

**NASHVILLE TOWN COUNCIL MEETING
THURSDAY, MAY 17, 2018**

ATTENDANCE: Council members present – President Charles B. King, Vice-President Jane Gore, Councilmember Alisha Gredy, Councilmember Arthur Omberg and Councilmember Dave Rudd. Also in attendance – Town Manager Scott Rudd, Utility Manager Sean Cassiday, Administration Manager Phyllis Carr, Clerk-Treasurer Brenda Young and Deputy Clerk-Treasurer Debbie Ferry.

COUNCIL BUSINESS – 6:30pm

1) CALL TO ORDER by Councilmember King at 6:30pm.

2) PLEDGE OF ALLEGIANCE

President King asked all in attendance to rise and recite the Pledge of Allegiance.

3) ROLL CALL by Clerk-Treasurer Young.

4) NOTES TO NOTE

President King reminded everyone to stop at stop signs even if no one is around. Also, stop for people in crosswalks and note the two new crosswalks in town.

5) APPROVAL OF THE MINUTES – 4-19-18 EXECUTIVE SESSION AND MEETING

Councilmember Omberg made a motion to approve the minutes of 4-19-18 Executive Session and meeting as presented. Vice-President Gore seconded the motion. All were unanimously in favor.

6) ACCOUNTS PAYABLE VOUCHERS

Councilmember Omberg made a motion to approve the accounts payable voucher registers for the period of 4-13-18 to 4-30-18 and for the period of 5-01-18 to 5-10-18. Councilmember Rudd seconded the motion. Vice-President Gore advised that she reviewed the claims this month. All were unanimously in favor.

Councilmember Omberg made a motion to approve the Superfleet MasterCard accounts payable voucher in the amount of \$3,635.91. Vice-President Gore seconded the motion. All were unanimously in favor.

Councilmember Omberg announced that there are several invoices for the water CIP project: ARa in the amount of \$20,000.00, Beam Longest and Neff in the amount of \$30,806.84, Reed and Sons Construction, Inc. in the amount of \$227,070.90, Utility Supply Company in the amount of \$128.00 and Utility Supply Company in the amount of \$2,604.08. Councilmember Omberg made a motion to pay all the invoices pending receipt of funds. Vice-President Gore seconded the motion. All were unanimously in favor.

7) COMMUNICATIONS

A. WRITTEN

• FRANK ROGOYSKI – B3 ZONING REVIEW

Frank Rogoyski explained he is trying to bring to light some discrepancies in the zoning regulations. He lives in an area that is zoned B3 and is trying to obtain a license for a home based business. Mr. Rogoyski read from the zoning code and explained the chart in the Code of Ordinances conflicts with the written zoning code. He advised that the Planning and Zoning Department reads this to say that he

must apply for a special exception in order to have a home based business at this location. He asked for clarification from the Town. President King advised that he is in agreement with Mr. Rogoyski and believes the B3 zoning allows for him to have a home based business without a special exception.

Town Attorney Roberts advised they have the power to amend the ordinance by repealing the section or redrafting a section to eliminate this possible conflict. He noted that it may just be a semantics issue and he would like to speak with the Planning and Zoning Director and clear it up. President King asked if the Town Council can vote now to override the Planning and Zoning Director's decision. Town Attorney Roberts advised they cannot and he sees this more as a matter of enforcement.

Councilmember Omberg made a motion to authorize Town Attorney Roberts to speak with the Planning and Zoning Director about this zoning issue. Councilmember Gredy seconded the motion. All were unanimously in favor.

- **DARLA & BRIAN FENNEMAN – WATER CREDIT REQUEST**

Administration Manager Carr reported they have received a response from the Town's insurance company concerning Mr. Fenneman's request for credit in the amount \$402.76 for his plumbing bills due to an issue created by a water leak. The insurance company denied any liability in the matter. Administration Manager Carr asked how the Council wanted her to proceed with this request. Discussion.

Utility Manager Cassiday summarized that there was a water leak at the meter and the Town fixed it. The homeowner then had problems with sand and gravel in his plumbing fixtures and their plumber said it was due to the leak at the meter. Administration Manager Carr advised that the Town's insurance company spoke with the utility worker that fixed the meter and based their decision on his report. Discussion.

Councilmember Rudd made a motion to deny the water credit request. Councilmember Gredy seconded the motion. All were unanimously in favor.

- **TOM CARDIS – REQUEST FOR TOWING REIMBURSEMENT**

Administration Manager Carr reported that Tom Cardis is requesting reimbursement for towing costs of \$125 due to the lack of notice that there was a parade in that location. Mr. Cardis parked on the north side of West Mound Street across from the house he was renting for the evening. Administration Manager Carr advised there were no posted restrictions on that side of the street. Discussion.

