

The Board of Public Works and Safety of Plymouth, Indiana, met in Regular Session on October 27, 2014, at 6:00 p.m. in the Council Chambers of the City Building, 124 N. Michigan St., Plymouth, IN.

Mayor Senter presided for Board Members Culp, Ecker, Grobe and Smith. City Engineer Gaul, City Attorney Surrisi and Clerk-Treasurer Xaver were also present.

Board Members Ecker and Culp moved and seconded to approve the minutes of the last regular session of the Board of Public Works and Safety on October 13, 2014, as presented since they have been reviewed and found to be correct. The motion carried.

The following legal notice was advertised in the Plymouth Pilot Newspaper on October 24, 2014:



City Attorney Surrisi made a last call for submittals and then opened the following sealed submittals for Qualifications for the US EPA Brownsfield Assessment Grant:

Heartland Environmental Associates, Inc., 2410 Mishawaka Ave., South Bend, IN.

Bruce Carter Associates, LLC, 616 S 4th St., Elkhart, In 46516

TRC Environmental, 10475 Crosspoint Blvd., Indianapolis IN 46256

Surrisi asked the board to take the proposals under advisement to allow the committee time to review them.

Board Members Smith and Grobe moved and seconded to take the submitted qualifications under advisement. The motion carried.

400 E. Jefferson Street, Plymouth, Code Enforcement Issue

Mr. Iqbal, owner of 400 E. Jefferson Street, updated the members on the progress of the building. He said that he has been focusing on his health, but he has placed an order with Plymouth Glass to replace the glass in the building. He said that Plymouth Glass is running 3-4 month behind; he said that his wife ordered the glass about a month ago.

Board Members Smith and Culp moved and seconded to table the matter until December 8, 2014.

Board Members Smith and Culp each rescinded their respective motion and second. Smith moved to table the matter until February 9, 2015. Culp seconded the motion; the motion carried.

Board Member Ecker noted that the last meeting of the year is scheduled to be held on December 29th; but he will be out of town that week.

Utility Superintendent Davidson updated the board on the Beerenbrook / Jefferson Street Storm Sewer Project. He said all of the pipe has been installed; they are scheduled to begin trench patching Tuesday and Wednesday. Phend and Brown is scheduled to mill off the existing pavement down about an 1" – 1½" on all of the streets involved and they will overlay with surface material, dependent on the weather. He said there will be minor delays at the Jefferson St / Beerenbrook intersection; the contractor is to contact the media with a press release regarding traffic.

Chief of Police Bacon announced that about a year ago Officer Shanna Gilmer approached him because she had become aware of a group out of Elkhart, Heart Reach Michiana, from which you could request automatic defibrillators. He said the police department received six defibrillators from the organization last week, bringing the department total to eight.

The board members thanked him for his officer obtaining the donation.

Street Superintendent Marquardt said that he received calls this afternoon regarding the traffic light at Oak and Jefferson and upon investigation determined that something has hit the five-head unit in the westbound lane. He contacted Dave Delp from Michiana Contracting to replace or secure the light.

Regarding the Jefferson Street bridge project being conducted by the county highway, Marquardt said that he heard that it is progressing on schedule; the west side of the road is finished and the east side has been determined to be not as bad as the west side.

City Engineer Gaul addressed the board regarding a request from United Telephone to install fiber optic cable on Pioneer Drive / Miller Drive for the Bureau of Motor Vehicles. He explained that the phone company is requesting permission to install fiber optic in the city right-of-way starting just south of Lifplex and continuing down across Miller Drive, down to the driveway of the BMV. There were comments beyond the normal notations, which he reviewed.

Board Members Ecker and Grobe moved and seconded to approve the portion of the work in the city right-of-way with the stipulations set forth in the letter to the board members. The motion carried.

City Attorney Surrisi asked the board's consideration of Metronet Zing's Proposal for Use of Space at the West Water Tower.

Mary Jan Hedman of St. Joe Valley Metronet, Inc. addressed the board. She said they are asking to use a space about 10' x 15' in the southwest corner of the fenced in area of the water tower to place a cabinet. She said that they would put the fiber utility cabinet on a cement pad and another fence around the area. She said the cabinet will allow for three redundant loops of fiber within the area of Plymouth by allowing them to move or connect a user from one of the rings to another so that they can all be connected together. Having the cabinet secured above ground gives the fiber technicians the ability to very easily have cross-connects or to jump from one backbone to another. It would be accessible to St. Joe Valley Metronet and its agents or service providers. They will have utilities brought into the Metronet cabinet, but they will be responsible for all of that and well as any of the bills or maintenance that takes place from the time of the agreement forward.

Surrisi said that he, Utility Superintendent Davidson and Larry Hatcher from the wastewater department have all reviewed the information. He asked that the board approve the agreement with one modification that they come to some agreeable language that would set out the consideration that the utilities department would receive, for allowing this use, would be that the Metronet would provide additional conduit and fiber connection from the edge of both water tower sites to the water towers so that the utilities department can, in the future, hook up some kind of remote monitoring equipment for their use at no cost to the water department.

