

June 27, 2011

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, June 27, 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: Jim Davis, 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 June 13, 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. Phillip Smith so moved. Dan Swafford seconded. Motion carried.

Public Hearing to consider whether to adopt an ordinance declaring that public necessity requires the Town of Ellettsville to acquire by condemnation the real and personal property of the Northern Richland Sewer Corporation.

Ordinances on Second Reading

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

David Drake – The first presenter will be Scott Dompke of GRW Engineers in regards to a sanitary sewer evaluation report they conducted. The procedures for the public hearing were outlined.

Dan Swafford – Has a problem with the ordinance stating “the personal property of Northern Richland Sewer Corporation.” As of June 22, 2011, the merger between Eastern Richland Sewer Corporation (“ERSC”) and Northern Richland Sewer Corporation (“NRSC”) has taken place. The question is should the ordinance be changed to reflect the merger. Darla Brown, Town Attorney, stated the ordinance is fine. The time to appeal hasn’t run yet. Technically, it can still be referred to as the “Northern Richland Sewer Corporation.”

Scott Dompke, GRW Engineers – GRW did an assessment of the NRSC system for the Town of Ellettsville. The Town of Ellettsville hired GRW to do an initial review of the NRSC sewer system including records that were in existence, inspect the system and to estimate the rehabilitation cost for any problems found in the system. To start, there was a discrepancy in the amount of pipe and other infrastructure in the ground. They had a preliminary estimate from a map the Town provided which quantified to 23,900 feet of pipe. There was a special purpose report that NRSC filed with the IURC in 2009 or 2010 and it listed 114,000 feet of pipe. GRW did mapping in conjunction with the Town and arrived at the correct amount of infrastructure in the system as 27,800 feet of pipe. The subdivisions in NRSC include Perry Woods, Maple Woods, Limestone Estates, Horseshoe Retreat, Quarry Estates and Redbud Estates. These are important because they help determine the age of the system which is one of the factors to consider when looking for problems. The methods incorporated in the study were system mapping, flow measurement at the connection to the Ellettsville system and one other point, manhole inspections and TV inspections done by the Town. Their contract stated they would look at any records produced for GRW. Smoke and dye testing were not done. They were considered but at the time of the study it was so wet that smoke and dye testing couldn’t have been done so they were dropped. There are a lot of different

ways to consider what they are looking at on a sewer evaluation. The total customer accounts are as follows:

- Ellettsville 1,945
- ERSC 1,826
- NRSC 240

This totals 4,011 customers connected to the waste water plant in Ellettsville. When the Ellettsville system is discussed it refers to the whole Ellettsville system which includes ERSC and NRSC. Then the Richland district is compared independently and as the combined result with the rest of the Ellettsville system which is all three communities. A system map was created by pipe size and the location of pipes which was delivered to the Town. The Town maintains the permanent depth and velocity meter at the connection to the interceptor of the treatment plant. This is a summary of the 42 days of flow metering. The peaks are the days it rained. Some of the more important elements that were looked at were to compare the NRSC on dry weather flow, average flow and wet weather flow to the rest of the Ellettsville system as a whole. The dry weather flow for the study was defined as what the average day was in the sewer if it didn't rain for at least 48 hours prior to the reading. The NRSC flow is significantly higher than the Ellettsville system as a whole under all three conditions. The peak factor, which is an individual rain event on April 19, 2011, divided by the average day for the 42 days study period. The NRSC peak is 30% higher than the Ellettsville system as a whole. During the inspections, there appeared to be a lot of clear weather flow in the sewer on Holly Drive so they decided to do a spot check. A spot flow check was conducted on the Holly Drive system to compare it to the remainder of the NRSC system. This was conducted on a per customer basis and the flow was 2.0 and the other was 2.5. They are almost identical which means the Holly Drive isn't any worse than the rest of the system. The system has deteriorated equally. The study looked at sewers south of Maple Grove Road. The sewers north of Maple Grove Road are for a newer subdivision. The study looks at an inch diameter mile which is how many inches of pipe by mile of pipe. An 8" pipe that is one mile long is 8" miles. A new system is not allowed to have extraneous water that exceeds 100 or 200 miles per day per inch mile diameter of pipe. In NRSC the dry weather flow is over 3,000 gallons per inch mile diameter, wet weather flow is over 12,000 gallons per inch mile diameter and the green bar is considered the wet weather threshold where something needs to be done to reduce the extraneous water entering the system. In this case, even the dry weather flow exceeded the demand for wet weather flow.

