

## **NASHVILLE TOWN COUNCIL MEETING THURSDAY, OCTOBER 6, 2011**

**ATTENDANCE** – Council members present – President Robert Kirlin, Vice-President Charles B. King, Councilmember Sean Cassiday (arrived at 7:03pm) and Councilmember Jane Gore. Council member not present – Councilmember Arthur Omberg. Also in attendance – Town Superintendent Roger Bush, Chief Administrator Phyllis Carr, Town Marshal Stephanie Loerzel, Town Attorney Jim Roberts, Clerk-Treasurer Brenda Young and Deputy Clerk-Treasurer Debbie Ferry.

### **AGENDA – 7:00PM**

**1) CALL TO ORDER** by President Kirlin at 7pm.

#### **2) ED RYAN – OCTOBERFEST REQUEST – MOLLY’S LANE**

President Kirlin explained Ed Ryan is requesting Molly’s Lane be blocked for an Octoberfest on October 22, 2011 from 11:30am to 10:00pm. They plan to sell and serve brats and beer and have music. President Kirlin asked Town Attorney Roberts if the Town could block the public highway for a for-profit business. Town Attorney Roberts advised he would have to review the ordinances.

Vice-President King believes the Town doesn’t block the streets for any other for profit events. Town Marshal Loerzel noted they do block the streets for the artist shows. Council noted those events don’t typically go on in the evenings.

President Kirlin asked Town Marshal Loerzel if she had any safety concerns about the event. Town Marshal Loerzel advised as long as the area is blocked with barricades so that there is no possible way that vehicles could go down the alley she doesn’t see a problem with it.

Councilmember Gore asked what information they received from the Fire Department regarding closing of the lane permanently. Chief Administrator Carr advised the Council received a letter from the Fire Department addressing this question but she did not have the letter at this meeting.

President Kirlin commented that since Mr. Ryan plans on selling beer/alcohol, Town Marshal Loerzel would have to sign off on the application. Town Marshal Loerzel agreed she would have to sign off on the application as she has done for other groups that have sold alcohol.

Town Attorney Roberts read from Ordinance 93.025 regarding streets and sidewalks which allows the Council to issue a permit to temporarily obstruct any portion of a public right-of-way. He noted the permit requires all necessary authorizations from local authorities and compliance with local laws. Town Attorney Roberts explained the application has been made for the permit to exceed the maximum noise level and they would have to comply with the noise level ordinance. They must give notice to the Town five days prior to the event which they have done. Town Attorney Roberts added they have already provided the proof of insurance as also required. Town Attorney Roberts advised the Council has the right to issue a temporary permit for this event.

Resident Diane Davern asked who truly owns the alley. Town Superintendent Bush advised the alley is platted as part of the Town’s road right-of-way. Discussion. Town Attorney Roberts reported if the applicant meets the requirements for a temporary obstruction right-of-way permit the Council may approve the permit.

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Ms. Davern expressed concern over security issues for herself if the Council were to approve the Octoberfest permit. She has two entrances to her home both of which are on Molly's Lane and she is concerned about having to walk through people drinking in the alley to get to her home. Ms. Davern noted she continues to put up with noise from the alleyway that continues to this day and she has asked the Council for months on end to do something about this and she feels nothing has been done. Ms. Davern asked if they could have the Octoberfest indoors as they have a big enough building for this type of activity rather than using the alley.

Business owner Connie Percifield agreed with Ms. Davern and she too has an issue with the drinking in the alley. Mrs. Percifield reported she has had confrontations with rude and unruly people that have been drinking in the alley. She believes this is a safety issue for young ladies that have to walk through the alley to get to their cars at night. Mrs. Percifield commented that she too has a problem with the music noise from this business as the sound drifts over to her business.

Mrs. Percifield asked about previous events in town that served alcohol, if those events were on private property or Town property. President Kirlin advised the previous events were on private property. Mrs. Percifield commented that she has an issue with alcohol being served on Town property.

Mr. Ryan arrived to the meeting at 7:18pm and President Kirlin updated him on the progress of the meeting. He explained Town Attorney Roberts advised the Council has the right to block the alley for a for-profit business on a temporary basis. President Kirlin noted the Town Marshal did not see the event as a safety issue as long as they have her sign off on the permit as well as some sort of security. President Kirlin advised two members of the audience are very upset that the Council is considering closing the alley from a safety, drinking and loud music point of view. President Kirlin asked Mr. Ryan if he had anything more to add to the discussion.

