

Special Council Meeting
 Tuesday, June 4, 2013
 5:00 P.M. Town Hall

Edinburgh Town Council met in a special session on Tuesday, June 4, 2013 at 5:00 P.M. at the Town Hall, 107 South Holland Street, Edinburgh, Indiana.

Council members present were President Ron Hoffman, Vice President Curtis Rooks, Kami Ervin, Jeff Simpson, and John Drybread. Also present were Town Attorney Dustin Huddleston, Clerk Treasurer Scott Finley, and Building Commissioner Wade Watson.

President Hoffman called the meeting to order and said the agenda was Tax Abatement Discussion. He explained that the council wanted the meeting to be an executive meeting however according to the law that was not possible. He then turned it over to Town Attorney Huddleston.

Town Attorney Huddleston said when special meetings are held the council must cite certain reasons because executive, closed door meetings must meet a certain criteria. He stated that he looked through the list of requirements and nothing came close to the type of discussion to be held and rather than violate the open door law, call it a special meeting.

President Hoffman said he would like Mr. Huddleston to explain the legal ramifications of tax abatements and also have Wade Watson and Scott Finley discuss their findings on the tax abatement process.

Mr. Huddleston gave a brief history on tax abatements. It is a procedure allowed by Indiana law that gives companies a benefit of reduced taxes. It does not benefit the town directly because it reduces the amount of tax dollars the town would receive. It benefits the company tremendously because it directly reduces the taxes paid by the company. Tax abatements have become a tool to the town to help attract new businesses and retain current businesses. There are some towns that elect not to give abatements and that can often lead to a reduction in the workforce. A risk of not granting tax abatements is that companies may choose to settle in a surrounding town that will grant them an abatement.

Mr. Huddleston added that the town may grant abatements on their own or a company may request an abatement from the town. The applicant can apply for an abatement on either real property or personal property. Mr. Huddleston used real estate and the Lear building as an example and assumed the taxes on the building were \$100,000 per year. A company buys the building and says if the town will grant them an abatement for 10 years, which is the maximum amount for real property, they will put a new company in the building and hire 100 workers. The abatement process has a schedule for up to ten years. The town can manipulate a schedule for a percentage of reduction of the tax. The town could say they would waive the entire \$100,000 tax meaning the company would pay no taxes on the building for the year. The important thing to remember is that this does not mean the town will not receive this \$100,000 at all. The town has a budget that must be funded. The \$100,000 that the company is not paying will have to be made up in other places whether it be utility fees or other taxes. The town is then counting on the new company to bring in 100 new employees which would hopefully lead to new residents in town purchasing houses, spending money at local stores, and paying payroll taxes. This would indirectly benefit the town. In year one the tax abatement may be 100%. In year two it could drop to 90%, year three 80%, and so on until year ten when it drops to 10%. After the abatement expires the company is paying the entire \$100,000 in taxes. Originally the process was fixed on those percentages. A recent statute gives the council the flexibility to manipulate the number of years and the percentage of the abatement any way it would like. The town could grant a two year abatement with the first year being 25% and the second year being 10% or even grant a ten year abatement at 100% every year. Also personal property, which works the same as real property, was fixed at five years but has recently been raised to ten years.

Councilwoman Ervin asked for an example of the difference between real and personal property.

Mr. Huddleston said staying with the Lear building example, personal property would be if the company decided to add ten new pieces of equipment valued at \$50,000 each. The company would then get taxed on their personal business property and the abatement would work the same way. The only difference with personal property is you are dealing with something that can be relocated so it would be important for the town to make sure the company follows through and actually purchases the equipment as promised.

