

May 22, 2017

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, May 22, 2017, at the Town Hall located at 1050 W. Guy McCown Drive. Scott Thomas called the meeting to order at 6:30 p.m. Kevin Farris led the Pledge of Allegiance followed with a prayer by Scott Thomas.

Roll Call: Members present were, Kevin Farris, Brian Mobley and Scott Thomas. Scott Oldham was absent. Sandra Hash, Clerk-Treasurer; Jim Davis, Town Manager; Darla Brown, Town Attorney; and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, were also present.

Supervisors present were: Mike Cornman, Danny Stalcup, Jimmie Durnil, Kevin Tolloty, Mike Farmer and Jeff Farmer.

Approval of Minutes

Scott Thomas entertained a motion for approval of the minutes for the regular meeting on May 8, 2017. Kevin Farris so moved. Brian Mobley seconded. Motion carried.

Accounts Payable Vouchers

Scott Thomas entertained a motion for action to pay Accounts Payable Vouchers. Kevin Farris so moved. Scott Thomas seconded. Motion carried.

Award of the Chemical Phosphorus Removal Contract

Rick Coppock, Bynum Fanyo & Associates, Town Engineer, and Jeff Farmer have reviewed the contract.

Gary Ruston, Wessler Engineering, announced the low bidder was Mitchell & Stark Construction Company (“Mitchell & Stark”). Their bid was reviewed and was complete. They have worked with this contractor before and they do a good job. They are requesting acceptance of the bid. There is a document, Notice of Award, which notifies Mitchell & Stark they will be awarded the contract. The contract will be sent to them separately.

Scott Thomas entertained a motion. Kevin Farris made a motion to award the Chemical Phosphorus Removal Contract to Mitchell & Stark Construction. Scott Thomas seconded. Roll call vote: Kevin Farris – yes; Scott Thomas – yes; and Brian Mobley – yes. Motion carried.

Scott Thomas departed from the agenda and advised he is overseeing the meeting because the President is unable to attend and there is a vacancy for the Vice President position. He is seeking to fill the position of Vice President.

Scott Thomas nominated Brian Mobley for Vice President of the Town Council. Brian Mobley seconded. Roll call vote: Scott Thomas – yes; Brian Mobley – yes; and Kevin Farris – yes. Motion carried.

Resolution

Resolution 12-2017 Annexation Fiscal Plan for 4354 North Centennial Drive

Darla Brown, Town Attorney, explained this annexation was discussed at the last Ellettsville Plan Commission meeting. The Plan Commission determined, by unanimous vote, that the annexation should be recommended to Town Council. Ms. Hash added the certification is attached to the resolution.

Scott Thomas entertained a motion. Kevin Farris made a motion to accept Resolution 12-2017 Annexation Fiscal Plan for 4354 North Centennial Drive. Brian Mobley seconded. Roll call vote: Brian Mobley – yes; Scott Thomas – yes; and Kevin Farris – yes. Motion carried.

Ordinance on Second Reading

Ordinance 2016-16 to Amend Sections of the Ellettsville Town Code Regarding Monthly Rates, Connection and Tap Charges and Excessive Strength Surcharges

Doug Baldessari, H.J. Umbaugh & Associates, explained the ordinance is for proposed sewer rates for the Town of Ellettsville and Eastern Richland Sewer Corporation (“ERSC”) based on a Cost of Service Study conducted on February 3, 2017. A previous Cost of Service Study was completed in October 2016, and based on discussions with ERSC those rates and revenue requirements were modified. The Cost of Service Study was necessary because there was a change in revenue requirements with the 1996 balance being paid off. The last rate study was done in 2008. For most users, the rates and charges will decrease because the \$700,000 debt service payment has gone away. The reduction for an average user of 4,000 gallons will be \$5.05 per month. The revenue requirements the Town is charging ERSC will be reduced by over \$200,000 per year or 28%. In the Cost of Service Study most fixed charges decreased and a flow charge based on the amount of usage increased from \$3.90 to \$4.55. ERSC has a slight increase in billing and postage charges and their debt service charge of \$30,000 per month goes away. Part of the fixed charge was for equipment replacement and the other operating costs are in the flow charge which increased from \$2.45 to \$3.85 per 1,000 gallons. Current connection charges are \$1,500 per month which are calculated to increase to \$2,764, if the Town Council desires to do so. In the ordinance, there is a \$2,000 connection fee for new users. ERSC customers will also pay the increased amount. The ordinance has the rate increases phased in with half going into effect after ordinance adoption and the remainder on January 1, 2018.

