

Due to COVID-19, The Ellettsville, Indiana, Town Council met for a virtual meeting on Monday, May 10, 2021 by Zoom. Scott Oldham called the meeting to order at 6:30 p.m. Mike Cornman led the Pledge of Allegiance followed by a prayer by Jimmie Durnil.

Roll Call: Members present were Scott Oldham, President; Pamela Samples, Vice President, and William Ellis. Trevor Sager and Dan Swafford were absent. Sandra Hash, Clerk Treasurer; Michael Farmer, Town Manager and Darla Brown, Town Attorney were also present.

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

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes of the regular meeting on April 26, 2021. Pamela Samples so moved. William Ellis seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Accounts Payable Vouchers and Payroll

Scott Oldham entertained a motion to pay Accounts Payable Vouchers and Payroll. Pamela Samples so moved. William Ellis seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Open Bids

1987 Shelbyco 24’ Dovetail Trailer

There was only one bid, **Sandra Hash**, Clerk Treasurer opened the bid with approval from **Darla Brown**, Town Attorney since she was unable to get the bid to her before the meeting. The bid was from Dan Taylor in the amount of \$2,500.00 which was over the reserve amount of \$2,000.00. William Ellis made a motion to accept the bid. Pamela Samples seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried. **Sandra Hash** has the contact information and Kip Headdy or Brian Miller will contact Mr. Taylor to arrange pick up.

Resolutions

Resolution 13-2021 Transfer of Funds Motor Vehicle Highway and Local Roads and Streets

Sandra Hash, Clerk Treasurer explained the Street Department is purchasing a new Leaf Loader and they transferred money in Motor Vehicle Highway from Uniforms & Laundry and Fleet Insurance to Equipment and in Local Roads and Streets from Signs to Equipment. The total transfer is in the amount of \$8,000.00. This will make the appropriations available for a cash purchase when the equipment becomes available to purchase in the fall. William Ellis made a motion to approve the transfers. Pamela Samples seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Ordinances on Second Reading

Ordinance 2021-10 to Create Fund 179 for the American Rescue Plan Act (ARP)

Darla Brown, Town Attorney explained this is a basic Ordinance to create the fund required for the Town to receive money from the Federal Government for the American Rescue Plan Act. She is waiting on further instructions, suggestions, and recommendations on how to handle the funds from the Municipal Lawyers Association and AIM (Accelerate Indiana Municipalities). Once she receives that information, she will be in a better position to discuss projects on what the Town wants to use the money for. The Ordinance may need amended at that time to make it more detailed. **Scott Oldham** inquired about the other main uses allowed for the funds besides Broadband access and Water and Sewer Infrastructure. **Darla Brown** stated it can also be used for expenses incurred after March for Covid and Grants or things of that nature to local Non-Profits. If it is used for Grants, it requires keeping track of the money and how it is used. Pamela Samples made a motion to accept Ordinance 2021-10 to Create Fund 179 for the American Rescue Plan Act (ARP). William Ellis seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Ordinance 2021-11 to Update Chapter 51 of the Ellettsville Town Code Regarding Rates and Charges

Darla Brown, Town Attorney explained the purpose of this Ordinance is to bring the Town Code into compliance with what the Town's Utility has been charging its customers. The IURC (Indiana Utility Regulatory Commission) has allowed the Town to put a \$.49 tracker on the charges. There could possibly be another Ordinance once the City of Bloomington obtains its rate increase. The Town's Utility Office is following the rates approved by the IURC and this Ordinance will update the online information. She also asked Sandra Hash to modify the document to remove the bold face type on the documents to allow American Publishing to enter the figures online without confusing the new rates. William Ellis made a motion to approve the amended Ordinance 2021-11 to Update Chapter 51 of the Ellettsville Town Code Regarding Rates and Charges. Pamela Samples seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Old Business

1 Appointment to the Ellettsville Building Corporation

Sandra Hash, Clerk Treasurer stated that Brandon Wright, Amber Ragle-Wright's husband has volunteered for the position. Darla Brown, Town Attorney explained he did not have to live within the Town to serve and being a Town employee's husband is acceptable. William Ellis made a motion to nominate Brandon Wright for the appointment to the Ellettsville Building Corporation. Scott Oldham seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Flood Report

Michael Farmer, Town Manager explained he received a report today, and they are 30% complete with the plans and are scheduling a site visit possibly next week to discuss particulars.