Mr. Ryan apologized for being late and explained in his opinion this type of event should be something that the Town of Nashville is approaching them to do because it is the kind of thing that tourists would enjoy. Their intent is to do the event safely and noted drinking alcohol is not illegal as long as it is done respectfully. Mr. Ryan is surprised this type of event has not yet happened in Nashville as they are a tourist town and their intent is to encourage commerce. Discussion.

Town Attorney Roberts advised he has consulted with the Town Marshal and noted if the Council granted the permit it will still remain a public area and anyone there under a state of intoxication would be committing an offense and could be subject to arrest or control by the Town Marshal. Town Marshal Loerzel advised with these types of events most of the time off duty police officers are hired for security and she asked Mr. Ryan to consider doing this and she hoped this would provide Ms. Davern safe access to her building. President Kirlin wanted it to be clear if they do approve the permit they would only be blocking the alley, they would not be blocking the sidewalk therefore there would be no beer, food or music on the sidewalk. Mr. Ryan agreed to have security for the event and offered to provide Ms. Davern an alternative place to stay for the evening if she would like.

Mrs. Percifield agreed that everyone should respect their neighbors but she believes what Mr. Ryan's business is doing is infringing on someone else's business. Mr. Ryan asked for clarification. Mrs. Percifield explained with the music from his business coming through the walls of her business it is ruining the mood she is trying to set for her shop. Mr. Ryan advised he would be happy to address the music issue and they do not want to upset their neighbors.

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President Kirlin voiced disappointment that Mr. Ryan did not show up with a list of neighbors that say they are in favor of blocking the alley for the Octoberfest. Ms. Davern noted Mrs. Gibson was not aware of the request to block the alley for the Octoberfest event. Discussion.

Vice-President King reported he is conflicted because he understands what both sides are talking about, however he does agree that the tourists would eat up this type of an event. He is concerned about the noise and the safety and perhaps they could try it one time but at this point he is still on the fence.

Councilmember Gore voiced concern about the safety even though it is an exciting idea. She noted if it was a totally commercial area without residents it would be very acceptable but she is concerned about the safety and noise. Councilmember Gore added that she can see the benefits of this type of event but she can also see the downfall as far as the neighborhood residents.

Councilmember Cassiday explained he completely understands Ms. Davern's situation but he is also one that believes this town should have a festival every month to draw tourists to the area constantly. Councilmember Cassiday has seen advertisements for the brewery all over and Indianapolis Monthly even has an article about the brewery in their magazine. He believes there are some items that need to be addressed such as control of the music, control of the sidewalk and control of the situation however as long as everyone is in compliance he has no problems with the permit for one evening.

President Kirlin opened the discussion back up to the audience. Ms. Davern asked the Council to have Mr. Ryan try the event within the confines of his building to see how it works rather than having it in the alley. Discussion.

President Kirlin asked to entertain a motion to either decline or approve the permit. Councilmember Cassiday moved to approve the permit. The motion died for a lack of a second. Again Councilmember Cassiday moved to approve the permit. President Kirlin noted as the President he could not make a motion or second the motion. Town Attorney Roberts confirmed this. The motion died for a lack of a second. Discussion.

Clerk-Treasurer Young commented that the Council did not need to make a motion to deny the permit. Town Attorney Roberts agreed and explained the Council might want to consider some restrictions or limitations either on the sound or the security. Councilmember Gore asked Ms. Davern if there would be any restrictions for this one event that would be acceptable to her. Ms. Davern commented the only thing she would want is for the event to be inside their building only. Discussion. Mr. Ryan commented that they employ fifty in Brown County and they are looking at expanding their operation. In his opinion he believes the Town should be coming to him asking him to encourage tourism. They have other towns in the State of Indiana asking them to do this type of business in their communities and he is confused why he is not getting support from the Town.

President Kirlin respects the opinions of the neighbors and if this was a residential area he would not even consider this request, however this is in a business area. When he bought a tourist home in this area he understood that this was a business area. President Kirlin advised he would support the request and try it out this time making sure they are not blocking the sidewalks and that there will be security.