Board Members Smith and Culp moved and seconded to approve the License Agreement for Access to Public Right-of-Way with the proposed modification.

Board Member Grobe asked, after construction is finished, how often would the technicians have to access the area, and would they have to access the tower area, or just the externally fenced area.

Utility Superintendent Davidson said that the intent is to fence in the interior and put an outside gate on the exterior so they don't have to access the tower area. He said that there is no equipment being attached to the tower. He said that he is comfortable with the chosen location and they will be responsible for running their own electric to the unit they will be placing there and will be responsible for their own costs.

Mary Jan Hedman said that they are hoping to pull fiber and connect users before the end of the year.

The motion to approve the License Agreement for Access to Public Right-of-Way with the proposed modification carried.

City Engineer Gaul and Brent Martin addressed the board regarding Partial Acceptance of Completed Metronet Conduit into the public domain.

City Attorney Surrisi presented a letter from BA Martin Architects dated October 23, 2014 that outlined the various areas that are completed and are to be accepted. He said we will be taking over these areas of the conduit and they will be released from Michiana Contracting as the building contractor's responsibility and we can authorize the Metronet to start pulling fiber through those areas.

Martin referred to a map with an orange line that represents all of the conduit area for the city's project. He said they are proposing and they have inspected the entire system, and proposing that all of the system be accepted into the public domain with a few exceptions. He pointed out Pioneer Drive on the far left hand side of the map. He said that the portion of Pioneer Drive to the south that is not in the city limits has been excluded; he said that portion was paid partially by the City of Plymouth and partially by Marshall County, but lies outside of the City of Plymouth. He pointed out an area on State Road 17 over to the city limits, which is the same situation, it is not part of what the city is accepting, since it does not lie within the corporate limits of the city.

Martin said that there are also three sections that he is not recommending that the city accept today because there is some repair work to be done on a couple of manholes and that includes Western Avenue (the hatched area), Skylane and a portion of Hoham. He referred to these as punchlist type items and said that he would not recommend the city accept those areas until the work

is done. Martin referred to the rail road crossings. He said that CSX is the rail line, but they lease the line to the Chicago, Fort Wayne and Eastern and Martin has yet to have a flagger scheduled to stand there while the work is done. He said that on North Michigan Street there was a gas line that was untonable by USI's locating service, but NIPSCO was able to locate the line in the last week and a half, so that area is now done.

Martin said that some lawn restoration and site work may carry over until spring, although the vast majority of it is done. He said that in addition to the Metronet main line, there are some other things in this document to which he wanted to call the board members' attention. He said that there are some extensions of the main line addressed on page two, and that is essentially to allow the system to extend without having to go under streets. He said there is one at Michigan Street and Oakhill that goes south under Oakhill; one at Jefferson Street and Oak Drive going west under Oak Drive; one at Oak Drive and Hoham that goes north under Hoham; and Michigan Street and Plymouth-Goshen Trail that goes east to get out from underneath the sidewalk. Martin said that part of the project involved running conduit laterals and installing telecommunication panels in several city facilities. He said the city facilities are set up to take advantage of the fiber optic system. Additionally there are conduit laterals and hand holes in the public right-of-way to the face of the building foundation and those are essentially in downtown Plymouth. He said the main line runs down the west side of Michigan Street about seven or eight feet from the curb line. He said that they took the conduit and stubbed into the corner buildings downtown with the idea that as the project matures, more businesses downtown may want this service; and it will be accessible through the conduit placed in the corner buildings because those building owners have signed easement agreements with the city to allow the conduit to be continued through the basements.

Martin said that there is a short piece of conduit going from the hand hole to the right-of-way line on Jefferson Street; this services the county building and the court house. He said that there is three feet that is in the city's right of way, but the rest of it is on county property.

Martin said that for dedication purposes, the actual total value that he is recommending be accepted is \$502,605.00 for the Metronet Fiber-Optic Conduit project. He said that separately, he is recommending a dedication for two items that are not part of the Metronet project. He said that several years ago, Pioneer Drive was improved and conduit was installed from Miller Drive to Lincolnway; a part of that is in the city limits and was not specifically dedicated at that time, but it is now part of the system. He said that when Miller Drive for the Tech Farm was constructed and there was not a specific breakout for the conduit of the Tech Farm going east and west from Pioneer Drive on Miller Drive. He said that they have estimated the total of those two projects to be \$65,770.00 for a total of \$568,375.00.

Martin said that they would be back later for acceptance of the few remaining items as well as a reconciliation with the contractor for the final quantities.

Martin said he came to the \$65,770.00 amount by taking the station points on Pioneer Drive and taking the quantity of conduit from the city limits to Miller Drive times the bid price that Michiana

gave for the entire Metronet project, both conduit and hand holes. He estimated the amount for Miller Drive the same way.

City Engineer Gaul recommended that the board accept the conduit into the public domain. He referred to the attached email from St Joe Valley Metronet stating that they are ready to go "live" upon acceptance; the referred to letter from Brent Martin; and the Progress Estimate Invoice. He explained that the city is not accepting anything they haven't paid for.

Board Members Smith and Culp moved and seconded to accept the conduit into public domain as presented. The motion carried.