New Business

Department of Public Works request to Purchase a Leaf Loader

Kip Headdy, Street Foreman explained they replaced a Leaf Loader last year. Their second Leaf Loader is 30 years old and has gone downhill spending over \$3,000.00 in repairs and before the season was over it went down again. They are requesting to purchase another one like the one last year. He has submitted 3 quotes to **Sandra Hash**, Clerk Treasurer with the lowest bid being from Brown Equipment \$72,298.00 including trade in of the old equipment. Second bid was from Suffolk County Brake Service at \$79,500.00 and the highest bid from ARM Tough Equipment at \$79,955.00. They are requesting approval of the purchase to have it built by leaf season. Due to Covid, production has slowed down. **Scott Oldham** thanked the Street Department on their ability to take care of their equipment and for all they do. **Sandra Hash** explained they did have the majority of the money, the transfers mentioned earlier covered the remaining balance. Pamela Samples made a motion to approve the purchase of a Leaf Loader for the Department of Public Works. William Ellis seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Discussion of opening the Park Shelters

William Ellis requested this be on the agenda after a citizen inquired about reserving a shelter and was told they were closed until at least July. He feels Ellettsville needs to start opening things up like the other surrounding Towns and stop taking marching orders from the Monroe County Health Department. **Pamela Samples** agreed and mentioned other Towns are having in person council meetings and festivals. She worries people are going to start taking their business to other Towns. **Scott Oldham** agreed but feels it is the decision of the Parks Board and questions and concerns should be directed to them. **William Ellis** agreed but wanted to discuss the issue, so the Parks Board knew how they felt. **Jimmie Durnil**, Parks Board president explained the board agreed earlier that the shelters would remain closed until July 5th, but it could be changed and possibly go on a case-to-case basis. The next Parks Board meeting is June 7th, and they can discuss some different plans to keep things better under control. **Scott Oldham** stated that this is a decision of the Parks Board and they make

decisions on the most current information but are not bound by anyone other than someone of legal authority. The Fall Festival and 4th of July Fireworks were not a decision of the Parks Board and has nothing to do with the Parks Board. **Sandra Hash** added that when people call to inquire about the shelters they are informed that they are available to use first come first serve but there is no open bathroom facility. **Scott Oldham** mentioned the issue with the restrooms being left open is they have had thousands of dollars in vandalism over the years to the restrooms so that is why they are not left open unless there is a reservation.

Charlestowne Manor Phase I – Cash Bond Reduction

Kevin Tolloty, Planner explained that the developer of Charlestowne Manor has asked for a reduction of the Cash Bond from \$187,900.00 to \$108,725.00. Items to be reduced would cover 1,500 feet of sidewalks, 2 curb ramps and 24 street trees. He has inspected and they have been put in according to Town code. William Ellis made a motion to reduce the Cash Bond for Charlestowne Manor Phase I. Pamela Samples seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Memorandum of Understanding between the Town of Ellettsville and Richland Bean Blossom Community School Corporation for a 12-foot path on South Poplar Drive

Dr. Jerry Sanders, Richland Bean Blossom Community School Corporation Superintendent discussed a partnership to build a trail between Highway 46 going up Poplar Street, turning onto School Street to Edgewood Drive up to the High School. Vickie Coffey, Nutrition Services Director, wrote a Tactical Urbanism Grant out of the Indiana Department of Health, Division of Nutrition and Physical Activity, to provide a safe place for students and the community to gain physical activity. Several members of the Town and the school corporation have collaborated on this project and the Town will provide the labor and equipment and the school corporation will provide the materials and any easements. Michael Farmer, Town Manager explained that the Town does not have the money to put in an entire Trail system throughout the community at this point so this opportunity to collaborate with the school corporation is an exciting start to the beginning of a Trail system that will connect eventually to Flatwoods Park. The grant is for \$10,000.00 and the school corporation will pay for the remaining materials which is estimated at around \$18,000.00. If the Council approves of the MOU (Memorandum of Understanding) he will take it to the school board next week to approve and construction should start in June. Pamela Samples made a motion to approve the Memorandum of Understanding between the Town of Ellettsville and Richland Bean Blossom Community School Corporation for a 12-foot path on South Poplar Drive. Scott Oldham seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried.

