

February 27, 2006

The Ellettsville, Indiana, Town Council met in regular session on Monday, February 27, 2006, at the Fire Department Training and Conference Room. Patrick Stoffers called the meeting to order at 7:30 p.m. Sandra Hash led in prayer and William Evans led the Pledge of Allegiance.

Roll Call: Members present were Patrick Stoffers, President; William Evans, Vice President; Phillip Rogers and Dennis Williamson. Sandra Hash, Clerk-Treasurer; Mike Spencer, Attorney and Rick Coppock were also present. Lisa Creech was absent.

Supervisors Present: Jim Ragle, Jim Davis, Ron McGlocklin, Mike Farmer, Jeff Farmer and Frank Nierzwicki were present.

Approval of the minutes

William Evans made a motion to approve the minutes for the regular meeting on February 13, 2006. Phillip Rogers seconded. Motion carried.

Action to Pay Accounts Payable Vouchers

William Evans made a motion to approve the action to pay the Accounts Payable Vouchers. Phillip Rogers seconded. Motion carried.

Open Bids for Fencing at Edgewood Village

Frank Nierzwicki, Director of Planning Services, with the authority of the Town Council has contacted Value Fencing and will be meeting with them tomorrow on site. They will discuss the construction of the barrier fence between Mustang Drive and Reeves Road. He has also contacted Ellettsville Trucking to remove a trailer located in the back area of Edgewood Village. The Ellettsville Street Department cleaned up debris on the Mustang Drive cul-de-sac. Patrick asked how much material was picked up. Jim Ragle answered four dump truck loads. William asked how much fencing was going to be needed. Frank did a visual estimate using GIS and approximates 1,300 feet but will verify it on site. William inquired about the grass seeding. Frank explained there are two parts to Mr. Voils and Mr. Dunn's developments. Mr. Dunn has submitted a prepaid seeding bill for the grass on his property. William asked how long it will take to get the fencing up. Frank was told it could be completed in a week if the weather was good. Dennis Williamson asked if the fence going up now was part of the 1,300 feet they have been discussing. Frank said no. Patrick asked Mike Spencer if a motion needs to be made to proceed. Mike Spencer advised a motion should be made to proceed. Sandra raised the question "how are we going to pay for the fence"? Frank said there is a "letter of credit" on the development we will follow through on to pay for the improvements. Mr. Dunn's "letter of credit" is for the whole property, all of the development.

Russ Ryle, resident Reeves Road, built a fence 7 foot inside his property line to be in compliance with what he was told was the setback. The fence being erected on Lot 12 is on the property line. In previous discussions, he was assured the new fence would go on the north side of the Voils property line so the easement would not be impaired by a fence. Before any more fencing is installed, he would like a legal opinion from Mr. Spencer as to where the fence should be. If the fence is on the property line, it will be on top of the Smithville telephone lines. He knows because he hit his service line while putting up his fence. It is also his understanding the main sewer line for the houses are on the north side of Reeves Road in the back where they want to put the fencing. He asked Mr. Spencer legally where to put the fence. He was told he could not put his fence on the property line. Mr. Spencer asked who gave him that information. Mr. Ryle replied the Planning person in Ellettsville four years ago. Mr. Spencer's initial reaction would be to put the fencing on the property line because it is the fence that divides the property. Frank Nierzwicki will have an underground line location done before the installation of the fence. Patrick suggested exploring the location question to come up with something definitive.

Ed Bitner asked the type of fencing. Frank described the fencing as a 6 foot high solid wood barrier fence between the two properties.

William Evans made a motion Council go ahead and proceed with the fencing at Edgewood Village and also moving the trailer out that is presently there. Phillip Rogers seconded. Motion carried.

Resolutions

Resolution 02-06 Declaration of Official Intent to secure a loan for the purchase of Dump Truck and Snow Plow

Sandra Hash stated this is an agreement with Peoples State Bank concerning the loan for the dump truck. This information was sent to Mike Spencer for his review and changes. The final result is in the packet. The loan amount is for \$57,914.80 to be paid out over a two year period from the Cumulative Capital Improvement fund.

