

New Carlisle Town Council

124 E. Michigan Street, New Carlisle, Indiana
General Meeting, December 28, 2011

President Higgins called the meeting to order with Vice President Colpitts, Council Member Groves, Council Member Gelow, Council Member Vojtko and Clerk-Treasurer Sue Moffitt present. Also in attendance: Roger Nawrot, Pat Cummings, Ken Davis, Ken Carter, Josh Schweizer, Jamie Middlebrook, James Atherton, Kevin Machias, Rachel Machias, Bob Middlebrook, Mary Countryman, Jill Doll, Mike Shilts, Davy Doll, Lisa Crawford and Jayna Keigley

The meeting was opened with the Pledge of Allegiance.

Minutes

Council Member Vojtko moved to accept the minutes of the December 13, 2011 Executive Session . Seconded by Council Member Groves the motion passed unanimously.

Council Member Groves moved to accept the minutes of the December 13, 2011 General Meeting. The motion was seconded by Council Member Vojtko and passed unanimously.

Recognition of Visitors

President Higgins welcomed the visitors in attendance.

Employee Reports

None

Old Business

None

New Business

- Setting of Date for 1st Meeting in January.

The first meeting in January was set for January 3, 2011 at 5 PM.

- CEDIT Plan

Indiana Code requires that the Town have a Capital Improvement Plan designating the use for CEDIT funds to receive those funds.

Council Member Gelow moved to approve the designation of CEDIT monies for the continuation of the Town Sidewalk Installation and Replacement Program that was implemented in 2010. The plan is intended for the calendar years 2012 through 2015. Upon a second from Council Member Vojtko the motion passed unanimously.

- Encumbrance

Vice President Colpitts moved to allow the encumbrance of \$55,000, Purchase Order #8037, for the purchase of Park Land as follows:

Parks	\$15,000.00
MVH	\$40,000.00

Council Member Gelow seconded the motion which passed unanimously.

Ordinances and Resolutions

- Ordinance #1252 – An ordinance amending the Town Code regarding subdivision regulations.

President Higgins read Ordinance #1252 by caption only for the 3rd and final reading.

A motion to adopt Ordinance #1252 was made by Vice President Colpitts and seconded by Council Member Vojtko. The motion passed unanimously.

- Ordinance #1254 – A salary ordinance for elected officials of the Town of New Carlisle

President Higgins read Ordinance #1254 by caption only for the first reading

Council Member Vojtko moved to waive the rules to allow for adoption on the day of its introduction. Seconded by Vice President Colpitts the motion passed unanimously.

President Higgins read Ord. #1254 in its entirety.

Vice President Colpitts moved to adopt Ordinance #1254. Upon a second from Council Member Groves, President Higgins called for a roll call vote as follows:

Council Member Gelow	Nay
Vice President Colpitts	Aye
Council Member Vojtko	Aye
President Higgins	Aye
Council Member Groves	Aye

- Ordinance #1255 – A salary ordinance for town employees

President Higgins read Ordinance # 1255 by caption only for the first reading.

Council Member Vojtko moves to waive the rules to allow for the adoption of Ordinance #1255 at its introduction. The motion was seconded by Vice President Colpitts and passed unanimously.

President Higgins read Ordinance #1255 in its entirety.

Vice President Colpitts moved to adopt Ordinance #1255. Seconded by Council Member Vojtko the motion passed unanimously.

President Higgins read Resolution #11-12-28-01 in its entirety.

A motion to adopt Resolution #11-12-28-01 was made by Vice President Colpitts and seconded by Council Member Gelow. The motion passes unanimously.

Council Reports

Council Member Gelow

- Acknowledged the hard work of Council Member Groves' over the last four years, expressed what a pleasure it has been to work with her and wished her well.

Vice President Colpitts

- Expressed that working with Council Member Groves has been a pleasure and he knows that she will continue to work for the betterment of the town. He looks forward to continuing the work on Main Street with her as well.
- Attended the December Area Plan meeting and reports nothing involving the Town.

