

AVON TOWN COUNCIL MEETING

December 20, 2018

7:00pm

Avon Town Hall

6570 E US Hwy 36, Avon Indiana

Call to Order was made by Council President Aaron Tevebaugh.

Roll Call was taken by Town Manager, Tom Klein. Council members present were Marcus Turner, Steve Eisenbarth, Aaron Tevebaugh, Bev Stafford and Greg Zusan. Tom Klein, Town Manager and Dan Taylor, Town Attorney, were also present.

Swearing In Ceremony for Assistant Police Chief Dave Margason

Lt. Margason was recognized for his service and was appointed to Assistant Chief of the Avon Police Department by Chief Stoops

Recognizing Beverley Stafford for Service on the Town Council

Beverley Stafford was recognized for service on the Town Council. She served on the Town Council for twelve years. Ms. Stafford's term ends on December 31, 2018.

Consent Agenda

12/20/18 Check Register

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Public Comment

Diane Mason, 6308 Timber Climb Drive, commented that she was cut short at the last meeting and escorted out because she wanted to add additional comments. She stated that the whole issue of Fairwood was that the people did not want a PUD. She asked for an explanation of the difference between a PUD and R1A. She stated that there was a time limit and some were allowed to rattle on at the last meeting. She thanked Council for their time and stated that she hoped the new Council will look at things differently and listen to the people.

Rian Wathen, 1480 Laurel Oak Drive, thanked Council members that voted against the Fairwood PUD proposal. He appreciates the diligence put into that decision. He is very satisfied with the outcome and stated now we have a chance to have the first traditionally zoned subdivision in Avon in a long time. He added that the petitioner has filed a petition to go ahead with an R1A and noted that it is important that we not only follow the R1A, but all of the ordinances. He asked that their attention be drawn to Chapter 25, the signature street ordinance. He read the ordinance. He said the plan submitted by the developer does not comply with the signature streets ordinance. It is his understanding that at the 12/6/18 Council meeting and in subsequent communications, the Town has taken the position that signature streets do not apply to Dan Jones south of 200. He firmly disagrees with this assessment and the logic it is based on. He stated the map this is based off of is incorrect. The map is distorted and does not accurately reflect the streets it covers. He stated that in the original staff report prepared by Jodi Dickey, she repeatedly referenced the signature street ordinance as being applicable to that section of Dan Jones Rd. To accept that it is not applicable now, we must believe that Ms. Dickey was incorrect in August and after being the Planning Director for five years she did not have a basic understanding of one of our simplest Ordinances. He finds the explanation to be unreasonable. He believes she did understand the ordinance correctly and it does apply to that section of Dan Jones Road. The new interpretation of signature streets does not seem to be based on any solid reasoning. Instead, it feels like a last-minute accommodation to the developer because he chose not to extend the

subdivision far enough north to allow for two entrances that meet the half mile restriction. We do not need to bend or twist the zoning ordinances. If the developer wants two entrances inside the half mile restriction, he must apply for a waiver and go through the waiver process. On January 28, 2019, the plans for the Fairwood R1A neighborhood go before the Plan Commission. He encouraged them to enforce the requirements of the signature street ordinance for that subdivision.

Tom Klein encouraged anyone that disputes the interpretation of the Zoning Ordinance to file an appeal through the Board of Zoning Appeals. Mr. Klein has asked Ms. Dickey to provide a written interpretation. Residents have 30 days to appeal once the written interpretation is provided. Mark Downey stated that he is a retired professional engineer and land surveyor with active status. He is concerned that the selection of the consultant for the zoning and subdivision control ordinance is a conflict of interest. HWC drives a significant portion of their revenue from developers. Indiana Code IC35-44 and Indiana Code 5-16 addresses conflict of interest as does other statutes and rules. The remedy is disclosure. He asked if HWC has disclosed the amount of revenue they receive from developers and compare it to fees they will receive from the Town. He believes that their larger developer fees will bias them in the duties for the Town. Their new ordinances will favor the developer and will probably lesson the controls of the current ordinances. His involvement with HWC was associated with a recent proposed Fieldstone development where they represented the developer and proposed 7,000 sq ft. lots. They even proposed eliminating approximately 15 acres of existing natural wooded areas and using that land to place their storm water retention ponds freeing up more homesites for the developer. The first page of the Town's website boasts to be the first community in Hendricks County to be a Tree City and the Town's statement that they take pride in preserving the natural environment. This development has stalled but shows standards that were favored by HWC to support the developer and not the Town. For the record, he has provided an email with these comments to both the developers attorney and to the Planning Director prior to the public meeting for Fieldstone prior to submittal to the Town. His written issues were not addressed or made a part of the public meeting and he was told he could not ask more than one question at the meeting. Unfortunately, his asking them to clarify their date of submittal to the Town was labelled as one question. He thanked Council for allowing his comments to be heard.

Jack Mason, 6208 Timber Climb Drive, stated that last week he was really disappointed when someone did not provide their address for whatever reason they thought was important. Until then, the Council has always shut down people and said they want the address stated. He was disappointed and believes commenters should state their name and address or they should not be allowed to talk. He stated they were strict on the time limit to speak and one lady spoke much longer and was allowed to go over the limit and to criticize everyone. He believes Council should have not allowed her to go over the time limit. He hopes the new Council will put someone else in charge and change things around.

Council Comment/Liaison Reports

Council member provided updates on meetings they have attended. Everyone thanked Ms. Stafford for her service.

