



**ZIONSVILLE TOWN COUNCIL
MEETING MINUTES
FOR
MONDAY, JULY 17, 2023
AT 7:30 A.M. EST
ONSITE MEETING**

This meeting was conducted onsite. All Councilors participated in person.

Council Members Present: Jason Plunkett, President; Alex Choi, Joe Culp, and Craig Melton
Absent: Brad Burk, Josh Garrett, and Bryan Traylor

Also Present: Heather Harris, Town Council Attorney; Cindy Poore, Director of Finance & Records; Amy Lacy, Municipal Relations Coordinator; and other Town Department Staff

OPENING

- A. Call meeting to order**
- B. Pledge of Allegiance**

Plunkett Good morning. I will now call to order the Monday, July 17, 2023 meeting. If you would please, stand and join me for the Pledge of Allegiance.

All Pledge of Allegiance.

APPROVAL OF THE MEMORANDUM OF THE JUNE 20, 2023 REGULAR MEETING

Plunkett All right, up first on the agenda is the approval of the Memorandum of the June 20, 2023 regular meeting. A copy has been posted. Are there any questions from Councilors?

I'll make a motion to approve.

Culp Second.

Plunkett Second by Councilor Culp. All those in favor signify by saying aye.

All Aye.

Plunkett All those opposed same sign.

[No response]

Motion passes 4 in favor, 0 opposed.

APPROVAL OF THE JULY 17, 2023 CLAIMS

Plunkett Up next is the Approval of the July 17, 2023 Claims. Are there any questions from Councilors? I believe we have Cindy here in case we do. No questions from Councilors?

Melton I do have one quick question. I'm trying to pull it up, I apologize. Cindy, I just wanted to know if this is an ongoing expense – sorry, I'm pulling it up. And it looks like it's under the Administration again and I think we talked about it before but the worker safety general consulting. It's \$12,355.87. Is that a monthly thing we're going to see continuing on?

Poore I think it's just whenever they finish part of their project. So it's not like a retainer or anything like that it's as they go through their projects.

Melton Okay. Is that – do we have an estimate on what that total is going to be? It's what Cornerstone EHS, is that correct?

Poore Yes, I do not, I'd have to get with them to find out the, the whole scope.

Melton I'd like to reach out to you and kind of just –

Poore Yes –

Melton Understand what that total is going to be on that so –

Poore Okay.

Melton But other than that, that's my only question for the claims. Thank you.

Plunkett Anything else from Councilors? I'll make a motion to approve claims.

Choi Second.

Plunkett Second by Councilor Choi. All those in favor signify by saying aye.

All Aye.

Plunkett All those opposed same sign.
[No response]

Motion passes 4 in favor, 0 opposed.

REQUEST TO SPEAK

Plunkett Up next would be Request to Speak on Agenda Item. Amy, do we have any requests to speak?

Lacy No we do not.

MAYOR/ADMINISTRATION UPDATE

Plunkett All right, Mayor/Administration Update. We did not receive an update there.

TOWN COUNCIL UPDATE

Plunkett Up next would be Town Council Update and I just have a couple of quick things. One would be I'm going to have Cindy come up in just a second and just talk a little bit about our conversation last week regarding the Finance Department, what she needs. I do want to share with Council, I had communication with the Deputy Mayor last week where she indicated that the Mayor is interested in signing the contract with Baker Tilly. I know Heather was on that call as well. For audit as well as we are in the process of getting a Baker Tilly contract signed for the bank reconciliations which is certainly a big step. That puts us in a spot where we can begin to consider some of these additional appropriations again, understanding where we are financially. So, Cindy, if you wouldn't mind coming up and just sharing a little bit about our conversation last week, I think that'd be really good.

Poore Yes, I had a conversation with the Deputy Mayor and Tim Berry, our municipal advisor, and now, I wouldn't say everything is caught up, but the dust is settling and so I've been able to evaluate what the department's needs are and one of those needs is another full-time person. This person would be doing the bank reconciliations, assets and possibly even procurement. As I was talking to President Plunkett, our bank reconciliations – the volume of everything that we get through this office now just in the last 5-1/2 years from when I started has increased a lot and the bank reconciliations themselves is almost a full-time job. So, getting somebody in here that can focus on that. They can also have some focus on internal audit as they're doing those bank reconciliations would be a huge help for us and not to mention the assets. We've talked to Boyce who we have our financial system through, and we also have access to their asset management program and so between getting somebody in that could keep an eye on those things instead of us trying to work it in a couple times a year to make sure things are updated, etc. would also be a huge help for us. So, and as you said, the risk management agreement, I think we're close to signing that and then Baker Tilly what we're hiring them to do for the bank reconciliations is to finish getting us caught up. So, because now we're in the budget season and so trying to focus on those while doing budgets, etc. is a little much so.

