

Town of Russiaville, Indiana  
Regular Council Meeting  
Russiaville Town Hall  
April 15, 2019

Council Present – Jeff Lipinski, Don Parvin, Rob Hewitt, Kyle Parvin, and Pat Reel. Corbin King, the town's attorney was also present.

Jeff Lipinski opened the meeting.

Jeff Lipinski gave prayer, mentioning Pat Reel's family as they are going through some difficult times. Don Parvin led everyone in the Pledge of Allegiance.

Minutes from last meeting were approved.

Streets and Wastewater – written report was given. Craig Thompson was present and said the golf cart was delivered. The tractor should be in this week, they are waiting on some mower deck parts. Craig said Dave Kieser called him and told him Baumgartner plans to start paving next week. Jeff Lipinski stated that Dave had called him as well. This is good as it should be done before Summer Fest. Craig also said that Kent Carter from Western School Corp. contacted him about testing their E. coli. Craig said he figured up how much it would cost for us to the E. coli tests, and it is \$8.00 per test. There are 2 each week, so we will charge them \$16.00 a week for E. coli tests. Kent brings the samples to Craig for him to do this. Craig said he asked Kent who was doing all the other testing that has to be done. He said there is a lab in Muncie that is charging them \$1,000.00 a month. Craig figured up what it would cost to do the rest of the testing, and just for materials would be \$152 per month. This does not include Craig's time to do the testing or anything else, this is only materials. Pat Reel asked if Kent would bring the everything to him, Craig said yes. Rob Hewitt said he did not see a problem with us doing this for the school. Craig said for us to do it he thought it would be somewhere around \$520.00 to be able to do this. Rob said this is still quite a bit less than \$1,000.00 that they were being charged now. After some discussion amongst the council, Pat Reel made a motion to do all the testing for Western School Corp. for \$600.00 a month and the Town will bill them. Rob Hewitt seconded, and the motion carried with Pat, Rob, Don, and Kyle voting for

passage. Craig said he would tell Kent Carter at Western and see if they want to have us do their testing for that.

Plan Commission – Mike Kanable was present and stated he had written one fence permit for Tiffany Ennis.

Board of Zoning Appeals – No one present to report.

TIF Board – Megan Reel said she filed the Gateway report that was due April 15th.

Russiaville Historical Society – Jan Koloszar said that her and Myrna Claar recently met to do some talking and planning. They also had gone through some totes that were in the attic. They are still working on things.

Park and Tree Board – Jill Newby was present and said they had started paving the recreational trail last Wednesday, but then it started raining. Not much done yet. Jill said the fence around Brady Park had some vandalism, they got a quote for a new fence for \$2,200.00 from AAA Fence. This will fix the fence, and extend the fence to be a little bit bigger area. The fence will be taller (48”), it will also be a little bit heavier fence with the black rubber coating on it. They will start this the week of April 22<sup>nd</sup>.

Jill said community Day (senior day) is May 9<sup>th</sup> (rain date May 10<sup>th</sup>) – she is still in need of jobs/projects for them to do. They need them soon as they need to put the schedule together. Jill has taken forms to all the businesses, and Reba Casler reaches out to all the senior citizen from past that have had them do things to see if they need help this year. Megan Reel will make sure it is on the sign.

Rick Homkes said we received a letter saying that the Town has been recognized again to be Tree City USA for the 11<sup>th</sup> year.

Rick also said the trail signage and artwork grant continues. Rick said he has been spending money out of that for species markers and distance markers.

Summer Fest – Don Parvin said he was contacted about adding another line to the power, but he needed to get with Rhiannon about this.

Marshal's Dept. – A written report was given. Randy Vannatter was present to report adding the opening day little league parade was coming up on April 27<sup>th</sup> at 9am.

The tornado sirens have been working well. He thinks the new one is “fantastic” it is extremely loud and doing good.

Pat Reel asked if EMA would help with the baseball parade. Randy said he has 7 units coming, plus some of the deputies.

Treasurer's Report – reports were given. Megan Reel had nothing to add.

Dave Kieser – Dave is not present, but called Jeff Lipinski and told him the road paving should be done in the next 2 weeks. Dave also told Jeff that he had had one conversation with Duke Energy about the lighting that would go along State Rd 26 (lighting grant).

Jeff asked Pat Reel about the energy efficiency grant he and Dave are working on. Pat said there was nothing to report yet other than it could include the Town Hall, the Police Station, and the maintenance building behind the Town Hall.

Don Parvin said he and Megan had met with Dave, there was one issue that was brought up during this meeting that Dave said he could address. Organizing all the ordinances and having a quick reference for them to be able to look things up easier. Also, to have a reference page for anything associated with any kind of fees. We could also have this put on the website for people to look at and print forms. Dave Kieser said he could do this for \$2,500.00. Don Parvin made a motion for Dave Kieser to do what is stated above for \$2,500.00. Pat Reel seconded, and the motion carried with Don, Pat, Rob, and Kyle voting for passage.

