

May 27, 2014

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, May 27, 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 and Darla Brown, Town Attorney were also present.

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

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting on May 12, 2014. Dianna Bastin 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.

Darla Brown, Town Attorney, reminded Town Council they're working toward the closing of the Stewart property. The Town Council passed an ordinance in April arranging for a long term loan from sewer capacity to stormwater to pay for the property. In the event they have a closing before the next Town Council meeting she is asking for one of the Town Council members to make a motion to permit the Town Clerk-Treasurer to write checks as necessary as previously authorized for the Stewart closing.

Dianna Bastin made a motion to permit the Town Clerk-Treasurer to write checks as necessary for the Stewart closing as previously authorized. 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.

Resolutions

Resolution 06-2014 – To Adopt a Written Fiscal Plan for the Arbuckle Annexation, 5450 N. Thomas Road, Bloomington

Connie Griffin, Director of Planning, explained the purpose of the document is to comply with Indiana Code 36-4-3-13(d). The fiscal plan has been completed and has been reviewed by Town Supervisors.

David Drake made a motion to adopt Resolution 06-2014. 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.

Resolution 07-2014 – To Declare Surplus Property for the Police Department

Town Marshal Tony Bowlen is requesting to surplus a 2007 Dodge Charger and sell it on Ebay. Mr. Oldham asked if he has asked the other departments if they're in need of the vehicle. Marshal Bowlen replied no, he has not. He thinks it's advisable to sell it because it's starting to cost more in maintenance than they want to spend.

David Drake made a motion to adopt Resolution 07-2014. Scott Thomas seconded. Roll call vote: Scott Oldham – no; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes; and Scott Thomas – yes. Motion carried 4-1.

Ordinances on Second Reading

Ordinance 2014-08 – Arbuckle Annexation, 5450 N. Thomas Road, Bloomington, Parcel No. 53-04-10-300-011.000-011

Connie Griffin, Director of Planning, explained this ordinance received a favorable recommendation at the May Plan Commission meeting. The petition was signed on April 3, 2014, and notices were mailed to adjacent property owners. The property is located at 5450

N. Thomas Road. The 1969 annexation was the home property and the 2014 annexation is the back portion of the property. The Monroe County Parcel Number is 53-04-10-300-011.000-011 and the plat number is 162 and tax identification number is 007-00600-00. The annexation area is 1.82 acres and the total parameter of the parcel is 1,214.3 feet of which 961.7 feet is contiguous for 79.2% which more than satisfies the 12.5% requirement. The assigned zoning will be single family residential. The 1969 and 2014 areas of annexation total 2.75 acres.

Darla Brown, Town Attorney, noted §3 of the ordinance states the property would be assigned to Ward 1 which is a mistake. It is assigned to Ward 2.

David Drake made a motion that Ordinance 2014-08 be approved as amended. 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.

Old Business

Revisions to the Mass Gathering Ordinance 2014-05

Darla Brown, Town Attorney, explained she was asked to review the Mass Gatherings ordinance and there are some changes based on Town Council comments, public questions and her own suggestions. The first change is under §98.03, the Applicability section, which sets forth the entities or types of activities that are exempt from the ordinance and are normal and usual school activities. Section 98.03(B)(2) was changed to *“Outdoor events and festivals sponsored by and under the direct supervision of the Town of Ellettsville.”* Richland Township, Monroe County and the State of Indiana were removed from this section because in the event those entities want to host a mass gathering, the Town should still have input as to how those are conducted. The following was added to the exempt list: *“Monroe County Fall Festival”* and *“worship services and activities that take place on the property of a house of worship.”* Section C was added to §98.03 as follows: *Questions as to whether an event is exempt shall be referred to the Town Manager, who shall determine whether this ordinance applies to the applicant’s proposed activity.”* Under §98.04, Definitions, a Major Mass Gathering has been changed from 1,000 persons or more to 500 and a Minor Mass Gathering has been changed from 500 participants to 250. Language was added to Major and Minor Mass Gatherings to make it clear that it includes events for which there may not be 500 people at one time but are expected to attend the event over the course of a day. She requested Town Council’s thoughts on whether or not alcohol should be permitted. The state statute on mass gatherings does not mention alcohol. Title 7 of the Alcohol Beverage Code makes it clear that only the Alcohol Beverage Commission can issue a permit. So, the Town cannot require the organizers of an event to get a permit from the Town. The Town Council could say they have to show the proper permits. Under Title 7 there is an ordinance that says *“The Town legislative body shall have no power or jurisdiction to regulate the sale of, trafficking or transportation of alcoholic beverages.”* Another ordinance reads *“A Town shall not enact an ordinance in such a way as to interfere with or prevent the exercise of the permittee’s privileges under the permit.”* Does this mean if an organization wants to have a mass gathering and already has an alcoholic beverage permit the Town Council can tell them they can’t serve alcoholic beverages at that particular event? The honest answer is she does not know because there is not a lot of case law on this and what is there is old and not on point. She will look into this further. It could be argued if a bar already has an alcohol beverage permit and is serving 100 to 200 people a night and they want to serve alcohol for a special event with 1,000 people attending it is a little different. She would argue the Town Council could maybe tell the business they can’t serve alcohol at the event.

