

June 13, 2011

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, June 13, 2011, at the Fire Department Training and Conference Room. David Drake called the meeting to order at 7:00 p.m. Scott Oldham led the Pledge of Allegiance followed by a prayer led by Phillip Smith.

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

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

Approval of Minutes

David Drake entertained a motion for the approval of the minutes for the Regular Meeting on May 23, 2011 and the Executive Session on June 8, 2011. Dianna Bastin so moved. Phillip Smith seconded. Motion carried.

Accounts Payable Vouchers

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

Resolutions

Resolution 10-11 to Conduct a Hearing Regarding the Public Convenience and Necessity of Acquiring the Northern Richland Sewage Works

Darla Brown, Town Attorney – The engineering company, GRW, completed its sanitary sewer evaluation survey of the Northern Richland Sewer System. Scott Dompke prepared a report and it was completed on June 1, 2011. Given that the Town is still in the information gathering process, she has prepared a resolution which acknowledges receipt of the report and schedules this matter for a hearing at the next Town Council meeting at 7:00 p.m. At the hearing, the public can hear about the report and the folks from Northern will have an opportunity to appear and object. Scott Dompke should be invited to the public hearing to explain his findings to the Town Council and the public.

David Drake – Clarified that the resolution only establishes the public hearing at the next meeting. Ms. Brown responded the resolution establishes a hearing date and sets forth the Town Council meeting as a time to discuss the ordinance condemning Northern Richland Sewer Corporation. David added he wanted to make it clear that tonight is not the discussion on whether to condemn Northern Richland or not. It is merely setting up the hearing for the next meeting at which time we will discuss the condemnation and hear from the public. Ms. Brown responded, yes.

Dan Swafford – Asked if the public can get a copy of the report prior to the next meeting in order to be prepared or do they have to come and just listen to the presentation from Scott Dompke. Ms. Brown stated the report could be made available on the web site.

David Drake asked if the Council or public had any comments in regards to the sole issue of setting up the public hearing for the next meeting. There were no comments.

David Drake entertained a motion to approve Resolution 10-11 to conduct a hearing regarding the Public Convenience and Necessity of Acquiring the Northern Richland Sewage Works as amended to 7:00 p.m. rather than 6:00 p.m. Scott Oldham made a motion to approve Resolution 10-11 to conduct a hearing regarding the Public Convenience and Necessity of Acquiring the Northern Richland Sewage Works as amended to 7:00 p.m. rather than 6:00 p.m. Dianna Bastin seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford – yes. Motion carried 5-0.

Dan Swafford asked when the information would be posted on the web site. He also requested the Resolution be posted on the web site. Sandra Hash responded if the material was received by Tuesday it should be on the web site by Wednesday. The Resolution will also be in the Journal.

Ordinances on First Reading

Ordinance 11-07 Condemning the Real and Personal Property of the Northern Richland Sewer Corporation

David Drake – Explained ordinances are introduced on first reading at one meeting. They are not discussed at that time. Action is taken on the ordinances after the second reading.

Darla Brown, Town Attorney – If the Town Council finds it appropriate, a Town Council member should make a motion to place the ordinance in the proper channels for passage.

Dan Swafford – Stated he didn't understand how a motion could be made to condemn the property when the hearing hasn't occurred. Ms. Brown explained they are not voting on the ordinance by putting it in the proper channels for passage. The Council is acknowledging it has been presented.

David Drake entertained a motion to introduce Ordinance 11-07 for first reading. Scott Oldham made the motion. Dianna Bastin seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - no. Motion carried 4-1.

Ordinances on Second Reading

Ordinance 11-06 to change the zoning for Kocolene Marketing, LLC, Parcel ID: 53-04-14-105-001.001-013 from Residential 1 to Commercial 3.

Connie Griffin, Director of Planning – This is the Kocolene-Fast Max site and they are requesting a rezone from Residential 1 to Commercial 3. A map of the property was presented. This is a small sliver of land to the west owned by Mr. Williams. There is a small area of trees and Mr. Williams no longer wanted to take care of them. The land was quit-claimed over to Kocolene in 2008. At that particular time, there was not an appropriate public hearing notice published for the rezone. Since then, Kocolene has gone through the Plan Commission for approval of a drive through location to be behind the building and adjacent to the tobacco store. This is a standard rezone and all the appropriate approvals and hearing notices and the fees have been paid. Kocolene has received a favorable recommendation from the Plan Commission.

Dan Swafford – Thinks this was an oversight when the parcel next to it was rezoned.

David Drake entertained a motion to adopt Ordinance 11-06 to change the zoning for Kocolene Marketing, LLC, Parcel ID: 53-04-14-105-001.001-013 from Residential 1 to Commercial 3. Dan Swafford made a motion to adopt Ordinance 11-06 to change the zoning for Kocolene Marketing, LLC from an R-1 to C-3. Phillip Smith seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

New Business

Bill Williams, Monroe County Highway Engineer, will present information on replacement of bridge No. 33 on Matthews Road.