New London project – Ethel Morgan was present, and stated they had tested the pipe to make sure there were no issues. It did not pass, so they dug up a section, and had a problem with one piece of pipe. They have repaired it, and they will test it again this week.

Ethel had pay application # 5 in the amount of \$77,659.51 for Davidson Excavating for the work that was completed in March. Colleen is also here from Mendenhall with the SRF disbursement request forms for this pay application. She gave paperwork as to where the grant funds were and the local match.

Pat Reel said Howard County Highway had been working on "Shepherd's Lake" along 750 W. – water is no longer there. This takes care of their issue.

Don Parvin made a motion to accept the pay application # 5. Kyle Parvin seconded, and the motion carried with Don, Kyle, Rob, and Pat voting for passage.

Pat Reel asked if the issue with the pipe will set them back in completion of the project. Ethel said she thought they were still on target as of right now. They have until June 15<sup>th</sup>. This included the demolition of the plant.

Walking Trail – has already been talked about. Don Parvin suggested we move this item up to be included with Dave Kieser as he is working on this. Don said when the weather permits the trail will get finished. We cannot control mother nature, but we are doing the best we can to get it done.

Ordinance 2018-11 – Don Parvin is still working on.

645/647 E. Kinsey Dr. – Thomas White from Davis, McDonald, and White is present to represent Leonard and Karen Ricci (645 E. Kinsey Dr.) – they were also present. Ken Dunnuck (owner of 647 E. Kinsey Dr.) and Vincent and Kelley Hale (living at 647 E. Kinsey Dr. presently) are also here. This matter was first discussed in January at the council meeting. Mr. White said that in the January meeting there was a reference that this was a civil matter, and it was also referenced that if the council could do something about this matter they would. Marshal Vannatter had also pointed out in the January meeting it was a civil matter.

Mr. White said in some regard it is a civil matter, ultimately, he feels from his perspective it is a property right matter. He had done some lien fee research into the title work including a letter that he had from Moore Title that had evaluated the property, and determined there is no right-of-way, there is no easement and no access that has been reserved on the deeds for property rights. Mr. White said, so at this point, it is there position that any use of that drive, by anyone other than the Ricci's, is trespassing.

Mr. White said there have been a lot of problems developing, lots of phone calls, as Marshal Vannatter can probably indicate, he has been going out to the area to resolve disputes, and torn up grass, etc. He said, what they understand to be the case is that the Hale's moved in a continued to use that drive, and if they cannot

access it in the way that they wish they may drive thru the grass at the Ricci's. Mr. White said he was not going to get into disparaging allegations, he is saying there is a very hotly contested issue here that the Hale's have spoken to Mr. Dunnuck about. There have been some efforts though to try to find a resolution to it. Mr. White comes today with a suggestion of a resolution.

In the letter from Moore Title, there is reference as to whether or not Fourth Street could be used as proposed in January, he is looking for a way to resolve this without substantial litigation and cost. Mr. White said it is not clear what the interest of the Dunnuck's and the Hale's is, but he said he and the Ricci's interest is very clear, that any use of the driveway is trespassing.

Mr. White would like the Town to help them by putting in an access on Fourth Street for 647 E. Kinsey Dr. Pat Reel pointed out that there was a lift station in this area. Mr. White said it could be put south of the lift station. He had maps for the council to look at for a visual of the properties. Don Parvin asked about the town's easement, referencing the map. He feels this should have went to court and not brought back to the board over and over. Don asked Mr. White, if this went in front of a judge and there has been access to this property (as a shared driveway) prior to this, what are the chances of you winning in court. This is a past precedence.

Mr. White is proposing to put gravel on the south side of the lift station for the access to 647 E. Kinsey Dr. and would like the town to say they can do this. Don Parvin asked who will pay for this? Mr. White said the cost of gravel is the least of his worries, this can be worked out. He said the Ricci's can block off the driveway as it is their property. There was more discussion about putting in an access south of the lift station off of Fourth Street, and not incurring any cost for the town. The ability to do this as far as the town is concerned is all that Mr. White is asking for. He would just like to see the citizens involved spend hundreds of dollars for gravel versus thousands of dollars in litigation and court costs.

Vincent Hale said the driveway was used by both the front house and the back house for 13 years prior to him moving in with no problems. He said if they put an access to his property off of Fourth Street there would be a shed that would have to be moved and a tree taken down, and he is not willing to pay for anything. Mr. Hale's address is 647 E. Kinsey Dr. Kelley Hale said their house was built first and it should be their driveway. She stated the reason the grass was tore up was because Mr. Ricci had his truck parked half way in the driveway so they had no choice but to go around it and into the grass. They would not move

it. Mr. Hale continued by saying there are always things in the drive or at the access to the drive to keep them from making the turn into it. This is why the police have been called several times.