Manhole Inspections – It was determined there were 117 manholes in the system. Inspections reports were created for 37 of the manholes. Numerous deficiencies were noted in the manholes, including faulty bases, no table and trough where the water stands in the bottom of structure and castings were not attached to the concrete manhole. For example, manhole 264 had a deteriorated base, manhole 274 has roots intruding underneath the pipe, manhole 311 has a broken base, manhole 288 has excessive debris and manhole 261 is an exceptionally bad case with a sanitary sewer overflow which runs into a creek. The Town ran closed circuit television on 15,600 feet of the 28,000 feet of sewer in Perry Woods, Maple Woods and Maple Grove Road. There were 80 set ups with the television truck and with 20 of those, they couldn't get through the sewer because of blockages. Twenty-five percent of the pipes they tried to run had serious blockages that would not allow the sewer maintenance equipment to get through that segment of sewer. This is significant. Several problems were documented as a result of the television inspection reports. For example, a hammer tap on Allen Lane had root intrusion. To do a sewer rehabilitation on that type of sewer with no digging would still result in leakage. A gas main penetrated through a pipe on Holly Drive and debris is collecting on it. Crandall Drive has a debris blockage, Holly Drive has a cable TV or power cable penetration, Limestone Drive has leaking water from the pipe, Maple Grove Road has a complete blockage where the camera could not pass through and Shelly Drive has a cable penetration. Some of the observations made on the lateral connections were numerous hammer taps. Different agencies will deal with them in different ways because they are private property issues and the owners could be held responsible for the repairs. To do rehabilitation on lateral connections is

very costly and not necessarily beneficial. This is an emerging technology with the techniques of realigning sewer laterals from the main either without a dig on the property or a dig with one hole. There are cost changes every year. The average cost is \$10 a foot. It was too wet to conduct smoke testing during the study, however, it is still a good idea because there has to be some extraneous water sources connected to this sewer system.

Infiltration and Inflow – Numerous sources were identified in the TV tapes and through the manhole inspection reports. There were two sanitary sewer overflows that were noticed through the manhole inspections.

Recommendations – The Town will have to consider how much money they want to spend on rehabilitation in a system such as NRSC versus a plant overflow basin or other types of plant capacity improvements. These all come with various levels of capital investment. A study will have to be conducted to determine which is the most appropriate for the kind of sewer system the Town chooses to run. Complete rehabilitation of NRSC sewer system is necessary. Spot repairs can't be made to infiltration and inflow in a controlled water shed basin because it will just move to the next bad spot. On the long laterals for NRSC, some are two hundred foot long and those are serious issues because they are a longer length of pipe than seen in the laying of the pipe. There appear to be a lot of root intrusions and the roots are all causing blockages and extraneous water to enter and leave the system. There appear to be severe maintenance problems throughout the NRSC system as revealed in the manhole and pipe inspection reports. A starting point would be to replace the 12" and 8" mains on Maple Grove Road and continue to Holly Drive. There was approximately a mile worth of 6" pipe in the NRSC system with multiple customers and this is not appropriate and has never been allowed for sewer systems that were designed and submitted to the regulatory agencies. It is recommended to remove all of the 6" pipe and replacing it with 8" pipe. This is 4,000 feet to 5,000 feet of pipe. Approximately 40 manhole repairs are identified in the manhole inspection reports. The opinion of the cost for doing the repairs is \$480,000 to \$500,000 for pipe work, \$175,000 for manhole work, \$658,000 for construction with some contingencies and non-construction contingencies which include design, inspection, administrative issues associated with financing, for a projected rehabilitation cost of \$925,000. The actual cost for the Town to do the repair work would be substantially less. The Town has the manpower, equipment and the ability to do most of the manhole and pipe repairs. The only cash out-of-pocket would be the cost for materials which might be one-third of the total cost. There are some repairs that require specialty contract work which would need to be done by manhole lining companies or pipelining companies. This doesn't mean that everything needs to be fixed immediately. It took a long time to get to this point.

