

## July 11, 2005

The Ellettsville, Indiana, Town Council met in regular session on Monday, July 11, 2005, at the Fire Department Training and Conference Room. William Evans called the meeting to order at 7:30 p.m. Phillip Rogers led in the Pledge of Allegiance and Lisa Creech led in prayer.

**Roll Call:** Members present were William Evans, Vice President; Lisa Creech, Phillip Rogers and Dennis Williamson. Sandra Hash, Clerk-Treasurer and Mike Spencer, Attorney was also present. William Evans stated Patrick Stoffers was working late and might arrive later in the meeting.

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

### Request for Proposal

Jim Davis explained this proposal is for the communication tower agreement. Mid-America Radio Group contacted him several months ago to put a tower in the area for their radio station. They liked the site tower the Town owns on Lowden Road. A 135 foot tower is presently located there but Mid-America needs more height. They would, at their expense, put up a taller tower and build a new building. They would then lease antenna space on the tower and pay the Town of Ellettsville for a 10 year period. Mike Spencer, Jim Davis, Dennis Williamson and David Keister, from Mid-America, met after the last council meeting and went over the communication tower lease agreement. Mike Spencer recommended a request for proposal to lease space on the tower along with construction of the tower and building. Jim is asking the council if there are any questions on the lease or the request for proposal. He summarized the request for proposal with the lessee being responsible for the following:

- ❖ Pay \$1,000.00 monthly rental for a ten year period. Renewal four additional times for ten year terms.
- ❖ Construct a 180' freestanding Pyrod radio tower.
- ❖ Construct a new 12' x 12' building.
- ❖ Transfer all existing equipment to the new building.
- ❖ Provide backup generator to the building.
- ❖ Pay for electrical and any other service that is required in the building.
- ❖ Post a \$100,000 cash escrow for the benefit of the Town to secure performance of the project.

Jim contacted the Monroe County Building Department and County Planning. He spoke with Bob Cowell who explained what would be needed. They are in the process of reviewing the permit application. This tower is under the county's 200' maximum height. There will be no light on it and it does not require FAA approval because it is not in the flight path. Jim urges the council to approve the communication tower lease. This is a win-win situation for the Town. We will own everything once the tower is up. William Evans asked how soon will the paperwork be done and the work started. Jim answered they are waiting on the permit from the county to put the tower up. If the permit was in hand and the council approved this tonight, they would start tomorrow morning. Lisa Creech made it clear that if the permit goes through, then they can start building as opposed to waiting on the permit then Jim would have to come back in two weeks for this proposal agreement to be approved. Jim stated he needs the council's approval and signature on the contract. Mike Spencer made some changes to the lease based on conversations with Mid-America's attorney. Part of Section 4.1 was revised to say: *Lessee shall use the Tower exclusively for the purposes of erecting, installing, constructing, operating and maintaining on the tower a radio transmission antenna located on and between 160 feet and 180 feet and a receiving antenna located on and between 50 and 55 feet.* Also part of Section 5.1 was revised to say: *Lessee shall have the right to install on the tower its radio transmission antenna on and between 160 to 180 feet and its receiving antenna on and between 50 to 55 feet for a total of twenty-five feet to be used by Lessee on the tower.* Mike Spencer has reviewed and revised changes.

Lisa Creech made a motion to accept the proposal of Mid-America Radio Group as presented by Jim Davis and Mike Spencer, Attorney, and accept the tower lease. Phillip Rogers seconded. Motion carried. Jim Davis mentioned the utilities and fire department will share the \$1,000.00 revenue collected because the utilities department owns the property and the fire department owns the tower.

## **Approval of the minutes**

Lisa Creech made a motion to approve the minutes of the regular meeting on June 27, 2005. Dennis Williamson seconded. Motion carried.

## **Action to Pay Accounts Payable Vouchers**

Lisa Creech made a motion to pay the Accounts Payable Vouchers. Phillip Rogers seconded. Motion carried.

## **Ordinance on Second Reading**

### **Ordinance 05-12 Amending Section 31.35 and 152.353 of the Ellettsville Town Code Concerning Duties of the Clerk-Treasurer and the Director of Planning Services**

Sandra Hash withdrew Ordinance 05-12 from consideration because it is a statutory obligation of the Planning Executive to be responsible for the custody and preservation of all papers and documents of the Planning Department. Therefore the Ellettsville Town Code would not need to be modified to clarify this responsibility. Her intent was to publicly acknowledge the transfer of the Planning records from the physical custody of the Clerk-Treasurer to the Director of Planning services. She feels this has been accomplished.

## **New Business**

### **Monroe County Public Library Annual Report**

Sara Laughlin thanked the council for the time on the agenda. She introduced the new Director of the Monroe County Library, Cindy Gray. They reported to the council about the renovation of the Ellettsville Branch and delivered their annual report in person. Two million items were circulated last year for the first time. She mentioned Google did not replace the library in this community. 12% of the two million were in Ellettsville. She added the figure should go up since the road was closed for a while and there were renovations being done. The library is adding new audio/visual equipment, books and data bases. The library is an anchor for downtown Ellettsville.

