

June 11, 2012

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, June 11, 2012, at the Fire Department Training and Conference Room. Scott Oldham called the meeting to order at 7:00 p.m. David Drake led the Pledge of Allegiance followed with a prayer by Phillip Smith.

Roll Call: Members present were Scott Oldham, President; Dan Swafford, Vice President; Dianna Bastin, 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: Jim Davis, Jim Ragle, Tony Bowlen, Connie Griffin and Mike Farmer.

Clerk-Treasurer’s Report

May 2012 Fund
Balances

	May Beginning Bal	MTD Revenue	MTD Expenses	May Ending Bal.
General	\$ 114,110.12	\$ 145,938.60	\$ 141,269.06	\$ 118,779.66
MVH	\$ 37,694.67 temporary loan	\$ 43,391.72 \$ 50,000.00	\$ 27,207.11	\$ 53,879.28
Water O&M	\$ 203,649.56	\$ 146,802.57	\$ 143,059.05	\$ 207,393.08
Waste Water O&M	\$ 153,028.14	\$ 227,567.51	\$ 158,473.41	\$ 222,122.24

Approval of Minutes

Scott Oldham entertained a motion for the approval of the minutes for the regular meeting and Executive Session on May 29, 2012. David Drake so moved. Dan Swafford seconded. Motion carried.

Accounts Payable Vouchers

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

Ordinances on First Reading

Ordinance 2012-13 to Establish an Anti-Nepotism Policy – Darla Brown

Darla Brown, Town Attorney, explained the legislature enacted several new statutes and two of them relate to the employment of relatives and contracting with relatives goes into effect on July 1, 2012. Under those two statutes, all governmental entities are required to enact policies that are consistent with the state statute. What all units have to enact by July 1, 2012, is an ordinance regarding the anti-nepotism statutes. She has prepared a proposed ordinance that reconfirms the Town’s commitment to abide by these new statutes. It makes it clear that there will be penalties for employees, supervisors and Town Council members who disregard the policy. The statute that relates to employment restricts hiring and promotion of relatives in the direct line of supervision. The second statute relating to contracts states that if a Town Council member has any financial interest or stake in a business that bids on public works or services, the Town Council member has to make that disclosure to the rest of his/her colleagues on the Town Council at a public meeting. The Town Council can after consideration go ahead and hire the contractor but only after finding that contractor has made the lowest bid, and, otherwise, justifying the bid. If the contract goes to the relative a report also has to go to the State Board of Accounts within 15 days explaining how and why this occurred.

As far as the statute relating to employment is concerned, it applies to all new hires after July 1, 2012. All current employees are grandfathered in and all current employees who are grandfathered in may be promoted regardless of the language in the new statute. The statute says individuals cannot be employed by a unit in a position that results in one relative being in the direct line of supervision of the other relative. Relative and direct line of supervision are defined. All employees of the Town as of July 1, 2012, are grandfathered in unless there's a break in employment and that is also defined in the statute. Employee means full, part-time, temporary, intermittent or hourly. It doesn't include volunteer firefighters and the statute doesn't say anything about reserve or volunteer police officers. The Town can enact an ordinance that is more restrictive than the state statute. For example, the Town could enact an ordinance that defines relative more broadly than the state statute and include in the definition of relatives individuals who aren't included in the state statute. The Town cannot make it less restrictive than the state anti-nepotism statutes. The State Board of Accounts is in charge of making sure that all units comply with this. If the State Board of Accounts finds that the Town has not been compliant it will be reported to the Department of Local Government Finance which in turn will not approve the Town's budget or additional appropriations until they are in compliance.

