

AVON TOWN COUNCIL MEETING

April 14, 2011

7:00pm

Avon Town Council Chamber
6570 E US Hwy 36, Avon, Indiana

Call to Order was given by Council Vice-President Beverley Austin.

Roll Call was taken by Sharon Howell, Clerk-Treasurer. Council members present were Dave Jackson, Greg Zusan, and Beverley Austin. Tom Klein, Town Manager, and Dan Taylor, Town Attorney was also present.

Proclamation: Arbor Day

Tom Klein spoke about Avon being a Tree City USA Community. Arbor Day is April 29th this year. The Town's event will be at Pine Tree Elementary School where five trees will be planted with the students. Motion was made by Council member Jackson to adopt the proclamation for Arbor Day. Motion was seconded by Council member Zusan. Roll call vote:

D. Jackson-for, G. Zusan-for, N. Gordy-absent, B. Austin-for, M. Rogers-absent
3-for, 0-against. Motion carried.

Consent Agenda

Council member Jackson made a motion to adopt the consent agenda that included the following:

03-31-11 Check Register

Change Order #11: US 36/Dan Jones Project

Change Order #3: 200 South/Dan Jones Road

Contract for Schneider Corp. for Design of Left Turn Lane on Dan Jones at CSX

Contract for Beechwood Drainage Design

WCCD Relocation Agreement for CR 200 North and Dan Jones Road Project

Authorization to Purchase Right of Way

Council member Zusan seconded the motion. Roll call vote was taken.

D. Jackson-for, Nikki Gordy-absent, G. Zusan-for, B. Austin-for, M. Rogers-absent
3-for, 0-against. Motion carried.

Public Comment

There was no one coming forward from the public to comment.

Council Comment

No comments were made.

New Business

Relocation of Duke Power Lines at CR 200 North and Dan Jones Road Project

Ryan Cannon updated the Council on this relocation. In 2010 the Town Council approved a utility relocation agreement with Duke Energy. Duke has requested that the Town pay them in advance of completing the relocation and INDOT does not require this since it is a reimbursable expense. Duke has also requested that the Town execute additional agreements. In an April 8th memo to Council staff indicated that in order to keep this project on the July letting the Town Council would need to action if necessary, at the April 14th Town Council meeting otherwise the INDOT submission deadline will pass. After meeting with Duke; Duke is willing to proceed with relocation project accepting payment up front of 20% of the estimated relocation cost of \$260,640.00; providing that the Town is willing to pay Duke the remaining actual cost of the relocation when the work is completed and within 45 days of being invoiced. Staff is requesting

that the Council except the terms of the email received from Duke subject to the Town Attorney's approval; and allow the Clerk-Treasurer to make a payment for the Town's 20%. Council member Zusan asked if INDOT (Indiana Department of Transportation) was happy with this; because of the change of policy. Mr. Cannon responded that INDOT does not pay any upfront costs; because their position is that it is a reimbursable expense. Staff's indication from INDOT is that they do not have objection to this process; and that it is between the Town and Duke Energy. The Town would be fully reimbursed by INDOT.

Council member Jackson asked if the process is...they do the work, we pay for that work; and we get reimbursed by INDOT; not INDOT to Duke?

Staff responded that the Town pays Duke and then INDOT reimburses the Town. If the timing is right, the Town will actually submit that to INDOT and get INDOT's reimbursement before we make the payment to Duke.

Motion was made by Council member Zusan to approve the City/County Reimbursement Agreement Des No. 0800405 between the Town of Avon and Duke Energy subject to our reviewing the agreement; as well as authorizing the Clerk-Treasurer to make the 20% payment. The motion was seconded by Council member Jackson. Roll call vote was taken.

D. Jackson-for, G. Zusan-for, N. Gordy-absent, B. Austin-for, M. Rogers-absent
3-for, 0-against. Motion carried.

Resolution

Resolution 2011-11: Fiscal Plan for Ordinance 2011-01: Annex Properties Known as Northwest Farms Phase III

Tom Klein presented. This is the next step in annexing the property. The annexation ordinance has been introduced and the public hearing has been held. This is the fiscal plan which is required to be adopted before the final adoption of the annexation ordinance. That ordinance is on the agenda for consideration. This is similar to other annexations of agricultural property. There is an abated property, so there is not tax revenue coming into the Town, but it is an annexation for planning purposes.

Council member Jackson made a motion to adopt Resolution 2011-11: Adoption of Fiscal Plan for Ordinance 2011-01. Council member Zusan seconded. Roll call:

D. Jackson-for, G. Zusan-for, N. Gordy-absent, B. Austin-for, M. Rogers-absent
3-for, 0-against. Motion carried.

Ordinances

Final Adoption: Ordinance 2011-01: Annex Properties Known as Northwest Farms Phase III

Tom Klein presented. This is the ordinance for annexation for which the fiscal plan was just adopted.

Motion was made by Council member Zusan to approve Ordinance 2011-01: An Ordinance to Annex Properties Known as Northwest Farms Phase III.

D. Jackson-for, G. Zusan-for, N. Gordy-absent, B. Austin-for, M. Rogers-absent
3-for, 0-against. Motion carried.

Final Adoption: Ordinance 2011-05: Sanders Commitment Modification

Dan Taylor, Town Attorney presented for planner, Al Salzman. This case comes to the Council with an unfavorable recommendation from the Plan Commission. This case involves a commitment modification on the Sanders PUD case. After the Plan Commission meeting planning and building staff, the Town attorney, and the petitioner met and tried to work out some issues other than what was originally proposed. Discussions resulted in the development of proposed language acceptable to both the petitioner and the Town.

Council member Zusan made a motion to approve PUD(A) 11-01 Sanders PUD/Reagan Crossing Commitment Modification which would be Ordinance 2011-05 An Ordinance of the Town of Avon to Modify the Commitments of the Sanders PUD District. Council member Jackson seconded the motion. Roll call vote was taken.

D, Jackson-for, G. Zusan-for, N. Gordy-absent, B. Austin-for, M. Rogers-absent
3-for, 0-against Motion carried.

Legal Counsel Report

Dan Taylor, the Town Attorney reviewed process of oral arguments, review and decisions before the Supreme Court as it pertains to the water case.

Public Comment

No one from the public came forward to comment.

Adjournment