### **Approval of Mediation Agreement**

Mike Spencer proposed a motion to approve the settlement and release agreement between the Benningers, Kinsers (All Safe Self Storage) and the Town of Ellettsville. Sandra Hash included the Settlement and Release Agreement in the Council packet. She received the information in the mail today. Everyone read the agreement.

Lisa Creech made a motion to approve the mediation agreement between Glenn and Laura Benninger, the Town of Ellettsville and the Kinsers (All Safe Self Storage). Phillip Rogers seconded. Motion carried.

### **Request for Summer Sewer Discount for Lawn Sprinkling and Pools**

Warren Hoobyar, Ellettsville resident for 4 ½ years, proposed to the council a discount from June 1 to September 1 on sewer rates. People are watering gardens, lawns and filling pools and being charged for water not going through the sewer system. He proposes a sewer discount for high water usage in the summer months. He proposed this before the board when he lived up north. The board took it into consideration. The break off would be if the increase was 2,000 gallons per month. Anything above the 2,000 gallons would have a sewage discount. He gave the example if you have a 24' round pool; you would have to back wash it at least once a week using about 1,000 gallons of water. Mike Farmer, Ellettsville Utilities, explained we currently have a special meter that is being phased out due to not working well with electronic reading. In its place, anyone can have a "water only" meter installed for \$240 in the pit. It can be utilized for filling pools and watering lawns. There are other avenues for temporary uses. There is a meter to fill pools once a year for a small fee plus gallon usage. Exceptions have been made for people who put in new pools. The best way is to get the "water only" meter, which is split from the main water supply in the meter pit. This meter is seasonal and it is shut off during the winter months. This proposal would have an effect on our cash flow. If we were as large

as Bloomington, we might be able to handle something like this. Summer rates might be something to look at in the future as we grow. There is no charge for turning on and off the water only meter. There is a minimum bill of 3,000 gallons. An average is done on the customer usage before a meter is installed to verify that it is in the customer's best interest. New homes with irrigation systems installed have larger demands (gallons per minute). The existing service can not be split to supply the demand. They need a dedicated service installed.

Mr. Hoobyar mentioned this should be advertised because people out there do not know they have these options.

### **Supervisors Comments**

**Jim Ragle**, representing the Fall Festival, explained the Festival wants to build a shelter house on Township property at the skate board park site for year round use. The Parks Board voted to close the skate board park and the festival wants to utilize the concrete slab for the shelter house. The Festival has a grant that must be expended by the end of the year. They went through the process on the building and the permits. They talked to Peggy Welch about the grant and she said it was okay. Kenton Robinson gave the best price on the building and Jim will get back with him on when to start.

**Rick Coppock**, Bynum Fanyo Town Engineer, has been working with INDOT on finalizing the street light project and getting reimbursed. He will be meeting with Frank Nierzwicki and Joe Jones in the next couple of weeks to do a final walk through.

He also met with INDOT on the Gateway Project landscaping the islands at each end of the one way pair on Highway 46 in town. He had a preconstruction meeting with the INDOT representatives. They are working out the insurance requirements for the contractor and they will be scheduling a date to get started.

**Frank Nierzwicki**, Planning Department, followed up on Rick's comments about the Gateway Project. The bid on the Gateway Project was accepted by INDOT at just under \$132,000 which would require a \$26,000 match from the town. This is quite a bit higher than the originally forecasted cost of \$55,000 which would have required an \$11,000 match. The \$6,000 the Town paid for the architectural design will be applied toward the matching funds. He is in negotiations with INDOT on stone that has been donated (\$14,000 - \$15,000). They are working with the Federal Highway Administration to see if that could be applied to the matching funds. He is working to get the \$26,000 amount lowered. William Evans asked why the cost went so high. Frank said no bid was submitted on this project the first time. He was told since there was no bid on the project they accepted the second round at \$131,900. There are two parts to this Gateway Project, one on the east side and one on the west side of the one way split. There will be an American flag, *Welcome to Ellettsville Builder of America* stones, flowers, lights and water.

