



**MINUTES**  
**Winfield Town Council Meeting**  
**Meeting date: Tuesday, February 25th, 2020**

**Call to Order:** A meeting of the Winfield Town Council was held at the Winfield Government Center, 10645 Randolph Street, Winfield, Indiana on February 25th, 2020. The meeting convened at 6:34 PM. The Pledge of Allegiance was recited.

Rick Anderson conducted roll call:

**Members in attendance:** Dave Anderson, Tim Clayton, and Jon Derwinski

**Members not in attendance:** Gerald Stiener and Zack Beaver

**Also in attendance:** Rick Anderson, Clerk-Treasurer; Attorney David Austgen from Austgen Kuiper Jasaitis P.C.; Nick Bellar, Town Administrator/Planning and Zoning Administrator; Mike Duffy, Town Engineer; Anthony Clark, Public Works Director; Dan Ball, Town Marshal; and Jason Gikas, LOFS Fire Chief

**APPROVAL OF MINUTES:**

Tim Clayton entertained a motion to approve the minutes of the Joint Sewer Board and Town Council Executive Session of January 28, 2020, Town Council Executive Session of February 11, 2020 and regular Town Council Meetings of January 28, 2020 and February 11, 2020. Dave Anderson made the motion to approve the minutes, Jon Derwinski seconded the motion. The minutes were approved as presented by a vote of 3-0.

**STAFF REPORTS:**

- Nick Bellar stated so far this year they have had 12 new home permits pulled already for the year. Both the BZA and Plan Commission have appointed their officers, things are quiet right now for both. Currently he is pursuing funding from the Little Calumet River Basin Development Commission for a culvert project at Grand Boulevard and 109<sup>th</sup> Avenue.
- Anthony Clark, Public Works Director, stated things are going well, the plow drivers are out maintaining the road now during this latest snow storm.
- Town Marshal, Dan Ball, submitted his monthly stats in writing. He reported Deputy Helmecy is in his last week of training, he will start out on his own next week. Next week they will also move to a different schedule now that they have enough full-time deputies to cover the shifts. They will each be working 8 hour shifts. They have six cars up and running so there is one for the part-timers to use as well. He has reduced the part-time staff since there are not enough hours for them with the coverage of the full-timers. In January the Lake County Sheriff Department was involved in a pursuit, they asked Officer Benton for assistance as he was the only K9 Officer on duty in Lake County. Officer Benton responded to their call. Lake County was able to apprehend the suspect without the assistance of Tank but were very thankful of Officer Benton responding to help with the situation.



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- Jason Gikas, LOFS Fire Chief, reported they had 51 calls for the town and 107 calls for the whole service area in January. They have a joint fundraiser with the Lions Club coming up, the Polar Plunge on February 29<sup>th</sup>. Dan Ball said their rookie officer will be joining them. Jason said their annual Fireman's Ball is also coming up in March. Currently they are working on switching over to new software that will improve their preplanning and mapping for the trucks for businesses in the area. It will take about a full year before it will go into effect. Neighboring communities use the same program.

**PUBLIC COMMENTS (Agenda Items):**

Sarah Gulley, employee at Boz'z Place located at 8281 E. 109<sup>th</sup> Ave., stated they are ready to work on doing what they need to for compliance with the new smoking ban but they are not sure they will be able to complete the necessary work in time. She is wondering about the grey area of when it will be in effect, she read the town would be willing to work with the businesses to give them time or an extension. Tim Clayton said it does go into effect on April 1<sup>st</sup>. Dave Anderson said if they do have an issue getting everything together, they can contact Nick Bellar at the Town Hall and they can arrange a meeting to go over what they plan to do. Sarah said they do have an outdoor seating area they want to convert but she doesn't know if she will be able to get it all done before April 1<sup>st</sup>. She said the area they have now is visible from the street and would probably require a taller fence, they still have to talk to the landlord about changes and will most likely have to pull a permit too. Nick Bellar asked what is the expectation of the Council as he imagines this will happen more than once. Dave Anderson said in his opinion it should probably be a case by case basis, if a business is willing to make an effort to make changes but has a time issue, they can work with the business owner. Tim Clayton said as long as plans are moving forward and don't become stagnant. Dave appreciated Sarah coming to them tonight to discuss it. Sarah said she will be in contact with Nick. She also has concerns about people standing in front of the building in the parking lot that would become a nuisance to the other tenants, they would prefer to be able to send people out the back door.

