

## **June 28, 2010**

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, June 28, 2010 at the Fire Department Training and Conference Room. Phillip Smith called the meeting to order at 7:31 p.m. Scott Oldham led the Pledge of Allegiance. Phillip Smith led in prayer.

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

**Supervisors Present were:** Jim Davis, Jim Ragle, Connie Griffin, Jeff Farmer, Mike Farmer and Rick Coppock. Tony Bowlen was absent.

### **Approval of Minutes**

Phillip Smith entertained a motion for the approval of the minutes for the Regular Meeting and Executive Session June 14, 2010. Dan Swafford so moved. Scott Oldham seconded. Roll Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

### **Accounts Payable Vouchers**

Phillip Smith entertained a motion for action to pay Accounts Payable Vouchers. Dianna Bastin so moved. Scott Oldham seconded. Roll Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

### **Ordinances on First Reading**

#### **Ordinance 10-11 to increase the Cable Franchise Fee**

**Sandra Hash**, explained in 2009 the Council requested an increase in the cable franchise fee to equal the other areas in Monroe County from 3% to 5%, in the form of a letter. The letter wasn't the proper procedure so Ms. Brown authored this ordinance to request the increase from Comcast.

### **Ordinances on Second Reading**

#### **Ordinance 10-10 to amend Section 36 of the Ellettsville Town Code concerning Personnel policies**

Sandra Hash expressed a concern with the first section 36.001 the Clerk-Treasurer was stricken as someone to go to with questions about insurance or PERF and it was added that the employee shall consult the Supervisor if changes in the employee's insurance status changes. She wanted to confirm that the Clerk-Treasurer is still in the equation since the Clerk-Treasurer does the payroll and the withholding needs to start a month in advance. If the information is not received timely it could create double premiums later. Dianna Bastin responded due to the new HIPPA laws insurance questions must be answered by a licensed insurance agent and PERF has a 24 hour on line service for employee questions. Sandra replied when employees or their spouses call the Clerk's office she assists by giving phone numbers to call with their questions. Phillip Smith explained it puts more responsibility on the supervisor to keep in touch with the Clerk-Treasurer and he thinks it will work.

Dan Swafford asked Darla Brown if the new HIPPA law Dianna mentioned would affect the Clerk-Treasurer's role. Darla replied she could not answer that question because she had not looked at it from that angle. Dianna added they couldn't answer that definitively either but they wanted to err on the side of caution and referred to the discussion with the insurance agent who said they were tightening down on the HIPPA regulations. The responsibilities will be the supervisors because they are not going to be asking any medical questions. They are just going to give them the numbers to call, and need to keep in touch with the clerk on the payroll matters. Sandra gave a brief description of the procedure used in the Clerk's office for collecting insurance information and reiterated her concern that she needed to be part of the process but did not need privileged medical information. Phillip replied the Clerk will still be part of the process just not the initial contact.

Dianna explained she did not go through her employer for answers to insurance questions even though they have a personnel department she has always called the insurance company directly. This change would not take the Clerk-Treasurer out of the equation. It makes it easier for the employee to work with their supervisor at their work place and the supervisor would make the trip to the Clerk's office rather than the employee. Scott Oldham added it makes the supervisors more responsible for their own department and personnel. It doesn't prevent an employee from coming to the Clerk's office if they want to. Dianna feels it will stream line the process.

Dianna Bastin made a motion to approve Ordinance 10-10 to amend Section 36 of the Ellettsville Town Code concerning Personnel policies. Scott Oldham seconded. Roll Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

### **Old Business -None**

### **New Business**

#### **Agreement between the Town of Ellettsville and the Metropolitan Planning Organization**

**Connie Griffin, Director of Planning** explained the changes from the previous agreements with the MPO. In the Scope of Work a new ADA Compliance Plan has been added. She has been looking for grant funding to help with an ADA Compliance Plan and now the MPO is willing to give us a \$6,000 reimbursement with some in kind from us. So this is a great addition. The Thoroughfare Plan section was removed since that has been completed. The Traffic Counting Supplies for \$3,200 has been removed and the Traffic Volume Counting was decreased to \$6,400 due to an adjustment in the traffic counting schedule. The Infrastructure Management Plan was boosted by \$2,400. Phillip questioned the ADA Compliance Plan reimbursement. Connie answered this would allow us to do the work and be reimbursed for \$6,000. It will help us get closer to submitting our 5 year DNR Master Parks and Recreation Plan. The Plan will make us more confident in signing a Section 504 form which is why it was held back the last time.

