pay for Jeremy Salyers. Mr. Salyers is a temporary full time employee and he has obtained his commercial driver's license which makes him more valuable to Utilities. It is in line with the job description and salary ordinance and they would like to move him to \$14.50 an hour.

Scott Oldham entertained a motion to. Dianna Bastin made a motion to raise Jeremy Salyers to \$14.50 an hour. Scott Thomas seconded. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes and Scott Thomas – yes. Motion carried 4-0.

Privilege of the Floor

Russ Ryle explained an inch of rain on a square mile resulting in 17.3 million gallons of water. A gallon of water is seven and one-half cubic feet. Since the Town was founded in 1837 those numbers have changed. A GIS view of the Town was presented which showed a matrix of rooftops, pavement, parking lots and street. Rooftops, street pavement and parking lots are known as impervious surfaces which do not allow rain to soak into the ground. An aerial view of the Town in 1946 was presented which showed farm lands and forests. The 1980 aerial view starts to show the growth in Ellettsville. He is concerned with the drainage area of Jack’s Defeat Creek which on the eastside begins at Sugar Acres. From 1946 to present day they have almost tripled the amount of imperviable surfaces. This is why there is increased water flow through downtown Ellettsville. When there is three to five inches of rain in a very short period of time it can’t soak in. The size of Jack’s Defeat Creek and the volume of water it can evacuate from the Town haven’t changed since the Town was founded in 1837. The current planning requirements do not effectively address this limit. As the Town grows, the amount of buildings and pavement increases. This will be forever putting more water through Jack’s Defeat Creek. The Town will need some serious detention space, more than the Stewart property, to keep old Ellettsville dry in the future.

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 6:59 p.m.

Scott Oldham, President

David Drake, Vice-President

Dianna S. Bastin

Dan Swafford

Scott Thomas

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