

Battle Ground Town Council
Meeting Minutes, September 10, 2018

Attending: Steve Egly, Council President; Councilors Greg Jones, James Miller, Zach Raderstorf, Clerk Treasurer Georgia Jones, Town Attorney Eric Burns, Street Supervisor Ron Holladay, Town Marshal Jerry Burk. Mike Bird did not attend.

Guests: Laurel Branstrator, Melinda Antell, Joanne Kuhn Titolo, Steve Hancock, Jay Marks, Bill Jones, Angela Bisher, Sheila Riley, David Bisher, Joe Wade, Jason Skeel, Lisa Carpenter, Rebecca A Fassnacht, Becky Holladay, Mary Jo Totten, Carol Watson, Ron Evans, Buffy Rogers.

Budget Hearing

At 6:00 p.m. Steve Egly announced the public hearing to consider the civil town budget for 2019.

Motion by Greg Jones to open the hearing. Second of Zach Raderstorf. Motion carried. 4 Aye 0 Nay.

Clerk Georgia Jones read aloud the advertised funds and levy amounts from Budget Form 3. A copy of the proposed budget and a five-year fund analysis was available to all. (copy attached)

Balances in the cumulative funds and current use of reserve funds to supplement General Fund revenue were reviewed. When there were no further questions, Zach Raderstorf **moved** to close the hearing.

Second of Greg Jones, motion carried. 4 Aye 0 Nay.

The budget adoption will be October 8, 2018 at 6:00 p.m. at Town Hall.

At 6:20 p.m. the September public meeting of the Battle Ground Town Council was called to order.

Guest Comment

Conservancy Land Transfer

David Bisher, Chief of Tippecanoe Township Volunteer Fire Department introduced the department officers and five uniformed fire volunteers in attendance. They were there to emphasize the importance and impact of a water tower on the town's water supply, particularly for fire protection. He spoke to the Council's involvement with the delay of the Conservancy's water tower project. The department gave an official request to the Council to cooperate with the Conservancy to resolve issues with land ownership and assets, in order to expedite the construction of a larger replacement tower that will better serve the community.

Chief Bisher also requested that no action be taken to prematurely take Tower #1 out of service. The existing configuration of pumps would supply water for residential use, but fire protection would be compromised. The low pressure situation could cause a boil order any time the hydrants are used. It is costly to local schools and businesses to wait the minimum 48 hours for testing results. He stated the Conservancy board has expertise in municipal water supply and questions why the Council is avoiding cooperation. He repeated the fire department request for the Council to work together with the Conservancy to get the new tower online as quickly as possible.

Steve Egly stated there are several things going on. One is the petition against financing of the water tower, which was filed by residents and the council is not directly involved. Second is the issue of

ownership of land assets. The Council has been talking about the land transfer since March. There was a meeting in June to negotiate a workable agreement, but afterwards the agreement was modified and the council needs time to make a decision about accepting the requested change. Jim Miller commented that attorneys for both parties have agreed that assets including land should have been transferred at the time the Conservancy was created.

Mary Jo Totten, Angela Bisher, Rebecca Holladay, Laurel Branstrator and Rebecca Fassnacht expressed concern individually that town leadership needs to work out agreements so the town does not suffer due to delays of the tower project. Residents asked in various ways, what value does the land parcel have to the town, and what is the point of refusing to cooperate when the safety and water supply of the town residents hangs in the balance.

Motion by Jim Miller that the town council "assign immediately to the Conservancy what they are entitled to" (regarding the land assets that were not transferred per court order in 1977). Motion died for lack of second.

Jim Miller referenced town resolution 18-92 and asked why the Council has become involved with water utility business at this time, when it has historically "shied away" from involvement with Conservancy issues. Town of Battle Ground Resolution 18-92 authorizes a legal review of the Conservancy, wherein the council takes a position of investigation to accomplish absorbing or dissolving the Conservancy. He questions the expense for this activity, estimated at \$25,000. He cited the qualifications of the Conservancy supervisor and Directors and said they don't need oversight from the Council.

Steve Egly spoke to the attorney fees mentioned. The council hired the law firm Taft Stettinius & Hollister to investigate the possibility to absorb, dissolve or merge with the Conservancy. The town decision on the land transfer is contingent on the findings of the attorney for merging and the DLGF finding regarding the petition against lease financing.

