BOARD OF PUBLIC WORKS AND SAFETY

Regular Meeting September 3, 2014

The regular meeting of the Board of Public Works and Safety of the City of Shelbyville, Indiana, was held in the Common Council Chambers of City Hall on Wednesday, September 3, 2014, at 5:31 P.M. All members were present, and Mayor DeBaun presided.

Mr. Williams moved to approve the minutes of the previous meeting held on August 26, 2014, and Mr. Finkel seconded. The motion was carried on a 3-0 voice vote.

Mr. Finkel moved to approve the claims as presented, and Mr. Williams seconded. The motion was carried on a 3-0 voice vote.

Under old business, City Engineer Matt House said he had a contract for the Blue River Trail Project, which was done by Butler, Fairman and Seufert, Inc., and he recommended that it be approved and signed. He said it will be an 80-20 funded project, with INDOT paying 80%, and the City would match with 20%. The City would be billed by Butler, Fairman in increments over two to three years on the 20%, and then the State would reimburse the City. Mr. Williams moved to approve the contract, and Mr. Finkel seconded. The motion was carried on a 3-0 voice vote.

Under new business, Mayor DeBaun said he received a request from Brent Drake, of Drake Rentals, but he wasn't present, so Mayor DeBaun asked Building and Plan Commission Director Dann Bird to have Brent appear at the next Board meeting.

Concerning the dog bite incident occurring in August, Mayor DeBaun wanted to set up the parameters before any testimony was given today, especially because a human victim was involved. He said these are passionate cases, where the dog is loved, and a victim has suffered an injury. He said this is not a Court of law, so individuals will not be sworn in, but they are expected to tell the truth, and everyone is expected to maintain common decency when they speak. He said people will be asked very specific questions, and they will be given an opportunity to state their opinion of the facts and what their beliefs are, relevant to the case. He said he will not let this get out of hand. Mayor DeBaun started by asking Animal Control Officer Jim Lane to come forward to find out how we got to this point, then he will ask the owner of the dog to come to the podium and identify themselves for the record, explain their version of the events, and because the victim in the case is a young child, we will hear testimony from the mother. Everyone said they understood the situation. Officer Lane said on August 18 he was called to the residence for a dog bite of a child. When he arrived, the victim had already been taken to the hospital, so he got what information he could from the dog owner. He was told by the owner that he wanted to have the dog destroyed. The dog owner's father asked if he could take the dog to Jim's truck, so he said yes. When he walked the dog by a few people and got in front of him, the dog lunged at him. If it wasn't for him pulling the dog back, it would probably have bitten him as well. Jim said it was one of the worst dog bites he's seen. The dog has been at the Animal Shelter since the day of the incident. When asked by the Mayor about the dog's demeanor since it's been in quarantine, Jim said it's not changed when he or others are near it, that it's always growling and baring its teeth. Jim said he's seen the owner in the Shelter maybe once or twice to see the dog. As for a recommendation of the disposition of the animal, Jim said he thought the dog should be destroyed. At the time of the incident, Mayor DeBaun asked if anyone told him the details of what happened. Jim said he was told on the scene that the dog owner's daughter and the victim were playing in the side yard. For whatever reason, the dog owner's daughter went and opened the back door, the biting dog exited the house, went after a dog in the back yard, then when the child started running away, the dog went after her. The child, Faith Reese, confirmed the story with Jim when he saw her at the hospital, after taking the dog to the Shelter. Jim said the Police report didn't reflect that, but he said that's what he was told. Mr. Finkel asked Jim if he thought how the dog got out had any bearing to the action the dog took, and he said no. Next up was the dog's owner, James Purdue. He said he was home when the incident occurred, but he had only lived there for the last two weeks. He said he warned the next door neighbors about his dog because he didn't know how the dog would be around strangers. He said if they didn't know him, they shouldn't be around him. He said he also put up signs. He said he didn't know the girls were in the back, and before he knew it, his dog had gotten out. He said he ran out the back door, hollered at his dog, and the dog went

