

October 28January 13, 20134

The Ellettsville, Indiana, Town Council met for a regular meeting on Monday, January 13,Monday, October 28, 20134, at the Fire Department Training and Conference Room. Scott Oldham called the meeting to order at 6:30 p.m. Dianna Bastin Dianna Bastin led the Pledge of Allegiance followed with a prayer by Sandra HashPhillip Smithyra..

Roll Call: Members present were Scott Oldham, President; Dan Swafford, Vice President; Dan Swafford, Vice President; Dianna Bastin and , David Drake and Phillip Smith. . Sandra Hash, Clerk-Treasurer, Darla Brown, Town Attorney, and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, were also present.

Supervisors present were: Mike CornmanMike Cornman, Jim Ragle, Tony Bowlen, Connie Griffin, Mike Farmer and Jim Ragle, Tony Bowlen, Connie Griffin, Mike Farmer and Jeff Farmer.

Approval of Minutes

Scott Oldham entertained a motion for approval of the minutes for the regular meeting on October 15,December 23, 2013. Phillip Smith David Drake so moved. Dan Swafford secondedDan Swafford seconded. Motion carried.

Accounts Payable Vouchers

Scott Oldham entertained a motion for action to pay Accounts Payable Vouchers. Dan Swafford Dianna Bastin so moved. Phillip Smith David Drake seconded. Motion carried.

Election of Officers

Scott Oldham opened the nominations for officers on the Town Council.

Dianna Bastin nominated Scott Oldham for President. David Drake seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes and David Drake – yes. Motion carried 4-0.

Dianna Bastin nominated David Drake for Vice President. Dan Swafford seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes and David Drake – yes. Motion carried 4-0.

Appointments

Town Council members were appointed as liaisons to the following Town departments:

Fire Department:	David Drake
Planning Department:	Dan Swafford
Police Department:	Scott Oldham
Street Department:	Dan Swafford
Utility Department:	Dianna Bastin

The following appointments were made to Town boards:

Board of Zoning Appeals:	Fred Baugh (2014-2017)
Park and Recreation Board:	Richard Pease (2014-2017)

Annual appointments by the Town Council for the following:

Monroe County Ambulance Advisory Board:	Mike Cornman
Monroe County Emergency Management Advisory Board:	Jim Davis
Monroe County Solid Waste Management Board:	Dan Swafford
Ellettsville Chamber of Commerce:	Sandra Hash

Scott Oldham entertained a motion that the annual appointments by the Town Council be made as on the Agenda: Mike Cornman, Jim Davis, Dan Swafford and Sandra Hash. Dianna Bastin made a motion that the annual appointments by the Town Council be made as on the Agenda: Mike Cornman, Jim Davis, Dan Swafford and Sandra Hash. Dan Swafford

seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes and David Drake – yes. Motion carried 4-0.

Resolutions

Resolution 01-2014 Cancellation of Warrants (Old Outstanding Checks)

Sandra Hash, Clerk-Treasurer, explained this is a formality which has to be done annually when warrants they are over two years old. Most of these are for meter deposits, with the exception of. For example, Ms. Ramsey who left employment over two years ago. and they sent a A refund check was sent to her but itshe has was never cashed never cashed it. The Write off Policyordinance states Utilities will not refund amounts under \$2.00.

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Resolution

Resolution 19-2013 Additional Appropriation – Lease Rental Payment Fund

Sandra Hash, Clerk-Treasurer, explained this is. Itat

tmust be repaid by at and the term of the loan is four year.will not bes due to the refinancing of the bonds which combines the total of the payments. This year’s budget reflected the old payments so she had to ask the state for an additional appropriation in order to pay the combined large payment at the end this year. There should be enough money in the fund. The projected revenue is \$143,000 and the additional appropriation if for she is asking for an additional \$129,000.

Scott Oldham entertained a motion to pass Resolution 01-2014 Cancellation of Warrants (Old Outstanding Checks)adopt Resolution 1920-2013. David Drake Dianna Bastin made a motion to pass Resolution 01-2014 Cancellation of Warrants (Old Outstanding Checks)adopt Resolution 19-201.3. David Drake Dan Swafford seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes and David Drake – yes. Motion carried 4-0.

Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith - yes. Motion carried 5-0.

Ordinances on First Reading

Ordinance 2014-01 Establishing the Regulated Area for the Furnishing of Water and Wastewater Service to the Public to Include All Territory with Some Exceptions, Located Inside and Within Four Miles of the Town of Ellettsville’s Corporate Boundaries

Ordinances on First Reading

Ordinance 2013-16 to Establish Rate Changes for Water

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Darla Brown, Town Attorney, explained there is an Indiana statute that provides for municipalities to exercise its powers to serve water and/or sewer in areas within four miles of its corporate boundaries. On the date of the last Town Council meeting, December 23, 2013, the Court of Appeals came out with an opinion interpreting that statute. In *Town of Newburgh vs. Town of Chandler*, there were two municipalities competing with each other and a dispute arose over a subdivision to be built. The question was which municipality was to serve the subdivision. One municipality got its ordinance on file pursuant to statute six weeks ahead of the other. There was a lawsuit and it went to the Court of Appeals which said “*first in time, first in right.*” The Court of Appeals held that the municipality which got its ordinance on file was allowed to serve areas within four miles of its corporate boundaries to the extent they were not already served by another sewer corporation or municipality at the time the ordinance was passed. The proposed ordinance has the same wording the Court of Appeals found acceptable. She suggested the Town Council pass the ordinance on first reading.

David Drake said the Town is already authorized by statute to provide service within four miles from the Town limits. This confirms and makes what the Town has been doing legal. Due the sense of urgency it should be passed at this meeting.

Dan Swafford asked for clarification in the portion of the ordinance that states “*except for those customers located in the regulated territory that are connected to another service or sewer utility on the date of the ordinance.*” Ms. Brown explained the Town isn’t encroaching on anybody else’s territory. Mr. Swafford asked about sub-corporations and their territory with new customers coming in. Ms. Brown would argue this means if there is not a particular territory where the customers are being served in Ellettsville then it can serve them. Mr. Swafford asked if a new subdivision goes in and is still in their territory would they hook up with the other service and not the Town. Ms. Brown replied to the extent there is a contract that’s opposite to the ordinance they’re going to have to follow the contract. Mr. Swafford clarified he is wanting to know about new customers locating in the other territory. Ms. Brown read the following from the ordinance: “*WHEREAS . . . Territory will not extend beyond the corporate boundaries of Monroe County, Indiana, and will not include customers connected to and receiving service from other existing water or sewer utilities as of the date this Ordinance is adopted.*” Mr. Oldham asked if there are geographic boundaries between the Town and Eastern Richland Sewer Corporation (“Eastern Richland”) and how territories are defined. Does Eastern Richland have territory that is unimproved and is still within their Certificate of Territorial Authority (“CTA”) that the Town would be encroaching on?

Rick Coppock, Bynum Fanyo and Associates, Town Engineer, explained Eastern Richland still has territory that is within their CTA and is unimproved. Mr. Swafford asked if Eastern Richland does a major improvement still under their territory would they still get the customers or would the ordinance void the original contract and Ellettsville would get the new customers. Ms. Brown replied it would not void the original contract. Mr. Coppock added the original contract doesn’t deal with where the territories are located. The territories are setup by the CTA outside of the contract. Mr. Drake commented the Town can’t pass an ordinance to negate an existing CTA by the Indiana Utilities Regulatory Commission (“IURC”). The ordinance says anything that hasn’t already been assigned to anyone else would be served by Ellettsville. Mr. Coppock noted if a new customer is going to connect to an Eastern Richland line they would be served by that entity.