In addition to passing an ordinance by July 1, 2012, the Town is also required to implement a written plan by July 1, 2012. The Town Council can enact a bare-bones plan by July 1, 2012, and modify it later, but there has to be something in place by July 1, 2012. The first thing the Town has to do is to nail down who is an employee and who is not as of July 1, 2012. This is the first thing the State Board of Accounts is going to look for. They want an official record as to who is an employee and who is not. They don't care how they do it. Whether it is done in the form of a resolution or there is a list of employees as of July 1, 2012, to make a motion on. There has to be an official record and State Board of Accounts will come ask Sandra Hash for that official record. The other thing that would be helpful is to develop an organizational chart if there isn't already one which lets everybody know who is in charge of whom within each department. She has some suggestions for a written implementation plan. The nepotism ordinance that the Town enacted last year is out of date under the new statute so it should be deleted entirely. It would be helpful if prospective employees when they fill out applications sign verification forms verifying they have checked the organization chart and they're not related to any individual who would be in the direct line of supervision. It would also be helpful to have the supervisors cross reference that just in case. The Indiana Association of Cities and Towns suggest thinking about a coordinator, someone who is in charge of checking this but they recommend this for larger cities and Towns. In the Town's ordinances, the new nepotism ordinance, in addition to requiring employees to state they are not related to anybody who is their direct line of supervision, should require the employees to report any marriages, divorces or adoptions that would affect this policy. It would also be helpful to add language confirming the Town is committed to avoiding favoritism and conflicts of interest.

With regard to the contracts, she thinks they can go back to the Town's purchasing procedures under §33 and add some language that would require individuals or companies who bid on public works or services to fill out forms certifying that they are not related to any elected officials and the Town could also require that to be in the contract language. It would be helpful to go ahead and put this in the ordinances under the purchasing procedures. There are forms the Town Council members have to fill out every year. Each Town Council member has to certify by December 31st that they have not violated the anti-nepotism law, the contracting law and that the nepotism policy has been enacted. The annual report filed with the State Board of Accounts must include a statement by the Town Council President that the Town has in fact enacted an anti-nepotism policy.

Scott Oldham asked Ms. Brown if what they have in their packet will suffice to get it started or does she need to prepare something different. Ms. Brown replied she thinks the proposed ordinance will suffice. The copies of the proposed forms are either the forms that are absolutely required or just a suggestion. Once the ordinance is enacted, she will provide a draft of changes to the Town's personnel and purchasing policies to

incorporate the rest of what was discussed. Mr. Oldham confirmed this has to be done by July 1, 2012. Ms. Brown answered that it needs to be done by July 1, 2012. Either pass it on first reading or she could put it in the form of a resolution and it can be revised later or do an ordinance later.

Dan Swafford asked what if contractors are hired who have family members of Town Council members who work for the contractor is still part of it. Ms. Brown thinks it's limited to financial interest. It is for a Town Council member who has a financial interest in a company and she is uncertain if it includes a relative. It probably wouldn't hurt to disclose it just in case. It would depend on how far up they are in the line of command. What the statute is intending to get to is any financial incentive on the part of the Town Council.

Phillip Smith thinks there needs to be a resolution. Dianna Bastin agrees with this. Ms. Brown said she will draft a resolution.

Sandra Hash asked if Ms. Brown needs an employee list. Ms. Brown replied yes, the employee list has to be done by July 1, 2012. Mr. Oldham asked if the employee list could be done by something other than a resolution. Ms. Brown responded it can be either a resolution or Ms. Hash could do a list or someone could make a motion accepting that list as the list of employees. Mr. Oldham asked Ms. Hash to do that so they don't have to read every name involved with the Town. Mr. Smith asked if they wouldn't have to read every name anyway. Ms. Hash replied not every name would have to be read in a resolution. A resolution is a little easier to track than a random list because it has to be kept for ever. Ms. Bastin asked if the list could be made as part of their packet. Ms. Hash replied certainly.

Darla Brown, Town Attorney, announced she will be attending the municipal lawyers annual seminar the week of June 18 – 22, 2012, and she's sure they will be talking about this issue.

Ordinances on Second Reading

Ordinance 2012-12 to Amend Chapter 73, Schedule 1 of the Ellettsville Town Code Concerning the Speed Limit on Sale Street

Dan Swafford made a correction of a statement he made at the meeting on May 29, 2012. He said the tickets were thrown out by the prosecutor not a judge. Mr. Oldham said to be clear, they decided not to pursue the tickets rather than throwing them out.

Dianna Bastin stated before they discuss this issue and in the interest of safety they have some extensive utility work going on in this very area. When the road is closed and down to one lane, it will not be 30 mph where they are working.

Darla Brown, Town Attorney, stated she assumed when Dan Swafford asked her to prepare this that they wanted to keep the 20 mph speed limit in front of Town Hall and only raise it to 30 mph to Thomas Road.

Phillip Smith believes the speed limit should stay at 20 mph. There are too many people up and down that section of road and too many children walking around.