Frank has also been asked to look into the truck braking noise. He has done some research and found the Town of Auburn (north of Ft. Wayne) had a sign posted with an ordinance for truck brake noise on State Road 8. INDOT cut the signs down because they did not get permits from the Ft. Wayne district office. INDOT's stand on this is they do not want to hinder any type of braking system that may be a safety issue on trucks. They are not against a noise ordinance. He has done other research on noise ordinances. The usual way to measure noise levels is by decibels. A sound metering device is needed which costs between \$500 and \$3,000. To be accepted in court, this device needs to be calibrated on regular bases by a certified technician. Examples of decibels levels produced: a police siren is 118 decibels, a rock band 115, a missing muffler 115, a power mower 92, interior of a quiet car is 50 and inside a library measures 33. Some ordinances have a ten decibel increase over background noise in the area. An officer would have to be on site to catch the offender. It can be accomplished if the council wants the Planning Department to follow through on this. He would have to look at fines to recoup the cost of this operation. Also permission would be needed from INDOT on sign postage. There would be a requirement of 6 to 8 signs and he would need to talk to the street department on that cost. He will do some research and present this to the Plan Commission in August and get their comments. In the meantime, he will check with INDOT at the Seymour District office on the permitting process. Lisa Creech brought up the legal expense and legal issues. Mike

Spencer felt this would be a headache to try and enforce a noise ordinance. Bloomington took it out because it was hard to enforce. Mike would like to see cases to support enforcement. Frank said he would check on some cases and also check with Bloomington.

Frank then brought up soft sided pools. He passed out a photo that was taken in Ellettsville. The pool is blue, inflatable and 4 to 4 ½ feet in height. The manufacturer suggests the owner drain the pool every night and refill daily. The safety has been questioned because according to the Indiana Code, through the Fire and Safety Department, they do not require fences around this type of pool. There have been a number of cities and towns in Indiana that have been trying to have stricter laws. They would have to go in front of the state board to get approval to have that type of ordinance. He will be working with Monroe County Building Department to see their input and concerns on this. This will be on the agenda for the August Plan Commission meeting. William asked how many gallons of water these pools hold. Lisa answered she has a smaller pool that holds 2,300 gallons. Frank said the height is the safety issue he is concerned with. Sandra added a resident who attend the July Plan Commission meeting said the pool she is concerned about was a 4' x 18'. Lisa Creech felt that we need to look a little broader and if we fence in pools then we need to require fences around retention ponds. She also mentioned the insurance companies will be the driving force due to liability.

Frank's next item was the signs in the downtown area on Temperance and Main. There have been signs in the right of way between the curb and sidewalk advertising garage sales and birthday parties. He will be meeting with the downtown business people within the next two weeks to remind people what is legal and not legal. Starting in August he will start citing people in the downtown area. He would like to get this cleaned up. He wants to work with the business people. He has a number of people getting sign permits and he wants them to know what type of signs are permitted, where they can be posted and then start strict enforcement. He wants to be on the July 25 Chamber of Commerce agenda if possible. Lisa suggested a community informational sign for temporary signs to help businesses and also keep the Town clean. Frank mentioned working with Valerie Pena on way finder signs. He feels it is frustrating for local business people to let people know where they are located. He had to move a mobile sign that was on the corner because of a sight distant issue and those mobile type signs are illegal.

Frank then mentioned a public I-69 meeting concerning alternatives, location and possible interchanges. The meeting is July 20, 2005 in Martinsville at the Liberty Church, 2010 Liberty Road. The meeting starts at 5:30 with a presentation at 6:30. August 2<sup>nd</sup> there will be a Seymour district meeting for INDOT from 1:30 until 7:00. This is an open house type meeting where people can come and go and ask questions. At this meeting they will be reviewing their projects for the next ten years and the four lane State Road 46 expansion from Ellettsville to Spencer is in question. Business people may be interested in attending this meeting. Sandra added the Section 5 Project Office for I-69 at One City Centre called and they are having a meeting July 19<sup>th</sup> for Public Officials.

**Dennis Williamson** asked Rick Coppock if he was following up on the Rule 13 (Storm Water Quality Management Plan) in the response to a notice of deficiency. Deadlines need to be met on an ordinance and Rick responded he was working on it. He also mentioned the fireworks turnout was very positive even though it was held on the 2<sup>nd</sup> this year. Jim is still accepting donations and will start building the funds for next year.

**Lisa Creech** commended the street department for picking up yard brush in addition to their regular projects. The people were very appreciative for their work. She felt this is an extra service that our Town provides.

**Phillip Rogers** would like to ask everyone in Ellettsville to slow down. They are driving fast in both directions like it was a racetrack. With school being out, there are a lot of children and if you are in that big of a hurry, leave earlier.

**Sandra Hash** mentioned Mike Spencer putting together a Violation Clerk Ordinance and wanted to know if there were any questions. There were none so she will put it on the next agenda.

**William Evans** reported the police reserves worked 373.35 hours last month with 11 officers. He agreed with Phillip and wished everyone would slow down. He also agreed with Lisa on the great job Jim Ragle and his crew does. He explained the brush is picked after storms when they have time.

**Adjournment**

Phillip Rogers made a motion to adjourn. Lisa Creech seconded. Motion carried.  
Meeting adjourned at 8:26 p.m.

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Patrick Stoffers, President

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William Evans, Vice-President

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Lisa Combs-Creech

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Phillip Rogers

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Dennis Williamson

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Sandra C. Hash, Clerk-Treasurer