Tom Mathison read the ordinance carefully and is surprised they would consider passing it on a first reading. This is normally only done under emergency conditions and requires the unanimous vote of the members present. It is inopportune to try and pass this on a first reading when the public has just barely seen it. There is, obviously, some concern about the wording by one council member. He suggests the Town give it the two readings that any ordinance would normally be expected to have. If there is some emergency it would be nice to know what it would be. Since there is currently the dispute on the land swap with Eastern Richland and South Central Sewer Corporation, which was brought up last year as a concern for Ellettsville, he is wondering if this ordinance has something to do with it. If it does the Town should first find out how the IURC is going to rule. If it doesn't he would like to have the Council explain publicly that this ordinance has nothing to do with the land swap. It seems to him that there are lots of questions, including some raised by the Council that should be addressed before this ordinance is passed. He reiterated he doesn't see any reason at all as to why it needs to be passed under emergency conditions on the first reading since there was no indication to the public about this intention.

Dan Swafford tends to agree with Mr. Mathison. Unless there is an emergency reason he is not aware of he doesn't know why it can't wait until a second reading so more people can see it.

Scott Oldham entertained a motion that Ordinance 2014-01 be submitted for first reading. David Drake made a motion that Ordinance 2014-01 be submitted for first reading. Dianna Bastin seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – no; Dianna Bastin – yes and David Drake – yes. Motion carried 3-1.

Scott Oldham entertained a motion that Ordinance 2014-01 be adopted on the same day it was introduced. David Drake made a motion that Ordinance 2014-01 be adopted on the same day it was introduced. Dianna Bastin seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – no; Dianna Bastin – yes and David Drake – yes. Motion did not pass 3-1.

Darla Brown, Town Attorney, advised the ordinance will return for a second reading.

Old Business

Establishing the Position of Town Manager

Scott Oldham requested this be tabled until the next Town Council meeting.

Scott Oldham entertained a motion that they table establishing the position of Town Manager under Old Business. Dianna Bastin made a motion that they table establishing the position of Town Manager under Old Business. David Drake seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes and David Drake – yes. Motion carried 4-0.

Mr. Mathison continued. **Darla Brown, Town Attorney**, explained Indiana Utilities Regulatory Commission (“IURC”) counsel, Pete King, was in the process of preparing the rate change ordinance and it is his opinion they need

more guidance from the Town Council as to which direction to go. When Umbaugh gave their presentation they discussed doing away with the out of town rates and if the Town Council is inclined to do so they will prepare the proposed rates. If not, they will go the other direction.

Scott Oldham said the IURC takes a dim view of multiple rates. Ms. Brown agreed. Under the circumstances the Town may have a problem justifying it. The IURC would require a rate study which could be very expensive. Umbaugh thinks the Town should do away with the out of town rate and consider one rate. The Town Council doesn't need to vote on it at this meeting but if they give her a concensus as what they're leaning toward, she could notify Pete King and the ordinance could be ready for the next meeting.

Dan Swafford asked why different rates were established in the beginning. Rick Coppock replied there was a discrepancy as to what was out of town versus in town. Years ago the infrastructure wasn't there. Now, everyone would be put on an equal basis with one rate.

Scott Oldham doesn't see the Town progressing very far into the future which means the unfortunate need to raise the rates. The increase will pay for infrastructure improvements which the Town needs to grow unless the rates between in town and out of town are

normalized. Is the Town Council in agreement with instructing IURC counsel to move

forward with one rate or take risk of being ordered to do a study for two different rates? David Drake hates to say the rates should be the same but, realistically, it is the only good option at this point.

Dan Swafford asked if the reason the Town hired Umbaugh was to do a rate study. Mr. Coppock replied they did a rate study but would have to do a cost of services study to show why it cost more to service those customers. Dianna Bastin asked when in town rates are going to go up. Mr. Coppock answered after the rate ordinance is passed there will be a certain amount of time before it will go into effect.

Scott Oldham confirmed the concensus of the Town Council is to move forward. Ms. Brown advised the ordinance will be ready for the next Town Council meeting.

Ordinance 2013-17 to Amend Chapter 152 of the Ellettsville Town Concerning Planning and Zoning Regulationsreceiveds

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Ordinance 2013-19 to Amend Chapter 94 of the Ellettsville Town Code Concerning Abandoned, Salvaged and Scraped Vehicles

Connie Griffin, Director of Planning, explained the items under Chapter 94 which pertain to the Department of Planning will be moved to §152.062. The Department of Planning will implement a daily fine for a vehicle found to be non-compliant. The code process will hold the property owner responsible for the removal, repairs and storage of the vehicle.

Scott Oldham clarified in Chapter 94 the intent is to eliminate the Director of Planning, Deputy Planning Director and the ordinance control enforcement officer's ability under that section. Ms. Griffin replied that is correct. Mr. Oldham asked if they really want to do this. There are certain things that are going to fall more toward planning versus the law enforcement version. There needs to be a conversation with the Town Marshal and Town Attorney regarding the tow policy they're working on to integrate a lot of this before a mistake is made and there becomes an issue where they can't take care of a problem. There are things planning could handle and law enforcement could not. This needs to be streamlined between the Town Marshal, Town Attorney and the Department of Planning before anything is done with this code revision.

Vote: Scott ~~Ordinance 2013-18 to Amend Chapter 96 of the Ellettsville Town Code Concerning Animals~~

Connie Griffin, Director of Planning, explained single family districts are the most restrictive in the Town's zoning ordinance. Residential areas are protected from encroachment type uses. In 1966, the Town of Ellettsville had a municipal zoning ordinance under §3.2(F) which prohibited the raising of farm animals or poultry. In 2003 and 2004 under §152 livestock was prohibited by definition. Her research found that because a conflict with the statutes has occurred, livestock was prohibited in 2003 and 2004 by definition and the more strict code prevails. In the 2004 code changes they weren't stricken in §96.01. Her interpretation and the code research she had done as Director of Planning, found in §152.358, Conflict with Other Statutes, that *"Where the requirements under this Chapter are in conflict with the requirements of any other statute or law that is in effect within the Town's territorial jurisdiction, the more restrictive requirement shall prevail as well as any amendments thereto or replacement thereof in §152.357."* She reiterated her research has found that livestock animals in residential zones is already prohibited but §96.01 failed to be stricken at the time the revision happened. In Chapter 96, there is an Interlocal Agreement between Monroe County Animal Management and an understanding with the City of Bloomington. She is proposing to strike §96.01 and §96.02 will contain the Interlocal Agreement. The Interlocal Agreement is spelled out within both chapters.

Dianna Bastin noted Chapter 96, Animals, states “*The mission of Ellettsville Animal Control is*” but Ellettsville does not have an animal control. Ellettsville contracts with Monroe County and follow their guidelines. It’s difficult to find anything in the Town Code unless you’re online. She understands why the explanation from Animal Control is in the Town code but is it really necessary? Can people not research and call Monroe County Animal

Control? Can Monroe County Animal Control guidelines not be referenced? Ms. Griffin replied it has been done with other code and asked the Town Attorney if the Interlocal

Agreement could be referenced. Ms. Brown replied that can be done. Ms. Bastin added the Town is still under contract with Monroe County and they could change their rulings but they still have to come take care of the Town’s animals. If they can tighten anything she wants it done and wanted to make this statement publicly. She doesn’t agree that dogs have to be kept in their yards but cats can roam free. She and her neighbors have lost several costly perennials and she wanted to make this statement publicly that she doesn’t agree with this.

Scott Oldham asked if the proposed code prohibits chickens. Ms. Griffin replied chickens have been prohibited since 2003 and 2004. Mr. Oldham asked if the change would prohibit chickens. Ms. Griffin answered yes, in Chapter 152. It is an encroachment on residential property in her opinion as Director of Planning. They’ve looked at the recorded plats which use similar language. The plats state “*No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except a dog, a cat or recognized household pet may be kept providing they are not kept, bred or maintained for any commercial purposes.*” It is a restrictive covenant but is on a recorded plats. Mr. Oldham said if the Town is going to reference Monroe County the Town has no say in what Monroe County may eventually do. If Monroe County decides they’re going to allow chickens in residential areas then wouldn’t that carry over into the Town? Ms. Griffin answered if the Town has a higher, more restrictive, code which it does in §152 the chickens would be prohibited. Mr. Oldham asked if she is basing §152 on is the restriction of land use as opposed to possession. Ms. Griffin replied yes. Mr. Oldham asked the Town Attorney her thoughts. Ms. Brown replied she doesn’t have any problems with doing it that way.

