

January 10, 2005

The Ellettsville, Indiana, Town Council met in regular session on Monday, January 10, 2005 at the Town Hall. Patrick Stoffers called the meeting to order at 7:30 PM. Lisa Creech led in prayer and Dennis Williamson led in the Pledge of Allegiance.

Roll Call: Patrick Stoffers asked for roll call of the Council Members. Patrick Stoffers, President; William Evans, Vice-President; Lisa Creech, Phillip Rogers and Dennis Williamson were present. Also present were Sandra Hash, Clerk-Treasurer; Mike Spencer, Attorney; and Frank Nierzwicki, Planning and Zoning Administrator.

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

Approval of the regular meeting minutes for December 28, 2004 and Special Meeting, January 5, 2005.

Lisa Creech made a motion to approve the minutes of the regular meeting from December 28, 2004 and Special Meeting of January 5, 2005. William Evans seconded. Motion carried.

Action to pay Accounts Payable Vouchers

William Evans made a motion to pay the accounts payable vouchers. Lisa Creech seconded. Motion carried.

Appointments

Board of Zoning Appeals (R) 2005-2008

William Evans made a motion to table appointment to the Board of Zoning Appeals. Phillip Rogers seconded. Motion carried.

Resolutions

Resolution 34-04 Adopting Ellettsville Parks and Recreation 5 Year Master Plan

Lisa Creech read Resolution 34-04.

Pat Stoffers stated it was tabled at the last meeting relative to the Section 504 Compliance Form.

Mike Spencer wanted to know why pages 14 and 15 of Section 504 were in there since it talks about schools, unless the Town is anticipating seeking federal funds.

Lisa stated it would take an on site inspection of all the parks to make sure they are in compliance with each one of those specifications and bring them up to par before certification.

Patrick Stoffers recommended tabling this resolution and coming back and addressing this at the January 24, 2005 meeting.

Dennis Williamson asked if the public has had a chance to review the plan. Darlyne Sowder said it has been distributed to the Town Council and others. She added it is needed to secure grants for the park improvements.

Lisa Creech suggested having someone come and talk about this in a special session.

Darlyne remarked this has to be forwarded to the state by the end of January or it will have to wait until June.

William Evans made a motion to table Resolution 34-04 to the meeting on January 24, 2005. Lisa Creech seconded. Motion carried.

Resolution 01-05 declaring the 1995 Jeep Cherokee Surplus Property donating it to the Bean Blossom Township Fire Department

Lisa Creech read Resolution 01-05.

Whereas, replacement of vehicles in the Ellettsville Police Department has created a surplus of 1995 Jeep Cherokee and, whereas the Bean Blossom Township Fire Department does not have a four wheel drive vehicle and, whereas the Town Council of the Town of Ellettsville Indiana would like to assist the Bean Blossom Township Fire Department. Now therefore it will be resolved by the Town Council of the Town of Ellettsville, Indiana, that: a 1995 Jeep Cherokee will be donated to the Bean Blossom Township Fire Department.

Phillip Rogers stated he heard the jeep was going to be surplused. Bean Blossom Township Fire Department approached him and asked about it. They really do need the vehicle and it will benefit their Fire Department.

Lisa Creech made a motion to adopt Resolution 01-05. William Evans seconded the motion. Motion carried.

Resolution 02-05 Cancellation of Outstanding Warrants

Lisa Creech read Resolution 02-05

Whereas, pursuant to IC 5-11-10.5, all checks outstanding and unpaid for a period of two years as of December 31st of each year are void and,

Whereas, not later than March 1st of each year, the Treasurer of each political subdivision shall prepare a list in duplicate of all checks outstanding for two or more years as of December 31st last preceding and,

Whereas, the Treasurer of each political subdivision shall enter the amounts so listed as a receipt to the funds upon which they were originally drawn and remove the checks from the list of outstanding checks. If the fund from which the check was originally drawn is not in existence or cannot be ascertained, the amount of the outstanding check shall be receipted into the General Fund of the town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF ELLETTSVILLE, MONROE COUNTY, INDIANA, THAT:

The Clerk-Treasurer is hereby authorized to void the following checks:

