

# NEW WHITELAND TOWN COUNCIL

June 2, 2020  
MEETING MINUTES

Town Council President John Perrin opened the meeting at 5:00 p.m. with the pledge to the American flag. Council members present were Scott Alspach, John Schilawski, Mike Rogier and John Perrin. Also present were Attorney Lee Robbins and Clerk-Treasurer Maribeth Alspach. Councilman Schilawski offered the opening prayer. Councilman Frank Vaughn was absent.

## MINUTES

Councilman Schilawski moves to approve the minutes of the May 19<sup>th</sup> meeting and is seconded by Councilman Rogier. **Vote 4 affirmative.**

## HARDSHIPS / ADJUSTMENTS

None.

## TREASURER'S REPORT

Clerk-Treasurer Alspach presents copies of the Fund Report and Docket for approval for June 2<sup>nd</sup>. Councilman Rogier moves to approve and ratify all reports and is seconded by Councilman Alspach. **Vote 4 affirmative.**

## OPEN TO THE PUBLIC

None.

## OLD BUSINESS

2020 Street Work Bid Result Update

Attorney Robbins states we received five (5) sealed bids for the 2020 Community Crossing Street Repair Work. Robbins adds that Baumgartner appeared to have the low bid at \$759,132.80. Upon a thorough review by both Attorney Robbins and PW Supt. McCauslin it was discovered that Baumgartner's bid packet was missing three (3) items that were required in our bid specifications and instructions:

- 1) The bid did not include a list of their equipment (required by State Form 96)
- 2) The Certificate of Insurance was not submitted
- 3) Their Employee Drug Testing Program was not submitted (State requirement under Title 36)

Attorney Robbins explains that the next lowest bid was submitted by Harding Group and is \$94,000 higher of which New Whiteland's share will be \$23,500. Harding Group did comply with all requirements and instructions in our bid specifications. Robbins adds that Adam Hornaday with Baumgartner did email him the missing documents once he was notified that his bid was incomplete. Robbins states that while they do have a drug testing program, it does not comply with the State requirements.

Robbins states the Council has the following options:

- 1) Deem Baumgartner's bid to be responsive and award contract to Baumgartner as lowest responsive bidder.
- 2) Deem Baumgartner's bid to be non-responsive. In which event the Harding Group's bid would be the lowest responsive bid and contract would then be awarded to Harding.
- 3) Reject all bids and start over. Doing this could result in higher bids, there is no way of knowing.



Councilman Alspach asks if all of the other bids complied with our instructions. Attorney Robbins states he did not look at all of the other bids, he went to the next lowest and found it to be in compliance and did not review the others.

Attorney Robbins explains that responsiveness means they complied with our instructions. The Town Council has the discretion to waive irregularities, however this would require waiving three (3) defects. Robbins questions whether the Council has authority to waive a State requirement for the drug testing program. Even if Baumgartner had submitted the missing items in their original bid packet they still would not have been in compliance because their drug testing program does not comply with statutory requirements under Title 4.

Councilman Rogier says we cannot deviate from State requirements and risk litigation. Councilman Schilawski agrees and adds that we have a moral and ethical responsibility to our constituents to abide by our specifications and instructions as well as any State requirements.

Councilman Alspach states the bid submitted by Baumgartner fails to comply with the instructions to bidders and all applicable statutes pertaining to the award of public works projects and moves to reject the bid as non-responsive. Councilman Rogier seconds the motion. **Vote 4 affirmative.**

Jason Schwark, sales manager for Baumgartner states they have done hundreds of contracts for the State and other municipalities and have never been required to submit the documents that were missing from their bid packet. They are reviewing their drug testing program. While they are disappointed, they appreciate the discussion and respect the council's decision. Adam Hornaday is also present and thanks the council for their consideration and states they will be bidding on future projects in New Whiteland.

Councilman Schilawski moves to award the 2020 Street Work contract to Harding Group for the base bid amount of \$853,251.40 and Alternate #4 for \$5,900.00. Councilman Rogier seconds the motion. **Vote 4 affirmative.**

#### COVID-19 Policy

PW Supt. McCauslin states that one of the recent Executive Orders from the Governor requires us to have a written COVID-19 policy. McCauslin and Attorney Robbins have drafted a policy for the council to consider. Councilman Rogier moves to adopt the policy for all town employees and is seconded by Councilman Alspach. **Vote 4 affirmative.**

#### NEW BUSINESS

##### Insurance Renewals

Clerk-Treasurer Alspach states we have received the renewal on our Property, Casualty, Liability and Cyber policies. We are seeing an approximate 6% increase in premium. On the employee benefits side our renewal with Anthem reflects a 2.7% increase in premium and our dental, vision and life insurance policies are holding the rates for another year.

Councilmen have all received copies of the renewals. Councilman Schilawski moves to approve both renewals and is seconded by Councilman Alspach. **Vote 4 affirmative.**

##### Return to Work Restrictions

Council discusses return to work restrictions for Police Chief Rynerson following surgery. Councilman Rogier moves to adopt these restrictions:

- 1) Cannot return to work while on any prescribed pain medications



- 2) Cannot drive town owned vehicle while on pain medications
- 3) Cannot carry town issued weapon until physician releases to return to full duty
- 4) Will do administrative / office work only until released to full duty
- 5) Will wear street clothes, no uniform or badge until released to full duty

Councilman Schilawski seconds the motion. **Vote 4 affirmative.**

Date to reopen the offices – tabled until June 16<sup>th</sup> meeting. There is some discussion on a slow reopening with limited hours or by appointment only. All work is being done and our residents are being served even with the offices closed to the public. Offices remain closed however appointments can be scheduled if a customer or resident needs to come into the offices for service.

#### Slow Children at Play

The town received an email from a resident asking for signage on Willark to caution drivers to slow down as there are 13 children on that street and no sidewalks so they walk, ride bikes and play in the street. Council discusses cost for signs – PW Supt McCauslin states the sign itself will only cost around \$18 but the break-away post and sleeve to put the sign on runs around \$200. This item is taken under consideration.

Basketball courts and playgrounds will remain closed until further notice. Council will follow the Governor's order. The disc golf course remains open.

#### Archive Social

Clerk-Treasurer Alspach has been approached by a company who offers archiving services for social media. The only social media we have is Facebook and there has been some discussion about shutting that down once the pandemic is over. The service runs about \$200 per month and is being used by both Franklin and Bargserville. Council directs Attorney Robbins to look into the requirements for archiving social media.

### LEGISLATIVE BUSINESS

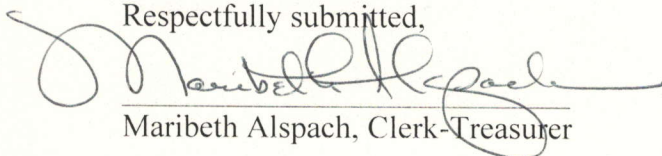
#### Ordinance 2020-11

Attorney Robbins presents and explains the ordinance that addresses non-recurring charges. Councilman Rogier moves to approve the ordinance on first reading and is seconded by Councilman Schilawski. **Vote 4 affirmative.**

Attorney Robbins will notice a public hearing for the June 16<sup>th</sup> meeting when the ordinance will be heard on final reading.

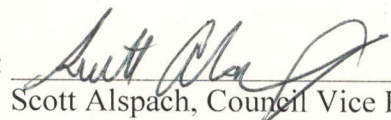
Being no further business, the meeting was adjourned at 6:35 p.m.

Respectfully submitted,



Maribeth Alspach, Clerk-Treasurer

Approved:



Scott Alspach, Council Vice President