Councilmember Rudd made a motion to pay the towing bill. Councilmember Omberg seconded the motion. All were unanimously in favor. Councilmember Rudd and Councilmember Omberg asked that signs be put out before the next parade. Discussion.

B. AUDIENCE

- **GLENN DODGE – SEWER SERVICE REQUEST 135 N PROPERTY**

Glenn Dodge addressed the Council and explained he owns the property at 200 Orchard Hill Drive. They have lived here many years and about three years ago they purchased 1.8 acres immediately north of them. The Orchard Hill area has been annexed into the Town and the homes in this area are now hooked onto city sewer.

Mr. Dodge explained he has a three year old grandson that is a type one diabetic and his parents currently live in the County. Due to his grandson's medical condition he would like to put a modular

home on the 1.8 acres where his grandson and parents can live. Mr. Dodge has talked with INDOT to get driveway access from the highway, the Town Water and Sewer department and Health Department came out to look at the area and they were all very helpful. However, there seems to be some sort of block to allowing them to hook up to the town's sewer line. Mr. Dodge asked the Council for their help in this matter.

President King reported that the Town and Town Council are in favor of hooking the property up to the sewer however, this property is not in town limits and the regional sewer district must make this decision. Mr. Dodge offered to have the 1.8 acres annexed into the town in order to get the sewer hooked up. He noted that State law says if they are within 300 feet of an available sewer he has to hook in and he is within 300 feet. Councilmember Rudd commented that they are in agreement with Mr. Dodge and he believes that something will happen real soon.

Town Attorney Roberts advised he was at a meeting and heard the discussion about this situation. He noted that he represents the Town Council and right now the Town Council is embroiled in a multi-thousand dollar federal lawsuit for crossing an imaginary line created by state agencies. Annexation will not help in this situation and if they were to provide sewer to this location it would be an illegal act. Town Attorney Roberts reported that they will hold a work session to address this issue and some other access issues as well.

Mr. Dodge thanked the Council and Town Attorney Roberts for their work on this.

- **PEACEFULL VALLEY HERITAGE – JIM SCHULTZ**

Jim Schultz, President of the Peaceful Valley Heritage, addressed the Council concerning a preservation ordinance in Nashville and Brown County. He commented if they want to stay unique, they need to keep their historic structures. Mr. Schultz asked some if these historic homes were to be sold, what is to stop them from being demolished. There is no policy locally that requires these houses to be saved. Mr. Schultz advised that Indiana Landmarks has an ordinance that has been tested to the Supreme Court regarding preservation. He encouraged the Council to look at a serious ordinance regarding preservation of historic homes.

President King agreed that they should look at adopting a preservation ordinance for the future. Discussion. Councilmember Rudd made a motion that the Council will look into the study of Indiana Landmarks demolition ordinance and make recommendations. Vice-President Gore seconded the motion. All were unanimously in favor. Town Attorney Roberts asked that he also receive a copy of the Indiana Landmarks ordinance.

BOARDS AND COMMISSIONS REPORTS

1) BROWN COUNTY VOLUNTEER FIRE DEPARTMENT REPORT

Brown County Volunteer Fire Department Chief Nick Kelp reported there are several people starting night training to finish up their mandatory basic state certification courses.

BCVFD Chief Kelp announced they are averaging about two runs a day and this number will probably go up in October. Meanwhile they still have the same problems of not enough money and not enough people.

**2) REDEVELOPMENT COMMISSION RIVERFRONT LICENSE RENEWAL
RECOMMENDATIONS**

A. BIRDS NEST CAFÉ – 36 W. FRANKLIN STREET

Town Manager Rudd advised the Redevelopment Commission is recommending the renewal of the Riverfront License for the Birds Nest Café.

Councilmember Omberg made a motion to renew the license for the Birds Nest Café at 36 W. Franklin Street. Councilmember Rudd seconded the motion. All were unanimously in favor. President King signed the letter of recommendation to be sent to the State Alcohol and Tobacco Board.

3) DEVELOPMENT REVIEW COMMISSION REPORT

Administration Manager Carr advised that she approved one COA and one sign application in-house this month. She also reported that at Tuesday night's meeting the DRC approved two signs, three COA's and one demolition permit for the structure at 169 E. Main Street.

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

Nothing further presented.