Dianna Bastin stated the City of Bloomington allows chickens and in years past they probably did not. However, because of the changing ways and people wanting to have food chemical free is there no way the Town could not do something similar to what the City of Bloomington has done and allow people to have five chickens? They have coops now that are portable and can be moved around the yard. She doesn’t see a problem with it. They’ve seen a picture of a bad example

but she's seen a couple of good examples. Is there not any way the Town could do this? Ms. Griffin answered the City of Bloomington has two zoning districts in which chicken flocks are allowed. An estate residential has as 108,900 lot size. The Town's lot sizes are typically 10,000 square feet or less. Bloomington also allows chickens in single dwelling residential or S classifications that have 8,400 square feet. Ms. Bastin asked if Ellettsville could not adjust to allow for chickens. Mr. Oldham answered they could but do they want to. Mr. Swafford said the Town hires Monroe County to do its animal control. If the Town changes something will Monroe County not follow it if the Town is stricter? Ms. Griffin replied this is a discussion the Monroe County Attorney has asked to have. They are concerned if the Town becomes stricter with its code will the agreement remain the same or will they need to revise it. This is an attorney to attorney question as to what they will be willing to maintain within the Monroe County Interlocal Agreement.

Scott Oldham said with the theory Ms. Griffin and Ms. Brown are putting forth the Town doesn't need to concern itself with the animal control ordinance because it's more of a planning and zoning problem as opposed to an animal control problem. Ms. Griffin said that's correct, it's a land usage violation. Mr. Oldham said they're two separate issues. The Town would then handle the administration or fining under §152 as opposed to worrying about violations or potential violations under the proposed animal control section. Ms. Bastin asked if dogs, cats and domestic pets fall under that code and animal control comes over and handles those issues. Mr. Oldham asked if they're allowable under planning. Ms. Griffin answered that is correct unless it gets into a kennel classification and then it has to be in an agricultural zone. There is one Saint Bernard kennel in Town. Ms. Bastin still doesn't see how it can't be worked out. It's obvious there are several in Ellettsville already. She's heard the discussions that no one wants chickens slaughtered in Ellettsville. None of these codes prevent her from buying a live chicken and taking it home, killing it in the back yard and dressing it out. Ms. Griffin noted it would have to be an allowable use and slaughtering is not allowed. Ms. Bastin stated all she would have to do is slaughter it after she goes home at 4:00 p.m. Mr. Oldham noted non-

enforcement is not the same as not allowing it. Ms.

Bastin said she read through the proposed code and nothing states a chicken can't be killed in a back yard. Ms. Bastin thinks there's a way everyone can find a way to live together. Mr. Oldham said there are a strong number of people who would like to see chickens and turkeys allowed. There's a couple of people who would like to see chickens and turkeys to a certain age be allowed for 4-H. How would it be regulated? Mr. Drake said if people want to raise livestock move to the country. Phillip Smith disagreed. Ellettsville use to be a farming community and is still considered country. People move from Bloomington to Ellettsville to get away from the Bloomington rush. He has 80 rabbits which he has to keep in Greene County. He sees no problem with having a few chickens but they had better be pinned and no roosters. People are looking for different ways to feed their

families. He was a 4-H leader for 13 years and is still active. They've have to give these kids a way to be in 4-H legally. He knows of six to eight families who have illegal animals on their property for 4-H. Ms. Griffin wants them to understand they have a Board of Zoning Appeals and a hearing process for anyone who wants to appeal the code interpretation. They did have a situation of a goat classified as livestock in a commercial zone which was prohibited and upheld by the Board of Zoning Appeals. They can talk about snakes and birds but they use the livestock definitions. Mr. Oldham asked why rabbits are not considered domestic pets. Ms. Griffin replied rabbits in the City of Bloomington are not considered domestic livestock but in Monroe County are considered domestic livestock. The Interlocal Agreement defines rabbits as a livestock animal. Mr. Oldham asked if they do this under the ordinance and someone wanted to have a rabbit for an indoor pet, which a lot of people do, is it not allowed. Ms. Griffin said she doesn't know how she would find out about rabbits in a house but if the definition was used to its strictest terms then yes, it is prohibited in residential. Mr. Oldham said again, non-enforcement does not mean it is not legal. Why would rabbits not be allowed? Clearly, there are a lot of children who have rabbits as pets. Ms. Griffin said she wanted it known she understands about the codes, sustainability, not parking in yards and not enough area for people to park but for her job as the Code Enforcement Officer she has to have consistent codes. When the codes are contradictory it ties their hands and brings people before the Town Council who continue to grind out the same story and same problem. They're wanting to clear inconsistencies. Mr. Oldham gets it and doesn't disagree. He is saying now that they're changing things do they want to make some modifications which would mean modifying two ordinances. But if they're going to do it once they don't want to do it three times. Ms. Griffin is all for that but she needs to know what rules they want enforced.

Dianna Bastin agrees withto what Mr. Smith said about 4-H kids. She knows people who have chickens for health reasons because they know what goes into the chickens such has no chemicals. They pass rules for people to be greener and protect the environment but they don't want to go full blast at it. There is an organization that will bring goats to your yard and fence them in so they will eat the grass. She thinks it can be worked out. Five chickens is plenty and they don't need any roosters. Mr. Oldham said the flip side of it is enforcement. Either something is presented that is enforceable or they don't present something nnot enforceable. Ms. Bastin used Bloomington as an example of a city that reconsidered and made room for it. She knows their lots and houses are bigger. She really thinks it's doable. She thinks Monroe County Animal Control has had an issue or two with chickens. They may already have regulations. Mr. Smith's biggest complaint with poultry is they need to stay on their property. He does want chickens allowed but there needs to be restrictions. Mr. Swafford asked the Town Attorney if the Town changes its ordinance who is going to enforce it and how can it be enforced if Monroe County can't. Ms. Brown said it would be the Director of Planning. Ms. Bastin asked why they can't ask Monroe County Animal Control if they will enforce it and ask for their input. Ms. Griffin provided an email from Mr. Dogan in which he was concerned if it was changed it would have to be amended. Mr. Drake said if it's treated as a land use violation and Ms. Griffin enforces it what is she going to do with the chickens and goats. Mr. Oldham replied if it's a land use violation they fine the landowner and it is the home owner'sir responsibility to remove them. Ms. Brown said if the landowner won't take care of it then what do they do. They can keep fining them. Mr. Oldham said under an animal control prospective they're into search warrants to enter the property and

seize and then into the court. So, they're walking a line either way. Which is cleaner – he doesn't know. Ms. Bastin said they can't say animal control follows this to the letter. The Town just paid for the removal of seven opossums. Monroe County says they don't do wild animals but Ellettsville paid. Ms. Hash said it was on the animal the account and it was about 14 baby opossums. Monroe County takes the animal count and figures Ellettsville's percentage. Mr. Oldham said it ended up costing the Town approximately \$200 each.

Town Marshal Tony Bowlen advised after 4:00 p.m. it's the Police Department who receives the calls and has to respond because Animal Control goes home. He's heard some valid arguments about allowing poultry in Town. The situation they will have by putting five chickens on postage size lots will cause more neighborhood disturbances. Children will be afraid of chickens or they will be too close to the fence. They will also be noisy at night. The Town should take the time to have a work session. This will create a lot of issues they're not in a position to deal with as a law enforcement agency. Ms. Bastin asked if they're having to deal with them now because there are several chicken coops in Ellettsville. How many calls are you getting? Marshal Bowlen replied they occasionally receive calls about chickens in the road but by the time they respond they can't find them. If they decide to do this they need to find a way to deal with the problem. Mr. Oldham said there are valid points to both sides of the issue. Mr. Swafford asked if they get calls about dogs bothering neighbors. Marshal Bowlen replied they get calls about barking dogs in the middle of the night and vicious dogs. They respond and if it's an issue for animal control they will refer them. Monroe County Animal Control will not come at 2:00 a.m. for a barking dog.