William Evans made a motion we accept Resolution 02-06 Declaration of Official Intent to secure a loan for the purchase of a Dump Truck and Snow Plow. Phillip Rogers seconded. Motion carried.

Resolution 04-06 to declare a 1985 dump truck, snow plow and sand spreader surplus property

Jim Ragle, Ellettsville Street Department, stated this piece of equipment will be replaced with the new dump truck. The old truck is a 1985 Ford F-700 with a snow plow. They would like to take this to an auction at Thompson's in Spencer this spring.

William Evans made a motion we approve Resolution 04-06 to declare a 1985 dump truck, snow plow and sand spreader surplus property. Phillip Rogers seconded. Motion carried.

Resolution 05-06 in Recognition of the Selection of Ellettsville Town Marshal Ron McGlocklin as "Police Officer of the Year" by the Monroe County Exchange Clubs

William Evans read the Resolution in its entirety. Monroe County Exchange Clubs annually select and present their "Police Officer of the Year" award to a police officer serving Monroe County. Ellettsville Town Marshal, Ron McGlocklin, was selected on February 23, 2006. The Town Council of the Town of Ellettsville recognizes this selection and offers our wholehearted congratulations and best wishes for his continued success in services to Ellettsville and Monroe County. This Resolution was passed and adopted by the Town Council February 27, 2006.

William Evans made a motion that we approve Resolution 05-06 a Resolution in Recognition of the Selection of Ellettsville Town Marshal Ron McGlocklin as "Police Officer of the Year" by the Monroe County Exchange Clubs. Phillip Rogers seconded. Motion carried.

Patrick Stoffers congratulated Ron McGlocklin.

Ordinances on First Reading

Ordinance 06-05 Additional Appropriation

Sandra Hash explained the additional appropriation is for our Redevelopment Commission (\$7,223.55) and Animal Control (5,766.24). The additional appropriation plus the budgeted amount make a total of \$11,766.24 for Animal Control. Patrick announced the agreement will be on the agenda the second meeting in March. Sandra received the agreement and it will be ready for approval after the additional appropriation is approved. Patrick asked if it has been published. Sandra said it was published in the Journal the week of February 15th. Dennis inquired if the Council will receive a copy of the agreement to review before the meeting. Sandra agreed to e-mail it out.

Ed Bitner questioned where the money will come from for the additional appropriations. Patrick said "non appropriated cash" from the General Fund. Ed clarified it is "non appropriated" at this time but next year it will be budgeted. Patrick remarked that we will create a budget for the Department Redevelopment and for an Animal Control agreement in the 2007 budget. Ed introduced a list he came across on the Indiana Association of Cities and Towns website. This website lists the Cities and Towns with a Redevelopment Commission. He contacted several of these people himself and received some "really neat responses" when he asked several questions. He asked if they have a Redevelopment Commission and if so was their members paid. He also asked if they had a Planning Commission and if they were paid. Most places he called did not pay the Redevelopment Commissioners. They were all volunteer positions. In retrospect he asked if they had

Planning Commission and were they paid. The majority of them do pay the Planning Commissioners but not the Redevelopment Commissioners. He called Towns of equal size to ours. His findings were:

- Columbus; spoke with Tom Vujovich, President of Redevelopment Commission, they do not get paid and he puts in several hours. They do not pay their Planning Commissioners either. The reason given was “any Commission they have other than the Town itself are all volunteers”.
- Hartford City; they do have a Redevelopment Commission with one member that is paid. That person is on staff as the Planning Director and this is one of his duties.
- Speedway; spoke with Rocky Brown’s wife. She was quite adamant that all expenses her husband takes on as President of Redevelopment Commission is out of pocket. Any expense the Commission incurs is paid for by the Town of Speedway.