Mr. Huddleston continued by discussing the forms necessary for abatements. He said the forms to be submitted for an abatement are state forms. There is the statement of benefits which is the initial application form (SB-1) and a compliance form (CF-1) that must be completed each year by May 15 which allows the town to check to see if the company is compliant with the abatement. It is the company's responsibility to submit the forms to both the county and the town. If the town does nothing the county will assume the company is in compliance and the abatement continues as is. He said Mr. Watson will discuss later that the town is going to become more diligent than in years past on reviewing

the abatements. When the company first applies for an abatement a public hearing will be held. If the council approves the abatement a resolution will be passed with the details of the abatement. Mr. Huddleston said he believes Mr. Watson is going to recommend that the town attorney draft the resolutions so that he can answer any questions about them.

Councilwoman Ervin asked if the town approved a \$100,000 abatement, would the town be responsible for making up the portion of that due to the county.

Mr. Huddleston said the county will also lose its portion of that tax and will have to make that up for its budget as well. The county understands that cities and towns will grant abatements and as a county they have more ways to make up for the loss in tax revenue.

Councilman Rooks stated that it is then the town's responsibility to make sure the company is in compliance with the details set in the abatement.

Mr. Huddleston said that is correct. The town is the enforcer in abatement process.

Councilman Rooks said a good abatement then would be for an empty building such as the Lear building that could add new equipment and hire new employees and help out a new business. The already established companies adding one machine and hiring a few employees may not be a good abatement for the town. The new employees may not even be from the town.

Mr. Huddleston said the town cannot control where the company hires the employees from.

Councilman Rooks said but it is the town's responsibility to make sure the company does hire those people and the equipment is purchased.

Mr. Huddleston said correct but again the town cannot force the company to hire Edinburgh citizens. He added that while the application process involves state forms, the town can charge an application fee. Most cities and towns do not because it discourages companies from applying. More importantly, the town can create its own documents that must also be filled out during the application process in addition to the state forms. Those forms could give the town better information when reviewing the application and reviewing the forms for compliance.

Councilman Rooks asked if companies put on the application how much of an abatement they are requesting.

Building Commissioner Watson said the town application process has not been set up yet but the state forms do not request that information.

Councilwoman Ervin said granting the tax abatement also effects the tax dollars the schools and other units receive, so it can have a huge ripple effect.

Mr. Huddleston said correct and there is a notification process where schools are notified about granted tax abatements.

Councilman Rooks asked if schools could be against the abatement and if there is anything the school could do.

President Hoffman said a representative would have to show up at the public hearing and explain their reasons for being against the abatement. He added that when he and Councilman Rooks joined the council, abatements were the responsibility of the former town attorney. When the CF-1's were submitted the attorney would say everything looks all right and the council would approve the abatement. President Hoffman said he and the rest of the council were ignorant to the process of abatements and simply approved the abatements on his recommendation. He stated that he did not like simply rubber-stamping the abatement as they were submitted and asked Wade Watson to take over the process of handling abatements. Mr. Watson asked Clerk Treasurer Scott Finley to aid in the process since the abatement process deals with town money. President Hoffman then handed it over to Mr. Watson to educate the council on what he has learned about the process.

Mr. Watson thanked President Hoffman and said with all that he has learned he still feels there is a lot more to be learned. He stated that Mr. Finley and Mr. Huddleston had been a big help and had both gone through the process with him. He said tax abatements should be considered a valuable tool for the town to spur economic growth. It is something that should be used in the right situations but should not be used foolishly as ultimately the tax abatement could become a burden to the rest of the community. Citizens have complained in the past that Edinburgh has one of the highest tax percentages in the state and past abatements could have affected that percentage. It is important to know that it can be a very valuable tool but we have to be wise in using it. Part of that is educating the council and staff. Mr.