Larry D. Barker, President of ERSC, represents 2,133 customers and they stand in opposition of Ordinance 2016-16, sewer rate increase on the following grounds:

1. The relationship between the Town and ERSC is contractual. Fourteen years of life remaining on the contract. The contract clause of the Constitution of the State of Indiana, Bill of Rights Article 1, Section 24, Ex post facto laws, states “*No ex post facto law or law impairing the obligation of a contract shall ever be passed.*”
2. There is a provision which requires both parties to mutually agree on changes to the contract. Nowhere in the contract does it allow for a unilateral charge to be imposed. The Sewer Rate Study dated October 4, 2016, has numerous unrealistic assumptions and concerns of administrative, O & M, replacement fund and billing costs as noted in their counter proposal provided to the Town attorney.
3. ERSC has filed for a rate reduction with the Indiana Utility Regulatory Commission (“IURC”).
4. ERSC has requested, on several occasions, to work jointly with the Town and conduct a bottom-up review of the seven utility funds for 2014, 2015 and 2016. These requests have been ignored. Where is the open transparency? They realize there have been discussions and considerations to correct some of the information in the rate study. The process remains incomplete.

In closing, ERSC did not stand by idle and allow the Council to impose a sewer increase without due process. The ERSC will leverage all of the powers of Indiana Code, the office of the Utility Consumer Council, the IURC and judicial courts in the State of Indiana. Thank you.

Darla Brown, Town Attorney, advised under §52.112(E), Connection and Tap Charges, the last two sentences should be stricken from the ordinance because it refers to connection fee charges. The “*reasonable and equitable pro rata costs of constructing the plant and receptor lines*” language is no longer necessary because the plant is built. The Town Council needs to determine what it wants to do with regard to the hook-on fees.

Brian Mobley asked if the 1,800 hook-ons are prepaid. Jeff Farmer answered no. Mr. Mobley stated there have been discussions about attracting businesses and families to Ellettsville. For them to be competitive with Bloomington he would like to see the hook-ups for new customers be \$1,500. Mr. Thomas agrees with a \$1,500 hook-up charge. Mr. Farris doesn’t think there’s much difference between \$1,500 and \$1,800 when building a house or business. Jeff Farmer noted the proposed change is \$2,000. Mr. Farris thinks \$1,800 is conducive to what other communities similar to Ellettsville are charging.

Scott Thomas entertained a motion pertaining to Ordinance 2016-16 with the amendment of striking the last two sentences of §52.112(E). Kevin Farris made a motion to strike the last two sentences under §52.112(E), Connection and Tap Charges. Scott Thomas

seconded. Roll call vote: Scott Thomas – yes; Kevin Farris – yes; and Brian Mobley – yes. Motion carried.

Kevin Farris made a motion to stay with the current charge of \$1,500 for the hook-on fee for everyone including ERSC customers. Scott Thomas seconded. Roll call vote: Kevin Farris – yes; Scott Thomas – yes; and Brian Mobley – yes. Motion carried.

Darla Brown advised she did not include language for postage in the ordinance. Previous ordinances didn't typically include postage but it has to be covered. She suggested adding the following amendment under Appendix A(3), Postage: "*Postage will increase to \$3.01 for ERSC in Phase I and increase to \$3.04 in Phase II.*" Kevin Farris so moved. Scott Thomas seconded. Roll call vote: Kevin Farris – yes; Scott Thomas – yes; and Brian Mobley – yes. Motion carried.