David Drake – Asked aside from the obvious environmental issues such as the sewer overflows, what is the end result of the inflow and infiltration to the sewage treatment plant. Mr. Dompke responded the overloading of the sewer plant can happen when you exceed the plan design capacity. Typically, when the plant gets to 90% of its design flow you will get a letter from the regulatory agency requesting a plan for an expansion of the treatment plant

Phil Schonhoff – Asked about rainfall versus the dry weather flow. Mr. Dompke responded the dry weather flow for the entire Ellettsville system per customer is approximately 300 to 400 gallons per day, per customer. NRSC is over 500 gallons per day, per customer. The average day is 500 gallons per day for the average customer of the Ellettsville system and 1,000 per customer, per day for the NRSC system. The days it rained, Ellettsville as a whole had 1,200 gallons per customer, per day and NRSC had 2,200 to 2,300 gallons per customer, per day. Mr. Schonhoff asked if most of the metering was in the 12" and 8" of the old clay pipe area in Maple Grove. That area is very low lying. Mr. Dompke replied the meter is off of the interceptor at Matthews and Maple Grove Road. The spot meter for the test spot was on Holly Drive. Mr. Schonhoff stated there is an enormous amount of water in that area all of the time. As far as the rest of the system, the percentage of contribution is not there. The low lying area is a problem - primarily the 12" sub parallel to Maple Grove Road and Holly Drive. Mr. Dompke stated he disagreed based on the data he collected and

this is why the Holly Drive flow was measured. When the flow on Holly Drive was divided with 83 customers compared to the entire NRSC system they were almost exactly the same numbers. Mr. Schonhoff asked what it looked like with the plastic pipe. Mr. Dompke answered they measured at two locations: Holly Drive and at the connection to the Ellettsville system. The data suggests that the system is equally deteriorated south of Maple Grove Road.

L.K. Alexander – Asked why the dry flow is higher for NRSC than the whole system. Mr. Dompke answered there is extraneous water entering the system even when it is not raining. Typically, an individual house may use approximately 250 gallons per day. Mr. Alexander asked if a similar study was done for Ellettsville. Mr. Dompke stated he had numbers from the treatment and the metered flow for NRSC. Mr. Alexander asked where the 6” mains were located. Mr. Dompke stated although they were not coming through on the projector they were identified.

Tom Mathiesen – On the two flow comparisons they are so close to being the same in terms of their contour. This suggests the level of infiltration for one could be higher than the other but it is proportionately the same as the other. This is the same level of intrusion in both systems. Mr. Mathiesen asked if they were compared with the water usage for the two customer bases because this would also make a difference. Because the contours are the same it suggests the conditions of the two systems are the same. Mr. Dompke replied he did not agree that the contours are the same. The slope of NRSC is steeper than Ellettsville as a whole. They didn't look at the water consumption. The flows are substantially greater than the water consumption. Mr. Mathiesen asked how he knew this. Mr. Dompke answered it is very unusual for a single family house to use 500 gallons a day. The study looked at what was provided by Ellettsville Utilities for the amount on an average day.

Richard Sanders – Asked if they looked at the total flow into the plant on maximum flow days. Mr. Dompke replied this is, in fact, the wet weather number. They looked at the days it rained and averaged the days it rained during the 42 day study period. Mr. Sanders asked what is the maximum gallons per day that the plant experiences. Mr. Dompke stated there was approximately two months of data from the plant and they did not look at the annual flow into the treatment plant. Mr. Sanders is wanting to know how many gallons went through the plant on a maximum flow day. Mr. Dompke stated it would be inappropriate to compare something that wasn't measured to something that was measured. This was measured. Mr. Sanders stated on maximum flow days the pipes will only measure so much water. Perhaps the flow meters are not accurate and he doesn't know the calculations as to how much the pipes can deliver.

Dan Swafford – It was mentioned it was too wet to do smoke testing. What would smoke testing tell? Mr. Dompke responded smoke testing would be done in July or August when the ground is dry. It would show spots where there is a yard inlet or holes in the system. Mr. Swafford asked if the smoke testing was performed would it show the major infiltration areas. Mr. Dompke answered it would show the locations where there is potentially broken pipe where water would be infiltrating. Some would be major and some would be minor.

