

January 26, 2009

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, January 26, 2009, at the Fire Department Training and Conference Room. Dianna Bastin called the meeting to order at 7:30 p.m. Scott Oldham led the Pledge of Allegiance and Phillip Smith led in prayer.

Roll Call: Members present were Dianna Bastin, President; David Drake, Vice-President; Scott Oldham, Phillip Smith and Dan Swafford. Sandra Hash, Clerk-Treasurer and Mike Spencer, Town Attorney were also present.

Supervisors Present: Jim Davis, Tony Bowlen, Mike Farmer, Jeff Farmer and Frank Nierzwicki were present.

Two appointments by the President to the Redevelopment Commission

Dianna Bastin was not prepared tonight to name two people. She requested anyone interested to please contact her.

Approval of Minutes

Dan Swafford made the motion for the Regular Meeting on January 12th and the Public Hearing. David Drake seconded. Motion carried.

Accounts Payable Vouchers

Dianna Bastin asked for a motion to pay Accounts Payable Vouchers. David Drake so moved. Dan Swafford seconded. Motion carried.

Resolutions

Resolution 02-09 Cancellation of Warrants (old outstanding checks)

Sandra Hash stated after two years, and no later than March 1st of each year, it is required the Clerk-Treasurer prepare a list of outstanding checks over two years old. When the resolution is passed, the checks are dissolved. The total of outstanding warrants, to be cancelled, is \$756.23 and the money will go back into the appropriate funds.

David Drake made a motion we adopt Resolution 02-09. Phillip Smith seconded. Motion carried.

Resolution 03-09 to enlarge participation in the Public Employees' Retirement Fund (PERF) by adding Administrative Assistant

Dianna Bastin stated the Administrative Assistant will be added to the Planning Department. Scott Oldham asked Mike Spencer if the job title is changed within the office does that affect this resolution. Sandra answered that when PERF was established in the 1980's, there was a list of employees sent in with the resolution to adopt PERF. Each time a different name category or title is added, we have to go through this process to expand our coverage with PERF. Sandra suggests keeping the title of Administrative Assistant because the Town has an existing one. If the Town is aware of another title they would like to incorporate, this resolution could be tabled tonight, and the title can be added and brought before the Council at the next meeting. It was clarified this resolution is establishing the title. This will not take effect until July and will not hinder the employee's involvement with PERF and their start date will remain the same. No contributions will be made until July 1st. The employee is not penalized.

Scott Oldham moved to table the motion and change to Assistant Planner rather than Administrative Assistant. Phillip Smith seconded. Motion carried.

Resolution 04-09 Additional Appropriation due to I-69 Grant reimbursement

Sandra Hash explained this is the standard procedure to reimburse the appropriation. We are working from the existing appropriations. Frank Nierzwicki does the requirements of the grant, submits his hours to the State for repayment and when the money comes back to the Town it goes back into his appropriations. In order to insure the Council is aware this is happening there is a resolution established for public record. The resolution gives the Clerk-Treasurer permission to take the reimbursement from the I-69 Grant and put it back

into Frank's appropriation. Then it will be transferred into the Code Inspection Officer's position.

Phillip Smith made a motion we approve Resolution 04-09 Additional Appropriation due to the I-69 reimbursement. Scott Oldham seconded. Motion carried.

Ordinances on First Reading

Ordinance 09-02 to change the zoning on the west corner of West State Road 46 and Deer Park Drive from R-1 to R-2

Frank Nierzwicki, Director of Planning Services explained the owner of this property has five lots he would like rezone to a duplex situation. This area was up for commercial zoning at one time. The Plan Commission has recommended this be rezoned to R-2. There is currently one unit already located on site.