Phillip requested a motion to approve the agreement between the Town of Ellettsville and the Metropolitan Planning Organization. Scott Oldham so moved. Dan Swafford seconded. . Roll Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

#### **Agreement between the Town of Ellettsville and the Schneider Corporation concerning the Heritage Trail**

**Connie Griffin, Planning Director** explained this is being submitted for a first reading. She would like Main Street to review the agreement and make comments before it is finalized. She suggested a few changes. The first is to correct the signature to Phillip Smith. She would also like to break phase I Archeological Records to phases pointing out that in Attachment B, Schedule of Fees, the Categorical Exclusion Document also contains the section 106. That was one of the hold up on the bridge money was the need for a full section 106 which is the historical element and archaeological research. Darla did not have any concerns with the agreement, but if the Council agree with Connie's suggestion that Main Street look it over she would suggest the agreement be tabled until the next meeting. Scott Oldham so moved. Dan Swafford seconded. . Roll Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

### **Aflac Insurance for Town Employees**

**Sandra Hash, Clerk Treasurer** requested approval from the Council to add Aflac to the towns insurance benefits, 20 employees would like to participate in the plan. Bill Phillips is the Aflac agent. Phillip requested a motion to accept Aflac insurance for Town Employees. Dan Swafford so moved. Dianna Bastin seconded. . Roll Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

## Supervisor Comments

**Jeff Farmer, Ellettsville Utilities** announced they had finished the water lines on First Street and Ritter and they will be replacing sewer line in Richland Manor after July 4. He wanted to make the public aware that some of the roads will be closed at times.

**Connie Griffin, Planning Director** attended a meeting on June 25 at the school with Carol Gardner to discuss a PEP grant that they are considering applying for. It is a federal grant. It is an interesting grant and it has a lot to do with getting kids active. Especially after Junior High they are often not offered Physical Education classes. This is being offered to make physical activity part of their life. Connie introduced Tamra Ranard who is the grant writer for the school and is here to answer any questions concerning the grant. Tamra explained she is the technology director for the school district but she is also a professional grant writer. She watches for this grant to come out each year. It is call the PEP grant for physical education. Designed around the fact that with the higher standards required with the no child left behind standards generally they cut PE programs. There is a correlation between physical activity and academic achievement. With the time constraints something has to be cut and it is usually physical education. This particular grant is designed to provide activity opportunities outside the school day. This grant is funded at \$750,000 a year for three years. She has never seen it this high, but she thinks it is because they are asking them to begin to incorporate community organizations. It is required that somebody from the local government sign off on this grant. You do not have to be involved in the grant necessarily, but they want to see that it is a community supported endeavor. The school is to put something in place such as curriculum, instruction, equipment, professional development or after school activities for kids. They want to know that the community is in support expressing to them that nutrition and activity is important. The money could be used for trails. Could the town use some of this money to help finish the trails? Could we come up with a program that allows kids to have access to bicycles or roller blades? Basically the meeting on Friday was pulling together County Government, YMCA, Boys and Girls Club, Bloomington Hospital and Sports Plex. There were 15 to 20 people around the table. We explained here is a bunch of money to promote physical activity, fitness and nutrition with Richland Bean Blossom Community School Corporation students K-12. What are some ideas? Connie had a lot of good ideas and spoke to you and you had questions.

Scott Oldham stated this dovetails very well with the goals we have set for ourselves for the both Heritage Trail and otherwise. Quite frankly he doesn't see a down side to this other than we will be diverting some temporary resources to getting these facts and figures. But in the end we win because it does forward our goals significantly. Probably it actually expands upon those goals to a place we had only hoped to achieve with other bench marks 5 or 6 years down the line. This is the opportunity to benefit the school as well as the town as well as the community as a whole by making those funds available. I don't see us getting that type of funding level in the near future outside this grant.

Dan Swafford asked if the grant required a match. Tamra replied there was a 10% match the first year and 25% for years two and three. However it is not a cash match. It can be volunteer work or equipment that we already have. She is looking at what the Town has already done with the trail system and a lot of those funds could be used to match as long as it wasn't federal money. She asked if the Town would be paying for the grant with federal money. Scott Oldham responded some of the trail will be paid with federal money and some will not. Tamra said the grant will not allow matching federal funds with federal funds, but any other money could be used. The match is a concern but not a road block because of the ability to use so much volunteer and existing equipment time. Facilities can also be used. Dan asked if she needed their response before the next meeting on July 12. She said yes she needed the response before July 12<sup>th</sup>. Scott Oldham suggested the Council give conditional approval now with the final approval to go in on the 12<sup>th</sup>. That gives her 3 weeks to work on it and bring it back to us at which time we can refuse out corporation or go forward, but as he understands it tonight she need conditional approval that we would like to be involved with this. Tamra answered that is correct we can work on the details of what exactly you want. She can work with Connie on that. Once she has it written, each Council member could read it and then they could say yes, no, or you want out altogether.