Nancy Elkins – Stated the manhole report stated 175 manhole rehabilitations but NRCS only has 100 manholes. NRSC does not have a Redbud Estates or a Limestone Estates recorded in the recorder's office. Mr. Dompke commented they counted the manholes and there are 117.

L.K. Alexander – Asked when the report was provided to the Town of Ellettsville. Dianna Bastin responded it was June 1st or June 2nd. Mr. Alexander stated no one at NRSC was given a copy of the report. Darla Brown, Town Attorney, stated a copy of the report went to the attorneys for NRSC within a week after the report was received by the Town.

Ellettsville Utilities comments regarding condemnation/GRW report

Jeff Farmer, Manager of Ellettsville Utilities – When he came on board, the sewer system was under a Grade 2 order. The plant was in poor condition. A new plant was built that went on line in 1997. In 1998, he warned the Town Council and customers

about inflow and infiltration. If it was ignored, the Town would get into a situation where it would have to add on to the plant or build an equalization basin. The flows have continued to rise. On rain days the inflow and infiltration rates continue to rise more than the customers. In April, the plant was at 125% capacity. On an average day, it is designed for 2.3 million gallons and it was 25% over that. On a dry weather period there were no problems and the average flow was approximately 800,000 gallons per day. To treat the rain water is very expensive and puts stress on the plant. There are pictures and videos of the problems. Approximately two weeks ago, the plant was inspected. If the Town does not do something, an equalization basin will have to be built to handle the rain water. When it gets to 80% capacity the State requires you to have a plan. The plant isn't at 80% on a yearly average but if it gets to that point the State will ask for a plan. Ten years ago he wanted to start putting money into the ground to protect everyone's investment.

Mr. Farmer stated he is here to comment on condemnation. However, they have come up with several options other than condemnation. It is not their desire to condemn anyone and they have tried to get together and work with the parties. Everyone is welcome to come to the plant and scrutinize what they are trying to accomplish. The condemnation will not increase the cost of Bynum Fanyo's contract. Consolidation could reduce sewer customer rates. The plant is in great shape except on rain days. In 2010 there were no overflows and one in 2011. A question was asked if GRW did a report on Ellettsville's system. Ellettsville has a TV camera and a combo jet rodder cleaning truck. Their guys are sent out on numerous occasions with the TV camera to find problems so they can be repaired. The system is cleaned every year and NRSC and Eastern Richland Sewer Corporation's ("ERSC") sewers are cleaned when they have a problem. The Ellettsville Utilities' staff is paid through sewer collections revenue. They are a good staff. Mr. Farmer came on board in 1997 to try and fix the problems. He reiterated when it rains the plant is at 125% capacity. The Town has been replacing the clay pipes to reduce the I & I. The Town pays \$715,000 a year for the plant. Mr. Farmer hopes he can make the plant last and remain in the same shape as when it was built 20 years ago until it has been paid off. Then, the \$715,000 can go back into the ground. There is a lot of room for growth on an average flow but there isn't any room for growth when it rains.

Dan Swafford – Asked what the daily average flow is. Mr. Farmer responded it was 1.1 million in 2010 and that is 53% to 54% capacity. Mr. Swafford asked if an average has been compiled for 2011 to date. Mr. Farmer answered he has a daily average in his report but does not know the yearly average for 2011. Mr. Swafford asked if the 80% was over the limit. Mr. Farmer replied it is not over the limit but is a measuring point for IDEM. Mr. Swafford asked if the I & I is resolved what is the lifespan of the plant. Mr. Farmer answered the plant could have a 20 year life span. The equipment replacement account keeps the plant current and takes care of faulty equipment. The plant has never had a violation.

David Drake – Understands all three entities paid a certain amount for the construction of the sewage treatment plant. As far as the day to day operations, who pays for the electricity and treatment of the I & I. Mr. Farmer responded after the plant was built each entity pays a portion into an equipment replacement account. Anything that fails and is connected to the plant, the money is taken from the equipment replacement account to replace it. The day to day operations and maintenance costs is in the Town's budget. If it goes above the budget then Ellettsville Utilities has to incur the costs. Mr. Drake asked if the cost is divided between all three entities, is it divided up by the percentage of customers and not what is being contributed to the plant from each system. Mr. Farmer answered that is correct. It was a set price in 1985 and 1986. Mr. Drake asked how much is coming to the plant from a certain system paying based on their customers. Mr. Farmer replied they are just paying for water use and not the wastewater that comes out of their system.