Some of these Commissions were just started last year. The general consensus, including Bloomington and Monroe County; do not pay their Redevelopment Commissioners. He is curious why Ellettsville is going pay ours \$6,000.00. Patrick mentioned the \$5,923.55 includes a portion for FICA and Medicare we will pay for some part-time hours within the planning office and part of Frank’s salary as Director of Redevelopment. The salaries for the Redevelopment Commissioners are the same as the Planning Commissioners. It was discussed at one time the Redevelopment Commission would be paid higher than Planning Commission but in the end it was chosen to be the same. This will be budgeted for next year and adopted in September. It was then clarified the amount for \$5,923.55 is for a ten month period. The amount budgeted for 2007 will be more. Ed asked if any of the Town Board members received any feedback or made calls to see if other Commissions are paid. Patrick has not but could not speak for any of his peers. There were other “no” responses made.

Ordinances on Second Reading

Ordinance 06-01 to amend Sections 36.121, 36.204 and 36.228 of the Ellettsville Town Code Concerning Paid Time Off (P.T.O.) hours

Jim Davis of the Ellettsville Fire Department changed some PTO wording. Mike Spencer reviewed and made sure all the sections complied with each other and there were no conflicting statements.

William Evans made a motion that we approve Ordinance 06-01 to amend Sections 36.121, 36.204 and 36.228 of the Ellettsville Town Code Concerning Paid Time Off (P.T.O.) hours. Phillip Rogers seconded. Motion carried.

Ordinance 06-03 to Terminate Dormant Funds

Sandra Hash explained there were funds on the books that have not been used in a year with zero balances. She would like to delete those funds from her records. Patrick read the listed funds:

- IDEM – Grant Creek Study (Fund 18)
- Skate Park Insurance (Fund 28)
- Always Remember 9-11 (Fund 37)
- Drainage Repair (Fund 25)

Dennis Williamson verified the fund numbers to the funds on the fund report. Sandra explained she reused number (18).

William Evans made a motion that we adopt Ordinance 06-03 to Terminate Dormant Funds. Phillip Rogers seconded. Motion carried.

Ordinance 06-04 to create a Fund for Developer’s Escrow

Sandra Hash stated the Town Code has five security instruments. The second one listed in the code states (2) *A cash bond held in an escrow account*. We were recently presented with a cash bond for the first time. She deposited it into an interest bearing savings account. The interest will stay in the savings account. This ordinance allows her to set up a fund in her records to account for the savings. Patrick asked if this was the reused fund (18). Sandra said yes. She received a check and needed to deposit it within 48 hours.

Dennis Williamson asked how it will show up when another developer presents a cash bond. Sandra responded the money is deposited into the escrow fund. Another interest bearing savings account will be set up. All savings accounts are at Peoples State Bank and set up jointly in our name and the developer's name. We have the right to withdrawal, if needed, but the developer needs our permission. We control the account but we do not retain the interest. The amount will show collectively in the fund but each developer will have a separate savings account. Dennis asked if there was a time period on the savings account to allow Frank to determine if the development is okay and if there would need to be a secondary improvement amount. Frank explained he would verify if a developer is fulfilling his requirements under our development agreements. If he feels there is an issue, he will go through the channels to make sure it is corrected or draw on the escrow account. Dennis doesn't understand the primary approval and secondary approval, what is this for? Frank said the account is to hold the money for the development. If everything is taken care of, the money will be released back to the developer. There is a mechanism for the interest so the interest would be separate from the initial bond money. The individual will be earning money on his/her money. Dennis asked for an example where you would have to approve a secondary improvement and the Town would have to take the money. Sandra used the fence we are ready to build as an example. This money replaces a "letter of credit" or a developer's bond. If they default on something, don't do it properly or don't complete the work in a timely matter then we have the option to make the correction ourselves and withdraw from the bond, "letter of credit" or escrow account. She further explained before we approve a final plat, when the subdivision is not totally finished the engineer tells us the amount we need to complete whatever is not finished such as street trees and sidewalks. When the development is completed and verified by the Planner and Department Heads the money will be released.

William Evans made a motion to adopt Ordinance 06-04 to create a Fund for Developer's Escrow. Phillip Rogers seconded. Motion carried.