Joe Sanders, resident 4355 Deer Park Drive has a few issues with the proposed building. There is currently a duplex on site and he understands the plan is for four more duplexes across from the existing one with another duplex behind. Mr. Sanders feels there is a safety issue. On two sides of the property, one facing State Road 46 and the other facing the gas station, there is a 10-15 foot wall. The builder would have to put up fencing for safety reasons. The other safety issue is the unit they want to build behind the existing one would have its driveway coming onto Deer Park Drive, midway, in the middle of a steep hill. That area is tough enough to go up when there is any snow fall. Mr. Sanders' main issue with this property is the drainage. There is currently only one storm drain on Deer Park Drive, located in front of his property. A significant amount of water already flows to that drain and he is worried adding the fifth duplex behind the existing unit will change the drainage slopes. The Town Engineer stated at the zoning meeting that they did not anticipate any issues or problems. Mr. Sanders does not think this is a guarantee because once a drainage slope is change there is opportunity for problems. The only way around that would be to have the developer put in drain tiles or something to guarantee the proper drainage. Changing the drainage slope could also make the water come down to the back of his property before it flows to the storm drain. He may be living in a man made flood plain.

Frank Nierzwicki did not attend the Plan Commission when this was brought up. Frank will meet with Mr. Sanders and also review the plans with engineering to get a better understanding before the next meeting. Dan Swafford asked Doug Curry if they had a grading permit.

Doug Curry, Bynum Fanyo and Associates do not have a grading permit because they are not that far into planning. The property needs to be rezoned first. During the Plan Commission meeting, the drainage issue was discussed extensively. The situation will be addressed. The intent of the entire design is to have the storm runoff water from the property not change after this property is developed. If there is an existing problem, Bynum Fanyo would correct it and make the situation better. The engineers will look at Town Code regarding the fence height. Mr. Curry does not have an answer to the driveway; that will be looked at during the final design, but there will be a driveway there.

Dianna Bastin asked Frank to see what he can do and report back to the Council during the second reading.

Ordinances of Second Reading

Ordinance 09-01 to amend the Ellettsville Town Code concerning Shelter Houses, roller skates, in-line skates and skateboards

Sandra Hash explained the percentage of sales tax will be removed in the current code. The new language will say "amount includes Indiana Sales Tax" without giving a number. A section will be deleted that pertains to the Ellettsville Skate Park because that no longer exists.

Scott Oldham made a motion we adopt Ordinance 09-01. David Drake seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

New Business

Agreement between the Town of Ellettsville and Michael Spencer for legal services

Mike Spencer stated this is the same contract as last year with no changes.

Dianna Bastin asked for a motion for the agreement between the Town of Ellettsville and Michael Spencer for legal services. David Drake so moved. Dan Swafford seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

Stipulation from Northern Richland Sewer Corporation (NRSC) related to the litigation at the IURC

Mike Spencer presented a Stipulation from Michael Carmin, Attorney for NRSC. NRSC initiated litigations on two fronts; one was in the Monroe County Circuit Court and the other was the IURC (Indiana Utilities Regulatory Commission). The Town hired Ice Miller to handle the IURC litigations. What the Stipulation does is essentially agrees to dismiss the IURC litigations, which has already been dismissed and it is an agreement that the Circuit Court will resolve all matters and issues between the parties in the current litigations. Mike Spencer had this verified with Brian Bailey, of Ice Miller, and he said this is what they agreed to. Mike Spencer recommends the Council approve the Stipulation.

Phillip Smith made a motion we accept the Stipulation and you (Dianna Bastin) sign it. Scott Oldham seconded. Motion carried.

Agreement with K. K. Gerhart-Fritz, AICP for a Planning workshop

Frank Nierzwicki presented a contract with K.K. Gerhart-Fritz to hold training for the I-69 Community Planning Grant. The draft was sent to all members a month ago. The date would be Monday, March 23rd from 10 a.m. until 3 p.m. at McCormick's Creek. This will be a public meeting and open to the public. Frank has invited Elected Officials, Officials from the Plan Commission, Redevelopment, Board of Zoning Appeals and Department heads. The cost is 100% reimbursable from the Community Planning Grant. As we get closer to the date the notice will be posted.

Scott Oldham made the recommendation that you (Dianna Bastin) sign the agreement with our selves and K.K. Gerhart-Fritz for a Planning Workshop. Phillip Smith seconded. Motion carried.