<u>Check #</u>	<u>Date</u>	<u>Payee</u>	<u>Fund</u>	<u>Amount</u>
2153	02/26/02	Tao Craig	500-13120-25	2.19
2197	03/26/02	Barker Motors Co.	500-13120-25	14.13
2219	03/26/02	Cindy Wells	500-13120-25	2.99
2663	11/26/02	Angela Bogle	500-13120-25	1.63
2670	11/26/02	Jennifer Farris	500-13120-25	.61
2676	11/26/02	Tony Ivey	500-13120-25	8.75
2678	11/26/02	Robin Kreiling	500-13120-25	1.63
2679	11/26/02	Daniel Marques	500-131-2025	16.12
Total for Fund 500				\$ 48.05
2121	01/29/02	Shannon Sturgis	503-12760-25	16.70
2567	09/30/02	AJ Bohall	503-12760-25	30.00
2569	09/30/02	Melissa Canning	503-12760-25	30.00
2587	09/30/02	Patricia Witt	503-12760-25	30.00
Total for Fund 503				\$106.70
2169	11/26/02	Tony Ivey	600-13120-25	10.18
Total for Fund 600				\$ 10.18
Total of Outstanding Warrants to be Cancelled				\$164.93

William Evans made a motion to adopt Resolution 02-05 Cancellation of Warrants. Phillip Rogers seconded the motion. Motion carried.

Ordinances on First Reading

Ordinance 05-01 amending Ordinance 04-25 Fixing of Salaries for Budget Year 2005.

William Evans read Ordinance 05-01 amending Ordinance 04-25 fixing of salaries for budget year 2005.

WHEREAS, The Fair Labor Standard Act Regulations Title 29 Part 778.108 defines the “regular rate” to be used in determining the overtime rate, and

WHEREAS, The Fair Labor Standard Act Regulations Title 29 Part 778.200(a) section 7 (e) explains the “regular rate” at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf of the employee, but shall not be deemed to include:

- (1) Sums paid as gifts; payments in the nature of gifts made at Christmas or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency.

THEREFORE BE IT ORDAINED AND ADOPTED by the Town Council of the Town of Ellettsville, Monroe County, Indiana, that ordinance 04-25 be amended by striking under Longevity Payments for 2005 the following:

Longevity pay will be added to the base pay of the above mentioned employees for the purpose of calculating overtime.

Patrick Stoffers asked Sandra Hash if she had any comments on this ordinance. She explained she had received some information indicating longevity pay should be included when calculating overtime by adding it onto the base pay. Therefore she inserted that terminology into the 2005 salary ordinance. After further research it was revealed that longevity paid annually should be divided by the hours worked in a year and added onto the hourly rate for calculating the overtime rate. That applies if longevity is paid every year. Ellettsville pays it once every five years. Therefore, that phrase needs to be removed.

NEW BUSINESS

Contract for Employment with Michael Spencer, Attorney

Lisa Creech read the Contract for Employment.

THIS AGREEMENT entered into this 10th day of January, 2005, between the Town of Ellettsville, Ellettsville, Indiana, Client, and Michael J. Spencer, Attorney.

WITNESSETH: Client retains and employs Attorney as its attorney. Client shall pay Attorney the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) as an annual retainer. Attorney shall be expected to attend meetings and handle routine matters on behalf of the Town.

Client shall pay the Attorney and his staff on an hourly basis for the following items:

1. Any work which pertains to sewer and water; and
2. Any complex matter requiring either litigation or expenditure of an inordinate amount of time, the latter to be determined by the attorney. The hourly rate will be as follows:
 - a. Senior attorney, which includes Michael J. Spencer, Suzanne Sturgeon or Frank A Barnhart at the rate of One Hundred Twenty Dollars (\$120.00) per hour;
 - b. Associates at the rate of \$110.00 per hour,
 - c. Legal assistant at the rate of \$50.00 per hour.

In the event the Town finds it necessary to conduct a bond issue, the fee to the Attorney shall be on an hourly rate determined at the time the Town decides to conduct the bond issue. The exact terms and conditions shall be set out in a separate memorandum to be prepared prior to the issuance of the bonds.