NEW BUSINESS

**1) KARA AND CLINT HAMMES REQUEST FOR TAX ABATEMENT FOR 185 JEFFERSON
STREET SOUTH, NASHVILLE, IN COMMONLY KNOWN AS "BARNYARD SHOPS"**

Kara and Clint Hammes introduced themselves to the Council and reported they moved to Nashville in 2016 and live two miles out of Town with their two children. Mrs. Hammes advised they have an opportunity to buy the Barnyard Shops property and are working to securing financing and some other loose ends. She hopes to close on the property by the end of the summer.

Mrs. Hammes explained their plans for the Barnyard Shops would be to demolish the two current structures that are in bad shape of disrepair. They would fix the drainage issues on the property and build a single two story building that would cover approximately the area of the two current structures. Mrs. Hammes advised the lower level would be used for a couple of mixed commercial uses, one being a commercial kitchen. They are also working with another local business that wants to open an interactive kid's playspace which would also be housed in the lower level of the building. The remaining space on the lower level would be a flexible learning event activity space. Mrs. Hammes advised the second level would be used as residential or office space.

Mrs. Hammes explained the reason they are seeking tax abatement for this property is this is something new to offer both locals and tourists. She noted they are requesting a five year abatement at 100% the first two years, 75% the third year, 50% the fourth year and 25% the fifth year. Mrs. Hammes reported that the abatement will give them some breathing room in satisfying the bank requirements.

President King asked what the current taxes are on this property. Mrs. Hammes advised they are \$4,000 per year. President King commented that at least during the 100% years he would like to see that \$4,000 still be paid but anything over that he would agree to abate. Discussion. Councilmember Rudd suggested whatever the raw land value is would be the floor.

Town Attorney Roberts looked at the tax abatement statutes which may only apply to personal property tax on business and they may be going down the wrong path. He believes this is in an Economic Development Target Area which would allow tax abatement on the real estate. Town Attorney Roberts

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noted if they label this as an EDTA it will need a favorable recommendation from the Economic Development Commission before the Council can make that designation. This is the path they would need to go down if they want to be granted a tax abatement on the real estate. Discussion.

Town Manager Rudd advised the Hammes have expressed a need for some sort of confirmation or indication from the Council so they can take a letter to the bank. Mrs. Hammes reported the abatement itself would not have to be fully executed for the bank to take into account their income and expense projections. Councilmember Omberg commented that it sounds like the Council is in favor of this but they are not the entity that can get this ball rolling. Discussion.

Town Attorney Roberts offered that the Council could make a motion that they are favorably disposed to considering a tax abatement for the improvements for the property condition upon a sufficient application and meeting all the legal requirements for a tax abatement. Councilmember Omberg so moved. Councilmember Gredy seconded the motion. President King asked who will generate the letter. Town Manager Rudd advised he and Town Attorney Roberts could write the letter. President King noted that they are saying any improvements at the proposed site would be under the tax abatement at the proposed five year plan. President King asked if there were any questions before they voted on the motion.

Resident and business owner Pam Gould spoke and advised that they started their business in 1993 with a dream. She commented that it has never been easy to pay property taxes but it is her civic responsibility to do so and she has never asked for a tax abatement. Mrs. Gould noted the Hammes have a very aggressive plan and believes they can use a commissary in Nashville and agree they need to find a way to attract people with families as well. However, if a tax abatement is offered to simply reduce the risk in their personal business plan she is very opposed to that as a precedent setting maneuver. Mrs. Gould asked that in the process of analyzing abatement potential that there would be a discussion about the net benefit in terms of dollars coming in from other sources through tax revenue.

Mrs. Gould reported that the tax abatement was discussed at last night's Nashville Redevelopment Commission meeting and they were split 50/50 on making a recommendation to the Town Council for this abatement. She then read aloud a document prepared by Barnes and Thornburg LLC written in 2014 concerning a synopsis of property tax abatement in the state of Indiana. She noted that a Redevelopment Commission approval is required for abatements in a TIF district and noted that the Redevelopment Commission did not approve the abatement last night nor disapprove it. Mrs. Gould urged the Town Council to be very careful about how they deal with tax abatements and create a process for abatement. She noted when they went through the Hawthorne Hills tax abatement the Town Council promised to create a process for vetting these kinds of applications but it doesn't look like it has been done.

Resident and attorney Greg Bowes commented that he served as the Marion County assessor for four years. He encouraged the Council to consider the normal process of sharing the burden of local government expenditures. They are supposed to share the cost of local government in a fair and equal way. Mr. Bowes asked the Council to be careful about what they are losing and what they are gaining with tax abatement. He explained what they are losing is the fair distribution of the tax burden and what they might be gaining is an improved value, they will be shifting the tax burden from one person to another.