Nancy Elkins – Asked if they're paying for 800 customers when they only have 240. Mr. Farmer replied that each customer pays their wastewater bill. The portion of the payment of the plant was divided by percentages and not customers. The 2.3 million is divided by so many hook ons.

Dick Sanders – Asked of the \$715,000 annual payment, is less than 50% contributed by the Town. Mr. Farmer stated he did not have the exact figure. NRSC is around 10% and the Town is above 50%. Mr. Sanders asked if the equipment was purchased by all three sewer companies. Mr. Farmer said that was correct.

L.K. Alexander – The plant was at 125% of capacity during a certain wet period. NRSC has approximately 5% of the customers. If NRSC is contributed twice as much of their percentage that is approximately 10%. If the plant is at 125%, a small portion of it is coming from NRSC. If NRSC has maintenance issues they need to be corrected. Mr. Farmer responded unfortunately that is not correct. Some days 7 million gallons flow through the plant and NRSC had 3 million gallons flowing through their flowmeter and that is not 10%. NRSC has 10% of the hookons and 240 customers which is less than 10%. Mr. Alexander got his number from Mr. Dompke's chart which showed NRSC having twice as much during wet periods as the system as a whole. Mr. Dompke replied the reason behind this is because the bottom line was an average of all three systems combined which make Ellettsville and Eastern so much lower than NRSC was during that period.

Nancy Elkins – Asked if the capacity of the plant is 7,700 customers and 99.6 gallons per customer. Mr. Farmer answered no, it is 2.3 million gallons. Ms. Elkins stated according to their contract they can have 99.6 gallons per customer and a capacity of 7,700. Mr. Farmer reiterated the plant has a capacity of 2.3 million gallons as permitted by the State. He has never seen the contract referenced by Ms. Elkins.

NRSC/ERSC Representatives, comments regarding condemnation/GRW report

Larry Barker, Eastern Richland Sewer Corporation Board of Directors – Since June 13, 2011, there has been an approved merger of NRSC and ERSC by the IURC. The entity is named "Eastern Richland Sewer Corporation." ERSC has the financial means to make the repairs without going to a capital improvements bond or raising rates on their customers. No public necessity is seen for the Town to condemn ERSC since it is required to make the repairs to the system in accordance with the IURC order. ERSC on two previous occasions has offered to fix and help in the cost of the televising of the system and the Town has not acted upon this offer. The IURC does have the authority to enforce this order and Jim Buddembaum will explain the order.

Jim Buddembaum, Council for ERSC and NRSC – Tim Karns is associated with his law firm. It is true the IURC approved the merger last week. The merger has been consummated. The Secretary of State has accepted and approved the merger effective June 23, 2011. NRSC as a corporation no longer exists. The only corporation that exists is ERSC. There are conditions to the approval of the merger including leveling rates. The most important condition goes to whether or not the public need is there. It is their position that the public need is not there and they are asking that the ordinance be tabled at this time. The IURC did order that there be improvements to the system. Through the IURC process, ERSC made a financial commitment that it is going to improve the NRSC system. The problems that exist will not be ignored. It was brought up during the IURC process and was part of the approval. The public need is not there because the private funds that have been generated by the former ERSC members are going to be used for improvements. It is not money Ellettsville's rate payers or taxpayers, either in the form of increased rates or taxes, will ever have to pay. The merged entity will remain a regulated entity before the IURC. Its rates will be subject to regulation and its activities will be subject the IURC's oversight. The IURC has statutory authority and the ability to enforce their own orders. The ability to enforce in the most extreme situation is that the utility be taken over and someone else operate it properly and in accordance with their orders. The most likely scenario if someone was to ignore an order, such as improving a system, is that they will be brought back to the IURC, the ability to obtain rates will be more heavily regulated and the IURC will require every time any contracting, improvements or services performed would have to make a filing in advance. The IURC has the ability to keep their thumb on the utility to make sure they do what is necessary. ERSC testimony presented at the IURC states they will use approximately \$500,000 to begin the improvements which will be made within the next 12 months as required by the order. Long term repairs will be needed as I & I is a constant problem for all systems. Presently, the public need

isn't present for the condemnation. If the stated purpose is to improve the former NRSC system then the merger is the way to get it effectuated. They are requesting the ordinance be tabled for 18 months. They have collected 180 to 200 signatures of residents of NRSC and 20 to 25 citizens of Ellettsville on a petition in support of their petition to object to the ordinance should it be passed.

