

July 27, 2009

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, July 27, 2009, at the Fire Department Training and Conference Room. Dianna Bastin called the meeting to order at 7:30 p.m. with 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; Mike Spencer, Town Attorney and Rick Coppock, Town Engineer were present.

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

Approval of Minutes

Dianna Bastin entertained a motion for the approval of the minutes for the Regular Meeting July 13, 2009 and the Executive Session July 20, 2009. Dan Swafford so moved. Phillip Smith seconded. Motion carried.

Accounts Payable Vouchers

Dianna Bastin entertained a motion for actions to pay Accounts Payable Vouchers. Scott Oldham so moved. David Drake seconded. Motion carried.

Resolutions

Resolution 16-09 Section 125 Cafeteria Plan Amendment

Sandra Hash explained the Section 125 Cafeteria Plan allows employees pre-tax premiums on group health insurance, dental insurance and group term insurance. The pre-tax deductions are exempt from Federal, State, Social Security and Medicare tax. Before this new amendment, employees could only sign up or make changes when they were hired or at the beginning of the year. The Children's Health Insurance Program Reauthorization Act of 2009 permits a plan to allow special enrollment for eligible but not enrolled employees or dependent children who either (1) lose coverage under a Medicaid or a State Children's Health Insurance or (2) become eligible for group health plan premium assistance. This is an amendment to our current plan to include this new section.

David Drake made a motion we adopt Resolution 16-09. Scott Oldham 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

Community Access Television – Michael White, Monroe County Library

Michael White, General Manager CATS (Community Access Television Services) spoke with Sandra Hash who explained to him the Town is considering using the franchise fees to make up some of the shortfall on the upcoming budget. The Town and CATS has had a contract since 1998 since that time they have covered over 400 Richland Bean-Blossom School Board meetings and Town Council meetings shown over thousands of time. CATS is in the process of becoming available for broadcast on cell phones. Mr. White stated Smithville Telephone is making a \$90 million investment, providing digital fiber optic speed to the homes. Mr. White explained since 1998, CATS has never requested more than 50% of the franchise fee from any of the Municipal partners. They use the 50% to provide service and guarantee coverage. The Town brought in \$25,000 in franchise fees revenue last year and CATS is requesting 50% of that. CATS believe Ellettsville is a technologically growing town and the public meetings have changed. Many residents (because of age or disabilities) can not attend the meetings and rely on seeing the meetings on television. Mr. White is asking the Town to remain a partner with CATS.

Dan Sawford asked why the Ellettsville Town meetings are not shown live. Mr. White explained there are dedicated fiber optic back feeds at The Showers Building in Bloomington that were negotiated years ago with the local franchising authorities. This was not possible with the Town of Ellettsville. CATS is looking into wireless modes. Smithville digital will be 100 mega bytes per second and it will be very easy to convey meetings live.

David Drake was on the Council when they first joined with CATS. No one took the decision lightly to remove CATS from the budget projections. It was a response to the large decrease in the amount of funding available. The budget has not been finalized and they are hoping the projections are worse than what they actually turn out to be. If the Town ends up better than the projections they will put some items back into the budget. No one knows what the future will bring. Only in Government do you figure out how much money you can spend before you find out how much money you are going to get. There are some things that can not be cut.

Discussion concerning the Director of Planning Services position

Scott Oldham, Liaison for the Planning Department made the motion that we immediately terminate the Director of Planning Services. Phillip Smith seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – no. Motion carried 4-1.

The following took place before the vote was taken

Dianna Bastin announced public comments will be heard with a limit of three minutes.

Karla Frownfelter, Ellettsville resident spoke about the Police taking cars home. She talked about different ways to cut the budget and asked if there were other options. Scott Oldham answered this was not done as a “budgetary issue” but a “personnel decision”. Dianna Bastin stated the Council does not comment on personnel matters. Ms. Frownfelter would like to get rid of the Town Council and look for a Town Manager. She feels the Town will start to move backwards without a Town Planner and that Frank has done a very good job for the Town.

David Drake explained the Council can not go over anything since it is a personnel issue but does owe some explanation. David Drake likes Frank but that is not what this is about. This is about whether the Town is getting its money worth out of his efforts and work; the Council agreed the answer was no. There were a lot of people in the audience that had great things to say about Frank but there are two sides to all stories. The Council needs to listen to all the criticism from the people who disagree with them without being able to defend themselves. The Council is doing what they think is right and did not take anything lightly.

The roll call vote was taken.