Old Business

Edgewood Village Final Plat

Frank Nierzwicki informed the Council Mr. W.R. Dunn has requested them to move on his final plat. Mr. Dunn stated he has been trying to get a final plat since September and feels he has met all the requirements Frank set forth. This is for the 8 units (4 duplexes). He thinks all the preliminaries, building permits and requirements have been completed to get a final approval to obtain mortgages. Patrick asked Frank to speak on the covenants. Frank said according to the covenants *at least one resident of the unit needs to be 50 years or older in the development*. William asked if this is being complied with now. Frank is not sure but received a faxed letter from Mr. Dunn in January stating we can start looking at the tenant leases. Frank clarified there has been an age requirement but it has not been followed. He paraphrased Mr. Dunn in saying "there was a concern at one point that the owner was suppose to be over the age requirement satisfying the covenants". It was determined it is not being complied with today so Patrick and William will not sign on the final plat until the covenants is in compliance, among other things. William added there are four to five major issues that were suppose to be cleared up before anything else was done. They told the people a fence would be put up, the trailer would be removed, bricks would be removed and sod installed. The performance bond will be used to fix up these issues and leave the Town without another performance bond at this time if the final plat was approved. Mr. Dunn says he is not responsible for areas other than his duplexes. Frank said he has treated this as two separate areas (one on the north side and the other the south side of Mustang Drive). Mr. Dunn has provided Frank with a prepaid seeding agreement, there has been clean up around his duplexes and a fence is under construction. The age restriction in the covenants is still the main issue. Mr. Dunn has submitted a letter stating this will also be in compliance upon getting approval. Patrick appreciates the letter but it should be complied with already and we don't need a letter relative to the covenant. The covenant is already there. Russ Ryle stated it was his understanding the original covenants on which the PUD was issued (13 years ago) was removed from the deeds. He looked at the deeds on file at the courthouse and the original covenant was removed in the mid 90s. At that point, lots were sold to other non compliant people. When Mr. Sorokoty was here, the Town raised the legal issue and those sales were voided. At that point, the developer put a covenant "back in the deeds". It was not the same one. It is our position

the Town must require the “original deed covenant” from 1993 to be replaced and forever in any deeds for property in Edgewood Village. Currently if you do not do that, you will have R-1 housing that does not meet R-1 requirements. It is platted PUD for elderly, very dense and very small lots. William Evans announced he will not vote for this. Patrick is not willing to give his signature to the plat.

Dennis Williamson motioned to table this. Phillip Rogers seconded. Motion carried.

W.R. Dunn asked how long this will be tabled. Patrick said we need to do some work with the comments Russ made. In Mr. Dunn’s own words, he is not in compliant with the covenant. Mr. Dunn mentioned he has leases that can not be broken and building permits were issued when the plat was originally approved for everything and it is impossible to get the mortgages against them. Patrick once again said Mr. Dunn needs to be in compliance with the convenat before he is willing to give his signature. Mr. Dunn asked Mike Spencer to please call his attorney. Mike Spencer agreed.

New Business

Request appointment of Reserve Officers Neal Sly and Jason Neal

Reserve Deputy Marshal Charles Jacobs of the Ellettsville Police Department has two gentlemen seeking appointment as Reserve Deputy Marshals with the Ellettsville Police Department. Neal Sly is a new applicant who works for the Monroe County Central Dispatch Center. He has completed all of his State mandated prerequisites and complied with all the training requirements. All the background investigations have been completed. The next gentleman Jason Neal will be a reappointment. He had been with the department for several years, took a leave of absence and is asking to come back. Normally this would not be necessary but due to the period of time they felt it would be appropriate to request reappointment. William Evans has spoken to Charles and agrees.

William Evans made a motion that we appoint Jason Neal and Neal Sly to the Reserve Officers of the Ellettsville Police Department. Phillip Rogers seconded. Motion carried.

Sandra Hash swore in Neal Sly and then Jason Neal.

Greenbrier Meadows Subdivision Phase One, Section One Re-plat Final Plat Approval

Rick Coppock of Bynum Fanyo requested re-plating Greenbrier Meadows Subdivision Phase One, Section One. When staking the property corners, the road had been moved slightly to eliminate the need to move the utility poles. The lot corners are off and need to be re-platted so the road is correctly in the center of the right of way.