Kevin Farris made a motion to adopt Ordinance 2016-16 to Amend Sections of the Ellettsville Town Code Regarding Monthly Rates, Connection and Tap Charges and Excessive Strength Surcharges as amended. Scott Thomas seconded. Roll call vote: Kevin Farris – yes; Scott Thomas – yes; and Brian Mobley – yes. Motion carried.

Ordinance 2017-02 to Amend the Stormwater System User Fee Base Rate

Brian Mobley explained this amendment is for a \$1 increase per Equivalent Residential Unit ("ERU"). The money generated would be allocated for stormwater and flooding issues as noted by the Indiana Department of Natural Resources ("DNR"). Currently, there isn't sufficient capital in the stormwater fund to start projects. There are three projects they would like to start which would help reduce the flooding downtown. The increase will generate approximately \$41,000 a year. It will take time to get surveys done before they can start digging in the dirt. Mr. Farris requested clarification that the \$1 increase also applies to businesses. Mr. Mobley answered yes, the ERU applies to land.

Rick Coppock, Bynum Fanyo & Associates, Town Engineer, explained Equivalent Residential Unit means every house that is now billed \$3 would be billed \$4. Every institutional facility would be billed an additional \$1 for each ERU. For example, if the bill is \$75 it would increase to \$100 a month. The ERU was based on the average of 10 homes and the amount of impervious area such as roof tops, sidewalks and driveways in a subdivision. The increase is not \$1 each month but \$1 for each ERU. Mr. Mobley commented this won't benefit just downtown because the flooding goes all the way to Sowders and covers State Road 46. They want to try and get business owners downtown which is difficult with the flooding. Mr. Thomas noted going forward as more roofs go up and more asphalt is put down he sees running into problems they're not prepared for unless they have the funds to remedy the flooding and do the projects to prevent it.

Scott Thomas made a motion on Ordinance 2017-02 to amend the Stormwater System User Fee Base Rate. Brian Mobley seconded. Roll call vote: Brian Mobley – yes; Scott Thomas – yes; and Kevin Farris – yes. Motion carried.

Ordinance 2017-06 to Amend Various Sections of Chapter 152 of the Ellettsville Town Code Concerning Sign Regulation

Kevin Farris made a motion to table this until Scott Oldham returns because he requested the original amendment.

Sandra Hash stated the Plan Commission amended the ordinance in accordance with the request of Mr. Oldham.

Scott Thomas seconded the aforementioned motion. Roll call vote: Kevin Farris – yes; Scott Thomas – yes; and Brian Mobley – no.

Darla Brown, Town Attorney, explained because it was a motion to table and not a motion to pass the ordinance, the ordinance did pass because they got two votes.

Ordinance 2017-07 to Amend Ordinance 2017-03 Concerning the Fixing of the Salaries for Budget Year 2017

Fire Chief Mike Cornman explained the Fire Department audited education pay for their employees and found some individuals not receiving the appropriate certification pay. The money for the certification pay has been budgeted but the cap in the salary ordinance is not sufficient.

Scott Thomas entertained a motion. Kevin Farris made a motion to accept Ordinance 2017-07 to amend Ordinance 2017-03 concerning the Fixing of the Salaries for Budget Year 2017. Brian Mobley seconded. Roll call vote: Kevin Farris – yes; Scott Thomas – yes; and Brian Mobley – yes. Motion carried.

Ordinance 2017-08 to Annex 4354 North Centennial Drive into the Town of Ellettsville

Kevin Tolloty, Director of Planning, explained this was heard by the Plan Commission at their May 4, 2017, meeting and received a favorable recommendation to annex the property with an R-1 zoning designation. The property including the right-of-way is .06 acres and sits at the end of a cul-de-sac on North Centennial Drive. This is a 100% voluntary annexation.

Scott Thomas entertained a motion. Kevin Farris made a motion to adopt Ordinance 2017-08 to annex 4354 North Centennial Drive into the Town of Ellettsville. Scott Thomas seconded. Roll call vote: Brian Mobley – yes; Scott Thomas – yes; and Kevin Farris – yes. Motion carried.