Watson said that the staff is currently creating a process for tax abatements to be approved by the council. When someone comes to the community and would like tax abatement, a committee should review the application. He believes the committee should involve more than just himself. He recommended that he and Mr. Finley work with the president of the town council to be that committee. They would look over the information and if there were questions they would have the company come in and explain why they should receive the abatement. He also recommended that before the council approve a new tax abatement that a representative from that company come to a council meeting and make a presentation on its benefit to the town. Then, if the abatement is approved, the town attorney would draft a resolution that gives the town the ability to have measurable goals by which the council could determine the compliance of the company. Up to this point, none of the resolutions have had measurable goals. If the town were to deny an abatement that is currently out there, the company could fight the denial with the county and most likely keep the abatement. The town needs to protect itself on the front end of the process by thoroughly reviewing the SB-1.

Mr. Watson passed out copies of old CF-1's to help explain how the committee will review the compliance forms. The first page was the initial abatement request (SB-1). The SB-1 said the company currently had 70 employees. They were going to add a 43,000 square foot addition to the building. The addition was going to produce 50 more jobs for the community. The review committee would look over the information on the form and decide whether the abatement should be granted. Each year after that, the company would submit a CF-1 to show that they are complying with what they promised in the statement of benefits. Again the review committee would review this information and decide if the company is in compliance with the resolution.

Councilman Rooks asked how long the company would have to hire the 50 employees.

Mr. Finley said when the company turned in its CF-1, if they had only hired 25 people the town could ask the company to come to a public hearing and explain why it had not hired the 50 employees. At that point the company could say they were still in the process and plan to hire 25 more in the coming year. It would then be on the council to decide whether or not the company was in compliance.

President Hoffman said it would be the review committee's job to check on the information provided by the company, review it, and then make a recommendation to the council.

Councilwoman Ervin said basically the town will be looking for at least some progress from the statement of benefits in the first year and if the company has not completed what it said it would, it will be at the discretion of the committee to approve or deny the CF-1.

Councilman Rooks asked what the company would be asked to do at the public hearing.

Mr. Watson said before the council approves the abatement, the company will be asked to present the benefits of the abatement to the town. Town Attorney Huddleston would get involved after the council has decided to approve the abatement. Mr. Huddleston would draft the resolution and the council would sign it at the next council meeting.

Mr. Huddleston added that on any kind of compliance hearing the town could not require the company representative to be there. So there may be a situation where the staff report is in front of the council but nobody shows up from the company asking for the abatement.

Mr. Huddleston also added that the gentleman that was at the May 13 council meeting was actually doing his CF-1 incorrectly. In the past the town had filed his forms for him with the county. That is not the town's responsibility. It is the applicant's responsibility to file the CF-1 with both the county and the town.

Mr. Watson said since the town is the issuing agency, the company needs to file a CF-1 with the town so the committee can review the information.

Councilman Rooks asked if the company could deny the town permission to go on their property to make sure they are in compliance.

Mr. Watson said they can but the staff would probably recommend denying the abatement if they did because that would be a good indication they were hiding something.

Mr. Watson added that the second review process of the compliance form would follow the same general process as the statement of benefits. He recommended the committee also review the CF-1's before being sent to the council for approval or denial.

Councilwoman Ervin asked if abatements could be amended during the lifetime of the abatement or if it was simply revoke or approve.

Mr. Finley said that the company could lose the abatement for a certain year and then have it reinstated in another year but the abatement could not be amended.

Mr. Huddleston said that is why he was glad the statute was revised. The statute allows the town to give shorter, 2 or 3-year abatements so they do not automatically get locked into a 10-year abatement.

Mr. Watson said one reason we need to have the attorney draft the resolution is to add specifics for things such as if the company had a ten year abatement and relocated after three years. If the resolution was not worded correctly the town may still have to issue that tax abatement even though the company had relocated. He added that the county auditor mentioned the administrative cost of abatements. Administrative costs of the abatement need to be considered as well when approving or denying the abatement.

Mr. Huddleston said he had one adjustment on Mr. Watson's suggestion for the committee. He would exclude any council member from being on the committee because if the council president spoke to the employer it could put him in a difficult situation. He would recommend keeping it to staff so Mr. Watson and Mr. Finley would be fine and maybe include one other staff member that remotely deals with the matter.