Bill Williams – There are 140 bridges in their inventory. This bridge is on the top of their list for being in bad condition. The County began this project over one year ago, hiring Parsons Brinckerhoff of Indianapolis with Christine Klika and Beth Carter doing the design work.

Christine Klika – Presented a map showing the details of the project. Because of modern day design and travel speeds the bridge can't remain in its current location. The bridge will be located 300 feet from where it is now. The proposed road will go

across the corner of the solid waste transfer station. This was done to avoid the large sewer line in the area.

David Drake – Stated it is definitely a bad curve and he thinks it is a good opportunity to make it safer.

Bill Williams – The County will work with the solid waste district and the Town to offset it and build another area further east so they won't lose any of the area for their dumpster site.

Scott Oldham – Asked if the Bybee entrance will become a drive. Mr. Williams responded yes. They have had a couple of meetings with Will Bybee to discuss the construction and they are very cognizant of what they're doing so they can maintain the area of his business.

Supervisor Comments

Connie Griffin would like to hire Fred Baugh for the Code Enforcement Officer.

Connie Griffin, Director of Planning – Last Council meeting she requested permission to fill the part-time Code Enforcement Officer position. She presented Fred Baugh to be hired for the part-time Code Enforcement Officer position. Fred is a long time resident of Ellettsville. They have worked on some issues and have a good working relationship.

David Drake entertained a motion to hire Fred Baugh for the Code Enforcement Officer. Dianna Bastin made a motion to hire Fred Baugh for the part-time planning code enforcement position. Phillip Smith seconded. Roll Call Vote: David Drake – yes; Scott Oldham – yes; Dianna Bastin – yes; Phillip Smith – yes and Dan Swafford - yes. Motion carried 5-0.

Connie Griffin, Director of Planning, presented the following updates:

The Storm Water Audit is scheduled for Wednesday, June 15, 2011, and will start at 9:00 a.m. at the Street Department. She has received quite a bit of assistance from the supervisors on getting housekeeping up to speed and spill kits in place. The power point presentation has been completed. Rick Coppock has supplied a great deal of information to help the process along with all of the documentation we have to share with the inspector from IDEM.

Code Enforcement:

- Chad's Recycle and Refuse, LLC – The necessary application materials have not been received in a timely matter. He is represented by an attorney and she has been working with Darla Brown, Town Attorney, to move this case forward. David Drake stated he received a letter from Chad's attorney.
- Lenzy Hayes – An agreed order was sent by the Indiana State Department of Health which was signed. On June 3, 2011, an inspection was conducted pursuant to the agreed order and they noted additional code violations. The Town and state have both sent new violation letters to Lenzy Hayes. They will be inspecting the site again on June 17, 2011. This case will advance forward with fines as of June 17, 2011.
- Cedar Bluff Gardens – She and Darla Brown have met with a property owner who they will continue to work with. Ms. Sperry said she will be working on the mowing and removal of the trash and chemicals.

Sandra Hash – The Hilly Hundred will be held from October 14 – 16, 2011. They will have a meeting in the conference room of the Fire Department on August 16, 2011, from 9:00 a.m. to 10:00 a.m. for anyone who can attend.

Sandra Hash – Presented the Treasurer's Report for May as follows.

General Fund:

- Revenue year-to-date was \$644,500.95.

- May revenue was \$365,322.
- May expenses were \$133,188.
- This leaves a balance of \$356,588 of which there is an outstanding temporary loan of \$100,000 that will be re-paid at the end of the year to the Rainy Day Fund.

Motor Vehicle Highway:

- May revenue was \$110,676.62.
- Expenses were \$28,850.
- Ending balance of \$95,516.91
- This fund also has a temporary loan of \$50,000 from the Rainy Day Fund which must be re-paid by the end of the year.

Sewer Operating Account:

- May revenue was \$158,695.
- Expenses were \$151,102.
- Ending balance of \$175,640 and with an additional \$100,000 in investments.

David Drake – Asked if action was needed on the Material Events Disclosure. Sandra Hash replied it is an annual report which requires his signature. The report requests information on the Town's financial status. It is an annual review done by Umbaugh.

Council Comments

Dan Swafford – Showed a picture of a missing girl in Bloomington. If anyone has any knowledge they are to call the local police department. The mother is requesting that anyone who has a large piece of property to search it.