inside. He yelled at his fiancé to call 911, and the paramedics took her to the hospital. He said he has two dogs at the residence. He said he'd never had any incidents with his dog before this happened. Mr. Purdue said his dog was very protective of his family, and the dog doesn't like it one bit when anyone gets close to their car. He said the dog was 1-1/2 years old, and he said both dogs are normally inside dogs. Mr. Purdue said he did not witness the door being opened. Wendy Reese, the mother of Faith, was asked to tell what happened that day. She said she was asleep, because she works the third shift. She was awakened by her Mother telling her there was blood everywhere. She went outside to get Faith, and Faith said she and her friend had been in the side yard playing when her friend opened the door to go inside to get a drink. That's when the dog came running out. When Faith started running, the dog went after her. Wendy said she was thankful that Faith put her arms up, because if she didn't, the dog could have gotten her neck. Mr. Williams asked if she had insurance coverage for the hospital costs. She said yes, that she had Medicaid. Faith had 22 stitches, and they have since been removed. The Doctor told her Faith is healing nicely. Wendy said Faith was scared to go outside at first, and even when she goes to the bus stop, she has to be there with her. Mr. Williams noted that Mr. Purdue had originally wanted the dog to be put down, but then he changed his mind. Although he wasn't there, he said when he read the Police report stating that Faith had opened the door, that's when he changed his mind. Mayor DeBaun asked him why who opened the door was pertinent to him. After thinking about it after the incident, he said that he had warned the neighbors not to be in their yard, and she was. Mr. Finkel said he is a dog owner and a dog lover; he has a child and understands these processes, and they sit up here letting their judgment and experience be their guide. A piece of wisdom that was given to him many years ago was a dog is a dog, and when a child is concerned, you always have to remember that. One of his only questions asked was how the door was opened, is immaterial. The fact that they have a dog that is capable of doing this, the Board cannot allow that to continue, and he understands what an animal is to a family, but there is a time when a line is crossed. He said the Board is there to ensure the safety of what needs to happen in our neighborhoods, and he doesn't think they can ensure that safety, and they cannot rely upon the children to have the judgment when or when not to open a door. With that being said, he made a motion to euthanize the dog, and Mr. Williams seconded. Under discussion, Edward Burkett came forward, saying he was James Purdue's Stepfather. He said James was in the process of moving back out in the country so he could possibly have his dog back. He said he's a dog owner too. He said he trains his dog to protect his family, and that's the main thing. He said James bought the dog as a pup, and the dog sleeps with his granddaughters, so if the dog is euthanized, you're not only taking something from the family, but also from the children, who is their protector. Mayor DeBaun said he agreed with Mr. Finkel, as well as Mr. Burkett's comments, but his concern and reasoning is that they have an opinion from someone who handles animals on a daily basis, that it's a vicious animal, so he tends to agree with the Board. The motion was carried on a 3-0 voice vote to have the dog euthanized. Mr. Finkel moved to have no fees be imposed, and Mr. Williams seconded. The motion was carried on a 3-0 voice vote.

Although no one was present for the Dean Rush hearing, a decision was felt needed to be rendered so the process can take its course. Mayor DeBaun said he read everything that had been submitted to him from attorney Lee McNeely, appealing the Commission's actions. Mr. McNeely submitted copies of minutes of both meetings, and after reviewing the minutes with the Ordinance, Mayor DeBaun said there are some issues. Dann Bird had told the Building Commission that they were proceeding under Article 155.4, which requires them to make a determination of willful or incompetent violations. Mayor DeBaun said the Board did not do that. He said there was a probation sentence to Mr. Rush, there were no conditions of probation given; that was pointed out to them by the City Attorney and by the Building staff. Mayor DeBaun said his belief is that the Board of Works acts in a similar manner as the Board of Zoning Appeals, and they're a quasi judicial Board. He felt the case had to be right for the Board to take action, and he didn't feel the Building Commission has done its full duty at this point, and it's his recommendation that the Board remand it back to the Building Commission to either make a determination that Mr. Rush did in fact violate specific codes, and render a decision based upon that determination. Mr. Finkel agreed with the Mayor saying that when procedures are not followed, it's very hard to take any further action. Mr. Williams said his biggest concern, after reading this, that there was a gentleman who could have been injured very seriously because of this man's actions. He wants to try to do everything they can to make sure something like this doesn't happen again, specifically with this contract. As a procedural item, Mr. Finkel moved to remand this back to the Building Commission for them to correct the errors of their decision, and Mr. Williams seconded. The motion was carried on a 3-0 voice vote. Mr.

Finkel said he appreciated the transcribed minutes, who with Mayor DeBaun, said they were very helpful.

There being no further business, Mr. Williams moved to adjourn.

Thomas D. DeBaun
Mayor

ATTEST:

Frank M. Zerr
Clerk-Treasurer