President King advised the way the motion is formed is that it is not granting the abatement but rather saying if it passes all the requirements they will approve it. President King asked if there were any

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other comments or questions and there were none. He then called for a vote on the motion. All were unanimously in favor on the motion.

Brown County Democrat Editor Sara Clifford asked if the Hammes will have to go back before the Nashville Redevelopment Commission. Town Manager Rudd advised the Council has agreed to write a letter talking about being favorably disposed, and if that is successful in helping them to secure financing and the project moves forward, at that time they would go back to the Redevelopment Commission and go through the full process. Town Manager Rudd added the process includes creating this as a target area, public hearing and Redevelopment Commission recommendation and then back to the Town Council for a vote.

2) ANY OTHER NEW BUSINESS THAT MAY COME BEFORE THE COUNCIL

Nothing further presented.

RECESS A recess was called from 7:52pm to 7:59pm

REPORTS

1) CLERK-TREASURER – BRENDA YOUNG

A. INTERNAL CONTROLS

Clerk-Treasurer Young reported that the Town is currently going through a State Board of Accounts audit. This audit is through a pilot program through the State that completes the audit through remote access. Clerk-Treasurer Young explained as a part of this audit they must recertify their internal controls training and had each Councilmember sign their recertification paperwork.

Clerk-Treasurer Young advised the Fiscal Committee will also need to meet to discuss and review their internal controls procedures. The committee agreed to meet on May 30, 2018 at 2:30pm at Town Hall.

2) TOWN MANAGER/ECONOMIC DEVELOPMENT DIRECTOR – SCOTT RUDD

A. INDOT BRIDGE & PAVING UPDATE

Town Manager Rudd reported they have met with INDOT and reviewed their 24 section improvement ideas. They are waiting on their reply on what they can and can't do. Town Manager Rudd explained their improvement requests to INDOT include: the sidewalk from the CVS to the Seasons, traffic light at the state park entrance and a bike lane from the park to Town. He understood that those improvements that INDOT cannot do in this round they will put into their technical committee process and address it later.

B. GROUND BREAKING EVENT – COMMUNITY CROSSING GRANT

Town Manager Rudd offered to do a ground breaking event and invite some folks down. He explained they want the State to keep offering grants and should celebrate every chance they can. Clerk-Treasurer Young added that AIM will come down and cover the event and promote the celebration. Town Manager Rudd asked that Utility Manager Cassiday let them know when it will be a good time to hold the event.

C. UMBAUGH AND ASSOCIATES CONTRACT

Town Manager Rudd reported that Umbaugh and Associates have proposed a new contract in which they will review the Town's cash flow process and a three to five year projection of their expenses, year end balances in all of their utilities and departments. He believes this would be helpful to continue this and advised their proposed contract is not to exceed \$6,500. Councilmember Omberg asked why they

need this. Town Manager Rudd explained if they want to see beyond one year they need to do this and it is extremely helpful to project five years out. Discussion.

Councilmember Omberg asked Clerk-Treasurer Young's opinion on this contract. Clerk-Treasurer Young commented that tax wise she is not so sure it is important for her as it is for the utility side. If the utility is doing more capital planning that would be useful to have this information. Discussion.

Councilmember Omberg made a motion to approve the proposed contract by Umbaugh not to exceed \$6,500. Vice-President Gore seconded the motion. All were unanimously in favor. Town Manager Rudd advised he would like to take the money out of the Economic Development Fund to pay this contract.

D. TOWN PARK COMMITTEE

Town Manager Rudd announced that a Park Committee has been formed with Councilmember Gredy chairing the committee and Vice-President Gore is also a member. He explained there is a grant available that the Town Council has authorized the committee to apply for and the application is due June 1, 2018. A past intern, Zach Huneck, has volunteered to write the grant application and is also on the committee.

Councilmember Gredy advised the committee has met three times and will be able to update the Council next month on the grant. She noted that they have done some grass seeding in the park. Town Manager Rudd commented that they thought they could use some dirt from the Water CIP project to fill in low spots in the park but Vice-President Gore learned they would have to do some permitting to do this. President King advised they were able to use the dirt already on-site and graded the area which now looks good.

3) UTILITY MANAGER – SEAN CASSIDAY

A. WATER CIP UPDATE

Utility Manager Cassiday reported that the Freeman Ridge water line replacement project is moving along and the contractors have laid the 8 inch line all the way down to the last two houses.

Councilmember Omberg asked about the issues with the road. Utility Manager Cassiday advised the road is falling apart based on the weight of the trucks running in and out. There are contingencies in the contract to repair the road upon completion of the water line replacement.