**CITIZEN REQUESTING PLACEMENT ON AGENDA (Non-related to the Agenda):**

***Terry Clark, 6504 E. 129<sup>th</sup> Ave., Town Council's decision on adoption of Smoke Free Regulations as it relates to the business owners and patrons in Winfield.***

Terry wanted to first clarify that her request is a little different than what is stated on the agenda and she didn't want any miscommunication. Kim Wachowski informed Terry all the Councilmembers have a copy of her original request. The request was summarized to fit onto the agenda. Terry said she wanted to bring to their attention the concerns on the health hazards for the people here in Winfield. Health hazards were a big discussion item at the last meeting regarding smoking and she would briefly like to talk about the other health hazards currently here in town just along Randolph Street including the gas stations with toxic vapors from gasoline and unhealthy products they sell in their store, the nail salon has toxic fumes, the fast food places like Pizza Hut and McDonald's sells unhealthy food, the car auto repair shop has toxic fumes people can breathe in while waiting on their cars, the dentist office has x-ray radiation and possible anesthesia. She stated this can all sound very ridiculous but that is her point. She said she tried to ask what the job description is for the Town Council but did not get a response, what she found according to State Statute says their powers and duties are to adopt resolutions and ordinances for the performance



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and function of the town. She does not see how smoking or non-smoking can be justified as a performance of the town. She stated everything on the agenda tonight has to do with the town, the smoking ordinance has to do with business owners and she is not sure it is justified for the Council to tell the business owners how to run their business. She is aware it has been done before, the town did not like a certain massage parlor and passed an ordinance to block massage parlors, but that massage parlor was grandfathered in, they were not asked to change or close down. After that ordinance Moda Beauty Bar has a menu of massages they offer but she does not see how that is allowed. She stated there was no consideration after all of the business owners came to the Council with petitions and statistics and pleaded about how they have tried before to go non-smoking and how it affected their business. There was no consideration to grandfather them in. She is not saying she does not have respect for the work this Council does for this town; she knows it is very hard work but there is a limit on what they can ask businesses to do. She was surprised after hearing Sarah's comments and now it seems like they might change the ordinance or the date and it's a grey area. She believes the ordinance should be amended and these businesses should be grandfathered in. The businesses have been here for a long time and have paid taxes for a long time, now the town is driving their businesses down and asking them to spend more money. She stated Valparaiso allows smoking but businesses are required to get a permit to allow smoking and asked why that was not considered. She said they did not even get to hear the full ordinance at the last meeting. She continued that when they are talking about the powers and duties of the Town Council they are talking about the ordinances for the performance and function of the town, what does smoking or non-smoking have to do with the function of the town; that is a personal preference. Every bar offers a non-smoking area which is usually outside which is where they want everyone to go now and all the smoking patrons that want to go to bars will leave this town to do so. She wanted to bring to the Council's attention that to the general public, it did not seem like there was any other consideration for this ordinance.

**SPECIAL ACTIONS:**

**1. *Public Hearing for Re-Establishment of Cumulative Capital Development.***

Rick Anderson stated this is for the Town Marshal program. Every year they have the ability to reestablish it up to \$.05 which is the maximum tax rate for this fund. This year the tax levy in this fund is \$218,000 by adopting this ordinance they would see an increase of \$20,000-\$30,000 a year on that levy which continues to assist the Marshal to operate. Rick also noted this public hearing has been properly published and advertised.

Tim Clayton opened the Public Hearing at 6:54p.m.

Terry Clark, 6504 E. 129<sup>th</sup> Ave., asked if they could explain what this is. Rick Anderson explained over twenty years ago the town established a Cumulative Capital Development Fund, traditionally it was implemented to provide general funding for the town for its needs, building, equipment, other capital related items. About sixteen years ago the State Legislature opened it up to be used for all public services or any governmental use. When the town switched from contracting police protection with the Lake County Sheriff to create our Marshal Department and had to build our own police force from the ground up; we have used this solely on the Town Marshal program. We also use the small portion the town gets from the public safety tax which is about \$43,000 a year for the program but it is not enough to run a whole department off of. The town is not allowed to raise their general fund tax rate; it actually goes



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down every year as the town develops which places more of a burden on the Marshal's department. By reestablishing this each year, it allows him to continue to maintain his department. Rick explained they would have to lay off employees if they did not do this. Terry asked if this has to be done every year. Rick said in the past they would let it go every two or three years to accumulate a higher amount, but now that they have gone from 3 to 5 full-timers, he has to be more aggressive. Some communities reestablish the fund every year, other communities might not be aware they are allowed to do so. Terry asked why do they keep hiring more people. Rick stated they always have the money before they do hire more people and this is the procedure that allows them to do that and they discuss it every year. Terry asked if they ever did not do this there would be no more police or fire. Rick explained they would not be able to expand the department or if there was ever a significant increase in expenses like fuel or insurance, they would have to let people go.