Dianna Bastin said if they compromise there are things that could be done to take care of some of these issues. They sell chicken tractors that are enclosed and can be moved around. People who want chickens need to bear some of the responsibility and some expense for keeping them. Mr. Oldham asked Ms. Griffin if she has done any research into the communities who allow chickens and how they enforce them. Ms. Griffin replied it is usually done by animal management. Mr. Oldham clarified he wants to know do they require coups or pens. Ms. Griffin replied Monroe County does not require a coup of any kind. There are many different little devices for keeping chickens. Mr. Oldham asked but are they required. Mr. Smith replied Bloomington does. Ms. Bastin added Bloomington says must be kept securely enclosed on the permit holder's property. Mr. Smith said they need to be really careful with this. Back in 2006 he had a pet shop in Bloomington and they went through this with reptiles. At that time they gave them a list they could sell which they researched and found two on the endangered species list. This can't be taken lightly. They need to decide what are pets and what are livestock. Mr. Oldham said the rabbit issue is an example. Is it being kept as a pet or food? Mr. Smith added the same applies to chickens. Ms. Griffin commented this has been on the table a couple of times before. If they could get some direction or time frame. If they do not act there will be more and more. Mr. Oldham asked how many people have chickens. Ms. Griffin answered she thinks eight to ten. Mr. Oldham asked if she would be in favor of grandfathering them if they're prohibited. Ms. Griffin replied it would require an inspection and count chickens and when they die off they would not be able to replace them. She's okay with that.

Scott Oldham stated they're going to have to give Ms. Griffin some direction and clearly the Council is split as to what they want to do. Mr. Drake's biggest concern

is whatever they do has to be in line with the agreement with Monroe County. The Town cannot afford to start its own animal control department. Ms. Bastin thinks animal control should be contacted and find out what they have to say. She is not looking to add to and more cost to animal control other than the cost of living increases they pay. They have two animal control officers and if they say no, then it's no. Mr. Oldham commented animal control has nothing to do with land use violations. If they're going to go that route then the ordinance will die for lack of action. He understands what Ms. Griffin is trying to do and it is a novel approach. How does the Town Council want to handle this? Ms. Bastin asked if the land use ordinance includes dogs, cats and domestic animals. Ms. Griffin said it does and the definitions are in the Interlocal Agreement and §152. Ms. Bastin said she does not want it to be a land use issue at all. Mr. Oldham agrees. Mr. Swafford noted before he makes a decision he would like to hear from the public. Mr. r.

Oldham noted they don't normally hear from the public on first reading so maybe they

can contact individual council members. The reason he brought up rabbits was because he heard from someone who asked what about children with allergies to cats and dogs but can have rabbits.

Dianna Bastin said if they make it a land use issue and Planning decides that, using herself as an example, her Yorkies have violated something then she calls animal control and she gets two fines. This is why she doesn't want it to be a land use issue. Ms. Griffin said she doesn't understand that logic. Ms. Bastin clarified she doesn't want it enforceable by Monroe County Animal Control and the Town would still be able to act under the land use. Ms. Griffin said she never knows when Monroe County Animal Control is in Town. Ms. Bastin added she doesn't want to answer to two different departments. She follows all animal control laws. She doesn't want land usage and animal control. Mr. Oldham asked if they want more research or abandon the land usage issue. They need to give Ms. Griffin some direction. Mr. Smith said this is the first reading. They need to set back and look at it and come up with a questions and email them to the Planning Director and Town Attorney. Ms. Griffin asked if they're telling her not to enforce the current code which is chickens are prohibited. Mr. Oldham replied they never said that. They're debating changing the ordinance. Ms. Griffin reiterated they're prohibited right now and she could be enforcing on the chickens she knows of right now. Ms. Bastin said Ms. Griffin said she hasn't been enforcing up to this meeting. Ms. Griffin said she's asking for clarification. Ms. Bastin said maybe they need to leave it as is. Mr. Oldham asked if the complaints are health or safety related or nuisance related. Ms. Griffin said they're health and safety. Ms. Hash added when they looked at the codes at Plan Commission they didn't look at changing them to allow chickens. They were just trying to move some codes around. As far as Plan Commission is concerned they didn't address this at all because they didn't look at it the same way as the Town Council is. It's a total different direction than what she thought would be presented to the Town Council. Mr. Oldham said whatever they have been doing they need to continue to do until this is rectified. Mr. Smith said he is concerned about the health issue. Is it a true health issue or odor? Ms. Griffin said not with a standing pool of water and different animal waste. Mr. Drake said the water could be an issue whether they have chickens or not. Ms.

Griffin said it is a pond in the back yard. Mr. Oldham asked if she hasn't acted on it because there are two conflicting ordinances. Ms. Griffin replied not necessarily because the stricter code prevailed in 2003 or 2004 long before she was here. Mr. Oldham reiterated he is asking why they haven't enforced on it. Ms. Griffin replied they're trying to figure out what the Town Council wants them to do. They don't want to tell people to start getting rid of them and go get them. Ms. Hash noted they did act on one complaint a few years back. They were fined and made to get rid of their chickens. Ms. Griffin said it was a court case with chickens and neighbors who had restraining orders on each other. Mr. Smith said if it's gone on this long it won't hurt to for a few more weeks.

Dan Swafford said Ms. Hash made a valid point. When they sent the proposed code from Plan Commission it was one thing but now they're talking about redoing the ordinance. Should it not go back to the Plan Commission? Ms. Brown said if they're making changes in §152 it has to originate with the Plan Commission. Mr. Oldham asked if that would be only if they're deeming it a land use violation. Ms. Brown said that's correct. Mr. Oldham added if it's deemed an animal control issue then it has to stay at Town Council. This was advertised as a public hearing so they will have a short discussion with the public if anyone wants to talk about is.

Roger Daniels lives on Hanover Glen next to a property on Briarwood Lane which has recently been turned into a residential farm. A video of a duck pond, chickens, ducks, rooster and rabbits was shown. Chickens and rabbits escape from that property onto his. He and his wife are getting tired of this. The stench from the pond during the summertime can get pretty bad. The rooster crows constantly and the ducks quack all the time. The rabbits have escaped and are populating the neighborhood. When the rabbits were small they went through the chain link fence. Admittingly, he has tried to keep the animals in with fence and gates but now it looks like a prison yard. The chickens do fly over the fence. Mr. Smith asked if this has been going on this year. Mr. Daniels answered yes, it has been going on for

two to three years. Ms. Bastin said she has a family member who lives in the neighborhood and told her she had a domestic rabbit in her yard.

Gus Matihis lives on Paul Street behind a shelter house at the park. He showed a photograph of his back yard including a chicken house and a 12' x 12' pen with a complete roof. It is completely enclosed and the chickens do not escape. His wife has lived there for 24 years and he has lived there for 19 years. There is a lot of noise at the park. His wife raises irises and they use what they get from the chickens to supply those irises. He has Silkies and Favorall chickens which are domesticated. When they started having chickens they looked at the ordinance in §96 to make certain they were in compliance. He's invested approximately \$2,000 on the project. It upsets him to think they could potentially be shut down for no other reason than someone wants to do so. Their neighbors don't care.

Robert Lowers lives on Main Street. Chickens roost at night so they don't have to worry about them making noise. Chickens have to be protected because they

are prey to skunks and raccoons. They looked up the code and the Director of Planning had something a few weeks before that said they're following Monroe County's rules which says they can have five chickens. Dogs can use the bathroom in their own yard but if they go anywhere else and do it it is against the rules. They need to quit worrying if there are chickens living in someone's back yard and figure out how to live with each other. The Ellettsville web site says "*This is a place where neighbors help neighbors.*" If we're not going to help each other then remove it from the web site.