Supervisors Comments

Frank Nierzwicki introduced the Code Enforcement Officer the Planning Department has hired, Dexter Luck, Jr. Mr. Luck thanked the Council for the opportunity to work for the Planning Department the next twelve months.

Frank needs a signature for an appointee for the MPO (Metropolitan Planning Organization). In the past, Frank has represented the Town Council on the Policy Committee. Mike Cornman has filled in the Street Department vacancy, as needed, if there is an emergency vote. Ellettsville needs to be represented in Bloomington because the MPO puts together plans and designs for transportation improvements in the area. The Town receives grants from them so it is important the Town needs to be in attendance for the meetings.

Dianna Bastin made the following appointments to the Bloomington MPO as follows: Policy Committee - Frank Nierzwicki and Technical Committee – Mike Cornman.

Frank presented an eleven page annual report from the Planning Department. Frank went over the number of incoming and out going phone calls and emails. Frank listed the number and type of complaints received, violations and enforcement code issues. Frank

outlined the grant money received last year. Community Planning Grant of \$50,000 was awarded last year to complete a number of planning activities:

- Capital Improvement Program – Provide valuable financial information for the Town Council and the people of Ellettsville in making long term capital improvements. 25% complete
- The Planning Workshop – March 23rd for Town Officials and all those listed earlier in the meeting. 10% completed
- Working with Science teachers and Indiana University on mapping and surveying the Wishing Well Park. This is still in the planning stages.
- Working with Monroe County Parks and Planning Department to map green space in and around Ellettsville. 10% completed

Bloomington Area Metropolitan Planning Grant – the Town of Ellettsville is eligible to assist the MPO in collecting data and other related transportation information (traffic counting) and receive payment for this work. The Town received \$6,275 for work during 2008. 98% completed.

Safe Route to School Grant – The Town and Richland Bean Blossom School Corporation was awarded a \$250,000 grant in 2007 to construct sidewalks around the schools. Frank worked with INDOT in the Seymour District during 2008 to get a Request for Proposal out. Proposals were received in December 2008 with a consultant selection scheduled for February 2009 and construction to begin in the late summer 2009.

Additional support staff using grant money. Dexter Luck’s position is exclusively funded with grant money. The Planning Department will receive \$10,000 of the stormwater fund into the Planning Department budget. This move allowed the Administrative Assistant to become full-time and handle the educational programs for stormwater.

Dianna Bastin would like the Council to have time review the Annual Report and bring questions to the next meeting. Frank will be working with his Liaison on goals for 2009.

Privilege of the Floor

Judy Bolick, resident at 7306 W Mustang Drive has a few complaints. She started calling the Planning Department, last April, trying to get the weeds cut behind the duplexes. She would like to know who owns the property. Her second concern is with the street, who owns it? She understands half of the street belongs to the Town and the rest has never been turned over by the developers. Is this an oversight? How can the holes get fixed?

Dianna will have the Liaisons from Planning and the Street Department look into these complaints and have an answer at the next Council meeting. Dexter Luck will meet with Ms. Bolick, get the information and look into it.

Frank stated the developer is Jeff Fish and he has been working with him on the mowing situations. The street has not been accepted into the Town because of future development in that area. Jeff Fish has put one coat down about a year ago and is very conscious with his concern to the Town for development. Dianna asked if the Town is reimbursed for putting down an overlay. Frank said it was something they worked out with Jeff Fish. Sandra stated the Town has not been reimbursed. There is a bond with the new developer, Jeff Fish. Dan stated the last developer went bankrupt, out of business and the bond was gone.

Adjournment

David Drake made the motion we adjourn. Dan Swafford seconded. Motion carried. Dianna Bastin adjourned the meeting at 8:12 p.m.

Dianna S. Bastin, President

David Drake, Vice-President

Scott Oldham

Phillip Smith

Dan Swafford

Sandra C. Hash, Clerk-Treasurer