Old Business

Flood Report

Brian Mobley presented illustrations on flooding mitigation from a DNR report. Repairs include a culvert under the McNeely Street bridge, removal of the Utilities' Blue Building so a retention area could be built, a swale cut behind Thurman's Body Shop and a swale cut behind the site of the old train depot.

New Business

Permission to use the Fire Station Meeting and Conference Room for a Republican Caucus

Fire Chief Mike Cornman explained the Monroe County GOP has requested permission to use the Fire Station for a caucus on May 31, 2017, to fill the vacancy on Town Council.

Kevin Farris made a motion to grant permission to use the Fire Station Conference Room for the Republican Caucus. Scott Thomas seconded. Roll call vote: Brian Mobley – yes; Scott Thomas – yes; and Kevin Farris – yes. Motion carried.

Grant of Easement for Public Right-of Way for Centennial Drive

Darla Brown, Town Attorney, explained Centennial Park, LLC intends to grant the Town of Ellettsville a 50' easement to allow pedestrian and vehicular ingress/egress and roadway utility access.

Sandra Hash explained the easement will allow access to a new development behind Centennial Drive. When it came before the Plan Commission they allowed 20 houses to be built because the current access is through Woodgate Subdivision. This easement opens it up to Centennial Drive which has a stop light and it will be a big plus for the development.

Scott Thomas entertained a motion. Kevin Farris made a motion that the Town agrees to accept the grant of easement for public right-of-way from Centennial Park, LLC. Scott Thomas seconded. Roll call vote: Kevin Farris – yes; Scott Thomas – yes; and Brian Mobley – yes. Motion carried.

Council Comments

Brian Mobley announced there is a hearing on 68 apartments to go up at Litten Estates on May 31, 2017. It could be an altering decision for that community.

An open house was held at the new Town Hall. Thank you to Jim Davis.

Scott Thomas thanked Brian Mobley for accepting the Vice President position.

Supervisors Comments

Fire Chief Mike Cornman attended a meeting with Duke Energy. They are going to a new metering system, Advanced Metering Infrastructure. Installation for large users started today. The new metering system allows people to log in to view their usage and set their own parameters. In June/July a private contracting firm will begin installing residential meters. If there are any questions, please visit www.duke-energy.com/smart-grid.

Kevin Tolloty, Director of Planning, advised beginning in June, street addressing will be moving to the Planning Department.

Sandra Hash explained there is new legislation that allows a municipality to create a wheel tax. They currently pay a wheel tax through Monroe County for which the Town receives a portion. The state offers this as an option to provide additional money for road repair.

Scott Thomas thanked the Fire Department for the job they did with street addressing over the years.

Town Marshal Jimmie Durnil reminded everyone a Memorial Service is scheduled for 11:00 a.m. on May 29, 2017, at Memorial Park. A West Point graduate, Jim Garrett, will be the featured speaker.

Jeff Farmer, Bynum Fanyo & Associates, Ellettsville Utilities, addressed Mr. Barker's comment about the "lack of transparency". For 20+ years, he has offered his services and to attend meetings to try and explain anything they may think was being done incorrectly. To date, he has not been invited to their meetings to discuss any of those things. It is a disservice to say they're not transparent. Ms. Hash added ERSC had requested quite a few of the Town's documents for the last three years and they did their best to provide everything they requested. A lot of those documents were put on the web page. They have tried their best to be transparent with accounts payable. Mr. Mobley noted the Town of Ellettsville is proud to pay off their loan which subsequently lowered the sewer rates. ERSC keeps making accusations but he's told them to provide documentation and they can discuss it. Utilities has done a good job, maintained their budget and are giving the citizens of Ellettsville a decrease in their bills. ERSC has the funds to lower their bills if they want to. Mr. Thomas thanked the public for abiding with the Town through this process which has taken over a year.

Adjournment

Scott Thomas entertained a motion to adjourn. Kevin Farris so moved. Brian Mobley seconded. Scott Thomas adjourned the meeting at 7:20 p.m.

Scott Oldham, President

Brian Mobley, Vice President

Kevin Farris

Scott Thomas

Sandra Hash, Clerk-Treasurer