

REGULAR SESSION, COMMON COUNCIL, DECEMBER 12, 2016

Be it Remembered that the Common Council of the City of Plymouth, Indiana, met in regular session on December 12, 2016. The meeting was held in the Council Chambers of the City Building, 124 N. Michigan Street, Plymouth, Indiana. The meeting was called to order at 7:20 p.m.

Mayor Senter led the Pledge of Allegiance and Council Member Delp offered prayer.

Mayor Senter presided for Councilmembers Cook, Culp, Delp, Ecker, Fonseca and Houin. City Attorney Surrisi and Clerk-Treasurer Xaver were also present. Councilman Grobe was absent.

Councilmembers Delp and Fonseca moved and seconded to approve the minutes of the last regular meeting of the Common Council on November 28, 2016 as presented. The motion carried.

Councilman Delp asked that the city continue to push for more participation into the metronet program.

Mayor Senter notified the council that IACT, the Indiana Association of Cities and Towns, has changed their name and is now AIM, Accelerate Indiana Municipalities.

Senter thanked and congratulated Bill Walters. On January 9, 2017, Mr. Walters will be taking Mike Delp's position on the Common Council.

Councilman Ecker thanked the Street Department and the Police Department for all their hard work.

Clerk-Treasurer Xaver announced her appointment of Abby Collins as deputy clerk-treasurer. Abby was administered her oath of office on December 4, 2016.

City Attorney Surrisi presented Ordinance No. 2016-2109, Ordinance of the City of Plymouth, Indiana, Adopting Uniform Internal Controls Standards, on first reading.

Xaver said that the state has mandated that training be completed by the end of 2016. She said there are eight individuals left to train.

James Nifong was present to discuss the following request:

Burning brush at 1121 Hoham Dr. Already have talked to fire chief and he has checked and is in favor of doing. S/ James Nifong, 115 Willow Dr., Walkerton, IN 46514, 574-276-0974 Nifong said he is looking to dispose of the brush and the easiest way is to burn them. After speaking with Fire Chief Miller, they are looking are conducting the burn on a Saturday, depending on weather conditions.

Council Members Ecker and Fonseca moved and seconded to approve the request as presented. The motion carried.

City Attorney Surrisi presented the proposed Intergovernmental Agreement for Marshall County and City of Plymouth for Dispatch Services.

Surrisi explained this agreement was put together by the Marshall County Attorney Jim Clevenger. It has been adopted by the County Commissioners and has been presented to other communities in Marshall County. The City of Plymouth's contribution annually would be \$127,987.00.

Police Chief Bacon said that this has been a long time coming. It has been approximately two years since the Plymouth Police Department started dispatch services with the Marshall County Sheriff's Department. He supports the agreement and recommended the council approve the agreement.

Councilman Houin asked that the agreement be updated to reflect Plymouth as a city rather than town as it is currently referenced in the document.

Xaver suggested that it be noted that the agreement shall not increase more than the assessed value growth quotient from year to year. Surrisi noted that the document currently states that any changes to the current fee schedule must be mutually agreed upon by both parties, but if the council would like it expressed written into the agreement, then they can approve the agreement pending those changes.

Xaver said that she discussed this agreement with the city's representative from the Department of Local Government Finance when looking over the city's 2017 budget and she suggested the verbiage regarding the state growth quotient be part of the agreement.

Surrisi then discussed the following letter he drafted:

Re: Intergovernmental Agreement for Marshall County and
City of Plymouth for Dispatch Services

Dear Clerk-Treasurer Xaver:

Paragraph 4 of the attached Intergovernmental Agreement for Marshall County and City of Plymouth for Dispatch Services makes reference to potential obligations imposed by Indiana Code § 36-1-7-16. As we have previously discussed, that statutory provision does not apply to the City in the case of this agreement. Generally, I.C. § 36-1-7-16 requires a political subdivision that realizes a savings or reduction in expenses as a result of an interlocal agreement to report its savings to the Department of Local Government Finance so that the political subdivision's maximum permissible property tax levy, tax rate, and budget can be reduced to recognize the amount saved. Here, the statute does not apply because the agreement with Marshall County will not result in a savings to the City. Presently, Marshall County is providing the majority of the City's police, fire, and EMS dispatching at no charge. Thus, the agreement will result in additional costs rather than a savings. The focus of moving all of the City's dispatch services to the County is on enhanced public safety, operational efficiency, and the overall sustainability of the dispatch system rather than on cost savings.

If you have any additional questions, please feel free to contact me at any time.

Sincerely,



Sean Surrisi
Plymouth City Attorney

Councilman Delp discussed his concern with the Dispatch Board. He feels it is vital that the City of Plymouth always be represented and not just 'potentially' represented on that board. It was clarified that the Mayor of the City of Plymouth will always be on that board.

Councilmen Houin and Culp moved and seconded to approve the agreement with the additional language proposed by Clerk-Treasurer Xaver and pending approval from Marshall County. The motion carried.

*The final agreement will be included in the minutes once an approved, signed agreement has been received by the Marshall County Board of Commissioners.

City Attorney Surrisi presented the Memorandum of Understanding – Right-of-Way Near 11940 Lincoln Highway with Marshall County.

Re: Memorandum of Understanding – Right-of-Way Near 11940 Lincoln Highway

Dear Mayor and Council:

This Memorandum of Understanding (MOU) reflects the general intentions between Marshall County acting through its Board of Commissioners, located in Marshall County, Indiana (hereinafter referred to as "County"), and the City of Plymouth, located in Plymouth, Marshall County, Indiana acting through its Mayor and City Council (hereinafter referred to as "Plymouth").