The petitioners against the lease were heard August 20 by counsel from The Department of Local Government Financing (DLGF). Georgia Jones disagreed with Steve Egly's assertion that the town is not involved in the petition. Because the Town Council hired an attorney to be party to the petition, to receive information and offer rebuttal information, it has taken a formal position against the Conservancy. This delays the financing hearing decision, in addition to other delays related to land asset transfer.

Multiple guests at the meeting brought questions about the condition of the old tower, project timeline, cost of options for other tower scenarios and cost of liability if the old tower fails before the replacement is operating. Extended discussion focused on financing and that anticipated debt can be accomplished with current tax levy, no additional tax is required. Another concern is that major delay in the project timeline pushes construction out an additional year with potential increased costs of construction and financing.

Joanne Titolo said the petitioners only questioned the financing for the tower and are not against the construction of a tower.

Rebecca Fassnacht, Angela Bisher, Mary Jo Totten, Rebecca Holladay, David Bisher, Steve Hancock and Laurel Branstrator expressed the opinion that financing is a separate issue from the land ownership question.

Steve Egly said the council would not act on the land transfer because the diagram for division of the parcel was changed after the meeting of representatives from Conservancy and Council. Georgia Jones explained there was misunderstanding about the request sent from the Water Superintendent about the amount of land desired for future expansion or replacement of wells. It made sense to incorporate that land at this time instead of repeating the process in the future. The change was from approximately 3 acres to approximately 7.5 acres, other aspects of the agreement remain the same. The guests in attendance did not agree with or understand the hesitation of the council to accept this change and move on with the transfer.

Dave Bisher and Laurel Branstrator each asked what value the land in question has to the Council. Another location for the tower would require land to be purchased and increase the project cost. In their view, the difference in the two parcel sizes at the well field location seems insignificant.

Angela Bisher asked the council why Resolution 18-92 and other actions at the August 27 special meeting were not announced or made known by reading the resolution or providing copies to the public in attendance at the meeting. The meeting was called to arrange for an attorney to investigate the Conservancy. Becky Holladay and others believe the expenditure on attorneys is unnecessary and that the transfer of land to the Conservancy is appropriate. Steve Egly said the attorney fees are in part due to the request made by the Town Council to investigate dissolving the Conservancy. Jim Miller objected to this action, saying it is wrong to take a position that blackmails the Conservancy for the land rights.

Jason Skeel requested a direct answer to the question of why the land transfer is held up. Steve Egly said that in light of the investigation to dissolve the Conservancy, they are waiting because there may be no reason to transfer the land. There was no estimate when this decision might be made. Laurel Branstrator suggested the question to merge should be relegated to another point in time and addressed separately from the tower construction process as it presents a delay of unknown duration.

Attorney Eric Burns commented that the requested change in acreage is reasonable to review and renegotiate. The transfer of land is necessary for lease financing, and if the lease is not approved, the transfer is not required. In response to guest comment about the expense to investigate dissolution of the Conservancy, Burns commented it may help answer questions whether a Conservancy makes financial sense for a town the size of Battle Ground.

Laurel Branstrator and others expressed comments doubting the ability of the town council to operate a water utility given the specialized skills needed, and do not see operational indication that warrants dissolution of a functioning organization. At this time there is no data to indicate any significant savings from merging. It was mentioned that in a previous meeting the council proposed hiring a town manager. Zach Raderstorf said a town manager is necessary to manage everything. Bill Jones opposes adding administrative expense to the General Fund due to insufficient revenue in that budget to cover salary and benefits.

Carol Watson shared that she attended a Town Council meeting in December 2016 when the Conservancy approached the Council for the first time to request cooperation for use of the well field location and to conduct a geotechnical survey to determine suitability. Carol shared the situation from the viewpoint of the Conservancy as well as a town resident. Steve Egly apologized to Carol for the lack of response to the initial request for geotechnical survey at the North Railroad well field.

Motion by Steve Egly that the town council agrees to access for a geotechnical survey at the well field site. Second of Zach Raderstorf, motion carried. 3 Aye 1 Nay. Jim Miller objects on the basis that the Conservancy shouldn't have to ask permission to access to land it should already own.

Bill Jones, Tippecanoe Township Trustee, presented the Council a Resolution from the Tippecanoe Township Board declaring the water tower (on Winans St) a public safety emergency. The Board places responsibility for continued water supply on the Town Council and "requests the town immediately complete the 1977 court order by transferring all water assets to the Conservancy, including adequate land to build the new tower and expand the well area for future growth." The resolution also requests an insurance verification that if the tower and land belongs to the town, do they have insurance if the tower fails that the assets of the fire station are covered. (Resolution attached.)