Red Flag Policy (Identity Theft Prevention Program) requirement of the Federal Trade Commission

Sandra Hash explained the Federal Trade Commission adopted regulations in 2007 requiring all utility companies and other entities that act as creditors and provide certain types of accounts to enact the “Red Flag Policy” to protect consumers from identity theft. This Federal regulation is 16CFR part 681. The Federal Regulations do not require the “Red Flag Policy” to be adopted in the form of an ordinance but the policies are required to be formally adopted by the governing body. Mike Spencer has reviewed the proposed policy and made suggestions. Sandra incorporated Mike Spencer’s suggestions and would like the Council (along with Mike Spencer) to review the policy for action at the next meeting. Sandra stated the Town has never had a written policy but there are safety precautions in place. The “Red Flag Policy” has guidelines for computer safety.

Supervisor Comments

Tony Bowlen, Town Marshal announced the Police Department is in the process of filing an application with the Indiana Criminal Justice Institute for a \$3,000 grant to participate in “Operation – Pullover” starting October 1. Phillip Smith asked if most of the communities will receive the money. Tony Bowlen said “the majority”; size and population determine how much money is actually received. “Operation – Pullover” is a seatbelt and concentrated period of OWI (Operating While Intoxicated) enforcement.

Privilege of the Floor

\$300,000 Stimulus Package Deadline

Frank Nierzwicki said he was a professional and worked professionally for the Town of Ellettsville. He received an e-mail from Bloomington on Friday, July 24th stating the \$300,000 from the Stimulus Package for the pedestrian bridge was “under threat” because of getting things completed on time. The deadline was moved from September 1 to July 31st. Frank worked with INDOT and INDOT over ruled the Bloomington MPO changing the deadline back to September 1st. Frank spoke with Rick Coppock and they are confident they will be able to meet that deadline.

Planning Department Job Comments

Frank Nierzwicki respects the members of the Town Council. Frank is looking at a transitional type of situation. He understands he was just terminated; he looked at his personnel file this afternoon and his last evaluation was “excellent”. The State of Indiana is “at will”; “meaning you can be fired for any reason or no reason as long it is not an illegal reason”. Frank asked the Council what reason he is being terminated? Cause or no cause? The Council had no comment.

Mary Lou Nierzwicki spoke in support of her husband.

Karla Frownfelter asked if the Plan Commission was still going to be in place. Would Connie Griffin be acting for the Heritage Trail plan? Scott Oldham said yes. Karla Frownfelter suggested getting rid of the “lead guys” in other departments to save money. Dianna Bastin clarified the Town still has a Planning Department.

Voluntary Annexation - Blackwell property

Ann Blackwell thought her property was going to be annexed into the Town this evening. She met June 15th with Frank Nierzwicki and attended the July 9th Plan Commission meeting where everything was approved. She was told everything would be voted on this evening at the Town Council meeting. Mrs. Blackwell has renters waiting to sign contracts for this property. She expressed her disappointment. Dan Swafford asked Mike Spencer what paperwork needs to be completed at this point. Mike Spencer said there needs to be a “plan and ordinance”. The fiscal plan needs to be approved before the ordinance is approved and it takes two meetings to pass an ordinance. Mike Spencer has not received a fiscal plan. Sandra Hash stated the fiscal plan was presented to the Plan Commission but it was not in Resolution form. What needs to be done is the fiscal plan needs to be put into Resolution form and sent to Mike Spencer along with a copy of the deed for an ordinance to be prepared. Ann Blackwell has a copy of the legal description. Dan Swafford will speak with Ann Blackwell after the meeting to make sure it is on the next meeting’s agenda.

This is the first time David Drake has heard of this and asked what property is being discussed. The property is on the west side of Ellettsville and has had car lots there for twenty years. Sandra Hash stated the property was recommended for approval by the Plan Commission during their July meeting. The legal description would be forwarded to the attorney.

Planning Department Job Comments

Chris Fisher, on behalf of Main Street, thanked the Council members for answering questions she had regarding funding for the trail. She thanked Frank for being good to work with and accessible.

Dave Grimm spoke in support of Frank Nierzwicki.

Jeana Kapczynski, President of Main Street has concerns about the changes in the Planning Department at this time when there is a lot of interest and donations coming in for the Heritage Trail. The tax problem the Town is having is because there is too much residential and not enough commercial. The Chamber of Commerce will start to address this and hopes to have the Council support and communication.

Adjournment

David Drake made a motion we adjourn. Dan Swafford seconded. Motion carried.
Dianna Bastin adjourned the meeting at 8:06 p.m.

Dianna S. Bastin, President

David Drake, Vice-President

Scott Oldham

Phillip Smith

Dan Swafford

Sandra C. Hash, Clerk-Treasurer