

REGULAR SESSION, COMMON COUNCIL, MAY 10, 2021

Be it Remembered that the Common Council of the City of Plymouth, Indiana, met in regular session on May 10, 2021. The meeting was held in the Council Chambers, on the second floor of the City Building, 124 N. Michigan St., Plymouth, Indiana and was called to order at 6:31 p.m.

Mayor Senter led the Pledge of Allegiance and Councilman Ecker offered prayer. Senter presided for Council member Duane Culp, Don Ecker, Jeff Houin, Robert Listenberger and Shiloh Carothers Milner. As allowed by Resolution No. 2021-946 adopted by the Common Council and Governor Holcomb's Executive Orders, Council Members Randy Longanecker and Greg Compton attended the meeting electronically through Microsoft Teams. Clerk-Treasurer Xavier and City Attorney Surtisi were also present.

Council Members Ecker and Houin moved and seconded to approve the minutes of the last regular Common Council session on April 26, 2021, as presented. The motion carried.

Clerk Treasurer Xavier addressed the council regarding the Council Meeting of March 22, 2021, at which the council members agreed to lower the deposit for Briarwood Estates if they paid their existing balance due, paid the negotiated deposit of \$2,800 and signed up for automatic withdrawal for their utility bill within 48 hours. Xavier reviewed the following memo sent out to the council members in their packets prior to the meeting.

MEMO

To: Council Members
 Copy: City Attorney Surtisi
 Mayor Senter
 Utility Superintendent Davidson

From: Clerk Treasurer Xavier

Date: May 6, 2021

Re: Briarwood Estates agreement of March 22, 2021

All:

At the March 22, 2021 Council meeting the following motion was made and passed:

Members Houin and Veltzer moved and seconded to lower the deposit required for the amount to \$2,800 and extend the start of auto bill payment to cover the deposit required for the balance on the account payment of the deposit, and signature of the automatic agreement within 48 hours. If their work orders in the future will payments the Council reserves the right to require the remaining amount of the deposit received by the City Chairman. The motion passed by roll call.

AYES: Culp, Ecker, Houin, Listenberger, Milner
 NAYS: Longanecker, Longanecker

On May 4th, I realized that we had still not received the authorization for direct withdrawal for the Briarwood account.

My utility clerk sent the authorization form out on March 23rd.

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Xaver referred to the string of emails that were included in the council packet. She stated that she emailed the Briarwood Representatives on Tuesday, May 4th, when she was reviewing the accounts and noticed that they had not signed up for ACH yet. Xaver said that as of today, they had still not submitted the provided paperwork for the automatic withdrawal for their monthly utility bill. She asked the council how she should proceed.

City Attorney Surrisi asked if there was any more communication outside of this string of emails since. Xaver stated that those emails were the last that she had heard from them.

Listenberger asked if the Briarwood people knew that she was bringing this up at the meeting. Xaver stated that she had advised Ms. Jetton to attend the meeting virtually.

Ecker stated that he does not believe that the city should deviate from their current policies. He asked Xaver what she needed from the council to continue the current policy. Xaver asked the council to reinstate the full deposit amount for Briarwood Estates.

Houin asked if they should have Surrisi reach out to the Briarwood people in case that they were not acting favorably due to the information coming from Xaver. Surrisi stated that he would be happy to do whatever the council would like for this. He added that it was very unfortunate that the council had given them a lot of grace and they have never seemed to follow up and take advantage of that grace. He added that it did seem that most of the email chain Briarwood's renters did not coincide with when the city's bills were due. He stated that he would hope that they would have enough cash flow to cover that or that they would have changed their internal policies on how they bill their customers, as you cannot expect your vendors to conform to your schedule.

Ecker added that this was also the group as to which failed to notify the city as to any changes of ownership. The council showed good faith by working with them. He stated that he was not in favor of anymore grace. He believed that it was time for them to take responsibility and accountability in this.

Utility Superintendent Davidson stated that it is worth communicating with them as long as the city does not lose track of the residents there. If the owners of the development were to throw up their hands these people may not have anywhere to go.

Listenberger agreed with Davidson and asked what would happen to the residents if they were to not pay the full deposit. Davidson stated that the general policy to non-payment of the bill or a deposit is to disconnect the water. Which would once again go back to the renters who are in good faith paying their rent which should include their water bill.

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Listenberger asked what the timeframe for shutting off the water should be. Xaver stated that originally the council gave them 48 hours to comply with the agreement and it had been a month and a half since and not all portions of the agreement had been fulfilled. The actual shut off date would be up the council.

Listenberger stated that this was a different situation due to these people taking over an existing account. Xaver stated that her office has the same issue with regular residents. Sometimes when one person moves out and tells the new owner to put the water in their name and they don't. As soon as the office figures this out a pink tag would be hung and the water shut off in 24 hours.

Houin asked if this was immediate or if it was added to the next bill when they did this.

Xaver stated it was immediate since they bill nearly two months behind.

Davidson added to keep in mind that the deposit is based on exactly what Briarwood's usage is now. As the development fills up the consumption and the bill will continue to add up each month. So, what they are asking for now, in ten years when someone walks away from the bill it may not cover the bill.