After no further comments Tim Clayton closed the Public Hearing at 6:58p.m.

**2. Ordinance 304, Re-Establishment of Cumulative Capital Development Fund.**

Dave Anderson made the motion to approve Ordinance 304, Re-Establishment of Cumulative Capital Development Fund in title only on first reading. Jon Derwinski seconded the motion, the motion carried with all in favor 3-0. Dave Anderson made the motion to suspend the rules and hear Ordinance 304 on second reading. Rick Anderson conducted a roll call vote; Dave Anderson, yes, Jon Derwinski, yes, Tim Clayton, yes. Dave Anderson made the motion to adopt Ordinance 304 in title only on second reading. Jon Derwinski seconded the motion, the motion carried with all in favor 3-0.

**UNFINISHED/DEFERRED BUSINESS:**

**1. Consideration of Change Order #2, Gariup Construction, Jerry Ross Sidewalk.**

Rick Anderson stated Mike Duffy has been reviewing this for the past few months with the contractor and they have finally reached their final reconciliation on the change order to close this project out. The final amount came to \$12,947.60. Mike Duffy explained some of the changes were from a storm water perspective that they ran into and quantities in material, which is typical for this type of project. Dave Anderson made the motion to approved Change Order #2 to Gariup Construction for the Jerry Ross Sidewalk in the amount of \$12,947.60. Jon Derwinski seconded the motion. Tim Clayton asked if there is a change order for Storm Water Board as well. Mike said it is contained in this amount, Rick will have a separate amount from this that will go to the Storm Water Board. Rick indicated to Tim which amount would go to the Storm Water Board. After no further discussion, the motion carried with all in favor 3-0.

**2. Consideration of Pay Application #2, Gariup Construction, Jerry Ross Sidewalk.**

Rick stated this closes out the project. He explained the town will approve of the total pay application but the cost will be split between the town and the Storm Water Board. The town's amount will be \$58,210.45 and the Storm Water portion will be \$25,352.85. Jon Derwinski made the motion to approve Pay Application #2 to Gariup Construction for the Jerry Ross Sidewalk in the total amount of \$83,563.30. Dave Anderson seconded the motion, the motion carried with all in favor 3-0.



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**NEW BUSINESS:**

**1. *Consideration of Favorable Recommendation from the Plan Commission for Performance Bond Reduction for Latitude Phase 1.***

Rick Anderson said this is based on the work that has been completed in Phase 1 of Latitude subdivision. Mike said this is down to the 30% threshold, they have less work to do but cannot go any lower per Ordinance. Jon Derwinski motioned to accept the recommendation from the Plan Commission reduction of the Latitude Phase 1 Performance Bond in the amount of \$493,334.41. Dave Anderson seconded the motion, the motion carried with all in favor 3-0.

**2. *Consideration of Favorable Recommendation from the Plan Commission for Release of Latitude Offsite Watermain Performance Bond.***

Rick stated they completed the installation of the offsite watermain. Mike Duffy stated Indiana American Water have accepted ownership of the watermain for taps, they have satisfied their performance requirement. Dave Anderson made the motion to accept the recommendation from the Plan Commission for the Release of Latitude Offsite Watermain Performance Bond. Jon Derwinski seconded the motion, the motion carried with all in favor 3-0.

**3. *Resolution 2020-2, Declaration of March as Disability Awareness Month in the Town of Winfield.***

Rick Anderson stated this is a Resolution they have adopted of the past four years. Kim Wachowski explained in the past they have held events to raise awareness however they were not always well attended. This year they plan to raise awareness more through social media. Last year they received good feedback just from posting information on ADA related local Ordinances. Continuing on this mode will help get the word out. Dave Anderson made the motion to approve Resolution 2020-2, Declaring March as Disability Awareness Month in the Town of Winfield. Jon Derwinski seconded the motion, the motion carried with all in favor 3-0.

