



**June 12, 2018**  
**Town Hall – 7:00 p.m.**

## **Town Council Meeting Minutes**

### **Roll Call & Pledge of Allegiance**

- Council Members: Larry Longman, Barry Wood, Bryan Burney, Tom Strayer, Branden Williams
- Employees: Tonya Galbraith, Harold Rodgers, Mark Witsman, Ryan Crum, Ron Crider
- Clerk-Treasurer Cathy Gardner
- Town Attorney Gregg Morelock

### **Approval of Minutes**

- Corrections to the minutes were specified.
- Motion by Dr. Burney that with those changes, I approve the minutes. Mr. Strayer. 5-0.

### **Clerk Treasurer's Report**

- Posted on-line.

### **Police Report**

- Posted on-line.
- Blast on the Bridge
  - Town of Fishers police have asked McCordsville to participate in Blast on the Bridge. The Fishers Parks Department won't be hiring McCordsville officers to keep people from parking in wrong places this year but will hire only for traffic control.

### **Resolution 061218 - Weavers Landing – Fiscal Plan**

- Mr. Crum explained the fiscal plan.
- Two homesteads have not asked to connect to sewer.
- Resolution 061218 was read by Mr. Morelock.
- Motion by Dr. Burney to approve Resolution 061218. Mr. Wood. 5-0.

### **Ordinance 061218 – Weavers Landing – Annexation Ordinance**

- Motion by Mr. Wood to recess the Council Meeting. Dr. Burney. 5-0.
- Open Public Hearing – Annexation Ordinance - 82 acres
  - Mr. Ron Pritzke, attorney, sworn in.
  - Premier Land Co., LLC is the owner.
  - D R Horton is the builder.
  - Single family sub-division.
  - The Alexanders and Robert Scott own parcels on which the subdivision will be located. Two other residential properties are coming in with the annexation but won't be part of the subdivision.
  - 100% voluntary annexation. Area is contiguous. Meets the 1/8<sup>th</sup> requirement.



- Public Comments: None
- Motion by Mr. Wood to close the Public Hearing. Mr. Williams. 5-0
- Council Meeting resumed
- Motion by Dr. Burney to read Ordinance 061218 by title only. Mr. Strayer. 5-0.
- Ordinance 061218 was read by title by Mr. Morelock.
- Motion by Mr. Wood to pass Ordinance 061218 on first reading. Mr. Williams. 5-0.

#### **Town Noise Ordinance and Daniel's Vineyard**

- Robert Foos, of Lewis Wagner, Indianapolis is the attorney for Daniel's Vineyard.
  - Vineyard's Concerns: The ordinance makes any noise that can be heard within 20' of a neighbor's property line a disturbance. Mr. Foos said the ordinance is apt to be enforced in an arbitrary and discriminatory manner or could be. Westfield, along with other municipalities, uses decibels as a measurement of noise. Daniel's is happy to work with everyone in the neighborhood.
  - Mr. Longman: The issue is what noises can disturb adjoining neighborhoods. Mr. Longman has struggled with the fact Daniel's is more like an amphitheater instead of a winery. Everyone could live with events if the noise level is moderate. The Winery is a huge benefit. Mr. Longman is looking for a middle ground.
  - Mr. Williams: Top five wineries in Indiana have music hours of 1:00-5:00 p.m. or 2:00 -4:00 p.m. Music is unamplified and happens once a week or once every couple weeks.
  - Mr. Longman: Daniel's music is a lot more.
  - Mr. Strayer: Initially, Daniel's said they'd have six events a year. Now they are doing a lot more.
  - Mr. Foos: He is only prepared to talk about the noise ordinance. Decibel meters: Westfield and Fishers use them. He said he can use a downloadable app for an I-phone to check volume.
  - Chief Rodgers: Westfield has a clause in their ordinance which says to use a 40' property line measure OR decibel measure. Indianapolis has something similar. Bloomington – no decibel meters: noise is considered excessive if it can be heard in a neighbor's home. He doesn't think town should purchase decibel meters just for one business.
  - Mr. Longman: There is no proper structure on the property to control music direction.
  - Mr. Wood: If we did decibels, how many meters would be needed? Chief Rodgers: Twelve would be needed. Mr. Wood: the cost would be about \$60 - \$300. Mr. Foos: Daniel's would purchase one meter. Mr. Longman: I suggest Daniel's have one and check levels themselves. Mr. Wood: Decibels are an intriguing idea. Frequency of events is an issue. Length of the performance is a problem. Daniel's should turn down the level of noise. The Town wants the vineyard to be successful but the Town also wants to help the neighbors out because the neighbors were there first. Mr. Strayer: If Daniel's had initially come in with what they intended to do, the Council could have directed them to a different area. Mr. Foos: If they had known how successful this would be they might have done something else. They are very successful. Dr. Burney: The type and frequency of music is a problem that's probably not going to go away. Long term, would Daniel's consider splitting their business in a more suitable location where it could be scaled, maybe in partnership with the Town. Mr. Longman: Maybe Daniel's could do something similar to what Fishers has done. Mr. Wood wants a decibel meter. Chief Rodgers said all decibel meters register all noise. The meter can't tell the difference between music and a lawn mower.