William Evans made a motion to approve Greenbrier Meadows Subdivison Phase One, Section One Re-plat Final Plat Approval. Dennis Williamson seconded. Motion carried.

Annual Compliance with Statement of Benefits for the Smithville Telephone tax abatement

Sandra Hash explained this is an annual requirement of the abatement. Smithville Telephone is required to fill out a Compliance form each year. If we agree we sign off on the form and it is then filed with the Auditor’s office.

William Evans abstained from voting on this because he is employed by these nice people.

Phillip Rogers made a motion that we accept this Statement of Benefits for the Smithville Telephone tax abatement as it is so stated. Dennis Williamson seconded. Motion carried.

Ed Bitner questioned the Eagle’s Landing tax abatement also being due. Patrick recalls they did theirs in March of last year. Sandra added the Auditor’s office called last year and it was her understanding Eagle’s Landing has not expanded the structure so there is nothing to abate at this time. They would have to increase the size of the facility to be abated on the additional structure. The Auditor’s office called them directly. Patrick suggested Sandra should find out if the employment base is reportable. Ed asked if Ellettsville has the authority to remove the abatement if their compliance is not held up. Patrick said the Council has the authority to remove it and will find out the answer to that specific question.

Letter requesting Park Street from the fence at the Street Department to the baseball diamond be closed on April 24, 2006 from 1 p.m. to 5 p.m. for the Ellettsville Fair Committee sponsored by House of Prayer

Sandra introduced the letter in the packet since the gentleman was not able to attend the meeting. This will also go before the Parks Board on Monday (March 6). This is the same request they made in the fall. The event was postponed until the spring. Dennis Williamson questioned the date because the Parks Board letter requested the 26th. The letter states Saturday, April 24th.

William Evans made a motion to approve the request of Park Street from the fence at the Street Department to the baseball diamond be closed on April 24, 2006 from 1 p.m. to 5 p.m. for the Ellettsville Community Fair Committee that is sponsored by the House of Prayer. Phillip Rogers seconded. Motion carried.

Supervisors’ comments

Sandra Hash told the Council the 2006 budget order was in from the Department of Local Government Finance and the budget was approved as requested. Our tax rate for 2006 will be .7161. That is down by .1005 from 2005. One more tenth and we will back to our pre-building rate. Our assessed value went up from \$135 million to \$155 million.

Dennis Williamson congratulated Ron on his award from the Exchange Club.

He requested a copy of the complete Rule 13 from Rick Coppock and wanted to know the date the notice if intent was sent. Everything hinges on that date. Rick Coppock will forward the information. He added part B & C were delayed. Dennis questioned if we would be penalized if we pass the dates mentioned in the letter of intent. Rick said we are okay.

Dennis announced the Bloomington Amateur Radio Club will be having their 2006 Severe Weather Spotter Talk and Training this Friday, March 3rd at 7 p.m. in the Wegmiller Auditorium in the Bloomington Hospital. He suggested buying a weather radio and flashlight. He attended the training last year and it is pretty interesting.

William Evans also congratulated the Marshal for being “Police Officer of the Year”. He asked Ron how the repairs are coming along at the Police Department. Ron said the drywall has been taken care of. He contacted the subcontractor who installed the gutter and they will be in next week to fix the guttering problem and install a new downspout. He has all the keys to all the new locks.

He asked Charles if he had the hours worked by the Reserves this past month. Charles did not have the information at this time but they will be having a meeting March 5th. William asked him to give the numbers to one of the Council members because he will be in Scottsdale, Arizona during the next meeting.

Adjournment

Phillip Rogers made a motion that we adjourn this meeting. William Evans seconded. Motion carried. Meeting adjourned at 8:29 p.m.

Patrick Stoffers, President

William Evans, Vice-President

Lisa Combs-Creech

Phillip Rogers

Dennis Williamson

Sandra C. Hash, Clerk-Treasurer