**4. *Ordinance 302 B, Amendment to 2020 Salary Ordinance for Non-Elected Employees.***

Rick Anderson explained they have a new employee that needs to be pension (PERF) exempt, they already receive benefits from another municipality. That position being changed is a PERF covered position, this does not change the salary. It will save the town about 14.2% which is what the rate is for the town. This creates a maintenance full-time exempt hourly position. Dave Anderson made the motion to approve Ordinance 302 B, Amendment to 2020 Salary Ordinance for Non-Elected Employees, in title only on first reading. Jon Derwinski seconded the motion, the motion carried with all in favor 3-0. Dave Anderson made the motion to suspend the rules and hear Ordinance 302 B on second reading, Jon Derwinski seconded the motion. Rick Anderson conducted a roll call vote; Jon Derwinski, yes; Dave Anderson, yes; Tim Clayton, yes. Dave Anderson made the motion to adopt Ordinance 302 B in title only on second reading. Jon Derwinski seconded the motion, the motion carried with all in favor 3-0.

**TREASURERS REPORT:**

Rick Anderson reported he filed the annual report on the Gateway website. He is also still reviewing the TIF District parcel by parcel going back to when it was established. He has completed the debt affirmation on Gateway as well so all outstanding debt is up to date. Rick noted the town garbage service contract is



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expiring at the end of March and they are getting word that rates will be going up. They have a proposal for an extension that is higher than they hoped but this new rate reflects the challenges with exporting recyclables; the town will now have to start paying recycling fees. He does not believe anyone wants to get rid of recycling but he will continue to work with the vendor on this. Currently the rate is \$14.60, the town bills out \$14.80 to cover the cost of postage. The proposal for the extension is coming in at \$18.48 which means the town will need to charge close to \$19 to cover postage. Dave Anderson asked if they checked with neighboring municipalities to see what they are getting. Rick stated it seems like everyone is getting a higher rate. Attorney Austgen stated other municipalities would love to get the rate the town has been proposed, theirs are all coming in much higher from the same vendor. Rick said they have heard \$20-\$22 for most communities. Rick stated Jim Metros is willing to come out to talk with the town on the new contract. Dave Anderson said he would like to discuss this with him. Tim Clayton stated he is aware the Lake County Solid Waste Board has done away with some of their recycling programs because the cost of everything is going up. Tim will get further information from them to help spread the word to the residents on how to properly recycle and they are willing to come out to speak with residents as well. Attorney Austgen asked Rick to explain further the TIF District issue he mentioned at the beginning of his report. Rick stated he is unsure who is to blame at this point or if anyone else is having a similar issue, but some newer commercial parcels appear to not be TIF-ed properly. He is working with Lake County to review each parcel.

Rick then presented the Treasurer's Report through January 31, 2020 and routine claims-to-date in the amount of \$338,069.36. Tim Clayton entertained a motion to pay the claims. Dave Anderson made a motion to pay the claims in the amount of \$338,069.36. Jon Derwinski seconded the motion. After no further discussion the motion carried with all in favor 3-0.

**ANNOUNCEMENTS:** Tim Clayton noted the upcoming meetings.

Mike Duffy informed the Council they do have an executed contract for their next round of paving with Reith Riley. Rick has submitted the appropriate documentation to the State. Mike said it will still be awhile until they can start due to the weather. Rick also noted INDOT condensed their timeline for project submittals which means there's a chance some communities have not submitted their work in time and their project funding will go back to INDOT's Community Crossing Fund which gives the town an opportunity to ask for more funding.

Tony Clark asked if the culvert that runs parallel to 109<sup>th</sup> Avenue on State Street will be replaced when they do the road work on State Street. Mike stated they will assess all of the culverts on all of those segments of roads that will be addressed.



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**ADJOURNMENT:**

Tim Clayton entertained a motion to adjourn the meeting. Dave Anderson made a motion to adjourn and it was seconded by Jon Derwinski. All were in favor, the motion carried 3-0. The meeting adjourned at 7:17 p.m.

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Gerald Stiener  
Town Council President

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Richard C. Anderson, Jr.  
Clerk-Treasurer

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Kim Wachowski  
Recording Secretary

Date of Approval \_\_\_\_\_