Dan Swafford – Asked if ERSC is willing to fix the system within 12 months at no expense to Ellettsville or Ellettsville Utilities what do they want from the Town. Mr. Buddembaum replied they are asking that the ordinance be tabled until some period of time that exceeds 12 months or perhaps 18 months. Darla Brown, Town Attorney, stated a proposal was received and no agreement has been made. David Drake stated they have talked about tabling the ordinance until the next meeting, initially, to find out if there would be an opportunity for discussion. Mr. Buddembaum stated this agreement was discussed last year and quickly updated based on the merger. There have been some attempts from Larry Barker to find out if there could be an amicable resolution. Mr. Drake stated they have not had any discussion on tabling the ordinance for 18 months. Mr. Swafford asked if they did agree to table the ordinance, could there be a monthly meeting to monitor progress. Mr. Buddembaum was in favor of a four member operating committee with two people each from ERSC and the Town. Basically, they are equal systems.

Mike Farmer, Ellettsville Utilities – Jim Buddembaum stated there is not a public need for the condemnation. The report seems to indicate there is a public need for some kind of action whether it be repairs or condemnation. He read a letter dated 1974, six months after the old plant went into operation, stating *“there is infiltration in the lines to the point of maximum capacity of the disposal plant. This infiltration seems to be coming from the ERSC lines. The officers of ERSC have been contacted on numerous occasions but no concrete response from them is forthcoming.”* Mr. Farmer asked why ERSC would have the time or the focus to repair NRSC's system when they have more problems than NRSC. ERSC has at least six to ten manholes overflow everytime NRSC has an overflow. This is by McDonalds, on Pat Mitchell's property and some where people live. After one year of an enormous leak in NRSC's system, they had to be forced to fix it after they went to the court. How can the Town be certain ERSC will be forthcoming and repair not only NRSC's problems but their problems as well? Mr. Buddembaum stated the IURC order is a big obligation. ERSC is regulated by the IURC. ERSC made a commitment in sworn testimony before the IURC.

Privilege of the Floor

David Drake – Advised members of the public they have three minutes in which to make their statement.

Barbara Davidson – No one has been in the Ellettsville system to inspect it and their lines are 11 years older than the former NRSC lines. All they have is the word of the Town's contractor. Ms. Davidson asked if the Town would let someone examine their lines. Mr. Drake stated if they were legally required to do so. Ms. Davidson stated there are already contaminates in the ground so what's the big deal about their overflow. They have greenery around their manhole and it doesn't flow directly into Jack Defeat Creek. There is a ditch that runs along Maple Grove Road. Ms. Davidson again asked permission to inspect the Town's lines. Mr. Drake replied no. The Town has crews who televise their lines on a regular basis to find problems.

Phil Schonhoff – Is a member of the former NRSC. The collective sewer works were found and developed over time and at different times to provide the necessary health function to benefit the members of all three utilities. Earlier the Town invited NRSC to merge with Ellettsville Utilities. NRSC declined to do so because the Town sewer works opted out of any governmental regulation by the IURC. NRSC's board felt it was in the best interest of its membership to merge with a sewer works that provide the same measure of regulatory oversight to its rate payers. Therefore, NRSC's board decided to merge with ERSC. ERSC is regulated by the IURC. The solution is to stop the condemnation and move forward with the IURC approved merger in to one ERSC unit. A neighborly cooperation needs to be developed with the Town to minimize the I

& I excesses. The condemnation through attorneys creates bad feelings. We live in this community and this is not for profit, they're just trying to take care of business. He has been on the NRSC board for 12 years with no pay. A lady takes care of their paperwork for \$100 a week.

Gail Bough – The comment that the work could be done with Ellettsville for free labor is not true. They are going to have manpower and resources, buying equipment, paying salaries and all other expenses. ERSC has money in the bank to fund the repairs and they are obligated to so at this time. Why jeopardize Ellettsville's finances to take over something that could be repaired without their help?