Virtual Meetings

Darla Brown, Town Attorney explained that Governor Holcomb issued his 14th renewal of the Public Emergency Declaration in April. It is Executive Order 2111, and he has extended the Public Health Emergency through and including May 31, 2021 and as part of the Emergency Declaration he has extended Executive Order 20-09 which allowed Municipalities to have virtual meetings. The Legislature has passed a statute that took effect April 20, 2021 which sets forth what municipalities have to do to allow some Town Council members to attend meetings electronically. Before Covid, under Indiana Code 5-14-1.5-3.5 Municipalities could enact a policy which would allow some of their board members to attend a meeting electronically, however that board member was limited in what they could do. They could participate in the meeting but could not vote on the final action and the minutes would have to reflect that person as not being present. Legislature has amended 3.5 allowing Town Council members to attend electronically but there are the following caveats:

1. All participating members of the governing body to simultaneously communicate with each other.
2. Allows the public to simultaneously attend and observe the meeting not applying to a meeting held in Executive Session. Attend is by Zoom or Live, in real time, not recorded.
3. The member who participates electronically shall be considered present for purposes of establishing a quorum but may participate in any final action taken at the meeting only if the member can be seen and heard.

4. A member of a governing body may not participate electronically in order to vote if the governing body is adopting a budget, reduction of personnel, initiate a referendum, establish, or increase a fee, establish, or increase a penalty, use the governing body's eminent domain authority, or establish, raise or renew a tax.

She further discussed technological failure in an electronic means of communication that disrupts or prevents a member of the public who is not present at the meeting from attending and observing the meeting. This does not prevent the governing body from conducting the meeting or affect the validity of an action taken by the governing body if the sum of the governing body members physically present and those participating by electronic communication without technological failure satisfy the quorum and the voting requirements of the governing body. She does, however, have questions of whether the failure is on behalf of the Town or the member. Also, if a member of the public who is not present at the meeting has communication failure, that could cause issues as well. She does not know how that can be tracked or fixed. If the public is not able to attend or observe due to a break in electronic communication, that can also cause problems in the future. The statute does not tell you what is required in the written policy but gives suggestions what you might want to include in the policy. Those include limiting the number of members who may participate electronically in any, one meeting, limiting the total number of meetings that the governing body may conduct in a in a calendar year electronically and requiring a member who plans to attend a meeting electronically to notify the presiding officer within a certain period of time before the meeting. When the minutes are prepared, each member attending must be stated whether they were physically present, electronically present, or absent, the specific type of electronic communication must also be stated and how the public attended and observed the meeting and all votes taken must be taken by roll call vote. At least 50% of the members of the governing body must be physically present at a meeting and a member may not attend more than 50% of meetings in a calendar year electronically unless the member's participation is due to military service, illness or medical condition, death of a relative or an emergency involving actual or threatened injury to persons or property. A member may attend 2 consecutive meetings electronically and at least one meeting in person before attending another 2 consecutive meetings. In conclusion, the answer to a hybrid meeting where people can attend in person and/or electronically is yes, but there must be a written policy with specific means of electronic communication outlined. Once the public health emergency is lifted, you will not be able to all attend the meetings by Zoom together and is not required by the statute that you adopt a policy it can just go back to in person meetings period. This explanation is only for the purpose of allowing Zoom meetings to continue after the public health emergency is lifted for those in the public and of the governing body to attend if they choose. If in the event of another public health emergency, meetings can resume electronically as they have been conducted in the past year. The Public Health order is subject to change month by month like it has for the last year. **Scott Oldham** and **Darla Brown** agreed there are several technological hurdles that would need ironed out involving chat, telephone attendance and private messaging during the meeting but felt with safeguards the hybrid meeting is attainable. **Kevin Tolloty**, Planner, mentioned that while on the Zoom meetings there is a capability to save the file of chats that go on during the meeting, not private messages, but general chats. **Scott Oldham** suggested that with the absence of 2 council members that they remain on Zoom until June 1st and formulate a plan for a possible hybrid schedule at that point. He further mentioned being bound by FCC (Federal Communications Commission) regulations for language during meetings from the public. **Darla Brown** stated members can be ejected from meetings if they are being unruly, but the Town would not be responsible. **Russ Ryle** from the public commented by thanking the council for the discussion and feels legislature has made a great effort to getting people into the modern world and people with limited means can be accommodated and he looks forward to seeing how it all works out. Council was torn between continuing Zoom until June 1st. They want to get back to in person meetings but do not want to limit people threatened by Covid or by physical limitations and cutting them off from how they have been able to attend for the last year with the hope to work out a policy in the next 2-3 weeks to allow everyone to attend. **Darla Brown** suggested everyone look at the statutes and send her your thoughts, there is a lot to consider that will require a great deal of communication between everyone to be able to work out a policy acceptable to everyone and not too restrictive. **William Ellis** gave the opinion if they went to in person he would be there, he is concerned about the remote access for the public, but they were in person before and there is no reason they cannot be in person again. **Scott Oldham** agreed but feels it is best to have 1 more Zoom so everyone can hear what the policy is going to be, he does not want to limit the public on what they can