Dan Swafford reiterated this is a main artery of the Town of Ellettsville. The 20 mph is way too slow and it's almost impossible to do 20 mph. The 30 mph speed limit is good enough for Monroe County and the City of Bloomington.

Tom Orman stated the prosecutor did decide not to pursue his and the other tickets. In front of the courthouse the speed limit is 25 mph. Ellettsville did it's study 20+ years ago and Monroe County has more current studies on speed limits than the Town. He feels it is a speed trap and it's very hard to do 20 mph. He is asking the Town Council to consider a way to create its own speed limit and collect revenue. The Police Department made \$3 off of his \$130 ticket. Maybe \$50 speed tickets could be issued within Town limits and the revenue that's collected could go to the Town rather than Monroe County.

Bill Schneider is a five year resident of the Town. He goes to the Endwright Center sometimes three times a week. He has been driving this stretch of road for four years and to his knowledge the speed limit has been 20 mph for decades. Other than the reason the Council thinks it's a major thoroughfare coming into downtown to reach State Road 46 why are they increasing the speed limit? Mr. Swafford thinks it's almost impossible to travel 20 mph down that street. It's a steep incline and it is a major artery. Bloomington's side streets from block to block are 30 mph. It only makes sense streets that are main collectives are 30 mph. It's a little housekeeping. Mr. Schneider stated if you go through downtown Bloomington and the speed limit is 30 mph on the side streets, they have sidewalks. The portion around the curve does not have sidewalks. In fact, in over 50% of the areas 20 streets do not have sidewalks. There is foot traffic on that street. He sees it all the time, especially during school. When speed limits are raised he would like to think they would consider weather. People are going to go 35 mph. It's not safe to foot traffic. Take into consideration when two cars meet on the curve going 30 mph to 35 mph and a person is walking, there isn't any room. Maybe the street will be widened in the curve area when they put in the new sewers. It is downhill and when you're heading north toward State Road 46 you have to hit the brakes or you can't go 20 mph. You have to do this when there's ice, snow or you meet another car. He would like to see a study done before the speed limit is increased. Would one of the Town Council please ask the police chief how he feels about changing the speed limit?

Dan Swafford noticed there are sidewalks on one side of the street. Mr. Schneider commented there are points where there is no sidewalk on either side of the street. Mr. Swafford replied maybe when going further up the street but not in the area they're discussing. The area Mr. Schneider is speaking about is already 30 mph and that is in Monroe County. The area is from Reeves on. Mr. Schneider outlined the area he is concerned about on a map. Mr. Swafford said it stops at Pine Lane. Mr. Schneider said you can go 35 mph in downtown Bloomington by the Courthouse but there are sidewalks and three lanes of traffic. This is two lanes of traffic. He's curious as to why no one wants to ask the police chief. Mr. Oldham replied they will take care of that shortly.

Scott Oldham did ask that a traffic study be done this week.

Jim Ragle, Street Commissioner, replied the traffic study was done but he hasn't had a chance to look through it. Mr. Oldham asked if he had an average speed. A majority of the percentage of speed is 25 mph to 30 mph. Twenty percent of it is within the 20 mph speed limit. The data needs to be examined because there's a lot of information. Only one car did 40 mph. The study was done at noon on June 6, 2012 and June 8, 2012. On June 6, 2012, there were 3,150 cars, on June 7, 2012, there were 4,800 cars and on June 8, 2012, there was 209 which was for one-half day. They need to sit down and look at the traffic study because there's a lot of information on it. Mr. Oldham commented this was done when school wasn't in session. Mr. Ragle said he has an old count when school was in session. Mr. Oldham having pulled a count on STATE ROAD 46 that's less than a sixth of the traffic that goes through the intersection at the light. Mr. Swafford said if there are 5,000 vehicles and the Town has 6,000 of the residents that's approximately 90%. Mr. Ragle can have it broke down by the next meeting.

Dan Swafford made a motion to table Ordinance 2012-12 to the next meeting. David Drake seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith – yes. Motion carried 5-0.