Houin stated that he had no problem reinstating the deposit, he just was worried about the residents. Listenberger agreed with this statement.

The council members discussed a deadline date. They all agreed on June 1st as the shut off date for the Briarwood Estates if the full deposit was not paid. Houin asked for this to be communicated to the residents living there. Ecker agreed and stated that he believed that it was important to let the residents know what was happening. Xaver asked for Surrisi to come up with a letter to the residents and her office would come up with a list of addresses.

Council Members Ecker and Longanecker moved and seconded to reinstate the full deposit and stick to the current policies that are already in place. The shut off date for Briarwood would be June 1, 2021 if the deposit was not paid in full by that time. Surrisi will work on drafting a letter to the residents informing them of the situation prior to the shut off date. The motion carried.

Allie Shook and Mike Reese were present to address the County-wide Trails/Bike and Pedestrian Master Plan. The Master Plan document was distributed to the Council Members in their packets prior to the meeting. Shook and Reese reviewed this with the council.

City Attorney Surrisi stated that this will be put on the agenda for the next meeting as they will be looking for the formal adoption of the County-wide Trails/Bike and Pedestrian Master Plan. Surrisi added that a few committees have started to meet again, and one of their goals is to look at existing policies such as the zoning ordinance, subdivision control ordinances, etc. to help

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accommodate this master plan. These changes will hopefully get some recommendations over to the plan commission over the next several months that will eventually work their way over to the council.

City attorney Surrisi presented Executive Order 2021-03, City of Plymouth Fire Department Operations.

Surrisi stated that this addressed some of the recent developments with the change of the chief. He asked for the Council's ratification on Executive Order 2021-03.

Clerk-Treasurer Xaver reviewed the following memo with the council members.

MEMO

To: Council Members
 Copy: City Attorney Surrisi
 Mayor Senter

From: Clerk-Treasurer Xaver
 Date: May 6, 2021

Re: Executive Order 2021-03, City of Plymouth, Indiana, Fire Department Operations

All,

At Monday's Common Council meeting, you will be asked to consider and ratify Executive Order #2021-03, City of Plymouth, Indiana, Fire Department Operations.

Before you vote on that Executive Order, I want to make sure you are aware of a provision in the Employee Handbook, which was revised and adopted in June, 2019. On page 25, Section 5.13 Wage Policy reads as follows:

5.13 Wage Policy

Violations of benefit time of the City shall be subject to disciplinary actions and penalized as follows:

1. Unauthorized time away from work shall be subtracted from existing leave time in the following order: accrued compensatory time, vacation days, and sick days (if applicable);
2. If an employee paid on an hourly wage has no existing paid leave time as described above, unauthorized time from work shall be docked from his/her wages on an hourly basis.
3. The City of Plymouth's pay system is based on a policy based on principals of public accountability which recognizes the City's accountability to its citizens for the use of public funds. Because of this accountability and in the interest of efficient use of those funds, the City will not pay exempt salaried employees for hours in which they do no work, unless they have accrued leave available to cover that time. Full-day (8 hour) or partial day (4 hours) increments will be used if accrued leave is not available.
4. The wages of an elected official cannot be docked, as set by law.

The Executive Order states that the Mayor "advised Mr. Miller to take the rest of the week off on paid leave". Miller was off work on August 21st through August 26th. My understanding from City Attorney Surrisi is that Miller is not being required to use benefit time during this paid leave, even though the Wage Policy in the Employee Handbook states "the city will not pay exempt salaried employees for hours in which they do no work, unless they have accrued leave available to cover that time."

I wanted to make sure that you were fully aware of the above statement in the Employee Handbook before you were asked to ratify the Executive Order.

Houin asked Surrisi that based on the memo that was provided, if this was something that they could do, or if this would it violate their own policy if they were to pay that leave. Surrisi stated that the leave does not comply with the existing policy. In turn, this is why the Executive Order was

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made to invoke some of the emergency powers which allowed for variance from regular policies. At the time it was thought that this would benefit the department to allow for some space during the time of transition of leadership.

Ecker stated that he respected the memo from Xavier, but this was a unique situation that came up. He sees this as a common practice outside of the city, and he believed that this was an appropriate move.

Council Members Ecker and Culp moved and seconded to ratify Executive Order 2021-03,

City of Plymouth Fire Department Operations. The motion passed by roll call vote.

AYES: Compton, Culp, Ecker, Houin, Listenberger, Longanecker, Milner
NAYS: None

City Attorney Surtisi presented the following Request:

5/4/21 - I recently reviewed a bill for cleanup at my house located at 801 W. Garro St. The problem with this is I never received a notice to remove the items in question. When I called to inquire about this, I was informed that they sent a notice to that address, but it was returned. They acknowledged they knew there was nobody living there, it had housed a tenant previously and there was no mail box. However, they said it was not easily possible for them to find out how to contact me. I contend this to be far from true since the bill found me without difficulty. S/ Katrina Fink, 306 S. Bourbon St, Bourbon, IN 46504, (574)-386-7181

Katrina Fink was present to speak about her request and answer the questions of the board.