Utility Manager Cassiday reported they have about fifty meters that have yet to be replaced. They had a class on reading the new meters and were able to read all the new meters in about two and half hours versus four days with five guys. He believes once all the meters are in place and optimal reading locations are found they can read all the meters on the system in one and a half hours. Clerk-Treasurer Young added that with the new system they can get a 90 day history of usage and look to at what kind of water usage is going on or if there is a leak.

B. PAVING UPDATE

Utility Manager Cassiday reported they have to work out all the details on Hawthorne Street as to what all needs to be moved prior to paving. It appears that the biggest issue is with all the fiber optics in the area. He noted that AT&T is working really well with them and they will continue to work with the engineers on this project.

Utility Manager Cassiday advised they just received the announcement for the new Community Crossings paving grant available in 2019 and perhaps having two grants in 2020. The next grant application is due is August 2018. Councilmember Omberg asked about ownership of Old State Road

46. Utility Manager Cassiday advised this road does belong to the Town and he wants to get this done next year.

Utility Manager Cassiday announced that they should be receiving this year's Community Crossing paving funds for this year soon.

Vice-President Gore asked if there is any word on the curb cutting on Gould Street. Utility Manager Cassiday advised the contractor is swamped and he is talking to him once a week. He will talk to him again tomorrow and Vice-President Gore would like to talk to the contractor before he does the work.

4) ADMINISTRATION MANAGER – PHYLLIS CARR

A. COUNCIL INQUIRIES

Administration Manager Carr advised she had nothing further to report.

5) POLICE CHIEF – BEN SEASTROM

A. COUNCIL INQUIRIES

President King reported that Police Chief Seastrom is not in attendance tonight as he has worked 55 hours this week and still has three days to go.

6) TOWN ATTORNEY JIM ROBERTS

A. UPDATE ON TRAFFIC VIOLATIONS ORDINANCE

Town Attorney Roberts reported that he spoke with a person from State Board of Accounts and they are very negative on the "Mitchell/Bedford" plan of violations. A couple years ago the SBOA prepared an examiner directive and he does see a loop hole in it. Town Attorney Roberts will take a look at the statute and talk with the attorney in Mitchell to see if they have been audited. Council asked that Town Attorney Roberts take care of it.

7) ANY OTHER BUSINESS THAT MAY COME BEFORE THE COUNCIL

Brown County Democrat Editor Sara Clifford reported that she heard Town Attorney Roberts say that it is currently illegal for the Town to provide sewer service outside of its boundaries. She understands that there may be something working in the next week or so to take care of all of this, but if there isn't, is the Town still willing to provide sewer service to the Maple Leaf or is that an issue?

President King announced that they know who is to blame; the Town wants to hook them up to sewer and could have it in right now. Councilmember Omberg advised if they were to provide sewer they would provide it at our rate, they don't provide it at someone else's rate. Utility Manager Cassiday advised it would be at an out of town rate.

BC Democrat Editor Clifford asked if the Town was going to be in another dispute about territory with another utility and cost the Town even more money. Town Attorney Roberts advised they cannot legally furnish sewer service in another sewer utilities service area. Councilmember Omberg commented that he personally doesn't want to be a thorn and prevent projects from going in but they also have to look at their future growth and legal rights. They want to be partners in growth.

BC Democrat Editor Clifford asked if they have set a meeting date with the sewer board. Town Manager Rudd advised that the Brown County Regional Sewer Board has asked to meet with a couple members of the Town Council and asked the Council if they would be open to a meeting to discuss an agreement that might resolve this issue. The Council agreed and Town Manager Rudd offered that they meet Monday, May 28, 2018 at 9:30am. Councilmember Rudd and Vice-President Gore agreed to attend this meeting as well as the Town Manager and Town Attorney. Town Manager Rudd invited the

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newspaper to attend as well. Councilmember Omberg asked that Utility Manger Cassiday attend this meeting also and he agreed.

BC Democrat Editor Clifford advised she has reviewed court documents concerning the water lawsuit and advised there was an unconventional settlement being discussed and asked if they could elaborate more on the nature of this unconventional settlement. Town Attorney Roberts advised that he prefers not to discuss it at this time.

8) ADJOURNMENT

Councilmember Rudd made a motion to adjourn the meeting. Councilmember Omberg seconded the motion. President King adjourned the meeting at 8:34pm.

The audio recording made at the Town Council meeting on 5-17-18 is retained in the office of the Town Clerk-Treasurer.

Brenda Kay Young

Clerk-Treasurer Brenda K. Young

Charles B. King

President Charles B. King

Jane Gore

Vice-President Jane Gore

Alisha Greedy

Councilmember Alisha Greedy

Arthur Omberg

Councilmember Arthur Omberg

Councilmember Dave Rudd