- On behalf of the Winery:
  - Tom Collignon, 13458 Marjac Way: Decibel measurement would provide a distinct number. Noise is noise. The Town shouldn't carve out the Winery. He downloaded a decibel meter and tested this current room at 68 decibels. On Friday nights, they do have outside concerts but they also have a smaller, one man concert inside.
  - Jason Shartzner, 6586 W. Silvesthorne Dr.: His house is probably one of the closest ones to the stage. He says nobody cares about the noise. It's not a big deal. He doesn't mind. There was a poll on the Nextdoor app and 70% said "no" to having an issue with the noise. The music should be allowed until 11:00 p.m.
  - Lance Lyday, 6043 Terra Ln: Loves Daniel's. Great place to take family. He could hear Bella Vita when it started playing music. He wants a reasonable solution.
  - Jonathon Lawler, Greenfield, IN: Hancock County farmer. Operates three agro-tourism businesses himself. Wineries are the fastest growing segment of tourism. Anything that impedes that growth may be short sighted on the part of McCordsville. This Winery has brought statewide recognition. It could be a draw for the city down the road.
  - Jeff Marshall, 6186 W 900N: Occasionally they can hear it. He has concerns about the way the noise ordinance is currently written.
  - Mandy Perdue, 9324 N. Coral Reef Rd.: They love to sit out on their deck and listen to the music.
  - Patty Troutman, 12420 Bent Oak Lane: Ms. Troutman works there and supports the outside music.
- Against the current noise:
  - Bob Holzbach, 6876 W. Glory Maple Dr.: He supports Daniel's but his concern is the volume of the music. It's another thing to have music forced on you. Solutions: there are mitigation options. Music doesn't have to be hard rock kind.
  - Terry Dinsmore, 6593 W. Silverthorne Dr.: They are not trying to shut down Daniel's. They are asking for people to compromise and be good neighbors. At this point, there has been no compromise from Daniel's. The Winery's will for its own business is superseding the neighbors'. They've been asked by Council and HOA to find a compromise. Those conversations haven't happened. The music makes it into their house.
  - Doug Dinsmore, 6593 W. Silverthorne Dr.: From last year, the noise was loud enough to hear clearly in the house over the air conditioner and TV. Their windows vibrate. If he's outside, he's okay with hearing it. His concern is Daniel's hasn't done anything to mitigate the music. Daniel's should be working toward mitigation.
  - Erin Hirons, 6187 W. Nautica Blvd: She is forced to hear the music outside every weekend and the music is loud. She wants McCordsville to do something about the noise. She shouldn't have to and doesn't want to hear the music and it is all three days of every weekend. Daniel's should show some respect to their neighbors.
  - Leah Borrmann, 6843 W. Thornbush Dr.: The Winery wasn't told they couldn't have outdoor music, just that it couldn't be above a certain level. The Noise Ordinance applies to everyone; not just Daniel's. The social media poll asked the wrong question. It should have asked if a neighbor played music so loud it causes issues and goes from June to October if it would be a problem. The Cooks were advised last year to come up with a solution. They should operate within the confines of the law.