New Business

CATS 2013 Budget Request – Michael White

Michael White thanked Sandra Hash for allowing him to talk about the budget for 2013. Also thanked the Town Council and citizens for being so supportive of the work they do. For 2013, it is a departure from what they have done in the past. Since 1999, one of the ways CATS has been historically able to get the level of support needed to purchase equipment necessary to operate five channels was by asking governmental

units for 50% of the franchise fees that come in the previous year. Last year it didn't happen this way. The City and County backed away from this agreement. Ellettsville has been steadfast from the very beginning on this agreement. In the interest of parity and fairness between all governmental units if the City or County are not going to follow the older agreement of 50%, there has been some willingness for a 3% increase on last year's agreement. In the Town of Ellettsville, franchise fees have gone up pretty well in the past year. In 2011, it was approximately \$45,800 which represents a 21% increase from the previous year. The increase they are asking for in 2013 represents a little over \$500 or 3%. He asked Sandra Hash if the Town paid approximately \$17,800 for 2012. Ms. Hash replied in his letter it states the Town paid \$13,370 and they're requesting an increase to \$13,772. Mr. White said they are requesting the same amount from the City and County so all governmental partners are paying the same proportional amount of their franchise revenue.

Dan Swafford thanked Mr. White for CATS carrying them live as well as the Plan Commission meetings.

Scott Oldham reminded Mr. White they'll have to wait to be considered at budget season.

Michael White let everyone know they're finishing up work on their new website and it should be up by the end of the month. The new website will be much friendlier for I-Phones, I-Pads and any smart phone. People will be able to pick up live meetings, archives meetings and have the capability for only audio. He thanked the Town for their support.

Town's Policy Regarding Bonds to be Posted by Developers – Darla Brown, Town Attorney

Darla Brown, Town Attorney, advised she was asked to look at the Town Code regarding performance bonds and letters of credit to be posted by developers and suggest some changes to eliminate some of the issues the Town has had recently. She took a look at the state statutes, code of communities near Ellettsville and talked to an individual who works for an insurance company and writes performance bonds for developers. She also talked to two individuals from banks who write letters of credit. What the individuals in the banking and the insurance industry told her is because the market is tight; they have tightened up their requirements for either issuing letters of credit or writing performance bonds. Typically, a performance bond is written for two years and a letter of credit is written for 12 or 13 months. What the bank and/or the underwriter for the insurance company or bonding company looks at is the developer's track record, the requirements of the city/town/county, the size of the job, the cost of the job and things of that nature. The fact that a bond or letter of credit has been issued doesn't mean that it will be renewed. Frequently, they are but the Town can't count on that. They work very hard to help the developer comply with the local ordinances for the city/town/county. They like to do that if they possibly can.

There are some things the Town could consider adding to its code to maybe eliminate some of the problems the Town has had recently but to make it less likely that those problems are going to occur. If they're going to make changes to the subdivision ordinance, and she thinks this includes the Town's ordinance on performance bonds and letters of credit, this has to originate with the Plan Commission. The first thing the Plan Commission might want to look at is under §153.030 which discusses secondary approval, she thinks there's some confusion there that has caused some issues and discussions lately. That section says, *"That the planning and zoning administrator has the authority to grant secondary approval so long as the proposed plat submitted for secondary approval is substantially in compliance with the preliminary plat approved by the Plan Commission."* At the end of the ordinance it says, *"A plat may not be filed and recorded with the auditor unless the Plan Commission has granted secondary approval."* It is not clear as to whom as the authority to grant secondary approval whether it's the Planning Director or the Plan Commission. This may be one thing the Plan Commission wants to look at and think about. In addition, some other things the Plan Commission should look at and make recommendations to the Town Council are as follows:

- The way the statute is written it leaves it open as to the amount of the performance bond to be posted. She thinks they could put a specific amount in the ordinance. Monroe County requires a bond in the amount of 110% of the estimated completion and the City requires one in the amount of 125%. It would be helpful if this was phrased in terms of a bond that is not less than a certain amount. This way they're asking the developers to post a certain amount at minimum but it still leaves the Plan Commission, engineer and Planning Director some flexibility to set a performance bond if they think the job requires that.
- The ordinances can have a requirement that the performance bond stays in place or that it shall be incorporated into the period within which the improvements are to be completed or incorporated into the performance bond and they shouldn't exceed a certain time period. Maybe within two years or a year afterwards the requirements have to be completed. With some of the issues the Town has had recently, it could put in the ordinances a provision that allows for extensions of time that are limited and granted only on the developer coming forward and explaining why he couldn't get the public improvements done in a certain amount of time. In other words, put the burden on the developer to come forward and show due diligence on his part before the Town grants the extension of time to complete the public improvements.
- To avoid some issues the Town has had recently, she recommends if they're going to revise the code that it include a provision that says a performance bond can only be reduced a certain number of times as opposed to a constant back and forth. Put a limit on how many times the bond can be reduced.
- Monroe County puts the burden on the developer to maintain the required improvements and provide for ice and snow removal on streets and sidewalks until the County accepts the required improvements.
- After the project has been completed and accepted the County also requires that a maintenance bond be secured in the same manner as a performance bond for a period of time following the date after which the County has accepted the public improvements to make sure those improvements don't fail. The sidewalks don't fail and the trees don't die.
- It would be helpful, even though it can be read into the Town Code, about a lapse or the guarantee. In other words if the developer allows the letter of credit or performance bond to lapse that's a violation of this subchapter. This can be read into the Town Code but it might be helpful to have a sentence or two that says that.
- It would be a good idea to require the developer to come forward and notify the Town three to four months before their letter of credit or bond expires so there is time to think about what the Town wants to do and enter into a discussion with the developer. Such as should it be renewed, can it be renewed, what's the hold up and those sorts of things. It puts the burden on the developer to come forward. If there is a developer that runs out of money or doesn't care, none of this is going to work. The Town has to continue keeping track of the expiration dates of all bonds and letters of credit. The Town's remedies for violation of the Town Code are going to be withholding the issuance of any additional permits, withdraw approval of permits that have already granted, withhold approval for final plat and call in the performance bond or letter of credit.
- If changes are to be made to the ordinances, the Town Engineer should look them over for practical considerations and to make sure they'll work.

Dan Swafford said one thing Ms. Brown mentioned was putting it back on the contractor and he thinks it should be stated that if they do not renew the bond by a certain date they will on a certain date take the money and put it in escrow. Ms. Brown agreed that would be helpful because it avoids discussions. Mr. Swafford continued it is automatic and if they fail and/or lazy the Town takes the money. Then there is no

way to get around it. Such as if they do not renew it in four months at two months the Town will take their money.

Darla Brown, Town Attorney, asked Phillip Smith and Dan Swafford if they would like to discuss it at the next Plan Commission agenda or do they want her to put together some ordinance for their review. Mr. Swafford thinks she's heading in the right direction. She could speak with Rick Coppock and Connie Griffin to get their input. He thinks they're ready to have something to be read for the next Plan Commission meeting. This is something he doesn't want to drag on. Phillip Smith concurred.

ADA Transition Plan Checklist – Connie Griffin

Connie Griffin, Director of Planning, provided the Town Council with copies of self-evaluations. These are forms with questions from the Federal Highway Administration, Department of Justice, which is the enforcing agency, as well as other ADA related agencies. These self-evaluations will be tabulated and used to produce the Transition Plan which is being drafted at this time by Denise Line, Administrative Assistant and Assistant ADA Coordinator. These self-evaluations will be used to draft resolutions and ordinances and to adopt the 2010 ADA Standards. This process will identify an inventory of things the Town needs to look at and possibly items that need changed. Not every element in the self-evaluations will need to be changed. There will be elements that are not applicable to the Town or if they were made ADA compliant after 1992 then they will not have to be changed. If elements were changed after 1992 but were not made ADA compliant than they will have to be corrected. After the self-evaluations have been reviewed, they will need to be provided to Town supervisors on or around June 25, 2012. At that time, a return date may need to be established for the self-evaluations to be returned to the Planning Department so they can be tabulated and added to the Transition Plan.

Dan Swafford asked the completion date. Ms. Griffin replied the Transition Plan has to be presented by the end of December 2012.

Supervisor Comments

Connie Griffin, Director of Planning, and Rick Coppock conducted an inspection of the First Assembly of God Church site on this date. Photographs of the site were shown. One thing to keep in mind is that no sediment is leaving the site. It is being retained into the detention pond.

Scott Oldham asked if the items were identified in an earlier meeting have been corrected. Ms. Griffin replied they have been corrected.

Phillip Smith commented the church has done a magnificent job to get the site in shape.

Connie Griffin, Director of Planning, asked what the next directive would be for the Planning Department.