Privilege of the Floor

Athanassios Strigkas – Utility Delinquent Fee Concerns – He has lived in the Town of Ellettsville for the last five years. He understands there is a Town ordinance regarding the water bill. If someone doesn't pay their water bill they have a maximum of 14 days for their water to be shut off. This is very harsh, especially in these times. He checked with some other cities such as Bloomington and they have much more time to pay bills. He went to the utility office and asked to see the ordinance. Upon review of the ordinance, it appears to have two to three different interpretations. The ordinance states, *"In the event service charges for water are not paid within 30 days after the date they are due, which is the billing date the Town water department shall send a written notice to the user of its intention to discontinue water service."* Upon looking at the bill there is a billing date and due date and he thinks this is confusing. The way he reads the ordinance is that they have 30 days after the billing date before the office sends the disconnect notice. What he found is that they do not wait for 30 days to pass. Immediately after the due date they send the notice. The outcome is that literally you have 14 days after the due date to pay your bill or they come out and discontinue your water. He is traveling a lot and there are people who have emergencies and 14 days is a very short period of time for these people to take care of their bills. Mr. Strigkas is asking the Council to reconsider the ordinance and do nothing more than what the ordinance states. This is the way he reads the ordinance – it gives people 40 days to go back and take care of their bills. The department penalizes whoever is not making the payment on time and he agrees this needs to be done. But, they charge customers 3% for 14 days which is 78% interest rate. He thinks it is inconsiderate and they can do much better as a city. He is not asking people be given a break, he is asking the Town do exactly as the ordinance states. There are 40 days for anyone to pay their bill or they can discontinue their water. David Drake assured Mr. Strigkas they are not given any special breaks. Mr. Strigkas asked how the Town Council plans to deal with his request. Mr. Drake responded they will have to talk with the utilities director and Town Attorney to see if they would have to do an amendment to the ordinance. Mr. Strigkas asked if he should submit a paper explaining his position. Mr. Drake stated he could send an email to the Clerk-Treasurer and she will forward it to the Town Council. Dan Swafford stated it is his

understanding that Mr. Strigkas is stating the ordinance is written correctly but Town is not following it. Mr. Strigkas responded that is correct. He has met with Mr. Farmer and he explained the way they do business. The way he reads the ordinance there are at least two to three interpretations. For it to be a legal document, it has to be clear for people. It is an ordinance. For it to be read and understood there shouldn't be two to three interpretations. For him the most important thing is that 14 days is a very short period of time. Duke Energy allows people 3 ½ months to pay their bill. The way he reads the ordinance it is 40 days and not 14 days.

Nancy Jonas – Is seeking clarification as to Northern Richland Sewer. When the report is available on the web site, will it be the due diligence report? David Drake responded it is the engineer's report. Darla Brown stated a copy of the report was sent to Northern's attorney this date. Ms. Jonas clarified the public hearing will be on June 27, 2011, at 7:00 p.m. Mr. Drake responded that was correct. Ms. Jonas asked if they will be able to discuss what is going on with the Town and Northern Richland at the public hearing. Mr. Drake answered it won't necessarily be a discussion. They will hear the report, the Council will give their opinions and Northern Richland can address the Town Council. Ms. Jonas asked if it was correct a decision would not be made the night of the public hearing. Mr. Drake replied a decision could be made that evening. Ms. Jonas said it is strange this could happen without the members having a chance to address it. Mr. Drake responded it has been addressed for some time. Ms. Jonas asked if it had been in the newspaper. Mr. Drake replied it was in the paper many times and letters were sent to Northern Richland customers. This has been a very long ongoing process and this is the last step. Ms. Jonas stated she was curious with the due diligence report and after seeing the ordinance that they didn't have more notification. The members did vote to go with Eastern and to see the Town trying to condemn the sewer is a concern. She didn't receive a letter. Ms. Jonas confirmed it will be the Town Council voting to make this a reality. Mr. Drake stated that was correct.

Barbara Davidson – Presented a history of the Northern Richland Sewer Corporation ("NRSC"). In 1960, the plant was started. They joined the plant in 1972. Riley Elkins and Don Elkins developed where NRSC is currently located. At one of the Town Council meetings when Darby McCarty was present and the water situation in her territory was being discussed, Mike Farmer stated if the customers wanted their choice, it was their right. Ms. Davidson acknowledged the members of NRSC who were present in the audience.

Russ Ryle – Sitting quietly in the back of the room and listening to some of the other audience members, the Town's sound system is inadequate. He has a little hearing loss and others have more significant hearing problems and it's really difficult to hear the discussions before the Town Council. David Drake stated he will have someone from the Fire Department look into it.

Evelyn Ryle – Suggested disabling the water fountain during the meetings. Whenever someone drinks from the fountain, it goes on, cycles and makes quite a lot of noise in the back which adds to the problem. Some times they can't hear because the microphones are set differently, perhaps by those filming.

Adjournment

Scott Oldham made a motion to adjourn. Dianna Bastin seconded. Motion carried. David Drake adjourned the meeting at 7:47 p.m.

David Drake, President

Scott Oldham, Vice-President

Dianna S. Bastin

Phillip Smith

Dan Swafford

Sandra C. Hash, IAMC, MMC
Clerk-Treasurer