Dick Sanders – Considers everyone to be reasonable people. The merger preserves the constitutional rights of the customers of ERSC and that they still have a voice in the affairs of their corporation. The Town doesn't have an advisory board and doesn't have a way for the citizens to participate in the affairs of their utility department except to vote. It is insulting to state ERSC would not follow-up on the obligation and commitment agreed to with the State. More than half of the annual payment for the plant is being made by customers of ERSC. All of the equipment that has been purchased is by funds contributed by all entities putting sewage into the plant. Condemnation is a costly, wasteful process. ERSC has obligated themselves to fix the system. ERSC has replaced lines and made repairs. ERSC is committed to maintaining their system.

The meeting was adjourned at 8:34 p.m. for a break and reconvened at 8:44 p.m.

Discussion by Town Council

Dan Swafford – Has lived in Ellettsville all of his life. In 1972, Ellettsville couldn't add on to the Town but a lot of people in this room worked it through and built a sewer plant. They got Ellettsville growing again. It is now time for everyone to work together and quit fighting. Everyone is still neighbors, lives in this community and needs to work out their differences.

Dianna Bastin – Has read every report. It started with the consolidation report that was ordered. It was never released publicly and most have not seen it. It was discussed but there wasn't an agreement because personalities got in the way. The parties went a different way and rates were raised. She has lived in this Town for 50 years and it bothers her this has turned out to be personal. They can't even agree on the cost of postage for billing. NRSC waited until the Town was already financially invested in condemnation and decided to consolidate. Now, it is the Town's fault – it's bogus reports. The Town paid for this report. The Farmers did not pay for the report because the Town hired an outside company. It has turned personal. If NRSC is paying for this plant, why have they not addressed the issues? Ms. Bastin asks the same thing of Ellettsville. Ms. Bastin gets out where they're working, learned about the equipment, seen the films and the cameras running, she's learned the differences between root balls that can and cannot be gone through and she has asked questions. She has been to the plant on surprise visits. Whenever there is a problem, NRSC would always ask to have theirs fixed first. The Town's employees have never hesitated to help. Now, the Town is talking condemnation and taking it under Ellettsville's Utilities. We need to take care of what the problems are for the plant for which we are all paying. She gave the following example: She leases her Toyota. It belongs to Toyota Financial, Toyota and her. She takes good care of it and takes that seriously. This has turned personal and it is awful. The Farmers are the contractor for the Town and have been for a long time. Since she has been on the Town Council, she has never been told they weren't cooperative, wouldn't explain or that you couldn't see it. As for the request for televising the Town's system, they didn't televise NRSC's system just because they said yes, the Town got a court order.

Scott Oldham – Wasn't here in the 70s so he doesn't have the personal bias or animosity that some people are exhibiting on both sides of the issue. There was a comment this is getting into the pockets of the people of Town of Ellettsville. Since his four years on Town Council, it has repeatedly been in the pockets in the people of the Town through a variety of lawsuits and other legal maneuvers on both sides of the

issues. There have been repeated attempts over the last three to four years to reach an agreement and it has taken the condemnation to get everyone together to discuss the issues. There are a great deal of people on ERSC's board he holds in high regard because he knows them and has had the opportunity to sit down and talk to them. He thinks their ideas are similar – in concert with each other. It would be nice to work out some type of agreement but it's taken this action by the Council, finally, to bring this to a head. Otherwise, nothing would ever have been done. Eastern and Northern would have never merged if this had not occurred. In that regard, there was never any movement toward a merger prior to the proceedings. That would never have occurred. He questions whether or not all of the information disseminated was done fairly to every member of both organizations. We are now to the point that it is has taken action by the court and the IURC. He understands NRSC's desire to be represented. There have been proposals made by the Town for merger of all three systems and creation of the ability to give the representatives of ERSC and NRSC seats at this table. Those proposals went either unanswered and declined. The Council has to look at what this is going to cost Ellettsville in the long term. He remains open, in the very near term, to some type of agreement between two, if not three, entities. He, personally, does not see any other option for the Town. This has been attempted over the years and it is now at the point where a court is being asked to decide. No matter where we get at least we're farther along at getting these problems fixed.