Plunkett So you'll need, that'll be a new person, Cindy, will you request that position and appropriation for 2023 or will that just start in 2024?

Poore My preference would be '23.

- Plunkett Okay.
- Poore Yes, seeing how we just kind of made this decision on Friday, we're in the very, very beginning stages. We need to put together a job description and so forth which we'll work with HR to do that so, yes, the very beginning stages but I would like it to be 2023.
- Plunkett Perfect. Any questions from Councilors?
- Melton No, I just had a comment – with the Department of Finance and Records and that committee, I appreciate us getting those updates –
- Poore Yes –
- Melton And, I appreciate everybody that's involved in that group and I really like being able to see what's being talked about –
- Poore Sure –
- Melton With these internal controls and the kind of the needs within that department. So, thank you for that.
- Poore You're welcome.
- Melton It gives us the confidence as we can move forward with certain tasks and appropriations. So, thank you.
- Poore You're welcome.
- Plunkett All right, thanks Cindy.
- Poore You're welcome.
- Plunkett Appreciate it.
- Poore Thanks.

OLD BUSINESS

Settlement in Seaside Lawsuit

- Plunkett Up next on the agenda is Old Business. There are no Old Business items or, I'm sorry – we have one Old Business and this is the Seaside lawsuit settlement. You guys will recall, we reviewed this at the last meeting. We've had a couple of phone calls and a few other different discussions gathering some additional information about this particular settlement and what's going on and I've actually asked Heather to kind of take this one if that's all right?
- Harris Yes. So, as you may recall, Ice America was the vendor for Winterfest. They installed the ice skating rink and I think they've done that now for a couple of

years. In talking with Sam Gardner at Ice Miller, who was the lawyer who negotiated this settlement agreement, I think we feel that this is probably the best opportunity we're going to get to settle this case. So the vendor has requested initially their original claim was \$59,500. We have a current settlement amount for \$45,000 which, I think what we acknowledge here is there's probably a little bit of fault on both, on both sides with these cyber claims. We do have cyber insurance for the Town. The underwriter is CFC so we were able to receipt a settlement with the insurer to cover the cyber event, didn't cover it in total just because we do have a deductible with that policy in the amount of \$10,000 but we have been able to receipt those monies into the general fund. They are sitting there and so with approval of the settlement agreement, the next step will be to do an additional appropriation for the amount that's approved and then it will go on our claims to pay them. So we are hoping to do this sooner rather than later. The date that we had with, between the parties in the settlement agreement was originally July 15th. Sam was able to negotiate with Ice America's counsel to move that to September 15th so that'll give us some time for review today and then on through the process.

It's my understanding, I've not seen the agreement, but it's my understanding this was approved by the Parks Board on Wednesday night during their meeting as well as the Mayor has already signed the agreement so approval today or some action today by the Town Council would then be the missing piece and then we would be able to turn it over to Ice America to negotiate and or to sign that final settlement agreement. So happy to answer any questions that you might have. We did spend between the last meeting, I know Adam was here, I was not, he had not been involved in this but myself, Jason, Bryan, Sam Gardner at Ice Miller, Amy Nooning who is the Mayor's counsel, Julie Johns-Cole, so we've got all of us have been sort of talking about this along with Cindy just to make sure we understood all the fact patterns. I think the biggest piece is that as Cindy reported and Jason reported, looking at really better internal controls so we can help flag these in the future and we know these kinds of fraudulent emails are kind of coming at all businesses these days but this will be an opportunity to work with Baker Tilly to help that process as well.

Plunkett Any questions from Councilors for Heather?

Choi Is the, you said the deductible was coming out of the general fund?

Harris Yes, so we receipted funds from the cyber insurance company which is, the underwriter is CFC, they were receipted into the general fund and then that differential was paid by the general fund is my understanding. So that \$10,000 deductible that we had is basically a loss to the Town plus legal expenses to negotiate the settlement agreement.

Choi The original cost of the ice rink, does that come out of the Parks fund or out of the general fund?

Harris I don't know – Parks fund? Parks fund. I'm getting an assist in the crowd. Cindy says it comes from the Parks fund. So my understanding is that it's receipted into the general fund now and then when we do the additional appropriation, it'll

likely move from Fund 101 over to the appropriate fund and then we'll appropriate out of that fund. That's typically how we do it.