James Miller commented that the town's position on absorbing the Conservancy is not based on any studies. He has advocated for a consultant to review pros and cons of all town and utility systems with a fair and unbiased viewpoint. Miller asked Steve Egly if he believes a third party review would be a way to resolve the dichotomy between the two organizations. Steve agrees with a study but mentions the time it would require. To avoid delay of tower construction, Miller advocates moving ahead with land transfer and putting the study in place for future decisions regarding merging the utilities.

Motion by Jim Miller to retain a third party to review all town functions and organization in conjunction with conveying all property to which the Conservancy has a legal right regarding the water towers and other system assets. Motion died for lack of second. Greg Jones asked for clarification in two motions.

Motion by James Miller to interview a third party to review town organization and functions for efficiencies. Second of Greg Jones. Motion carried, 4 Aye 0 Nay

Motion by James Miller to grant to the Conservancy the land it is entitled to, referencing the request submitted at the August 13 meeting. Motion died for lack of second. Clarification requested by James, for the reason the town is resisting transferring any land. Steve said if DLGF finds the lease is not appropriate, the transfer is not necessary.

Susan Greene spoke to the importance of water and how hard it is to understand this disagreement over land. When water supply is so vital to the community, how does a few acres of land equal out?

Jim Miller offered to amend his motion to clarify the land issue to make a more precise motion for the acreage and other land specifics. Steve Egly declined, saying until the DLGF decision is made, the transfer is not advised. Bill Jones commented that if the lease finance on a tax rate is declined, there are other financing options, therefore the transfer of land would not be dependent on the DLGF decision.

Georgia Jones thanked guests for input and stated that the council business agenda should commence but all guests are welcomed to continue their conversation at the Conservancy board meeting on September 19.

Butler, Fairman & Seufert Project Reports

Dave Buck reviewed details of the 600 Hill pavement testing and findings. The testing found the pavement is not as thick as required by bid specifications, has air voids and the stabilization was not

consistent in the centerline. That area is weak and prone to cracks. The current centerline crack is not acceptable and the council considered what the effect might be on pavement life and maintenance costs. The estimated cost in present dollars for premature failure of the pavement is expected in the range \$16,000 - 33,000. The attorney mentioned that the council has two years from the date of construction, until 2019, to make a decision what to do with this information.

Community Crossings Matching Grant project recommendations were discussed. The priorities reviewed total \$1,320,000.00 and would require local match funds \$330,225.

- Project #1 S Railroad St from Prophet Street to town limits, \$144,600
*Cold in-place recycling, concurrent with a county project to save mobilization costs.
Drainage improvements are not included.*
- Project #2 Battleview North and Warrior Drive and Warrior Ct; \$498,000.00
Pavement repair/replace, curbs, sidewalks, drives
- Project #3 College Street \$424,900
Pavement, existing sidewalks
- Project #4 West Street \$252,600
Pavement, existing sidewalk

Applications close September 28. It is good to have multiple projects. If grant funds run low, some could be awarded even if not all are selected. A special meeting will be called to work out the final projects for applications to be timely submitted. Steve Egly asked if BF&S would provide cost detail for the Crack Seal and Total Patch projects, Dave said the town's ERC must be present during the upload but his company would provide the information.

Waste Hauling

Melinda Antell with Waste Management is interested in the discussion of the waste hauling contract.

James Miller asked to address Trash Hauling Bids at this time instead of waiting for old business. Zach Raderstorf presented information on four bids received. Three bids are deemed responsible and responsive to the bid specifications, Waste Management was lowest bid for both 5 year and 3 year contract alternates.

Motion by James Miller to accept the lowest bid, three-year contract from Waste Management for \$13.85 per month the first year based on 700 units. Second of Zach Raderstorf, motion carried. 4 Aye, 0 Nay. **Motion** by Greg Jones to accept an alternate bid to allow residents to keep their current 64 gallon trash totes if they wish. Second of Jim Miller, motion carried. 4 Aye, 0 Nay.

Street Department

Ron Holladay reports projects completed including brush chipping (approx. 10 hrs/week), painting the bumpouts on North Street, relocating a picnic table to the corner at North and Railroad, and placing new plastic trash cans on North Street. The current cans are rusted on the bottom.