Scott Oldham asked what direction do they want to give Ms. Griffin. Ms. Bastin thinks they need to leave it under §96 and take it out of land usage and look at allowing chickens under §96. If it's moved to land usage then it is double jeopardy for the person who gets into trouble with an animal. There will be fees for the Board of Zoning Appeals and a fine from animal control. It's a lot of government over an animal. Mr. Smith thinks they need to wait until the next meeting. Mr. Swafford thinks Ms. Griffin and Ms. Brown need to get together on this and work out some of the kinks that have been brought up. It's under first reading anyway and they weren't going to make any kind of motions. Both options need to be looked at. Ms. Brown said someone had mentioned earlier to have Town Council members and members of the public email Ms. Griffin or her. Her suggestion is to go ahead and do this and she and Ms. Griffin can compile the comments and return to the Town Council with some choices. They can cross reference §96 and §152 and see what they can do about it. Mr. Oldham agrees with this and thinks Ms. Bastin brings up a valid point about double penalties. Ms. Brown confirmed everyone is in agreement to limit the number of chickens and rabbits and keep them in a pen. Mr. Drake said if chickens are allowed they need to be limited. Ms. Bastin agrees they should be a limit and covered. Ms. Griffin asked if the inspection process is to stay with animal management. Mr. Oldham replied it depends on how they go with it. Ms. Griffin's email address can be found at ellettsvilleplanning.org.

~~Ordinance 2013-17 to Amend Chapter 152 of the Ellettsville Town Concerning Planning and Zoning Regulations~~

Connie Griffin, Director of Planning, began by explaining this is broken down by code sections.

David Drake noticed §152.062(C) states, basically, people can't park any motor vehicle on a lot, lawn or green space for more than three hours in a 24 hour period. Section E states people can't park on a lot, lawn or green space in a residential district not to exceed one hour. Why is there a difference? Ms. Griffin replied it's for unloading and loading. They didn't put any reason why they would be parking in the yard for three hours. She can change Section E to three hours.

Connie Griffin explained there is contradiction in old code that prohibits parking on the grass in §152 because there wanting to change it to three hours in length. Mr. Smith thought three or four years ago they got rid of the ordinance and said people could park in their yard as long as it didn't cause ruts. Mr. Swafford and Ms. Bastin concurred. Ms. Griffin stated it

was never stricken from the code. Mr. Drake thought they didn't make any decision to delete it.

Dianna Bastin noted according to the proposed code, she can't pull her car out of the garage and into the yard and clean the garage out unless it takes three hours. Otherwise she is in violation of the code. Ms. Griffin advised they discussed this at the Plan Commission, and the Town Attorney agreed, a time frame was needed. Ms. Bastin understands she ran it through the Town Attorney this is her lot, her yard and there are no ruts but there is grass. Is the Town going to over govern? She can't park it in her own side yard while she cleans out her garage? Mr. Swafford thinks there needs to be something in place where the people who constantly pull their vehicle in the yard and leave it there. Do you want their neighbors to leave their cars in the yard even though it's not rutting it? Ms. Bastin answered they do and nobody does anything about it. Mr. Swafford asked if it aggravates her. Ms. Bastin answered no, it's their yard and there's not ruts. She thought they got rid of that code. There comes a time when towns and cities start to over govern a little bit and she thinks this is one of them.

Scott Oldham asked if this was amended to no overnight parking. What they are after are the vehicles setting in the yard and are inoperable. Ms. Griffin stated §152.224 would be a good place to put "*shall not be parked overnight*". Mr. Oldham said this takes care of rummage sales, garage sales, cleaning garages, fixing roofs and whatever else. Ms. Bastin commented when her gutter was replaced they had to park in the yard with the machine. Ms. Griffin said they are fairly reasonable about things of this nature. Their concern is multiple people are parking on lawns while people are trying to sell their homes. To someone trying to sell their home it's ugly and devalues their property. She understands people have to park somewhere but she just wants to make the codes consistent. Does it mean a 24 hour calendar day? Mr. Drake suggested 10 p.m. to 6:00 a.m. Mr. Oldham it's almost the common sense standard. It was here at midnight or 5:00 a.m. then it was overnight. Ms. Hash advised when this was discussed at Plan Commission she brought up the fact that she and her husband remodeled their home. During that time, they parked on the grass for a couple of weeks. There are no signs of it and the end reward was her house looks a whole lot better than before the remodel. There are certain circumstances when there is no choice. They tore out their driveway and had no place to park but the yard. Mr. Oldham asked how would they attempt to control the person who decides to park 14 cars in their side yard. Mr. Drake stated there needs to be a section that states it's allowed for temporary exceptional circumstances and they can apply for a waiver from the Director of Planning. If they don't like what the Director of Planning says they can appeal it to the Town Council. Ms. Brown thought there was something included for remodeling and parking on the lawn. Ms. Bastin asked if she had to call a Planning Commissioner to clean out her garage or to remodel her home. Ms. Brown replied no, if the car is going to be parked on the grass for any length of time then yes. Ms. Bastin asked if she's remodeling isn't there already a permit on file. Mr. Oldham understands and would rather evolve it to Ms. Griffin's level. Ms. Brown thinks the idea was to keep track of those vehicles and distinguish between those vehicles that were temporarily on the grass because somebody was cleaning out a garage or remodeling versus the non-operable car that sets for some length of time. Ms. Bastin thinks you can tell the difference and knows the examples she's talking about it. She's trying to prevent over governing. Why would someone have to call to ask permission to spend money to better her home and have to park in her yard?

Phillip Smith asked if there isn't something in place at this time. For example, his neighbor's husband passed away a couple of weeks ago and they probably had 15 cars parked in their yard. He suggested she call the Police Department and tell them what's going on in case they get a complaint. If someone knows they're going to be remodeling, call the Plan Commission and let them know what you're going to be doing. Mr. Swafford stated if the codes and regulations aren't in the books then nothing can be done about the people who are abusing it. They're trying to stop the people who abuse the system. Mr. Oldham sees both sides of the issue. Are people free to do what they want on their own private property? When does what someone does with their property affect his private property rights? There has to be a middle ground. He does want the Director of Planning to have the ability to waive it for whatever they choose. Mr. Swafford said they have done a waiver before. A gentleman was

sick and they gave him a six month waiver. Ms. Griffin said they also have the ability for someone to put in for accessory parking. It is a \$25 fee.

Scott Oldham had a question about §152.062, possession of inoperable vehicles or vehicles with expired plates or tags stored on residential property. Does this not allow someone to have an old car stuck in the garage to work on? He doesn't see where having it in the garage is an issue. Ms. Griffin said she didn't have a problem with that. Mr. Oldham said it states "*Possession of a non-operable vehicle or vehicles with expired license plates or tags stored on residential property for more than 30 days is in violation of this.*" There is another area where he did see a provision for storing a vehicle such as an antique car. This sets up another contradiction within the code. Mr. Drake thinks it applies to parking. Mr. Oldham asked if under "*Recreational vehicles, motor vehicles, campers and boats shall be parked on an approved hard surface, framed by landscaping timbers or approved materials and shall not obstruct the sidewalk or public right-of-way*" hard surface refers to concrete, asphalt or gravel. Hard surface is not defined. Ms. Griffin replied it can be a couple of different things. In Paddington Park they do not allow the use of gravel for an extra parking area. This is why she didn't define it. Gravel is an approved accessory hard parking surface.

Dianna Bastin mentioned under the definition for Accessory Structure, it mentions a cabana and on page 5 under Accessory Use it states it's only for the owners. So if she has a cabana her friends can't sit in it. Ms. Griffin said this was part of the old original code and she didn't think it was necessary. Ms. Bastin asked if it could be left in. Ms. Griffin replied it can be left in.

The meeting was recessed.

The meeting was called back to order after a five minute break.

Dianna Bastin is trying to understand the sight triangle under §152.055 in the original packet. She lives on a corner lot. Does this mean she's not suppose to plant anything 15 feet back from the curb? Ms. Griffin replied that's correct. It would be in the right-of-way. Six feet back from the corner she had to plant something because people were driving across the edge of her yards. The snow

plow was also driving across the edge of her yard. What she has planted is low and is not a sight barrier for any vehicle. Ms. Griffin stated by code there is nothing to be between 2' to 10'. Ms. Bastin said hers are not over 2½'. Ms. Griffin replied then it's not a violation. Ms. Bastin said then the code is not saying it cannot be done at all but that it can in that the plantings have to be low. Ms. Griffin said you cannot have anything in the public right-of-way, easements and areas the Town has. Ms. Hash added only between 2½' and 10'. If it's below 2½' then it's fine.