- Tim Hirons, 6187 W. Nautica Blvd: He understands why people like it and the Winery is doing great things. We live 1.5 miles from the Winery. No matter what kind of music, they hear it and can hear it inside. His family should be able to listen to what they want to. He doesn't have a solution but 1.5 miles away they still hear music from the beginning to the end.
- Donna Price, 6896 Cardinal Dr.: She is concerned things continue to escalate. The people that come to the concerts are choosing to come. Those that live around it don't have that option. That's a sad way to live. She is hoping there's a way to figure it out and is concerned for those who are really experiencing it.
- John Price, 6896 Cardinal Dr.: He is an analytic scientist by training. Decibel measuring is much more complicated than downloading an app. Decibels need calibrating. It's very expensive to maintain/have. The Town of Fishers uses 115 decibel levels. He is concerned non-scientific people would be setting the levels.
- Jennifer Helle, 6831 W. Thornbush Dr.: She is not opposed to outdoor music and likes the Vineyard. They do good charity work. She is asking that something be done about the volume. With windows closed and air conditioner on, she can still hear it. She likes music but she can't choose to not hear the Winery's music. A compromise is needed. She has contacted Kim Cook on first the concert. Friday appears to be louder than Saturday or Sundays.
- Tae Sture, 6628 W. May Apple Dr.: Outdoor music is like trying to regulate pee in a swimming pool. (much laughter from the audience)
- Chief Rodgers: Read a statement - Noise is the number one quality of life complaint. McCordsville is becoming more densely populated. The Town shouldn't have a law for one business. He wants officers to have clear guidance so they can effectively terminate an issue.
- Mr. Longman: Geist Woods appears to be saying that the noise level and frequency are the issues. The Town may need something to be done to contain the noise within the facility if the hours and frequency are not changed.
- Dan Cook: There's zero tolerance now so all music will be inside.
- Mr. Morelock: The decision is with the Council. Staff has met with members of the Vineyard many times. The Council should know staff hasn't turned a deaf ear to the issue. Mr. Wood: We've been at this for two years. Mr. Morelock: The ordinance hasn't been complied with. The Town can only cite them if they're in violation.
- Dan Cook: He wants the Council to come up with a measurable thing. Other towns have them. Otherwise, Daniel's will keep getting tickets.
- Kim Cook: The Winery doesn't want to be a boom box in your house. We are trying our best. I can't control where the wind is blowing that day. I only can control what's coming off of our property. If she has a decibel number, she can put it in performers' contracts. It is hard to control performers, too.
- Mr. Longman: Can Friday be acoustic? Mr. Foos: we're open to all suggestions.
- Ad Hoc Committee: People are to send a notice to Tonya if they want to work on an Ad Hoc Committee to try to figure something out. In the interim, the Council will not be modifying the noise ordinance tonight. Chief Rodgers: The first response to a complaint will always be a warning but the next response the same day will be a citation; that will give property owners time to correct the issue first. The committee will be a seven member committee.



**Resolution 061218A - State of Indiana Public Employee Deferred Compensation Plan Adoption Agreement**

- Resolution 061218A: Read by Mr. Morelock.
- Motion by Mr. Wood to read Resolution 061218A by title. Mr. Williams. 5-0.
- Motion by Mr. Wood to pass Resolution 061218A. Mr. Williams. 5-0.