Choi Okay, that –

Harris That, I'm getting head nods. Always good from –

Choi That was the question I was getting at is –

Harris Yes –

Choi That ultimately where does it come out of?

Harris Yes. It was originally, I think, paid from the Parks fund.

Choi I don't have anything else.

Plunkett Yes, so this money is sitting in the general account and then once we, assuming Council, I mean, from my perspective, and, Heather, I shared with this with you on Friday and the folks on the call – I mean, from my perspective, since the entire Town Council is named, I want the entire Town Council to vote on this. I don't know that we necessarily need to take any action today given we have three Councilors who are out for sickness and travel and I don't know that necessarily that the entire Town Council won't sign it anyway so, until we make sure that we get the appropriate internal control in place.

Harris Yes.

Plunkett From my perspective, and also understanding, this is going to take, should we decide to do this, it's also going to take an additional appropriation. There's still some other steps in the process and since it's not an ordinance or resolution, should the Council feel like it's appropriate for, for me to sign this on behalf of the Council, I could do it immediately. It's not like it takes a bunch of steps. Unless you guys have something different, I'd prefer we just continue this to the next meeting.

Harris We did share too with legal counsel for the Town that we may not take action at this meeting anticipating some folks might be out and also anticipating that some of you may have questions. So, if you do have questions and you want additional detail, I'm always hesitant to share since we're in active potential litigation but I'm happy to talk with any of you one-on-one and kind of go through the fact scenario and share any additional information that I may have. I'm also happy to send along, I think, you, you've received the settlement agreement in the packet but if there are additional pieces of information you might like, we can work to get those to you individually.

Plunkett And I'm happy as I've said before – I'm happy to hold an executive session too if we need to, if the Councilors have questions that can't be answered as a result of the litigation, I'm happy to hold an executive session. We can do that as well. Any questions for Heather?

- Choi Is there any immediacy to getting this done sooner than later?
- Harris I don't think we need to do it at this meeting. We will need to take action in August to just time out the ability to meet that September 15th deadline for final signature and payment. So, we'll need to do an additional appropriation which does require a public hearing and that requires a 10-day notice and so just kind of timing that through we take action, if the Council would just take action at the next meeting we would still have enough from timing to be able to get it done.
- Melton The claim's already been made, the money's already been deposited into the Parks or the general fund?
- Harris General fund –
- Melton General fund –
- Harris Mm hmm.
- Melton And then there's still \$10,000 that needs to be appropriated from the Parks? Is that?
- Harris Yes, so, what will happen is we've had funds that were deposited from the insurer from the underwriter, CFC, which is the cyber insurance policy. Those have been deposited into the general fund, as I understand it, and then what we will ultimately do is have an additional appropriation for the full amount in the settlement agreement which is \$45,000 and that will be the additional appropriation request, some of which will come from the settlement that we received from the cyber insurance policy and then there will still be a differential for the Town in terms of a loss of, of revenue for the event which is about our \$10,000 deductible.
- Melton If we were to vote on this today it'd have to be 3 out of 4, is that right?
- Plunkett No it'd have to be all 4.
- Harris Yes, all 4.
- Plunkett It'd have to be all 4 and I won't vote in favor of it, for the record.
- Melton Okay.
- Plunkett We'll wait. Any other questions from Councilors? I'll make a motion to continue this to the next meeting.
- Choi Second.
- Plunkett Second by Councilor Choi. All those in favor signify by saying aye.
- All Aye.
- Plunkett All those opposed same sign.

Zionsville Town Council
July 17, 2023

[No response]

Motion passes 4 in favor, 0 opposed.

NEW BUSINESS

Plunkett Up next is New Business. There are no New Business items.

OTHER MATTERS

Plunkett So last up would be Other Matters. Are there any other matters from Council?

ADJOURN

Plunkett Having none, I would make a motion to adjourn.

Culp Second.

Plunkett Second by Councilor Culp. All those in favor signify by saying aye.

All Aye.

Plunkett All those opposed same sign.
[No response]

Motion passes 4 in favor, 0 opposed.

The next regular Town Council meeting is scheduled for Monday, August 7, 2023 at 7 p.m. in the Zionsville Town Hall Council Chambers. Public notice will be posted in compliance with the Indiana Open Door Law. Thank you very much.

Respectfully Submitted,

Amelia Anne Lacy, Municipal Relations Coordinator
Town of Zionsville