Motion by Steve Egly to approve up to an additional \$10.00 for previously approved crack seal product. Second of Zach Raderstorf, motion carried. 4 Aye, 0 Nay.

Police

Town Marshal Jerry Burk reports complaints that Speedway is allowing trucks to camp in their driveway. The noise is a problem for residents in Quail Ridge.

Ordinance violations for grass height are noted. The purchase of cameras for the vehicles and rifles for the vehicles will be completed soon. The annual purchase of ammunition for inventory will be made this month.

The sidewalk in front of the elementary school is heaving, making an unsafe section that needs attention. Jerry will contact the school administration.

Town Attorney

The hearing for the unsafe building will be in early October, after which begins a 30-day appeal period. There is potential for an agreed order, which is more expedient than the receiver process to reach the desired result. A judge would appoint the receiver. The estimate for demolition is \$400,000.

Clerk-Treasurer

Motion by Greg Jones to approve minutes of August 13 and August 27. Second of Zach Raderstorf, motion carried. 3 Aye, 0 Nay, 1 Abstain. James Miller did not attend the August 27 meeting and abstains from voting.

Motion to approve register of claims, \$ 171,893.69, August 14 to September 10, 2018 by Greg Jones, with second of Zach Raderstorf. Motion carried. 4 Aye, 0 Nay.

Motion by Steve Egly to approve the invoice from Huston Electric for Northgate lift station, \$6700.00. Second of James Miller, motion carried. 4 Aye 0 Nay.

The additional appropriation of funds to complete 2017-2018 Community Crossings invoices has been advertised, and Resolution 18-93 approves the following appropriations:

- 302 Local Road and Bridge Matching Grant.....\$153,410.00
- 233 Local Law Enforcement\$6,000.00
- 301 Federal Grant.....\$14,746.00

Motion to approve Resolution 18-93 by James Miller, with second of Greg Jones. Motion carried. 4 Aye, 0 Nay.

Area Plan

Greg Jones reports that Area Plan will be looking at highway zoning for Battle Ground and Dayton, possibly easing restrictions to encourage development.

Committees

Communication – no report

Personnel– no report

Streets and Roads – CCMG applications were discussed previously.

Sidewalks - Greg Jones returned calls to Don Pritchard but was unable to make contact regarding sidewalk repairs. James Miller recommended using a sidewalk study or master plan concept to help place repairs on a schedule and address problem areas particularly around the schools. Ron Holladay added that developing an annual budget for sidewalks would help answer questions of homeowners who approach the town for sidewalk repair. Jerry Burk knows Otterbein has a reimbursement price per-foot that lets residents know how much the town can provide to assist homeowners with sidewalk repair.

Guest comments were made regarding the priority of sidewalk safety in the neighborhoods, and that a plan would be appropriate to guide development. Greg Jones said the council does not have time to do this. Dave Bisher mentioned participating on a committee for sidewalks years ago, and he, Angela Bisher and Becky Dunker all thought the community would come together if the opportunity was open to work on a sidewalk plan. James Miller believes a committee of community members has strong merit.

Old Business

Animal Ordinance

Ordinance 2018-571 was advertised according to statute, "An Ordinance Licensing and Regulating the Keeping of Domestic Animals Within the Town of Battel Ground, Tippecanoe County, Indiana and Providing the Penalties for Violation Thereof" and heard on first reading on August 13. The ordinance was summarized for the guests in attendance, covering pet registration and nuisances caused by pets and other animals. This ordinance updates fines for subsequent offenses and changes the wording prohibiting barnyard animals. The word "fowl" was replaced with "rooster", and chickens are not specifically prohibited. The ordinance allows for enforcement when nuisances are reported for continual barking, dogs chasing people or bicycles, or odors associated with animals.


Motion by Zack Raderstorf to adopt Ordinance 2018-571 on second reading. Second of Greg Jones. Motion carried. 3 Aye, 1 Nay. Jim Miller objects on the grounds that the ordinance promotes economic discrimination due to the addition of a requirement for residential lot size.

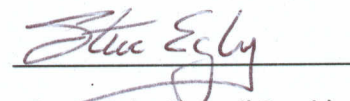
New Business

Radar speed control

Greg Jones inquired of Area Plan for project money to provide radar speed control at the schools. There may be something available in Safe Roads to School funding, which will be reported after the next Area Plan meeting.

Motion to adjourn 9:27 p.m. by Steve Egly, second of James Miller.


Georgia Jones, Clerk Treasurer


Steve Egly, Council President