She stated that a year ago she decided to help out a family and let them rent the property with the intent of buying. These tenants instead destroyed it, which led to her hiring a contractor to fix up the property. He had a few items sitting out in the yard that he was to take from the property. One day she noticed that these items were gone, and thought that he had taken them when in fact he did not.

A couple of weeks later she received a bill stating that the city had picked up those items. She did not think this was possible because she never received a letter stating that they needed to be cleaned up. When she talked to code enforcement, she found out that they sent the letter to the vacant house which did not have a mailbox at that time. They also mentioned that they had known that the letter did not make it to her as it had come back to them. When she originally moved out of that property, she had all of her mail sent to her new address and then had no idea that the mail would not come to her at the new address. Had she known that this was an issue she would have had the contractor clean it up before it would have been cleaned up by the city. When she asked code enforcement why the bill got to her okay but their letter did not, they stated that code enforcement does not talk to the city office where the bills come from. She also found out that her address in the GIS was the 801 W. Garro for that house and not her new address.

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Ecker asked if he was reading correctly that she did not fill out the change of address form for the GIS with the county. Surrisi stated that the portion that Ecker was talking about was that on the GIS it still states that her address was the 801 W. Garro Street. This address is typically where taxes and anything from the county would go.

Fink stated that the only thing that she could think of would be that since that property is in escrow that the tax statements may have gone to the bank which would get forwarded to her.

Listenberger asked if anyone was currently living at the address. Fink stated that nobody was currently living in this house as it was currently being remodeled to sell it.

Surrisi stated that he had spoken to Fink a couple of times now and she had been very diligent in how she should address this. He sympathized with her in the fact of how frustrating it could be that the city was easily able to get a bill to her, but not the warning letter. In the city code 97.21 only states that it was the duty of the code enforcement officer to notify the owner of the property in writing and demand the immediate removal thereof. The code does not specify as to how the notice would be delivered, but the standard practice was to look toward those county records. He stated that it might be something to consider to add cross referencing between the code enforcement office and the Clerk-Treasurer's office on this as codes are updated.

Houin asked what of this bill would have incurred a cost to the city. Street Superintendent Marquardt stated that because they had picked up the 1-ton truckload of debris that they would have incurred a disposal cost at the landfill.

Houin asked if the wheel loader was just the cost of the use of city equipment by city employees. Marquardt confirmed this.

Listenberger stated that he believes that it was time to button up some of the ordinances that they had run into trouble with here recently. Houin agreed and stated that it would not only be time to look at the fees, but also at the procedures for code enforcement.

Houin asked Fink if she would be willing to pay the \$35 for the cost of disposal of debris. Fink stated that she would be willing to pay that.

Ecker respectfully asked for Houin to consider adding the cost of the wheel loader. Houin respectfully declined this as it was the use of city property by the city.

Members Houin and Longanecker moved and seconded to reduce the penalty to \$35.00 for the clean up on 801 W. Garro Street. The motion carried.

City Attorney Surrisi presented the following CF-1 Forms for determination if the property owners have substantially complied with the Statement of Benefits.

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- CF-1 for Harrington Noodles Inc. – Personal Property Res: 2019-856
- CF-1 for Vigilant Holdings LLC – Real Property Res: 2019-852
- CF-1 for Hoosier Tire Racing Tire Corp. – Personal Property Res: 2019-857
- CF-1 for Hoosier Tire Racing Tire Corp. – Personal Property Res: 2012-483
- CF-1 for Weir Enterprises LLC – Real Property Res: 2018-783
- CF-1 for Bomarko Inc – Real Property Res: 2019-884
- CF-1 for Bomarko Inc – Personal Property Res: 2019-884

Council Members Houin and Longanecker moved and seconded to approve the CF-1 Forms as presented. The motion carried.

Clerk-Treasurer Xaver referred to the notice from the Marshall Co. Sheriff stating that the user fees for the Emergency Dispatch system would increase by 5% for 2022. The amount due from the police department next year will be \$165,375.00 and the amount due from the fire department will be \$27,825.00.

Xaver further reminded the council members that they had planned on updating user fees this year (last time was in 2018). She asked when they would like to start on that.

Senter asked for Listenberger and Ecker to add this to their list of items to work on.

Ecker stated that he and Listenberger will have the wage salary for 2021 and 2022 to put in front of the Council.

City Attorney Surrisi presented Ordinance No. 2021-2179, An Ordinance Regarding Garbage and Mowing Fees, on first reading.

Mayor Senter offered the privilege of the floor. No one accepted.

Members Houin and Ecker moved and seconded to accept the following communications:

- Minutes of the Board of Public Works and Safety meeting of April 26, 2021
- 05.10.21 Check Register
- 2021-04-27 TRC Meeting Notes
- Marshall County Drainage Notice

The motion carried.

There being no further business to come before the Council, Council Members Houin and

Ecker moved and seconded to adjourn. Mayor Senter declared the meeting adjourned at 7:24 p.m.

Jeanine M. Xaver
 Jeanine M. Xaver, IAMC, CMC, CPFIM
 Clerk-Treasurer

APPROVED

Mark Senter
 Mark Senter, Mayor