Councilman Drybread said Mary Patterson would be an ideal candidate for that since she has a background in that type of work.

Mr. Huddleston agreed and said the process should stay rather informal and he would avoid formalizing it and forming a commission. The applicant will know that the application is reviewed internally by the building commissioner and other staff to give a recommendation to the council.

President Hoffman said if the council remembers, the gentleman from Ditech was adamant that the CF-1 had to be approved by May 15. That was incorrect. The council has 45 days from the date of filing to review the forms and determine whether the company is in compliance.

Councilwoman Ervin asked if that was true for both the CF-1 and the SB-1.

Mr. Watson said he did not believe there was a deadline for the SB-1 because it was simply the initial application. The SB-1 can be filled out at any time and given to the town.

Mr. Huddleston added that if the town agrees to continue the abatement, there is no reason to sign the CF-1. If nothing is done the county will assume the abatement is approved. If it is denied however, it does need to be signed and given to the county.

President Hoffman asked if Mr. Finley to add anything to add.

Mr. Finley said he believed Mr. Watson and Mr. Huddleston had touched on most everything. He gave a list he had made of the pros and cons of abatements. He said the benefits would include new jobs from the company, it would help attract new businesses to the area, and also attract new tax revenue from the new employees buying houses. He said the biggest downfall of abatements is for the town to obtain its levy, the tax loss has to be made up somewhere. That may be from a utility rate increase or an increased tax rate for residential property owners. Basically the town is not actually losing any money from the abatement, the money just has to be raised from another source. He said he believed tax abatements should be looked at on a case to case basis and take it to account the real benefits that will come from it as well as the cost to the town. He said in his opinion one of the biggest items the committee should look at is if the town does not grant a tax abatement, is the company still going to do the improvements. If the answer is yes, then an abatement could become a free hand out from the town. This is a very difficult thing to determine but could save the town from losing tax revenue.

Councilman Rooks said he appreciates Mr. Watson, Mr. Finley, and Mr. Huddleston taking the time to educate the council and he is much more knowledgeable on the subject now.

Councilman Drybread said to show how confusing abatements can be, there is about one person in each courthouse that actually understands the inner workings of the process.

President Hoffman also thanked Mr. Watson, Mr. Finley, and Mr. Huddleston. He too had learned a lot about the process. He believes that the committee will work well together and will be a great help to the council.

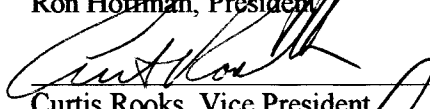
Mr. Huddleston added that there are certain businesses that cannot receive abatements. Golf courses, massage parlors, skating facilities, sports facilities, hot tub facilities, tan facilities, race tracks, most

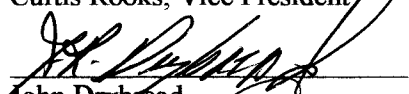
residential property, restaurants, and auto dealerships all cannot receive abatements. The main businesses that will apply for abatements will be manufacturing facilities.

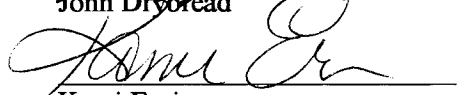
Being no further business or comments, Councilman Simpson made a motion to adjourn the meeting. Councilman Drybread seconded. Unanimous.

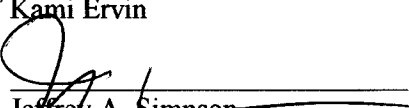
EDINBURGH TOWN COUNCIL


 Ron Hoffman, President

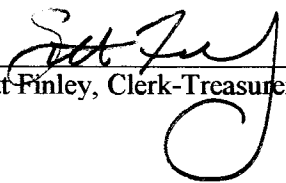

 Curtis Rooks, Vice President


 John Drybread


 Kami Ervin


 Jeffrey A. Simpson

ATTEST:


 Scott Finley, Clerk-Treasurer