Scott Oldham asked Darla Brown, Town Attorney, about the motion concerning a fine which was made several meetings prior and if it has to be modified. The church has met everything which the Town has required. Ms. Brown replied someone can make a motion to vacate or set aside the fine. Sandra Hash commented the motion said the fine would only be acted upon if the violations weren't corrected by June 11, 2012. Ms. Griffin stated the code requires 70% of vegetative cover. Right now it would be hard to state that it is 70% covered which means it's in noncompliance. Mr. Oldham asked David Drake since he made the motion if he wanted to amend it.

Dan Swafford asked if the vegetation noncompliance is because of the drought. Ms. Griffin replied it is part of the problem as well as the late start. The Town tired to get them to start this last October but there was no action at that time.

David Drake made a motion in regards to the previous motion for the fine for the church that it be held in abeyance for two more meetings. 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.

Connie Griffin, Director of Planning, made a correction to her average hours as noted at the last Town Council meeting. The average hours worked per week is 45.

Connie Griffin, Director of Planning, updated the Town Council on the Patricia and Roger New property which is a potential land use violation of a Commercial 3 zoning classification. Aerial images of the property were shown to the Town Council. On June 1, 2012, they did not receive permission to go on the property. The Town Attorney gave her the directive to leave the site but to notify her so she can take the next step for them to get on the site. Mr. Oldham asked if that would be seeking a court order. Ms. Brown replied either a court order for an inspection or a court order for an injunction as part of an injunction. The injunction would be with regard to activities taking place at the site that may be violating the Town Code. As part of the statute regarding injunctions, you can ask for an inspection as part of the remedy from the court. Mr. Oldham asked which option is her preference. Ms. Brown answered it was her understanding the Plan Commission is going to discuss this and she's happy to do whatever they choose.

Phillip Smith said the Plan Commission needs to have a meeting. Doesn't someone need to decide whether or not to go ahead with this? Ms. Brown replied that is correct. As far as the ordinance violations go, she thinks the Town Council can give her the directive. Under the statutes or ordinances, the Planning Director can give her the directive to go ahead and proceed with whatever is decided. She thought the Plan Commission was going to discuss it but she's not sure if any directive needs to come from them on this issue.

Scott Oldham stated his thought would be to proceed with the court order and injunction.

Connie Griffin, Director of Planning, provided an update on Asher Fleet Services. An inspection was conducted on June 1, 2012. The report written by Rick Coppock was provided. Present at the inspection were she, Rick Coppock, Dianna Bastin, Sandra Hash. She found by Town Code their C-3 zone is incorrect for the particular land uses. By Town Code 152.083, Permitted Uses in an Industrial 1 District, are restricted. They are basically by Town definition conducting an auto storage yard. Photographs from the inspection were shown to the Town Council.

Dan Swafford asked Rick Coppock to clarify the last paragraph of his report. Mr. Coppock asked if it was the portion pertaining to the asphalt. Mr. Swafford replied that was correct. Mr. Coppock said Mr. Stephens is going to grade between his and the New property to make sure it drains into the ditch along McNeely Street. Mr. Swafford asked if permits are required for this and is stormwater involved. Mr. Coppock answered it is minimal grading. The contour of the ground around the building is not being changed so there isn't anything needed to do paving. The Town would want to meet with him and talk to him about grading the ditch. Mr. Smith asked with it in a floodplain does it need to go before the Department of Natural Resources ("DNR"). Mr. Coppock replied he isn't raising the elevation he's taking out gravel and putting asphalt in so it will remove some of the puddling and ponding. Mr. Swafford said the Plan Commission was concerned some kind of ordinance or guidance from the Town Council or DNR because of the floodplain and the re-grading and adding a non-permeable surface for the stormwater. Does anything need to be done? Mr. Coppock replied as long as he doesn't change the elevation he doesn't need a DNR permit for around the building. He reiterated the Town may want to talk to Mr. Stephens about the ditch between his and the New property. His estimation is there may be 100 feet of ditch eight feet wide. Mr. Oldham stated the man is trying to legitimately make improvements to his building.

Dianna Bastin said to stand and listen to Mr. Stephens talk to an engineer, she didn't interject, it appeared he was thinking out loud. She didn't get the impression he had a specific start date and was just thinking about it.