Mr. Hale expressed his concern about the ambulance getting to them down there. Kyle Parvin asked Mr. Hale if they agreed to the Fourth Street access, would he use it. Mrs. Hale said they signed a contract that it is the way it sits.

Don Parvin asked Mr. Dunnuck what his thoughts were. Mr. Dunnuck does not feel he should have to pay for this access and all that would go with it. He stated the house on the west side of Fourth Street parks on the road as they do not have a driveway. There was some more discussion, and Don Parvin said he did not understand why this continues to come to the town council when he feels it should be settled in court.

Corbin King said it doesn't sound to him like there is an agreement at all. Mr. White has a proposal but the Dunnucks and the Hales are not on board with it. Mr. King feels the council needs some sort of assurance that if they decide to take any action, that it will resolve this matter. Corbin said that from what he is hearing, the suggestion may be good but if the parties involved are not agreeing to it, we are all wasting our time here.

Mr. White stated that he had went down to where Fourth Street dead ends, he said there was a car parked in the grass, and no one should be parking on a public street. He does not understand why Fourth Street is not the mode of preference. He said his clients (the Ricci's) are willing to absorb the cost of some gravel, but what he wants from the town is clarity as to whether or not this can be done. Mr. White stated Moore Title says the Dunnucks and Hales have no legal right to the Ricci's property, therefore, if they want to block the driveway they can. Mr. White wants the town to take a vote on this issue.

Jeff Lipinski asked Corbin King what his advice on this matter is. Mr. King said he appreciates the opportunity to try to be helpful to the parties involved and come up with a solution, but from what he is hearing, if we put the gravel in off of Fourth Street, the Hale's are still going to use the driveway off of Kinsey Dr. If we tell them they can put the gravel in, and the Hale's still going use the drive off Kinsey they are going to be right back in court. He said if the town id going to be helpful with this, he needs for the parties involved to help the town. Today there is nothing to vote on.

Mr. White said the issue is not whether or not there is an agreement, the issue is whether the Town of Russiaville will allow these folks to pay for gravel from the free back to the south of the lift station.

Don Parvin said the parties involved are not agreeing to any of this, so it is a waste of money that they are not going to use if we would do this. This is still a legal matter in his opinion, council says we could be willing to work this out, but the parties in the back are not willing to utilize it so it is a waste of time and a waste of money. We have been hearing about this for months.

Mr. White said, so what I am hearing from the board is there is no reason why gravel could not be used in that section to access Fourth Street. Don Parvin said, what you are hearing from me is that they are not going to utilize it. Rob Hewitt said he is not going to allow gravel to be laid through there if the Hale's won't use it. Mr. White said, but if tomorrow the Ricci's put a fence up, and the Hale's can't go through are we going to be right back here. Kyle Parvin said they would have to get a permit for that fence.

Corbin King said this is not our deal. We are giving you a forum, but this is a civil matter. We have heard it, we have asked for you to come up with an agreement, we are willing to help out, but there is nothing worked out.

Mr. White said he would like to be clear in the minutes for Marshal Vannatter, that any unauthorized access to that is considered trespass. Marshal Vannatter said until you get something signed by a judge, I am not putting anyone on trespass. You give me something on paper I will go down there and do so, but until then I am neutral in it. You cannot block emergency vehicles from going back there.

Mr. White said neutral does not mean that we cannot block it, it means you stay out of it entirely.

Corbin King address Mr. White saying there is a way to get injunctive relief now to help the town out. We have a problem, and they are not agreeing to this. If we put the gravel down, and if they do not use it, we have the same problem. We have done what you said, and it hasn't resolved the problem. Marshall Vannatter said I am tired and the county is tired of this situation.

Pat Reel asked Mr. Hale if there is a reason, he would not use a driveway off of Fourth Street. He said he cannot make the turn with his trailer down there. There is a shed there and there are usually 3 cars that park on the road in the evenings as they do not have a driveway. He does not understand why he has to move his driveway as there has not been an issue in the past.

Ned Sutherland was present and said RCO (Russiaville Community Outreach) had a health and information fair at the community center. They had very good vendors, it was a full house for vendors. The attendance was light, but it was the first year.

They are also doing mentoring with Bridges, and this has been good this year with mentors working with mentees at Western.

They have also started recovery for addicted and that has been going good too.

Ned said that Darlene and Rick Homkes have been doing a great job on all of this. Rick Homkes said the attendance at the health fair was 75 people – they were hope for 100. He stated they has Purdue pharmacy was there and had drug bags to be able to return/neutralize drugs.

Linda Schermer added by saying they had questionnaires from the vendors as to what to make better for future events, and they received good feedback from that.

Rick added there was some good press in the Kokomo Perspective regarding the pollinator gardens and them working with the Purdue Master Gardeners and the library.

There being no further business to be brought before the council, and no more comments from council or guests, the claims were presented and approved.

Pat Reel made a motion to adjourn the meeting. Kyle Parvin seconded, and the meeting came to an end.

Jeff Lipinski, President

Megan Reel, Clerk Treasurer