Council Member Vojtko

- Expressed his thanks to Council Member Groves and stated that it was a pleasure to work with her over this last year.

Council Member Groves

- Thanked everyone and said that it has been a pleasure to serve on the Council and it has been quite an experience.

President Higgins

- Expressed appreciation for all of the work that Council Member Groves has done over the last four year..
- Stated that she has been on the council for the last five years serving as president the last four and feels it is time to step aside. She was told she does well in the position and she feels that is because she has been given the opportunity. Ron Colpitts has served as vice president three out of the last four years and has worked very hard. She feels that he is totally dedicated to the Town. Council Member Vojtko has served as Vice President in the past and has done an excellent job as well. She asks the members of the council to consider the options before the nominations and election at the next meeting.

Public Comments

- Lisa Crawford introduced herself and stated that she was asked to be in attendance by Jayna Keigley on the issue regarding a sign at Jayna's business and fines that were issued.

Ms. Crawford stated that Jayna came to her over the summer after fines were issued to discuss what her options might be. She stated that she did speak with one of the attorneys for the Town to discuss the issue and was given the impression that perhaps we could come together on some type of an agreement to resolve the matter prior to the pending trial.

President Higgins asked Ms. Crawford if she is Jayna's legal representation. She stated that she is an attorney and she was prepared to file an appearance on behalf of her because she was not able to represent herself if this case had actually gone to trial so she is acting as her legal representation.

Ms Crawford stated that they did offer a compromised amount and the original trial was put off to allow the board to review and approve this amount. A new case date for trial was automatically set by the court when the original trial was adjourned. They did receive that date. However, Ms. Crawford stated, they thought the board was still reviewing this issue.

Ms. Crawford stated that a couple of days before the trial she had the opportunity to again speak with a Town attorney and found that not only had the offer not been approved, it had never been given to the Town Council at any time. She felt this was disappointing because they had hoped that they would at least have the opportunity to discuss this issue and discuss the way that this came to occur.

Ms. Crawford stated that Jayna has asked her to come forward today and ask the Council to reconsider and take under advisement the offer she made to resolve this matter. To avoid going to trial and to avoid both the Town and Jayna incurring additional legal fees, Ms. Keigley did agree to and sign a consent judgment for the full amount of the fees and costs owed. However, contained in the consent judgment was the article that she would be allowed to come before the Council and plead her case.

President Higgins asked if Ms. Crawford was aware of all of the facts regarding this case and asked Mr. Middlebrook, the town code enforcement officer, how many times he spoke with Ms. Keigley about the sign. Mr. Middlebrook replied that he did not know the exact number but that it did involve personally speaking to her several times as well as several phone calls prior to issuing any fine.

President Higgins stated that despite these attempts, the sign remained. Ms. Keigley and her friend who had purchased the sign as a gift, came to the Council. Again, they were told that they must get rid of the sign and that was ignored.

Vice President Colpitts stated that he feels the biggest thing that the Council must consider is that at the last meeting, the Council approved Leone Halpin to proceed with enforcement of the judgment on this. He feels that this discussion is somewhat unfair as the Town attorneys were not present tonight because this meeting was set for adoption of the transfer of appropriations resolution. He feels that it is not appropriate for the Council to consider anything without our legal representation present as they had already been asked to handle this.

Ms. Crawford stated that she is not pushing numbers at this moment as obviously the Town would want to have legal counsel here but the issues are that during the time period that this issue was up, Jayna was coming to Council meetings and trying to resolve the matter. The difference is the way that it was being handled, and she feels this is something that needs to be discussed with our attorney, was that

during the time period that letters and different things were going on with Mane Attraction, there were other businesses in this town that had the same signs that weren't being pursued in the same manner.

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Ms. Crawford stated that this could have been handled better by everybody and there is no question about that. Further, she stated that the fact of the matter is that this is a business woman trying to make a legitimate offer to settle this amount so that she can pay some fines and costs and keep going on with her business. She would be willing to discuss this with our legal counsel but all they are asking is that the Council take this under advisement and reconsider allowing her to make a mediation offer.