Dianna Bastin asked what natural landscaping is. Ms. Griffin replied it's wildflowers and native plants. It's to help with the natural landscape plan. There is a management plan and a permitting process. Ms. Bastin asked if she landscapes her yard, naturally, then she has to pay \$25? This is a different type of landscape permit and not regular landscaping. Mr. Oldham added this is for the people who want an urban forest in their front yard rather than grass. Ms. Bastin asked if it's not for a small garden area. Ms. Griffin answered there is a natural landscape plan in which people have to tell where they're wanting to put plants in the yard, the size and how it will be maintained. They've had a couple of attempts at natural landscaping and it didn't go over so well. These codes clear those issues up and prohibits someone putting in poisonous or invasive plants. Ms. Bastin asked if the Town is charging people to landscape their yards. Ms. Griffin replied it is a permitting process and, therefore, they would have to inspect it and keep a database. Mr. Drake clarified people only have to do this if it's going to be natural landscaping or those things not normally used in landscaping such as grasses that exceed 9" in height. If they're going to do landscaping in their yard that doesn't violate any other part of the ordinance you don't have to apply for the permit. Ms. Bastin is concerned with §152.065, Trash Dumpsters and Outdoor Storage, and thinks it's too strict to say you have to put the trash can in the side or back yards. She has an elderly neighbor and brings her trash can down on trash day and pushes it back up to the front of the garage. So, we're going to make her put it in the side or back yards. Ms. Griffin replied this helps with situations where someone is obstinate with following any type of code and leaves it in the street. She has a situation where they never

move it off the street. Ms. Bastin asked if it wouldn't be easier to say it can't be left on the street and go after the people who are guilty. Mr. Oldham suggested stated it needs to be brought back to the cartilage of the house. Ms. Bastin asked if off street parking and loading and truck turning facilities in §152.220(C)(1), General Requirements, is for businesses or residential. Ms. Griffin replied that's existing and isn't in her code changes. Ms. Bastin understands it isn't up for change but has a question. Is this for businesses or residential? Ms. Griffin would have to read the whole ordinance. She's only started to put them into residential classifications but it would cover residential, agricultural and commercial.

Dianna Bastin asked if someone wants to put in a rain garden do they have to have the design approved by the Town. Ms. Griffin said rain gardens are very specific and has to be approved by the Town. It is a stormwater outreach program. Mr. Oldham asked what the danger is in not permitting. Ms. Griffin answered nothing. It would be nice to know where they are so they can also highlight them as part of

stormwater outreach. It's a best management practice and people should receive kudos for putting in something like that. Ms. Bastin agrees but thinks if someone wants to go to that expense, research and do it right she doesn't think they need to pay an extra \$25. Also, their design doesn't necessarily need to be approved and what if you don't like the plants? Ms. Hash commended Ms. Bastin on being a very, caring and proud property owner. If she does it she wants to do it right. They have had instances come before the Town Council and Plan Commission of what was considered a natural habitat and that's when they were introduced to a rain garden. It was very unappealing and has a lot of invasive species. The owner claims it's a natural landscape area and is registered with the state. If they are going to have that it goes against the Town Code that says grass isn't to be over 9". They have to have some way to regulate that for those people who are not as conscientious. Ms. Bastin just wants those people who are extreme examples dealt with. She doesn't want everyone punished and doesn't want the person who is conscientious to have to pay \$25 because Joe Smith down the road didn't. Mr. Oldham asked how the regulations for this would be any different than what was discussed under the natural habitat. Is it one is dry and one is wet? Ms. Griffin replied yes. Mr. Oldham asked if it couldn't be controlled under the previous ordinance. Ms. Griffin answered it is within the same ordinance. If a rain garden isn't maintained it can be a mess. They don't have to have a \$25 permit fee for it. Right now the Town doesn't have any rain gardens. Ms. Hash noted what may be a rain garden to one person can be a weed patch to another. In Plan Commission she spoke against this. It's another layer for the Planning Director to have to manage, permit and watch over. The one violation they have had, the Town has never cut the grass. Whatever is growing there is well over 9". It's a fine line between weeds and natural habitat. If it's allowed it will definitely have to be managed. Does the Town have the manpower to manage it efficiently? Ms. Bastin advised it is something she looked into but it didn't fit asthetically in her yard. She would rather see the Town not do it at all and charge people. She doesn't want someone in her yard once a month. Mr. Oldham asked if there is another ordinance that could control the problem. Mr. Smith answered no. Ms. Griffin said it's something above the 9" grass violation. It's to make sure it's not in the way of traffic or a health issue. Mr. Smith doesn't think there will be that many people doing this. Ms. Bastin agreed and added they're too expensive. Ms. Griffin added it's the same issue as chickens, a sustainable type of issue. It's a movement to have natural landscapes. She's trying to accommodate diversity.

Terry Baker, President of the Plan Commission, thinks one of the reasons they were looking at doing a rain garden permit was to make sure it drained at a good rate so it didn't become a detention pond and to children wouldn't drown in them. If not done right it would drain out and hold water a lot longer.

Dianna Bastin thinks the Town has to be careful not to manage too much of people's landscaping and their land use. She knows the Plan Commission works hard. There are places in Ellettsville that are less than perfect. She thinks they should go after those people and look into that. They have to careful they don't over govern this stuff. She understands the issues of parking on the grass and she is not trying to be obstinate. She will still put her car in the side yard when she cleans out her garage. It's her property and it is maintained. It

irritates her that they keep putting more and more into it. Sometimes you just have to take the government out of it. Ms. Griffin commented recently the department did receive a complaint from a councilman about vegetation in the right-of-way. Unfortunately, this person likes a lot of wildflowers. Ms. Bastin said she was the one who complained. Ms. Griffin said no one could take a stroller or wheelchair through that location. But she had to stay out of the public right-of-way. She was on the sidewalk. Ms. Bastin said a citizen complained to her and called her to come look at it. She gets it but Ms. Griffin dealt with the property that was a problem. The Town doesn't need nine ordinances to tell the woman she can't do that. There are so many things she questioned but didn't address during the meeting.

Darla Brown, Town Attorney, advised this is an amendment to the zoning text and it comes to the Town Council with a favorable recommendation from the Plan Commission. If the Town Council is not inclined to adopt this tonight she is requesting a formal motion to further consider the proposal at the next meeting. This has to be done within 90 days or the Plan Commission's recommendation holds. Mr. Oldham asked if it was for all three ordinances. Ms. Brown replied only on §152.

Scott Oldham entertained a motion to continue to consider further consider Ordinance 2013-17 at the next meeting. Dianna Bastin made a motion to continue to consider further consider Ordinance 2013-17 at the next meeting. Dan Swafford seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith - yes. Motion carried 5-0.

Ordinances on Second Reading

Ordinance 2013-15 to Amend Ordinance 2013-15 Concerning the Salary for the Deputy Fire Chief

Fire Chief Mike Cornman explained this is to amend the Salary Ordinance for Deputy Chief Kevin Patton. The additional pay he receives for communication is not in line with the current salary ordinance for Deputy Chief.

Dan Swafford asked if the technical pay was removed from the salary of the person who is taking Deputy Chief Patton's position. Chief Cornman said it will be removed but the position hasn't been posted yet.

Scott Oldham entertained a motion to adopt Ordinance 2013-15. David Drake made a motion to adopt Ordinance 2013-15. Dianna Bastin seconded.

Sandra Hash asked if it will be retroactive from the time Kevin Patton was appointed to Deputy Chief. Mr. Drake replied yes.

Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith - yes. Motion carried 5-0.o

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**Ordinance 2013-18 to Amend Chapter 96 of the Ellettsville Town Code
Concerning Animals**

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New Business

between Fire Service Agreement Between the Town of Ellettsville and Richland Township

Fire Chief Mike Cornman explained it is unchanged with the exception of the actual amounts to reflect the fire truck purchase and a 2½% increase for next year. It was reviewed and approved by the Town Attorney.

Dan Swafford clarified when the Town purchased the new truck it was his understanding they were going to pay a percentage of it. Is the percentage they were to pay for the fire truck deducted from what they're to pay? Chief Cornman replied that is correct. Mr. Swafford asked if they didn't actually pay for the truck. Chief Cornman answered yes, they're making actual payments. Mr. Swafford commented the Town is reimbursing the Township. Chief Cornman said that's to make sure the Town has ownership of the truck. The Township does not want to own any fire equipment. Ms. Hash noted in the contract they're adding together the fire contract and the payment on the truck. The Fire Agreement

only raised 2½% but the fire truck payment is the agreed amount from the original agreement. Mr. Swafford said it states the Township will receive a credit of \$57,228 for assisting. Ms. Hash explained that's for their portion of the contract that will go toward the payment of the truck. Ms. Brown added they get a credit toward this contract for that. Chief Cornman commented this is a similar format they've done off and on since 1992.

Scott Oldham entertained a motion to approve the Fire Service Agreement between the Town of Ellettsville and Richland Township. David Drake made a motion to approve the Fire Service Agreement between the Town of Ellettsville and Richland Township. Dianna Bastin seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith - yes. Motion carried 5-0.

Establishing the Position of Town Manager

Scott Oldham explained this is something he initiated to establish the position of the Town Manager. At this meeting, he wanted to introduce the idea. The Town Attorney has a template of the beginnings of a discussion along with copies of the law with regards to the Town potentially investigating the position of a Town Manager. There have been several questions and concerns raised by

other Council members. However, there needs to be an open discussion in public about what they are or are not going to do. Essentially, the reason why he wanted to bring it to the forefront and discuss it is because of a lot of things that happened during this meeting. They talked about things getting waived of decisions being made that aren't capable of waiting two weeks or a month. While it's up to the Council to structure whatever a Town Manager would do or not do they need to have the discussion. It is now time for Ellettsville to go back to when they had an assistant to the Town Council.

Darla Brown, Town Attorney, explained this is not the first reading of a proposed ordinance. She drafted the ordinance as a discussion point for the Town Council and suggested it be under New Business on the Agenda so she could get direction from the Council on how they want to proceed if they're so inclined to do so. It won't be a second reading at the next meeting. She talked to the Town Manager for Bargersville and he volunteered to talk to the Town Council if they're interested.

Council Comments

Dan Swafford advised there is a dumpster in the middle of Vine Street that is a safety hazard. There needs to be a barricade or reflective tape in front of it or have it moved. Ms. Bastin noted it is a legal parking space. Does the Town have the authority to make them move it since it is a legal parking space? Mr. Oldham asked, whether it's legal or illegal, is it good common sense to make them move it while everyone is trying to take care of their homes. He would say no and place a barricade behind it for everyone's safety. Jim Ragle, Street Commissioner, advised he will put barricades with reflectors around it.

Dan Swafford received a letter of complaint from a citizen which was read by Scott Oldham as follows: *"Per Jim Ragle the Town of Ellettsville arranged for a dumpster to be set up in the old 7-11 parking lot after the flood of December 21, 2013. We were told it would be emptied as often as needed so the space would be provided for dumping flood damaged items. When the dumpster did not get emptied the week of January 5 – 11, 2014, it was overflowing on Saturday, January 11th and numerous people dumped their flood damaged items next to the dumpster located on Vine Street. As it turns out that evidently was not a public dump site even though it was located on a public street. The person who claims to have leased the dumpster is now attempting to collect \$400 from a local resident whose items were placed in the dumpster by a volunteer helping empty a basement that took 4½ feet of water. This is not the only person using the Vine Street dumpster. If the public dumpster had been emptied the flood damaged items would have been placed in the public dumpster and the Town would have paid for the dumping. Would it be possible for the Town to absorb at least part of the cost of the private dumpster since those items would have been covered by the public dumpster had it not been emptied prior to January 11th?"*

Dan Swafford asked if there had been a complaint about this dumpster. Ms. Hash replied there was a question/complaint about a dumpster in a driveway but it wasn't on the street so there must be multiple dumpsters. The people placed their dumpster before the Town put their dumpster out. Since the Town was willing to do the dumpster for the public they want to know if the Town would be willing to pay some on their dumpster. Mr. Swafford said the issue with the two dumpsters is that they are identical and he did take photographs of them. The one the Town placed was put in a parking lot and the other one is on a public street. He can see how residents may get confused. Although, Jim Ragle did announce where the Town was going to put its dumpster.

Dianna Bastin drove down through Vine Street after the flood and has been back several times. She could tell the dumpster in front of the house was private and she knows where the Town's dumpster is located. Did the weather have anything to do with them not dumping the dumpster? She absolves the Street Department of any responsibility for it overflowing because they're tired. They've gone through the water and snow. Mr. Oldham noted it is the vendor's responsibility to come and empty the dumpster. Ms. Bastin thinks people can tell which dumpsters are private. She asked Sandra Hash if there is any way for the Town to

pay for something like that. Ms. Hash replied the Town would have to have an appropriation and they were told to do the dumpster on Vine Street but no one has told her yet where to direct payment for it. There is not an appropriation to cover this type of thing. It would mean either the Street Department has to find it in their budget or she has to find it in the Town's administrative budget. Mr. Oldham asked if the Town has ever done anything like this in the past. Ms. Hash replied to the best of her knowledge since she has been Clerk-Treasurer, she has never paid for a dumpster for the public to use.

David Drake asked if someone threw a few little things in someone's dumpster or did they fill it up so much that the other person couldn't use it. Mr. Swafford said what he knows is hearsay but has heard it was a couple of truck loads. Mr. Drake said good luck getting money from people who threw stuff in the dumpster under these circumstances. He would think their case would be weak. Ms. Bastin asked if insurance will pay for a dumpster. Ms. Hash replied on the dumpster she received a call about the people do not have flood insurance. Ms. Bastin isn't opposed to helping people but how could it be done? Mr. Oldham asked how much the dumpster cost that the Town had rented. Mr. Ragle replied it cost \$100 to set a dumpster and the dump fee is approximately \$50 a ton. Mr. Swafford added it usually costs approximately \$200 a dumpster. He doesn't know if the Town can pay for a private dumpster for someone who did this on their own without being told. Ms. Brown agreed with Ms. Hash in that the State Board of Accounts would require an appropriation. Mr. Swafford asked how long it would take to do an appropriation. Ms. Hash replied it can be paid out of an existing appropriation if a supervisor has a budget for trash removal and she has a budget line for Promotion of Town Business which could probably be used for dumping fees. If more money is needed later then an additional appropriation could be done. Ms. Bastin asked how long they will leave the dumpster set. Mr. Ragle replied it will be for about one more week. It is half empty now. It couldn't be emptied the other day because the telephone company plowed all of their snow around it and there was no way they could get close to it. Mr. Oldham asked how the Council wanted to proceed.

Town Marshal Tony Bowlen advised the dumpster that the Town placed downtown is quickly becoming a magnet for people in the county to come and drop off their trash. It is definitely being used by people outside of the affected flood area.

David Drake commented this isn't something that needs action on the part of the Town Council. Mr. Swafford noted if the Town Council takes no action it means the Town isn't going to cover the cost of it because it didn't authorize it. Mr. Oldham advised the only dumpster the Town has been authorized to pay for is setting in the Smithville Telephone lot for people to dump materials and who are in the affected flood zone. Ms. Bastin noted it had been announced by the Street Commissioner that he was locating the dumpster on the Smithville Lot. Mr. Swafford clarified that the dumpster will set for another 1½ weeks. Mr. Ragle answered it will be left in place until they make sure everyone is finished with their homes. Mr. Swafford asked that it be brought up at the next meeting to make sure the majority of the people have everything cleaned up.