Connie Griffin, Director of Planning, stated Town Code 152.103, Administration, provides "*As the Town Council hereby appoints the Director of Planning Services to*

administer and implement the provisions of the subchapter as the floodplain administrator.” This means that a lot of the permit procedures run through the Department of Planning and do require in a special flood hazard area for Mr. Stephens to come back to the Planning Department as well as the DNR. It may depend on the type of work he’s doing to kick those elements in. The oil is being stored at base flood elevation which was one of the concerns in January 2003 during the PUD discussion as well as there is no secondary containment. It is being trapped between dumpsters but that is not secondary containment. By §152.100, Findings of Fact, there is the consideration of public health safety and general welfare. One gallon of oil can contaminate one million gallons of water.

Scott Oldham asked if Mr. Stephens has been notified of the violations. Ms. Griffin replied not at this time. After the inspection, she returned to the office and said she would be preparing a report for Town Council which has been provided. She has checked with the DNR on the follow-up of the fill dirt. There is no resolution at this point.

Town Marshal Tony Bowlen is requesting permission to hire a part-time officer. The officer is David Drake who recently retired from the Bloomington Police Department. Mr. Drake commented he’s not going to get rich off of this. Marshal Bowlen said it would be at the current part-time rate which is \$13.26 an hour. Mr. Drake stated this will enable him to stay involved in law enforcement and help the Town. It allows him to keep his law enforcement certification active. Mr. Oldham stated Mr. Drake spent over 25 years in service to the City of Bloomington and he has a wealth of abilities to bring to the Town. Marshal Bowlen added Mr. Drake has a vast array of knowledge in the area of investigation.

Dan Swafford asked Ms. Brown if there is any conflict of interest. Ms. Brown said there might be. As part of Senate Bill 170, it states after July 1, 2012, a person can’t be both an employee of the municipality and also hold an elected office. Mr. Drake looked at that and it states if a person is in both positions prior to January 1, 2013, they can finish the current term. Ms. Brown added at the end of the term the person has to pick only one of the offices. She hasn’t had as much time to look at this as the nepotism statute and if they want to table it that’s fine. She thinks Mr. Drake can do this but after his term expires as a Town Council member he has to choose one or the other. According to the statute he is grandfathered in for a short period of time.

Scott Oldham entertained a motion to accept the hiring of David Drake as a part-time Ellettsville Deputy Marshal. Dianna Bastin made a motion to accept the hiring of David Drake as a part-time Ellettsville Deputy Marshal. Phillip Smith seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – abstained and Phillip Smith – yes. Motion carried 4-0.

Sandra Hash gave the oath of office to David Drake.

Council Comments

Dianna Bastin went to Edgewood’s graduation. The girls softball team was going to state so the school moved its graduation from 2:00 p.m. to 11:00 a.m. The softball team came in second. Congratulations to all graduates, coaches and the team. Mr. Swafford agreed. They did a great job. It was a great year.

Privilege of the Floor

Russ Ryle asked Darla Brown, Town Attorney, to look at the agreement with the City of Bloomington with respect to them doing the Town’s building inspections. Specifically, can that agreement allow the Town to require them to get a sign off sheet stating all inspections have been completed before an occupancy permit is issued? The Town does not issue occupancy permits. Ms. Brown advised it’s the Monroe County Building Department. Mr. Ryle said this is the acid test with a developer.

Russ Ryle stated as Planning Director, Connie Griffin, has completed the analysis and given the current status of Asher Trucking. As this point no letters have gone out but he hasn’t seen instructions that they should. Is it the feeling of the Town Council that

the Planning Department should issue notices of the current violations? Mr. Oldham stated he thought Ms. Griffin was going to provide a copy of the report to that corporation. At that point, it would come up for a re-inspection.

Bill Schneider complimented the First Assembly of God on an extremely quick and orderly correction on what was a problem. There is another situation regarding trees that got partially covered with excess dirt. Photographs of the trees were shown. A letter from Abell Nursery was provided. He requested the church unbury the trees.

Adjournment

Dan Swafford made a motion to adjourn. Phillip Smith seconded. Motion carried. Scott Oldham adjourned the meeting at 7:55 p.m.

Scott Oldham, President

Dan Swafford, Vice-President

Dianna S. Bastin

Phillip Smith

David Drake

Sandra Hash, Clerk Treasurer, IAMC,
MMC