President Higgins asked whether Ms. Crawford has been working with Chuck or Andrea on this matter. She replied neither of them but she spoke with Andrea briefly but it was another attorney in the office that she has dealt with. Council Member Vojtko asked when she spoke with them. Ms. Crawford replied in August on a couple of occasions and then again in November.

President Higgins stated that we do not want to make any decisions without our attorney present. Ms. Crawford asked that the Council at least consider and give Jayna the opportunity to present an offer to try to resolve this matter for something less than the whole amount.

Council Member Gelow asked to make a correction as the other signs not in conformance have been addressed and two others business' signs have been removed. It just takes time to get these things accomplished. He asked to make it clear that they are not picking on Mrs. Keigley. Ms. Crawford stated that she completely agrees but it is just that those signs were up during the same time period Jayna's were and they were not fined.

President Higgins stated that Jayna is a fine businesswoman and has a good customer base. She understands that this is causing concern for her. Vice President Colpitts stated that it isn't that he isn't willing to hear anything but we have been at this point already and feels the need to review the time line of this issue again.

President Higgins asked if Ms. Keigley and her legal counsel are looking for a payment plan since she has signed an agreement.

Ms. Crawford stated that what she originally did was make a compromised offer. This offer was made back in August before the first trial date but that compromised offer was never transmitted to this board. Jayna stated that she went to Carolyn's house. President Higgins replied that she is aware of that but at that time she told her to have her attorney contact the Town attorney as she does not have the authority to make any decisions regarding this on her own. Mrs. Keigley stated that is what happened but it never got taken to the Board.

Ms. Crawford stated that is what happened but in August the offer was not transmitted to the Board and the lack of communication is the problem and a new trial date was set. She stated that she tried to contact the Town's attorney then and was told that he had no authority to accept the offer, that it was no good and that they should proceed forward with trial.

President Higgins asked if Sue could add anything to this. Sue stated that she understood that Leone Halpin had not received an offer. Had they received one it would have been brought to the Council as they would not have the authority to accept or decline such an offer. Jayna stated that it never

happened. President Higgins asked if Mr. Leone had received an offer. Sue replied that in speaking with Andrea and another attorney in their office, she understands that no written offer was received.

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President Higgins asked Ms. Crawford if she has a copy of the offer. She replied that unfortunately, because she was not retained at that time, it was a verbal offer. So, short of having the gentleman from their office come in and testify that he did receive it, she would like to have the gentleman from their office at least tell that they had a conversation and that an offer was made. Further, she stated that she is fully aware that an attorney has no right to accept an offer on behalf of the client but he does have a duty to communicate that offer and that was not done.

President Higgins asked to clarify whether the offer was in writing. Ms. Crawford replied that it was not in writing and was a verbal offer. Council Member Vojtko asked who the verbal offer was made to and Ms. Crawford replied it was made to Chip, one of the attorneys in the Leone Halpin office.

Vice President Colpitts stated that the fact of the matter is that there is a lot of history with this case and he doesn't feel it is appropriate to continue to discuss it any further at this point until our legal counsel is present. He also expressed that if an offer was made it should have been made in writing. Ms. Crawford stated that is perfectly fine, she just wanted to bring it to the attention of the Council and asked that you bring this to the attention of our attorney and take it under advisement.

Mrs. Keigley expressed her feeling that there was some confusion when she said she would remove the sign and that maybe this is the problem. Council Member Gelow replied that there had been several attempts to get the sign removed before that time and this was at the tail end of everything. Mrs. Keigley stated that the sign was removed on Sunday following the Council meeting.

Vice President Colpitts stated that this has already been handed to the attorney to handle. If there is something that they need to bring to the Council, it will be addressed at that time.

Bills to be Paid

Vice President Colpitts moved to pay all bills as presented. The motion was seconded by Council Member Gelow and passed unanimously.

Adjournment

Following a motion to adjourn by Council Member Groves and second by Council Member Vojtko the meeting was adjourned at 5:33 PM.

Approved 1/3/2012
Carolyn Higgins, Council President

Attest:

Susan I. Moffitt, Clerk-Treasurer

