

TOWN COUNCIL OF LEO-CEDARVILLE
MEETING MINUTES
JANUARY 20, 2009

ATTENDANCE:

R. Paul Steffens – Council President
John Clendenen – Vice President
Gordon Liechty, Jr.
Michael Young
John Eastes
Pamela Spannuth – Clerk-Treasurer
Patrick Proctor – Town Attorney

7:00 p.m. – Mr. Steffens called the meeting to order with the Pledge of Allegiance.

AGENDA – The January 20, 2009 agenda was unanimously approved with flexibility.

PROPOSED UPDATED NOISE ORDINANCE – ORDINANCE 2009-01 – Mr. Patrick Proctor, town attorney, was present to discuss the proposed revised noise ordinance. He reviewed details of the ordinance and discussed the purpose of the revisions. Ms. Amy Slentz from Cedar Creek Produce was also present to address the proposed changes to the ordinance as it could affect their use of a propane cannon during the summer berry season. She spoke about how they used the cannon less this past season than they did initially and tried to use other means to scare birds away from their crops. Mr. Proctor recommends that the council consider the adoption of the new proposed noise ordinance even if they agree to allow the use of the cannon at the produce farm. He stated that the revised ordinance is more enforceable than the existing noise ordinance; case law has previously challenged similar ordinances and he feels the current ordinance needs updated. Vague language was eliminated and violations of the ordinance are better defined. Mr. Young asked for clarification on the enforceability of violations outside the town boundary. The ordinance does address the rights of the municipality to enforce this ordinance for up to one mile outside the corporate boundary (municipalities have the right to enforce up to four miles outside the boundary). Mr. Eastes addressed the limitations that section E(11) could impose on the use of motorized farming vehicles before 6 a.m. and after 10 p.m. The elimination of the hours would address this concern. He expressed the opinion that in many areas within the town, farms were here first; he urged the council to be cautious to not restrict the agricultural uses within our town. Ms. Slentz stated that their farm has been in the family since the late 1940's or early 1950's. She also stated that the cannon is activated by sunlight, which can set the cannon off before 6 am. Mr. Eastes suggested changing the time in E(11) from 6 am to 5 am. Mr. Clendenen stated that by leaving the hours as 6 am to 10 pm, both parties would have to give a little. The council agreed to remove the time restrictions on motorized farming vehicles within E(11) All other references to time will be stated as 6 am to 10 pm. Mr. Liechty requested clarification on who gives notice to the offending party such as a town official and/or law enforcement officer. Other minor corrections were discussed. Mr. Liechty recommended that the ordinance should carry a penalty clause; Mr. Eastes

agreed. Mr. Proctor will add this terminology as well as an equitable relief clause to the ordinance. Mr. Proctor stated that by the adoption of this ordinance, the town would have the ability to limit the times of the use of the propane cannon used at the produce farm. Mr. Eastes again stated that he discourages the adoption of language that could adversely affect agricultural activities. Mr. Liechty also stated that he would not want to discourage the development of an industrial area within the town boundaries. Amendments will be made and the ordinance will be on the website and the next agenda.

SALT STORAGE PROPOSAL – Mr. Proctor stated that he has spoken to the Allen County attorney regarding the proposal for in-kind trade of road salt for storage. He cautioned the council against entering into such agreement. He stated that it would be difficult to account properly for equivalent trade. Mr. Proctor further recommended that other comparative storage options be considered. Since the town buys salt from the county's fixed supply, the county may be objected to the town taking larger quantities of salt than it needs. Mr. Liechty stated that the vendor currently has his own salt supply now and is willing to simply lease storage space. Mr. Clendenen stated that he would be against the proposal due to the appearance of impropriety. He suggested that the council look at a long-term plan of a permanent storage solution instead of just short-term fixes. Mr. Steffens suggested that the council place an adequate storage facility on the long-term capital plan.

WINTER BIKE PATH MAINTENANCE – Mr. Proctor addressed the topic of whether the town should clear the snow from the Grabill Road bike path during the winter months. He cited the discretionary immunity statute under municipal law and addressed the liability issues that may be posed by a choice to maintain the path. Municipalities do have a duty to maintain a safe public thoroughfare but further stated that if the town does not clear the snow, it is clear to users that they are using the path at their own risk. His recommendation was that that the town does not maintain the bike path during the winter months. Mr. Clendenen added that the property owners along the bike path were originally told that they would not be expected to maintain the 8-foot path. He further stated that he would recommend that the path be maintained after all of the roads are cleared. Mr. Eastes agreed with Mr. Clendenen. Mr. Clendenen moved that the town clear the Grabill Road Bike Path within the town limits within a reasonable period of time upon learning that the path is in an unsafe condition. The town will not clear any other walkways on private property. Mr. Eastes seconded; the motion passed unanimously.

MINUTES – The January 6, 2009 meeting minutes were approved by unanimous approval.

FINANCIAL REPORT – Ms. Spannuth presented the December 31, 2008 fund balances. Since the 2008 budget year has not been closed yet the current balance isn't available.

ADA HANDRAILING – No new information.

SIDEWALK PLANNING – The mapping for proposed sidewalks is available for council review. Discussion on this plan will be on a future agenda after review by the council members.

PLANNING & ZONING – Mr. Steffens approved the recommendation by the planning and zoning board for a four-year reappointment of Mr. Mohlman. Mr. Proctor will draft a document supporting this appointment.

SECTION 125 CAFETERIA PLAN – Mr. Eastes discussed details he has learned about the establishment of a Section 125 cafeteria plan. Further information is still being sought on the best way to handle employee benefits.

NORTHEAST FIRE & EMS – Mr. Eastes passed out copies of documents given to him during the meeting hosted by Northeast Fire & EMS. The department is exploring the option of creating a fire territory.

VOUCHERS – The January 20, 2009 line item voucher form was approved by signatures.

ADJOURNED – Motion to adjourn was approved unanimously.

APPROVED:

Paul Steffens
Council President

ATTEST:

Pamela Spannuth
Clerk-Treasurer