Phillip Smith – Has been in this area since 1982. He was a NRSC customer for 20+ years and is now an Ellettsville customer. Ever since he has been on the Town Council he has heard, not only from Ellettsville, but from ERSC and NRSC, that they want to get together and have an utilities board. Four years ago, the Town Council attempted to form an utilities board and all three entities got together. He had never heard so much complaining and it's was over the last 50 years. It is not 50 years ago, this is 2011. Something needs to get done and if it takes condemning the old NRSC, so be it. Personally, he would like to see what happens now that ERSC and NRSC merged especially with the IURC looking over their shoulders. But, something is going to be done. If he gets re-elected this fall and in the next four years, something is going to happen, one way or the other. When he attends meetings in Bloomington, he's told all they get done is gripe with each other and act like a bunch of kids. This needs to get done.

David Drake – Initially got on the Town Council for the first time in 2000 and this was an old topic discussion at that time. If the Town Council had not started the condemnation process they would still not be doing anything except either not talking or talking about things that didn't accomplish much. The condemnation process forced all of this to happen. People have said the Town wasted a lot of money in attorney's fees but he doesn't look at it that way. If the Town hadn't "wasted" that money they wouldn't have gotten to where they are now. It has been suggested that the Town Council should not take final action on this Ordinance at this meeting. He tends to agree with that because we only got the IURC ruling on Thursday afternoon. It appears to him, on the face of it, that the IURC actually gave the Town much of what they were trying to accomplish which was to order that the NRSC system be fixed and maintained but that also ESRC extend that requirement to their own system as well. This is what the goal of the action has been from the very beginning. This was not a power grab from Ellettsville, it was going to cost a lot of money to fix this system. The reason for this was to finally do something about fixing and maintaining the systems to protect the sewage treatment plant that all three entities pay for and to try and lower some of the costs that the Ellettsville Utilities' customers are paying for to treat all of the extra gallons coming into the system that aren't suppose to be there. The reason he would be in favor of not taking final action at this meeting is to allow the Council time to answer some of the questions they have about the IURC ruling. One of the main questions is how it will be enforced. Can the Town realistically expect the order to be enforced or will the Town find itself in the same position a year from now? Perhaps an agreement can be made with ERSC that is specific and can actually be enforced. He would rather ERSC spend their money to fix the problems than Ellettsville. If these things are possible and if it's reasonable to expect that it's actually going to happen instead of talking about it which is all that has been accomplished in the last 11 years. There were a lot of valid reasons why the Town

took this action. It has been a little expensive but if the Town hadn't spent the money to do it nothing would have happened. He is willing to give it a couple more weeks to see if they can get a few answers to questions and work out an agreement with ERSC.

Scott Oldham – Still believes there is room for everyone to investigate one sewer corporation for the entire area. He has repeatedly asked for a plan from NRSC and ERSC and has yet to receive one. The Town has a study that shows a significant decrease in rates and improvement in overall services should the sewer corporations merge. There has been one proposal submitted unilaterally from Eastern. On the face of it, he could not vote for the agreement but is willing to entertain a very quick series of intense negotiations to make it happen. He doesn't want to get the point where everyone is going back and forth with court rulings hanging over their heads and down the road spending more money to enforce court rulings, contracts and orders.

Dan Swafford – They will leave this with the Town Attorney to start intense negotiations between all parties.

Scott Oldham - Stated since NRSC has asked the Town Council to reconsider the ordinance it would be incumbent on NRSC and ERSC to provide some type of initial document. The document would be something other than what has already been provided or with some type of direction they want to take. If NRSC or ERSC doesn't want to combine organizations then they need some type of other document that would be the starting point for negotiations.

Dianna Bastin – Is not convinced the IURC will actually police the repairs. Thinks its reasonable they could postpone the ordinance for a couple of weeks to ask questions and do research.

Dan Swafford made a motion to table Ordinance 11-07 Condemning the Real and Personal Property of Northern Richland Sewer Corporation. 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.

Scott Oldham – Asked that Ordinance 11-07 be placed on the agenda for the July 11, 2011 meeting.

Adjournment

Scott Oldham made a motion to adjourn. Dianna Bastin seconded. Motion carried. David Drake adjourned the meeting at 9:05 p.m.

David Drake, President

Scott Oldham, Vice-President

Dianna S. Bastin

Phillip Smith

Dan Swafford

Sandra C. Hash, IAMC, MMC
Clerk-Treasurer