

June 22, 2009

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, June 22, 2009, at the Fire Department Training and Conference Room. Dianna Bastin called the meeting to order at 7:30 p.m. Dan Swafford 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; Mike Spencer, Town Attorney and Rick Coppock, Town Engineer were present.

Supervisors Present: Mike Cornman, Jim Ragle, Jay Humphrey, Mike Farmer and Frank Nierzwicki were present.

Approval of Minutes

Dianna Bastin entertained a motion for the approval of the minutes for the Regular Meeting June 8, 2009. David Drake so moved. Scott Oldham seconded. Motion carried.

Accounts Payable Vouchers

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

Public Hearing for CDBG Disaster Recovery – Grant Administrator, Lisa Abbott, Housing and Neighborhood Development Director of Bloomington

Lisa Abbott, Director of the Housing and Neighborhood Development Department with the City of Bloomington and also a state certified CDBG Grant Administrator has been working with Sandra Hash on applying to the state through the CDBG (Community Development Block Grant) Disaster Relief Fund for additional funding to cover expenses not covered by FEMA from the flood of 2008. Ms. Abbott is asking for the Council's approval to apply for \$1,476.54 to aide in covering the cost for the asphalt work done on Tecumseh Street and the 4 inch water main repairs completed on N. Maple Grove. The application requires a public meeting and this meeting will be the public meeting for this grant application; if Resolution 15-09 is approved, then the CDBG will submit the application to the state and they should provide the funding to help cover the costs FEMA did not. Ms. Abbott explained the CDBG covers the additional funding for projects already completed. Sandra Hash thanked Lisa Abbott for her all her efforts helping the Town of Ellettsville.

Resolutions

Resolution 15-09 Community Development Block Grant Disaster Program Disaster Recovery Appropriation 1

The Town of Ellettsville is eligible for reimbursement from the Office of Community and Rural Affairs CDBG and prior to applying for said funding the Town of Ellettsville is required to hold a public hearing.

David Drake made a motion we adopt Resolution 15-09. 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.

Ordinance on First Reading

Ordinance 09-09 to amend various Sections of Chapter 93 of the Ellettsville Town Code concerning Health, Sanitation and Nuisances

Connie Griffin went over the additions to this ordinance:

- Increase the methods of violation notifications by physically posting notices in visible locations, hand delivery, regular and certified mail
- Position of Deputy Health Officers to be expanded to not only Street Department Employees but adding Planning Department staff and Town Marshal (or assigned Deputy Marshal when available)
- No additional pay will be incurred by the Town to pay for this position

- If the Street Department has to clean up an area, the fee for the cleanup (once payment is received) would then be receipted into the fund incurring the expenses and not the General Fund
- All Deputy Health Officers will be able to provide identification before entering premises before conducting inspections
- The Clerk-Treasurer will produce a certified statement within 10 business days if the actual cost incurred by the town in the removal of the violations. The statement shall be delivered to the owner of the real estate by certified mail and the owner will have no more than 30 days within which to pay the amount to the Clerk
- To restate: This is a Class E Ordinance Violation and will be fined \$25 a day
- Trash remains a Class D Ordinance Violation of \$100 per day

Connie researched “vault cleaning” and found it would be up to the property owner (and not the Street Department). She spoke with the Monroe County Health Department and the Indiana Department of Health and found Indiana Code 4-10 IAC 6-8.1-8 would be a small addition to our current code and state “Any home not connected to the Town of Ellettsville public sewer system must comply with that code”. Connie will bring this ordinance to the Council in the near future. Dianna clarified nothing is changing except, when needed, the Planning Department and Police can report it.

Old Business

Amendment to Sewage treatment Purchase Contract between the Town of Ellettsville and Northern Richland Sewer Corporation

Mike Spencer presented the contract he prepared and proposed to Northern. Northern received approval from the IURC for the tracking factor for both amounts (now and in January 2010). Mike Spencer is recommending the Council sign the contract and send it to Northern for their signature. Mike Spencer sent a copy to Mike Carmin. This contract does not address the postage issue.

Dianna Bastin entertained a motion we sign this. Scott Oldham so moved. Phillip Smith seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

Authority to dismiss Eastern Richland Sewer Corporation from the pending litigation

Mike Spencer explained there is pending litigation with Northern and the Town subsequently added Eastern because one of the allegations in the litigations was whether or not the rates should have been adjusted over the last ten years. Northern felt the rates should have been lowered and the Town countered that was not correct. The Town brought in Eastern, just in case, the rates are adjusted since there is a contract with both wholesale customers. Mr. Carmin sent Mike Spencer a list of witnesses, exhibits and contentions. Mr. Carmin indicated to Mike Spencer Northern is withdrawing that claim. What they are asking is the interest from the Reserve Account be returned from the Operations and Maintenance Account. They are not pursuing the issue of changing the rates and that is why Eastern was brought in. Since that issue is no longer on the board, there is no reason to keep Eastern in litigation. Scott asked if we are dismissing them with or without prejudice. Mike Spencer said we are dismissing them with prejudice. Mike Spencer alerted Eastern’s attorney, Mr. Ferguson, the issue of the interest rate was coming up and they are not interested in participating in that issue. Mike Spencer signed the postal rate contract with Eastern. Dan Swafford asked what part of the litigation is still pending. Mike Spencer stated Northern is claiming they have exclusive jurisdiction over certain territory and the Town is serving customers in their territory. Northern is also seeking money the Town has billed the people in their area and they are also seeking any lost revenues they failed to receive because these people would have been on their system including hook on fees. There are still a lot of issues not relating to Eastern. Mike Spencer is asking for the authority to file the motion to dismiss Eastern.

Dianna Bastin made the motion to dismiss Eastern Richland Sewer Corporation from pending litigations. 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.

Mike Spencer announced the Town is set for trial on July 6th and 7th. Mike Spencer has been talking with his witnesses and anticipates this will go on.

Adjournment

Dianna Bastin entertained a motion we adjourn. David Drake made a motion we adjourn. Scott Oldham seconded. Motion carried. Dianna Bastin adjourned the meeting at 7:46 p.m.

Dianna S. Bastin, President

David Drake, Vice-President

Scott Oldham

Phillip Smith

Dan Swafford

Sandra C. Hash, Clerk-Treasurer