New Business

Selection of Consultant for Updating the Zoning Ordinance and Subdivision Control Ordinance

Requests were sent to six firms with proposals being received from only two firms. The selection committee consisted of five people. The selection committee recommends approval of the selection of HWC Engineering with 11th Street Development to perform updates to the Avon Zoning and Subdivision Control Ordinances. Discussion was held regarding who would be on the committee. Council member Zusan added that he believes that we are doing this because of the

PUD issue and added that we need to get our stakeholders involved. He wants this done right and wants to eliminate the adversarial relationship that has been created in our community. Council member Turner added that it has been his experience that most engineering firms do develop work for developers as well as municipals. He asked if the team were planners. Council member Stafford responded that they were planners and had a lot of experience. Cory Whitesell, with HWC, said they are excited to be part of this. He added that it is important to look at this from an economic development standpoint. They look at how you blend all of the needs for the city. He added he is an engineer but he does community planning work. The team is dominated by planners and they blend in the technical issues for the community. A meeting was set for January 9, 2018 at 7:00 p.m. with Mr. Whitesell.

Council member Eisenbarth made a motion to approve the selection of HWC with 11th Street Development to update the Avon Zoning and Subdivision Control Ordinances. Council member Stafford seconded the motion

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for 5-for, 0-against, Motion carried 5-0.

Approval of Contract for Flashing Beacons Design

Staff recommends approval of the contract with Shrewsbury and Associates for not to exceed \$25,960 to complete the preliminary engineering for the School Flashing Beacon project. Council member Turner made a motion to approve the contract with Shrewsbury and Associates for not to exceed \$25,960. Ryan Cannon explained how this will work in the school zones. Council member Zusan seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for 5-for, 0-against, Motion carried 5-0.

Resolution

Resolution 2018-25: Approving INDOT Mileage Certification Change Request

Every year we have to do a recertification to INDOT to add additional mileage. This is typically for new developments or if we have had an annexation or have widened a road adding additional lanes. All this trigger additional funding for the Town. Council member Zusan made a motion to approve Resolution 2018-25 as presented. Council member Eisenbarth seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for 5-for, 0-against, Motion carried 5-0.

Resolution 2018-26: Authorization to fill Vacancy in Public Works

Ryan Cannon asked to fill his administrative assistant position. Council member Eisenbarth made a motion to adopt Resolution 2018-26. Council member Stafford seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for 5-for, 0-against, Motion carried 5-0.

Resolution 2018-27: Authorization to Increase Pay of an Employee

Asst. Chief Nugent stated that Asst. Chief Margason has assumed his new duties and they are requesting his new salary for the last two weeks of 2018. Council member Zusan made a motion to approve Resolution 2018-27 for the Asst. Chief. Council member Turner seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for 5-for, 0-against, Motion carried 5-0.

Resolution 2018-28: Approval of Creation of the Ronald Reagan Parkway Economic Development Area

This is the last step in the process of creating the Ronald Reagan Parkway EDA. The Redevelopment Commission has held the public hearing. Council member Turner made a motion to adopt Resolution 2018-18. Council member Eisenbarth seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for

5-for, 0-against, Motion carried 5-0.

Ordinance

Final Reading: Ordinance 2018-23: Registration of Underground Utility Excavation Contractors

Council member Stafford made a motion to approve Ordinance 2018-23. Council member Turner seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Final Reading: Ordinance 2018-24: Amending Building Code for Advanced Structural Components

Council member Turner made a motion to adopt Ordinance 2018-24. Council member Eisenbarth seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Final Reading: Ordinance 2018-25: Amending Procedure for Soliciting Quotes for Public Works Projects.

Council member Eisenbarth made a motion to approve Ordinance 2018-25. Council member Stafford seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Final Reading Ordinance 2018-26: Requiring Employee Drug Testing Policy for Bidders on Certain Public Works Projects

Council member Stafford made a motion to approve Ordinance 2018-26. Council member Zusan seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Final Reading: Ordinance 2018-27: 2018 Holidays

Council member Zusan discussed holidays being used as "floating holidays" for civilian employees. Council member Eisenbarth made a motion to approve Ordinance 2018-27 as presented. Council member Turner seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-against
4-for, 1-against, Motion carried 4-1.

Final Reading: Ordinance 2018-28: 2019 Salaries and Benefits

Council member Turner made a motion to approve Ordinance 2018-28. Council member Stafford seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Final Reading: Ordinance 2018-29: Amendment to Direct Sellers Fee

Council member Turner made a motion to approve Ordinance 2018-29. Council member Eisenbarth seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Final Reading: Ordinance 2018-30: Amending Rules for Underground Utilities

Council member Stafford made a motion to approve Ordinance 2018-30. Council member Eisenbarth seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for
5-for, 0-against, Motion carried 5-0.

Suspension of Rules for Introduction and Final Reading: Ordinance 2018-31: End of Year Re-appropriation Ordinance

Council member Stafford made a motion to suspend the rules for Ordinance 2018-31. Council member Turner seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for 5-for, 0-against, Motion carried 5-0.

Discussion was held on various funds and expenses. Council member Eisenbarth made a motion to approve Ordinance 2018-31 as presented. Council member Turner seconded the motion.

M. Turner-for, S. Eisenbarth-for, A. Tevebaugh-for, B. Stafford-for, G. Zusan-for 5-for, 0-against, Motion carried 5-0.

Legal Counsel Report

There was nothing to report. Mr. Taylor thanked Ms. Stafford for her service.

Public Comment

Chief Stoops thanked Council for the support that has been given to the Police Department. He also thanked Mr. Taylor, Mr. Klein and their staff and Ms. Stafford for her service.

Council Calendar & Adjournment

1/9 – Work Session Meeting

1/10 – Organizational Meeting