**Ordinance 061218A – Salary Ordinance Amendment**

- Motion by Mr. Strayer to read Ordinance 061218A by title. Dr. Burney. 5-0.
- Ordinance 061218A was read by title by Mr. Morelock.
- Motion by Dr. Burney to approve Ordinance 061218A on first reading. Mr. Wood. 5-0.
- Motion by Dr. Burney to suspend the rules. Mr. Strayer. 5-0.
- Motion by Dr. Burney to pass Ordinance 061218A. Mr. Strayer. 5-0.

**2019 Salary & Pay for Performance**

- Discussion was held on the two subjects

**Old Business**

- None

**New Business**

- Resolution 061218B - Stellar Interlocal Agreement
- Each town will pay up to \$20,000 for portions of the project. Funding will be provided by the Rainy Day Fund or an additional appropriation from the appropriate fund.
- Resolution 061218B was read by Mr. Morelock.
- Motion by Dr. Burney to approve Resolution 061218B. Mr. Williams. 5-0.

**Other Committee Reports**

- RDC: Veridus Group may be more aligned with what the Town is looking for with this project. Funds to pay for the project will be coming from the RDC budget. The RDC talked about the town center process. The RDC also generated the annual letter regarding whether there will be pass through of TIF revenue; there will be nothing to pass through in 2018.
- Plan Commission: No meeting.
- Architectural Review Committee: A meeting was held for approval of a floor plan.
- Parks Board: The Board received the final product regarding instituting a park impact fee. It received a unanimous recommendation to the Plan Commission and will go to Council in August. National Night Out and the 5K Run/Walk events are coming.



- Hancock Solid Waste: The Advisory Board met and discussed the final draft of the new recycling guide for Hancock County.
- Police
  - Public Safety: Bryan Burney reported that a police department budget meeting was held.
  - Metropolitan Board of Police Commissioners: Mark Walker was appointed board president. The first meeting was held and was basically administrative in nature.
- Public Works Committee
  - Street sweeper: The old sweeper, currently jointly owned by McCordsville and the Town of New Palestine, will be owned solely by New Palestine for one-half of its assessed value of \$35,000. The new sweeper being purchased by McCordsville will be \$193,065. It will be funded via \$110,315 from Rainy Day and money currently budgeted for Public Works; it will be paid off in four to five years.
    - Motion by Mr. Strayer to approve the quote to Best Equipment for a street sweeper for \$193,065. Dr. Burney. 5-0.
  - Engineering Invoices – Mr. Witsman
    - VS Engineering: Motion by Mr. Strayer to approve task order #4 for \$32,700, #5 for \$16,100, #7 \$18,600, and #8 & 9 as time and materials. Dr. Burney. 5-0.
    - Ace Paving Invoice: Motion by Mr. Strayer to pay Ace Paving the original \$98,000 plus the additional \$9,055.51 out of MVH. Dr. Burney. 5-0.
    - E & B and Grady Brothers: Motion by Mr. Strayer to pay E & B the difference of \$3,125.00 and Grady Brothers \$201.45 from MVH. Dr. Burney. 5-0.
    - Trash Bids: They are still being tabulated.

#### **Town Manager Report**

- None

#### **Public Works Commissioner's Report**

- Road salt pricing will be raised \$8.74 ton.

#### **Planning & Building Director's Report**

- Invoice: Motion by Dr. Burney that we approve the \$8,600.00 to iWorQ. Mr. Williams. 5-0.

#### **Public Comments**

- John Price: Regarding the July fireworks on Geist and Cardinal Drive parking issues. He requested McCordsville provide police service for Cardinal Drive. The matter was referred to the Metropolitan Board of Police Commissioners.



**Voucher Approval**

- Motion by Dr. Burney to approve the vouchers. Williams. 5-0.

**Adjournment**

- Motion by Mr. Williams to adjourn. Mr. Strayer. Adjournment at 10:44 p.m.

**Minutes Approval**

These minutes approved this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_

Larry J. Longman, Council President

Attest: \_\_\_\_\_  
Catherine C. Gardner, Clerk-Treasurer