Dianna Bastin asked if removing festivals from the ordinance prevent police and fire from overseeing the crowd and making sure it’s safe. Do they still have to have a certain amount of people to make sure the traffic is flowing and people are safe? Mr. Oldham replied they specifically exempted the Fall Festival. The others would be any outdoor event and festival sponsored and under the direct supervision of the Town. Therefore, if it is under the supervision or sponsored by the Town, the Town would provide the security that is appropriate. Ms. Bastin thought the Fall Festival wouldn’t be charged the fee but would have

to meet the requirements. After one meeting, someone suggested exempt meant that the exempt organization still had to fill out an application and didn't get charged for it which is not how she interpreted it. To her, it meant exempt. It might be worthwhile to add the Town would still have a say-so in security or police and fire. Or, it could state everybody has to fill out an application but certain groups don't have to pay the fee. It wasn't clear what exempt meant. Ms. Bastin commented anyone who doesn't have to pay the money shouldn't have a problem filling out the paperwork. Ms. Brown confirmed it was to be changed to state certain events are exempt from the filing fee. Ms. Bastin concurred.

Scott Oldham asked if "one hour or more" for minor or major mass gatherings could be removed. They're looking at the totality of the circumstances. There may be 249 people for seven or eight hours coming and going. Ms. Brown agreed and will remove the "one hour or more" requirement from those sections.

Darla Brown confirmed she will change the ordinance to say exempt organizations will have to fill out the application but will be exempt from the filing fee. Do they have to refer anybody to the Town Manager to see if their organization applies? Mr. Oldham replied probably not because they're going to have to do it. Mr. Oldham asked where a business would have to file an application or would they be exempt if they're on their own property. Ms. Brown answered if they're hosting events that exceed the limits in the ordinance they should fill out an application. Mr. Oldham commented there could be restaurants who have 250 to 500 people daily during the course of the daily operations. If it is a business and as long as it is within the property then it's already been issued a business license. If they want to host a beer garden then it's different. Mr. Swafford advised when someone files for a liquor license they have to state they have outdoor seating with excise. So the outdoor seating is already approved. Mr. Oldham isn't opposed to alcohol being present because it is already a regulatory ability through the state. He believes the Town could file an objection to granting a liquor license. Mr. Swafford noted there is a 30 day limit for filing objections.

Sandra Hash said there are a couple of churches who rent the shelter houses each year and have live performances and children's activities. She will make them aware of the mass gathering ordinance. Mr. Oldham agreed because now they're moving from their own place to another property.

Scott Thomas made a motion to table the ordinance for further revisions. 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.

New Business

Agreement between the Town of Ellettsville and Indiana Department of Transportation ("INDOT") for Street Sweeping on State Road 46

Darla Brown, Town Attorney, explained Jim Ragle is asking the Town Council to table this because he still working on some figures to make sure what INDOT has offered will fairly compensate the Town for its labor and time to do this. A corrected contract was provided to Town Council which changes city to town and identifies the areas to be swept.

Scott Oldham entertained a motion that the agreement between INDOT be tabled. Dianna Bastin made a motion that the agreement between INDOT be tabled. 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.

Permission for a Caucus for the Republican Party

Fire Chief Mike Cornman explained the Republican Party is requesting the use of the conference room in the Fire Department for a caucus on May 30, 2014, to fill a vacancy on the ballot for Ward 4 in the general election this fall.

Scott Oldham entertained a motion to give permission for a caucus for the Republican Party on May 30th. Dianna Bastin made a motion to give permission for a caucus for the Republican Party on May 30th. Dan 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.

Council Comments

Scott Oldham made a motion to open the position of Town Manager for internal applications due by Monday, June 9, 2014, for consideration. Dianna Bastin seconded.

Scott Thomas asked if it wouldn't be available to all applicants for a period of time. Mr. Oldham replied they have done things in the past where they have posted internally for department heads. If they don't find any satisfaction or Town Council doesn't reach an agreement internally then they'll post it externally. Mr. Thomas asked if after two weeks they will meet and discuss the options. Mr. Oldham replied that was correct. The applications are due June 9, 2014, then they will hold an Executive Session to determine how to proceed. Mr. Drake thinks first choice should always be given to the people who have paid their dues and are already known before it is opened to the outside. That in no means guarantees that somebody inside will get it but they should always be given the first shot at it.