Gaul referred to a request from Martell Electric to install fiber optic cable in the communication infrastructure conduit. He recommended a \$0 financial guarantee, should the board so desire, since there should not be any digging or exposure to utilities. He said that in addition to the conventional notes, there are also notes for the contractor to be in contact with the railroad when necessary and to check with the county surveyor when crossing legal drains and to work with the building commissioner when they are entering buildings.

Board Members Culp and Ecker moved and seconded to approve the work by Martell Electric within the right-of-way. The motion carried.

City Attorney Surrisi presented a request for the approval of the Montgomery / Aqua Villas, Inc. Settlement and Dedication of Waterlines and Fire Hydrants. He said that this arose from a dispute in the 90's and two competing lawsuits that have been ongoing for several years.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between the city of Plymouth, Indiana ("the City") and Calvin Montgomery, Brenda Montgomery, and Aqua Villas, Inc. (collectively "the Montgomerys"). The purpose of this Agreement is to fully and finally settle the parties' disputes, therefore, the parties agree as follows:

1. The City and the Montgomerys, their successors in interest, agents, assigns, heirs, beneficiaries, executors, administrators, or other derivative claimants, waive, release, and forever discharge each other from any and all claims known or unknown, from the beginning of time until the date of this Agreement, which arise from or are associated with utility service lines on and around the Aqua Villas Apartments property located in Plymouth, Indiana, or the provision of other municipal services at that location.
2. The City and the Montgomerys agree to voluntarily dismiss with prejudice the following cases, *City of Plymouth v. Montgomery*, in the Marshall Superior Court 2, Cause No. 50D02-0911-SC-1716, and *Montgomery v. City of Plymouth*, in the Marshall Circuit Court, Cause N. 50C01-1006-CC-57. The parties shall each bear their own costs associated with these actions.
3. The Montgomerys agree to dedicate to the City a waterline and fire hydrant running along the northern portion of the Aqua Villas Apartments property, as well as a waterline and fire hydrant running along the eastern portion of the property. The City agrees to, with the

Montgomerys cooperation, prepare any necessary documents and to take all formal steps for such infrastructure to be formally accepted by the City's Board of Public Works and Safety. The Montgomerys further agree to grant the City the necessary utility service easements for the dedicated infrastructure after said easements are described by surveys provided at the City's expense.

4. As a term of this settlement, the City agrees to pay the Montgomerys the sum of one thousand three hundred dollars (\$1,300.00).
5. This agreement shall be deemed fully executed and effective when it is signed by all of the parties.

Board Members Grobe and Ecker moved and seconded to approve the Settlement Agreement as presented. The motion carried.

Superintendent Davidson said that the water line and hydrant meet the city specifications.

It was noted that the service lines from the curb stops to the dwellings are not being accepted.

Surrisi asked the members to include the acceptance into the public domain into the same motion.

Board Member Grobe amended his motion to accept the settlement agreement and to accept property into the public domain. Board Member Ecker seconded the motion; the motion carried.

Clerk-Treasurer Xaver presented the following requests:

10/14/14 Loading zone in front of 323 W. Madison St. home due to I have a handicap child in a wheelchair that I unload and load there because it is easier to load and unload her. Only I can park at the address to load and unload my child. S/ Loretta Back, 323 W. Madison St., Plymouth (574)540-8214.

Board Members Ecker and Culp moved and seconded to table the request. The motion carried.

10/20/14 – I have talked to Chief Miller about this. Asking to be able to burn a brush pile on my farm. Nearest house is over 1000' away S/ Michael Delp, owner, 707 S. Michigan St., Plymouth, IN, 574-930-4552 cell

Board Members Smith and Grobe moved and seconded to approve the request. The motion carried.

10/21/14 – Tie red ribbons on light poles up town Plymouth, IN for drug Awareness. S/ Linda Clevenger, Meth Watch, 11028 Hawthorn Rd, Plymouth, IN 46563, 574-341-2083

Board Members Grobe and Culp moved and seconded to approve the request. The motion carried.

Board Members Smith and Culp moved and seconded to allow the salaried payroll for October 1-15, 2014 and the claims for October 27, 2014, as entered in Claim Register #2014. The motion carried.

Board Members Ecker and Smith moved and seconded to adopt the Ratification of Executive Order 2014-01 Temporary Closure of Garro Street for Halloween Event. The motion carried.

There being no further business to discuss, Board Members Culp and Grobe moved and seconded to adjourn the meeting. The motion carried and the meeting was declared adjourned at 6:50 p.m.

S/Jeanine M. Xaver
Clerk-Treasurer

APPROVED:

S/Mark Senter
Mayor

The following requests have been forwarded to the proper committee to act:

10/6/14 – A tree by Nursery & Thayer Streets has fungus growing on it. Would like it checked, removed if needed (closer to Nursery St) S/ Brenda Moreno, 800 Thayer St, Plymouth, IN 574-935-0510

10/24/14 – Would like a tree removed. The tree is located on Harrison St. between Center and Michigan St. It is the one closest to Michigan St. It has started losing branches each change of season. S/ Tim Paterson, 900 N. Center St. 574-302-5504