Vice-President King moved that they allow this event for one day contingent on the following restrictions: 1) security be hired to assure the safety and convenience of the residents and shop owners in the area, 2) the music be kept to a minimum and 3) suspended the one-way alleys for that time period so the people that park in this area are able to exit without having to fight through people if this is

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acceptable to the Town Marshal. Chief Administrator Carr advised only one section of Molly's Lane would be closed that being from Van Buren to Honeysuckle. Vice-President King was shocked and commented that there will be 5,000 people in those alleys and he withdrew his motion. He added that people can't leave this area now without drunks accosting them. Discussion.

President Kirlin asked Town Attorney Roberts if the application for the permit dies for a lack of a motion. Town Attorney Roberts does not see any alternative as the Council appears to be deadlocked on the issue. Councilmember Gore asked Ms. Davern if the only way she would be happy with the event is if it were held indoors. Ms. Davern agreed with this statement. Discussion.

Mr. Ryan commented that Brown County has a long history of making stupid financial decisions as in regards to commerce and he left the meeting. Ms. Davern commented that she wants Mr. Ryan's business to grow and for Brown County to succeed but she does not believe it should be at the expense of someone's safety. Councilmember Cassiday advised they would require security for the event. Discussion. Mrs. Percifield commented that she agrees with Ms. Davern on this issue.

Councilmember Gore commented regarding the growth and economy of the Town she does not want to see them shooting themselves in the foot when they have an opportunity to promote something for a one day event. Discussion.

Councilmember Cassiday moved to support the right-of-way permit for the Octoberfest on October 22, 2011 from 11:30am to 10pm with the following restrictions: security to be hired for security and traffic control, the music will be kept to a minimum and to be stopped at 9pm and the sidewalks must be clear and open at all times and no alcohol allowed on the sidewalks. Councilmember Gore seconded the motion. All were unanimously in favor of the motion.

### **3) PUBLIC HEARING – 2012 BUDGETS**

President Kirlin opened the Public Hearing on the 2012 Budget. He noted the budget has been presented to the Town Council and the Brown County Council. Clerk-Treasurer Young explained the public hearing is for anyone to ask questions about the budget. She explained the budget will not be adopted until the next Council meeting on October 20, 2011. Clerk-Treasurer Young reported the budget has also been published in the local paper and received the Brown County Council's approval which is a non-binding review. She noted after the budget is approved by the Town Council it will go to the Department of Local Government Finance for approval, denial or be cut.

President Kirlin asked two times if there was any public comment. No comments from the audience or from the Town Council. The Public Hearing was closed at 7:59pm.

### **4) ANY OTHER UNFINISHED BUSINESS OR COMMENTS THAT MAY COME BEFORE THE COUNCIL**

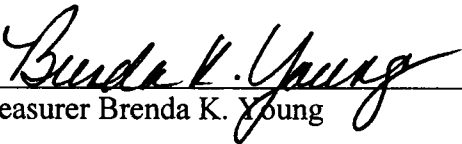
President Kirlin reported that Town Marshal Loerzel is getting a new four wheel drive Explorer for the Police Department. Town Marshal Loerzel advised there are only 41,000 miles on the vehicle.

Town Attorney Roberts reported he and Town Superintendent Bush won in small claims court against the Ormiston claim.


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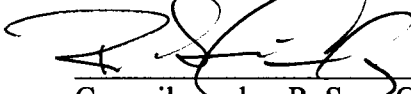
**ADJOURNMENT**

Councilmember Gore moved to adjourn the meeting. Councilmember Cassiday seconded the motion. The meeting was adjourned by President Kirlin at 8pm.

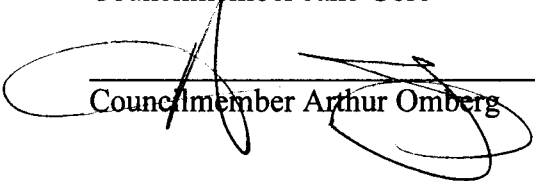
  
Clerk-Treasurer Brenda K. Young

  
President Robert Kirlin

  
Vice-President Charles B. King

  
Councilmember R. Sean Cassiday

  
Councilmember Jane Gore

  
Councilmember Arthur Omberg