After the discussion the vote on the previous motion was taken. Roll call vote: Scott Oldham – yes; David Drake – yes; Dianna Bastin – yes; Dan Swafford – yes; and Scott Thomas – yes. Motion carried 5-0.

Dianna Bastin and the Town of Ellettsville are deeply saddened in the loss of Jim Fielder. Mr. Fielder was a public servant for years and a friend as well. She was lucky enough to work in the same building as Mr. Fielder. The Town of Ellettsville offers their condolences to Mr. Fielder's friends and family in their loss.

Supervisors Comments

Fire Chief Mike Cornman explained in March 2014, they had a full time and part-time hiring process. They went through several steps but he missed a step on two people. The steps which included agility tests and interviews with him, Town Council member David Drake, Assistant Chief Jim Davis and Deputy Chief Kevin Patton were completed. He is requesting to bring on Brian Perdue and Robert McWhorter, Jr. as part-time fire fighters and these are not new positions.

Scott Oldham entertained a motion to appoint Brian Perdue and Robert McWhorter, Jr. as part-time fire fighters with the Ellettsville Fire Department. David Drake made a motion to appoint Brian Perdue and Robert McWhorter, Jr. as part-time fire fighters with the Ellettsville Fire Department. 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, previously provided an update on the Construction in the Floodway Permit which has gone through several revisions to Town Council. On May 9, 2014, she, Jim Ragle and Danny Stalcup attended a field investigation and walked the five sights she had identified. In working with a representative from Fish and Wildlife 12 sights with silt, sediment and gravel were identified for cleanup. The next step is to issue a public notice as soon as possible irregardless of whether or not they have received approval. Mr. Oldham noted this is an effort to make water move more freely through the area.

The stormwater audit is coming around again. The training will be in the Ellettsville Fire Department and is sponsored by Todd Stevenson of the Monroe County Highway Department. She, the Street Commissioner and a couple of his employees will be attending the training as well as MS4 communities throughout the state.

The Plan Commission is working on the Comprehensive Plan. Cedar Bluff Gardens is going for a PUD rezone and the investors are Rubicon Investments. This is an eight acre area and they're looking for mixed uses. A plat to add 21 additional lots on the western side of Litten Estates is being done. Mr. Oldham asked if the frontage of Litten Estates on State Road 46

is zoned commercial. Ms. Griffin replied yes. Mr. Oldham asked how many acres are included in the commercial zoning. Ms. Griffin answered five acres.

Town Marshal Tony Bowlen presented three applicants, Leah Fiegle, Danny Ali and Justin Wright as reserve officers for approval. They have all passed the background investigation. After they’ve been voted on by the Town Council they will begin their 40 hour basic training, Federal Emergency Management Agency courses and FTO program.

Scott Oldham entertained a motion that Justin Wright, Leah Fiegle and Danny Ali be appointed as reserve offices with the Ellettsville Police Department. David Drake made a motion that Justin Wright, Leah Fiegle and Danny Ali be appointed as reserve offices with the Ellettsville Police Department. 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.

Sandra Hash, Clerk-Treasurer, administered the Oath of Office to Justin Wright, Leah Fiegle and Danny Ali.

Scott Oldham congratulated the new reserve officers.

Privilege of the Floor

Mayva Rogers, Epsilon Si Chapter of Tri Kappa, is requesting permission to place signs at each end of Ellettsville. The signs had been up prior to the new highway.

Dianna Bastin asked where the signs had been before. Ms. Rogers replied they’re two sided and need to be put on a pole.

Scott Oldham asked Jim Ragle the rules on street signage. Mr. Ragle asked Ms. Rogers where they had previously been located. Ms. Rogers answered by Harmon’s and Thermal Gas. Mr. Ragle said they have to be careful where they put them because of the state. Ms. Rogers is hoping the Street Department would put up the signs if they got permission from the Town Council. Mr. Ragle said if they can figure out a place for the signs they’ll put them up. Mr. Oldham confirmed if Town Council gives permission the Street Department will find a suitable place for the signs. Ms. Bastin noted the islands should be exempt for any organizational signs. Ms. Griffin advised they need to stay out of INDOT’s right-of-way which is usually behind the utility poles along the corridor. Mr. Oldham asked Ms. Griffin to work with everyone to make sure it complies with Town code.

Scott Oldham entertained a motion to allow the signs once they find what the appropriate location is to be in compliance with all the governing bodies to allow as before. Scott Thomas made a motion to allow the signs once they find what the appropriate location is to be in compliance with all the governing bodies to allow as before. 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.

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 7:13 p.m.

<hr/> Scott Oldham, President	<hr/> David Drake, Vice-President
<hr/> Dianna S. Bastin	<hr/> Dan Swafford
<hr/> Scott Thomas	<hr/> Sandra C. Hash, Clerk-Treasurer, IAMC, MMC