Scott Oldham advised there are rumors that the Federal Emergency Management Agency ("FEMA") is going to come in and buy up the homes on Vine Street to be demolished. FEMA is not going to do this at this point. FEMA has denied a request to declare that zone a disaster area. It is currently under appeal. He talked with a State Senator and asked about the kind of help they can provide and they are working on it. Today, he spoke with the Indiana Department of Transportation ("INDOT") and they are going to look at the area. INDOT will get back in contact with the Town as to what they will be able to provide as far as information or services, if applicable. In addition, he spoke with the Army Corps of Engineers on this date. Unfortunately for the Town, they take on flood projects on a navigable waterway. Jack's Defeat Creek runs dry sometimes so that is why it is considered a non-navigable waterway and outside the scope of the Army Corps of Engineers. The Army Corps of Engineers did offer a few suggestions which may result in some hope of how to avoid this in the future by learning what other cities have done to alleviate the issue in their Town.

Scott Oldham announced the Clerk-Treasurer and Utilities' offices will be closed on Tuesday, January 14, 2014, for moving. Are the offices expected to reopen on Wednesday, January 15, 2014? Ms. Hash answered they will if they can get the server moved and everything connected and running. The new temporary locations are Suite 103 for the Clerk-Treasurer's office and Suite 106 for Utilities in Eagles Landing.

Supervisors Comments

Mike Farmer, Ellettsville Utilities, advised for some time Utilities will continue to use the drop box at the old Town Hall at 221 N. Sales Street. They can also mail their payments to P.O. Box 8, Ellettsville, IN 47429. They are also waiting for delivery of a new drop box that will be located at First and Association just outside of the new entrance to the Utilities office. At some time in the future, they will have signs to let people know they won't continue to use the drop box on Sales Street. When the software was converted, Utilities purchased a six month supply of paper because it was a good deal but it has the old address printed on it. They will print the new address on the information portion of the bill. Signs will be put up at the two entrances at Eagles Landing to direct people where they need to go.

Jim Ragle, Street Commissioner, thanked the Utilities Department for helping with snow removal. He had some guys sick and Utilities really bailed them out.

Fire Chief Mike Cornman advised over the weekend the community lost a former volunteer fire fighter, Tad Hudson. Tad served on the Ellettsville Fire Department for over 15 years and had been away from the Department for 10 years. He was a very good and strong man with a lot of connections to the Fire Department and the community. Tad's dad, Ed Hudson, was a Fire Chief for about five years in the late 1950s. His grandfather, Dewey Hudson, was a Fire Chief. His family were very big supporters of the Monroe County Fall Festival and other community events. Tad was a quiet and reserved man. There are a lot of things that go on in the history of our community and we're all connected through families and the organizations we belong to. One particular is the Fire Department. Tad's nephew is Mike Stalcup, one of the Town's firefighters. They will miss Tad. For so many years, everyone has worked, lived and volunteered here and it will continue. Mr. Oldham expressed condolences on behalf of the Town Council to Tad Hudson's family.

Sandra Hash advised at the meeting of January 10, 2014, there was a question about an appropriation to cover the rent. She wants to make sure everyone understands she does not have an appropriation for rent. Mr. Oldham asked her to prepare something for the next Town Council meeting. Ms. Hash advised she will have to wait to do the appropriation until the Indiana Department of Local Government Finance approves this year's budget.

Privilege of the Floor

Randy Cassady thinks the comments about Tad Hudson by Fire Chief Mike Cornman were well deserved based upon his contributions to our community. Mr. Cassady's brother, mother and nephew and his family were caught directly in the flood with 42" of water. It took out his business and the homes of his nephews and nieces. As they try to rebuild in the Vine Street and Main Street areas, the Town has to continue doing business and has appropriately moved. The individuals who live in those areas aren't necessarily able to move. Since this is multi-faceted in dealing with FEMA, Army Corps of Engineers, State of Indiana and Monroe County who will be the point person for the Town of Ellettsville to try and move this forward? As we know in this community, they're resilient and in the last seven years they have seen 500 years' worth of floods. They will clean up, move on and will forget about the devastation. Who in Ellettsville will be the person to help direct this so that it doesn't get lost and they can press forward for the members of the community?

Scott Oldham advised the Town is still trying to figure out what it needs. They're reaching out to various agencies and at some point they will have to pick a project leader. First, they have to know what type of project they can do. Will it be within the scope of what they're able to do under the law or bounds of physics, geography or geology? A lot of different things will play into it. They've had conversations with Homeland Security who has been in contact with FEMA. At this time, he can't give him an answer to his question but for now it will be the Town Council. There will be updates as they have them.

Dianna Bastin explained it is not that she doesn't want any codes or ordinances on land use. She thinks they need to be careful. The more they pass the more they need to be governed. It takes people to enforce it. She doesn't know why some of the things can't be condensed. They're repeated and it's difficult to get through. If there's a problem they can find a way to take care of it. They don't have to punish the people who do the right thing and care with heavy fines and double jeopardy with animal control and planning. There has to be another

way and a simpler way to do it. She cautions the Council that they need to be careful with this stuff.

Phillip Smith acknowledge Boy Scout Troop 119 was present. Attending a community meeting is part of the work needed to obtain a badge.

Edgewood Band and Color Guard are going to state on November 2, 2013, at Lucas Oil Stadium. They would appreciate everyone's support when they return home. They did when on semi-sate.

~~Supervisors Comments~~

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Town Marshal Tony Bowlen explained the two part-time officers he hired four months ago have obtained full time employment at other police departments. He will be looking for new office and part-time help. He will be advertising for the positions. Matthew Lewis will be starting at the Indiana University Police Department. Bennett Anthony Dillon will be leaving to go full time to the Monroe County Sheriff's Department. Ms. Bastin congratulated both officers on their full time employment. Mr. Drake commented the Town didn't lose anything by hiring those people. They got a lot of good use out of them for the time they were there. The officers were already trained and certified when they started at Ellettsville.

Town Marshal Tony Bowlen asked if the Town is going to establish Trick-or-Treat hours. Ms. Hash noted when Pat Stouffers was President of the Town Council he said Trick-or-Treat hours will be permanently set from 5:30 p.m. to 8:30 p.m. Ms. Bastin reminded people to be careful and to go to houses where the porch light is on. Marshal Bowlen will have extra officers patrolling on Halloween.

Privilege of the Floor

Tom Mathison is interested in water and sewer issues. He is concerned with the way the Town Council has been handling the agenda and ordinances. On the last agenda there was no reference on the Umbaugh water report but it was introduced anyway. According to the Indiana Open Door Law, the agenda is to list the items to be discussed. According to the Town's Resolution 09-2012, "*The Town Council shall maintain an agenda which shall list items to be discussed at Town Council meetings.*" It does not say it may list or that other things not on the agenda can be discussed. He is disturbed this came up at the previous meeting without being on the agenda. On tonight's agenda which was circulated at the appropriate time, it lists all the resolutions and ordinances but none were available for the public to look at. When he went to the website they weren't there. He asked the Clerk-Treasurer and was told she didn't have them. How is the public suppose to comment on the ordinances coming before the Town Council if they're not available. They weren't available at the meeting for people to pick up and read on the spot. The way the

Town Council has recently been conducting business does not fit with its own resolution and does not fit with the Indiana Open Door Law because you’re not giving the public the information it needs. In addition, you’re not giving them the information they need to be able to comment. The Town Council is effectively circumventing what is the public’s right to know what will be discussed and to have access to what will be discussed so they can comment on it. He hopes in the future they will do better.

Adjournmentt

SScott Oldham entertained a motion to adjourn. Dianna Bastin made a motion to adjourn. Dan SwaffordDan Swafford seconded. Motion carried. Scott Oldham adjourned the meeting at 87:5415 p.m.

Scott Oldham, President

Dan Swafford, Vice-President

Dianna S. Bastin

Phillip Smith

David Drake

Sandra Hash, Clerk-Treasurer, IAMC, MMC

Scott Oldham, President

Dan Swafford, Vice-President

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