Dennis Williamson stated that Mike was very professional and has a very competent staff. It is a very good firm and the town is very pleased he wants to work with us for another year.

Patrick Stoffers asks for a motion to approve the contract for employment with Michael Spencer, Attorney. Lisa Creech made a motion to approve the contract for employment with Michael Spencer, Attorney. William Evans seconded. Motion Carried

Conflict of Interest filling by Dennis Williamson

Dennis Williamson stated due to the Inter-local Agreement between the Town of Ellettsville and Monroe County for “Animal Management Services” he is filing a Conflict of Interest Disclosure Statement.

There were no comments from the floor

Supervisors comments

Jeff Farmer, Ellettsville Utilities commented on the recent rain event which created a historic high flow at the Waste Water Treatment Plant. January 3 through the 6, a total of 31 million gallons ran through the plant and our design flow is a 2.3 million gallon average. On the 5th it was a record flow of 9.5 million gallons. It was the first time all four pumps run at maximum for over a 24 hour period. Those four days had well over 5 to 6 inches of rain on top of 18 inches of snow. The system was stressed to the limits; there were some bypasses and a pipe failure at the Smithville lift station. Our guys worked well into evening to repair that. It was a tough week but we continue to fight the INI problem and to continue to ask Eastern and Northern to do the same. From the looks of their systems they still have problems and we still have problems. We are upgrading our equipment to really make a big push at it this spring and summer to find as much as we can. It seems like we make one repair and then something else breaks somewhere else. Jeff gave the Council an annual summation of monthly reports of operations for 2004. He highlighted some areas. The good news about the plant is the removal rate in three major categories; BOD, Suspended Solids and ammonia as you can see there is 99% for BOD, 99% for Suspended Solids, 100% for ammonia solids so the plant is doing an excellent job.

The average flow for this year is actually down from last year to 1,141,000 which is about 50% capacity of the plant. Last year the average came out to about 55%. The rain was about the same for 2003 as it was for 2004 so hopefully some of the INI work we are doing here is showing up in the flow. With the addition of new customers every day the flow is down a little. He thought the Council would like to see this report to know how the plant is doing. It is doing a fabulous job.

Jeff Farmer said on Thursday the river had gotten so high Cook, Incorporated in order to stay in operation, was to show the Department of Health they were getting rid of their waste. They plugged off a manhole that feed their plant and trucked about 25,000 gallons of waste to our plant. This allowed them to stay in operation. We were trying to be neighborly. They paid the domestic rate of \$4.00 per thousand. It was just for one day.

Frank Nierzwick, Planning and Zoning Administrator announced as of 4:30 pm this afternoon the trailers at the Sowders’ property were moved across the street to Robinson’s property which puts them in compliance with our zoning laws

Lisa Creech added the school system has someone who deals specifically with Rehab Act 504, Kathleen Hugo, she worked for the State of Indiana in this area. Lisa will get in touch with Kathleen to see if she may be able to give us a synopsis on 504.

She also announced an open meeting on February 1, 2005 at the new Fire Department. The Chamber of Commerce, Main Street and the Town are going to work on unifying efforts. This is a joint effort with Frank about beautifying downtown, bringing Commerce into Town and hopefully uniting these efforts to see if we can get the ball rolling. Anyone who is interested is welcome to attend the meeting. She closed by saying her prayers go out to the Tsunami victims and the flood victims we have here locally and to all those people who volunteered.

William Evans echoed the comments about Michael Spencer, Attorney. When I have talked to him he has always conducted himself very professionally.

Patrick Stoffers followed by saying, this is our last meeting in this particular building and it has served the town well over the years. We are all looking forward to moving to our new facility. I am sure they will welcome us with open arms. With that I would entertain a motion to adjourn.

Adjournment

Lisa Creech made a motion to adjourn. Phillip Rogers seconded. Motion carried. Meeting adjourned at 8:02 p. m.

Patrick Stoffers, President

William Evans, Vice-President

Lisa Creech

Phillip Rogers

Dennis Williamson

Sandra C. Hash, Clerk-Treasurer