

The Board of Public Works and Safety met on Wednesday, August 17, 2016 at 8:00 a.m. in council chambers along with City Attorney Dave Baumgartner and Clerk-Treasurer Gwen Maller. An agenda was posted at the door.

Others in attendance: city employees Shannon Smitley, John Crider, Gary Nussbaum and Asst. Police Chief Jim Newbold.

Mayor McKean called the meeting to order and verified a quorum. Curtis Wurster was not present at the start of the meeting, but came during the discussion of the golf cart ordinance.

Ron Dull made a motion to approve the July 20, 2016 minutes with Mayor McKean making the second. The motion was passed with a 2 – 0 vote.

Golf Cart Ordinance

Discussion was held in regards to the City of Berne golf cart ordinance. The first issue discussed concerned the permits for golf carts and where the carts are allowed to be driven. Officer Newbold stated that if you are a Berne resident wishing to operate a golf cart in Berne, you have to purchase a \$25 permit from the Berne Police Department. Other residents (i.e. Geneva) wishing to operate a golf cart in the Berne city limits would be able do so if they have a valid permit from Geneva and have a certificate from the Berne Police Department. There is no charge for the certificate. Our ordinance allows golf carts to cross State highways but does not allow travel on them. Neither the state statute nor our ordinance allows golf carts to travel along U.S. highways.

When asked by Ron Dull if we have an ATV ordinance and a golf cart ordinance, Attorney Baumgartner stated that it was combined into one ordinance but there are differences that apply to each. An ATV is registered through the state and golf carts are registered through the City. We can't have a City ordinance that is stricter than what State code requires to be on the ATV such as turn signals, but we can regulate how ATV's are operated. Ron Dull stated that he was referring to the age to operate each. Dave replied that we couldn't put a higher age on the ATV operator vs. the golf cart operator. Ron asked if we should change the golf cart ordinance. Dave stated that the question is do we water down the golf cart ordinance to match the language in the ATV portion. It was brought to the attention of the board that Ordinance #650 section 70.73 states that "only a person with a valid driver's license shall be authorized to operate a golf cart or off-road vehicle on a City street or alley." Jim Newbold stated that section 70.75 of our ordinance states that occupants of golf carts and off-road vehicles must be at least three years of age.

Ron Dull asked if this could be brought back at the next Board of Public Works meeting after it has been reviewed.

Jim Newbold asked if section 3 letter J of our ordinance could also be reviewed pertaining to carrying firearms. He asked that IC 14-16-1-23 paragraph 14 b and the following be added so

the ordinance can be enforced according to state statute. This would allow people who have permits to carry a firearm while operating a golf cart.

Indiana Code Title 14. 14-16-1-23

(b) Subsection (a)(9) does not apply to a person who is carrying a firearm:

(1) if:

(A) the firearm is a handgun; and

(B) the person has been issued an unlimited handgun license to carry a handgun under IC 35-47-2;

(2) if:

(A) the firearm is a handgun; and

(B) the person is not required to possess a license to carry a hand gun under IC 35-47-2-2; or

(3) if the person carrying the firearm is operating the vehicle on property that the person:

(A) owns;

(B) has a contractual interest in;

(C) otherwise legally possesses; or

(D) has permission from a person described in clauses (A)through (C) to possess a firearm on.

Property Upkeep

Mayor McKean reported that he has received several complaints on the property at 262 Lehman St. The house is in a state of disrepair, front door is hanging open and old furniture in the yard along with boards and other piles of trash. We do have an unsafe building ordinance and Shannon Smitley should begin the process to declare the house as unsafe. Discussion was held and it was decided that Dave Baumgartner should send the owner a letter under the nuisance ordinance first in order to get the yard cleaned up and then reference the unsafe building ordinance.

Board Comments

Mayor McKean asked Dave Baumgartner if he is working on an alley ordinance. Dave replied that he isn't at this time and feels someone from the City needs to do an inventory of the alleys that actually have structures before changes are made. Dave also said that we need to look at the difference between alleys and easements. A platted alley is available for public access and an easement is part of the owner's property but has a right of way for utilities. If there is a structure in a platted alley, it restricts the public access. An easement doesn't have public access. Ron Dull stated that having an inventory of structures in platted alleys would be a good thing to have on record. Dave stated that there are also garages and parts of houses in platted alleys. One option discussed was having the City enter an agreement with the property owner that the garages and houses that are in the alley can remain but not be expanded. However, the BZA needs to deny any new expansion into alleys and enforce staying within property line setbacks. When asked for the definition of a structure, Dave replied it is anything but dirt. A question was raised about a shed on skids. It would be considered a structure and it would need to be moved if in the alley.

John Crider stated that if there is a shed, fence etc. in the easements (i.e. Schweizerhof addition) they will move it to fix a leak. The City would not be liable if the shed or fence is damaged in the process of fixing the utilities. Shannon stated that he doesn't like structures in easements as it blocks the storm water flow.

There being no other business to come before the Board of Works and upon a motion duly made to adjourn by Ron Dull and seconded by Curtis Wurster, adjournment followed.