- A. Purpose: County owns right-of-way located outside the city boundaries for Plymouth near 11940 Lincoln Highway, Plymouth. It is the intention of Plymouth to construct, decorate, and maintain signage within that right-of-way so as to greet and/or promote the city to those traveling the roadway. Thus, the purpose of this Agreement is to set out the responsibilities of both parties as it relates to use of the right-of-way.
- B. Nature of Agreement: The parties acknowledge and agree that the following sections 1 through 5 inclusive are intended solely as an outline of material matters indicating what each party will do during the term of this MOU; however, it is not intended to be all-inclusive. Future discussions between the parties hereto may bring to light new issues which would call for changes in this MOU.

During the term of this Agreement, the parties will do the following:

1. The right-of-way near 11940 Lincoln Highway shall remain County roads and continue to be part of the County Highway System. County shall maintain the paved roads and shall be permitted to erect and maintain traffic signs that are necessary to regulate the proper flow of traffic. County shall maintain an easement for the entire right-of-way so as to affect the purposes of maintaining the road for traffic. However, County will maintain the road in such a fashion so as to not interfere with the improvements constructed, erected, planted, or otherwise placed within the right-of-way at a distance from the road that is compliant with state and INDOT regulations.
2. Plymouth shall be solely responsible for the upkeep and maintenance of any improvements, plantings, or other that are constructed, erected, planted, or placed within the County right-of-way. Plymouth shall maintain the improvements so as to not interfere with the flow of traffic. Plymouth shall comply with all federal, state,

and local rules and regulations concerning the roadway and the flow of traffic.

3. Any improvements located within the right-of-way by Plymouth shall only be completed after Plymouth has obtained approval of the design plan/features by County. Any such improvements by Plymouth shall be their sole and separate responsibility and they shall thereafter maintain said improvements.
 4. Plymouth agrees that County shall not be responsible for any costs and expenses related to the subject improvements in the right-of-way.
 5. This Agreement shall commence on January 1, 2017 and shall end four (4) years from this date. This Agreement, or one similar to it, may be renewed upon terms and conditions agreed upon by the parties.
 6. Either of the parties shall have the right to terminate this Agreement with one hundred eighty (180) days' notice. Upon a termination, Plymouth may be allowed to remove any improvements made within the right-of-way at Plymouth's expense.
- C. Good Faith: The parties will work in good faith and in the best business interest of each party. The parties agree that all applicable laws and regulations in any way related to the performance of their duties shall be complied with by the parties under this Agreement.
- D. Entire Understanding; Modification: The MOU embodies the entire understanding of the parties as to the subject matter hereof, and supersedes any and all prior agreements or understandings between the parties. No modification of this MOU will be valid or binding upon the parties unless made in writing and signed by an authorized representative of each party.

E. Reciprocal Hold Harmless Agreement/Liability Indemnification:

County shall indemnify and hold harmless Plymouth and Plymouth officials and employees from and against any and all claims, costs, expenses, damage, and liabilities arising from or pertaining to the use, construction, maintenance, or other related matters for the paved portion of the roadway, and easement area that remains under the County's possession and control and shall indemnify Plymouth against and hold Plymouth harmless from any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including attorney fees, resulting from, or arising out of the sole negligence on the part of the County in maintaining the paved portion of the roadway. County shall provide evidence of liability insurance coverage applicable to County employees who may be working, maintaining, or otherwise going on or about the roadway for purposes of maintenance, and agrees to provide proof that County is insured through the issuance of a Certificate of Insurance.

Plymouth shall indemnify and hold harmless County and County officials and employees from and against any and all claims, costs, expenses, damage, and liabilities arising from or pertaining to the use, construction, maintenance, or other related matters for the portion of the right-of-way that is being used by and under control of Plymouth for the construction, location, planting, or other improvement made by Plymouth, and shall indemnify County and hold County harmless from any and all claims, actions, suits, proceedings, costs, expenses, damages, and liabilities, including attorney fees, resulting from, or arising out of the sole negligence on the part of Plymouth in maintaining that portion of the right-of-

way that is being used by or under the control of Plymouth. Plymouth shall provide evidence of liability insurance coverage applicable to Plymouth employees who may be working, maintaining, or otherwise going on or about the right-of-way for purposes of maintenance, and agrees to provide proof that Plymouth is insured through the issuance of a Certificate of Insurance.

If this MOU accurately states the intention of the parties, please so indicate by manually signing in the space provided below and returning the signed MOU to me by email.

Sincerely,

MAYOR OF PLYMOUTH

This is part of the city's gateway signage initiative and are located on county property.

Councilmen Ecker and Houin moved and seconded to approve the Memorandum of Understanding

– Right-of-Way Near 11940 Lincoln Highway as presented. The motion carried.

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City Attorney Surrisi updated the council on the consolidation of tax properties. The Marshall County Assessor's office has been in contact with him and provided suggested consolidated parcels of land. Surrisi will review them and have a memo to the council outlining those suggestions.

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

Minutes of the Board of Public Works and Safety meeting of November 28, 2016;
Minutes of the Technical Review Committee meeting of December 6, 2016;
Minutes of the Urban Forest and Flower Committee of November 16, 2016;
Minutes of the Board of Aviation Commissioners of November 15, 2016

The motion carried.

There being no further business to discuss, Council Members Culp and Houin moved and seconded to adjourn the meeting. The motion carried and the meeting was declared adjourned at 7:42 p.m.

Jeanine M. Xaver, IAMC
Clerk-Treasurer

APPROVED

Mark Senter, Mayor