comment on and what they cannot comment on. He asked if their policy affects the BZA or Plan Commission. **Darla Brown** believes they can have their own policy that is different than that of council, but she would check on that. **Scott Oldham** feels the council should not speak for everyone if that is the case, so they would need input from the other boards as well to make the decision. William Ellis made a motion to meet in person for the June 14, 2021 meeting and by that time, at the last virtual meeting in May, the Town has a remote policy to straighten out all the questions. Pamela Samples seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried. **Scott Oldham** concluded he would like to start off with a broad policy and whittle down as they go. **William Ellis** said he would like to limit it to Zoom because when it comes to texts, email or phone calls who would they contact, and Zoom is has it all and can be monitored. **Scott Oldham** feels we need a host every week to lock it down more and control muting and video. **Jimmie Durnil**, Parks Board president inquired about the policy for Zoom being the same for the Parks Board meetings. **Darla Brown** confirmed they could continue Zoom meetings but all the above would apply to them also and would have to have a policy and monitored to make sure they complied with the statutes. **Russ Ryle** asked a question about voting and attendance limitations the legislature on Town Council members also apply to members of other boards permitting virtual meetings? **Darla Brown** answered, yes it does because the statute refers to all political subdivisions and public agencies.

Supervisor Comments

Michael Farmer, Town Manager discussed the conversation of virtual meetings coincides with the decision to open Town Hall. He will discuss how to proceed at the Supervisor meeting on Wednesday and bring it back to the next Town Council meeting. They will try to help with the plan on conducting in person and Zoom meetings. Council agreed to allow Michael Farmer the ability to spend the necessary money up to his spending limit to set up council chambers for joint in person and virtual meetings.

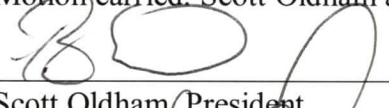
Jimmie Durnil, Parks Board President discussed new playground equipment for Campbell's Park. He has been working with Michael Farmer, Town Manager and have estimates and obtained permission from the Richland Township Trustee to utilize the open area by the basketball goals for the new equipment. He has received several calls since they removed the old equipment about replacing it. Once they have made a decision, found the money, he will bring it to Town Council.

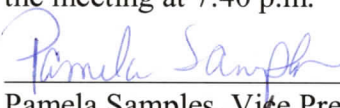
Council Comment

William Ellis stated that while he understands a lot of what is discussed does not directly impact the decisions of the other boards, but it is good for people to know where they stand. He appreciates everyone for working through things and feels there is light at the end of the tunnel, and they will be open well before Monroe County. **Scott Oldham** agreed and wanted to make sure the public understands that other boards have their own autonomies and not to take anything he said as nothing but positive.

Adjournment

Scott Oldham entertained a motion to adjourn. Pamela Samples so moved. William Ellis seconded. Roll call vote: Scott Oldham – yes; Pamela Samples – yes; William Ellis – yes. Motion carried. Scott Oldham adjourned the meeting at 7:40 p.m.


Scott Oldham, President


Pamela Samples, Vice President


William Ellis


Trevor Sager


Dan Swafford


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