She stated it could not fund everything asked for, things which don't fit the funding. No permanent structures can be built. She was able to build obstacle courses and chin-up bars, etc. which she had considered permanent, but they did not. The trail around the YMCA in Owen County was built with a PEP grant she wrote for them. Dan Swafford asked if it was a three year grant with \$750,000 per year. Tamra responded that was correct. Phillip Smith said it sounded like a good deal and Dan Swafford added it was a win-win for all. Dan asked if Connie Griffin had any input on the subject. Connie stated a couple of things were brought up at the grant meeting on Friday. One was, this could possibly help to pay for someone to work with these kids. It could possibly fund a couple of people to work with these kids after school hours or on weekends. They would have to work for that grant specifically and not for any other grant. Also, items that are purchased with the grant could then become part of the school systems or Town's ownership after the grant is over. This grant is specifically designed for our school kids in this district. Kids in a school system 20 miles down the road could not come and participate and use that particular program. Tamra added it could cover home-schooled kids as well, regardless of whether they attend R-BB schools as long as they live in the district. Scott Oldham made a motion for the Town to participate in and/or give conditional approval to participating in a PEP grant. Dan Swafford seconded. Roll Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

**Sandra Hash, Clerk-Treasurer** - announced a letter from CATS had been received. Each Council member was provided a copy of the letter. They are requesting The Town of Ellettsville contribute 50% of their franchise fees to the annual operation of CATS. They want to be considered in the 2011 budget.

### **Privilege of the Floor**

**Winfield Jacobs, resident of 609 S. Sale St.** - states they have a problem. After 40 years of use there is a drain problem on his lot. Two years ago he came before the Town Council and made a request and did get some reprieve of the problem by getting a ditch cleaned out. At the present time there are three or four lots involved. The drainage ditch has filled in at the end of the lots. It is backed up and needs to be cleaned out. The black top is higher now and water is backing up and pooling with mosquito production. Mr. Jacobs shared pictures of the problem area.

**Rick Coppock, Bynum Fanyo** - stated he was aware of the problem. They looked at it a year or so ago and came up with a design. Over the years, sand applied to the roads has accumulated in the ditch. Also, somewhere along the line, a property owner had thrown some debris in the ditch which stopped it up. They worked up a grading plan that would clean out the ditch. It needs more grading to it. He talked to the neighbors about allowing them to remedy the problem and they agree. It results in significant pooling in Mr. Jacobs yards after heavy rain events. It is drainage from the roadways and is a part of the road drainage system. It's not from the property owners. It is a top priority. Mr. Jacobs added there was no problem until the dumping by the neighbor into the ditch. He has removed the debris himself by hand. Scott Oldham asked if there was an easement or do they need the property owners to sign off on it. Rick Coppock responded they would probably just need to get a right of entry signed for it.

**Wes Gastineau, Ellettsville First Assembly of God** - requesting to close Park Street July 17th from noon till 9:00 p.m. while they hold their eighth annual Men of Purpose Cruise In and Car Show. They did it last year and are requesting it as a safety issue. Phillip Smith stated he saw no problem with it. He asked Jim Ragle if he saw a problem with it and he responded he did not. Phillip Smith then asked if Jim Davis saw a problem with it and he answered he did not. David Drake stated he did not have a problem with it, but every time they close that street down, he hears complaints from area residents about how often it seems to be happening. His concern is that they look closely at the requests and make sure it is really needed for that particular event. The last event, he heard from residents in the area because there was hardly anyone in the road. Because of the cars in this event, he does see the need for the closing, but just wants to caution the Council members that they take a close look before closing the road. Scott Oldham added Town equipment needs to be used to block the road as well. Dianna Bastin made a motion to close the road from Campbell's Park Drive to the entrance to Turtleback in front of the parks for the Men of Purpose Car Show on July 17 from 12:00 p.m. to 9:00 p.m. Scott Oldham seconded. Roll

Call Vote: Phillip Smith – yes; Scott Oldham – yes; Dianna Bastin – yes; David Drake – yes; Dan Swafford – yes. Motion carried 5-0.

**Robert Pettyjohn and Tony Butz, Espy** - Mr. Pettyjohn spoke and stated they were a telecommunications auditing firm located in Bedford. Mr. Butz is their national sales manager. He went on to say 80% of all telecommunication bills have errors. 85% of the errors found favor the provider. Their company recovers those funds for the company. Their auditors find errors using the codes. Errors in billing include incorrect or non-implementation, multiple billing, added charges, incorrect codes. They charge no up-front fees. They are a not for profit agency. They are paid 50% of your recovery. They do not bill you until you have been paid by your provider. They also charge 50% of your first year of future savings. Tony Butz added they are able to go into the company as an employee and negotiate for you to recover those erroneous charges. Sandra Hash noted she had gone over the billing and didn't find any errors. Tony Butz responded that is common, but went on to say they were able to view the coding used and see things the average person could not. Phillip Smith asked if it had ever back-fired and the client ended up having to pay more than they were originally paying. Tony Butz answered no they had not. Mr. Pettyjohn and Mr. Butz offered to provide Sandra Hash and Darla Brown copies of their agreements to review.

**Ruby Duncan, resident of 4501 Deer Park Drive** - said there is a branch that runs behind her house on the south side from the east to the west that takes out all the water in that area. Beavers have built at least two dams. The water is backing up and getting deep. She fears children will be injured if they go down there. Also, mosquitoes will get bad. She can't have her yard mowed because of all the water. She asked if there was anything that could be done. Dianna Bastin told her there was an organization called Wildlife Incorporated which may come and relocate the animals. Mrs. Duncan states she has talked with two wildlife people without any results. Dianna Bastin added she could also call DNR to see if they can help.

**Russ Ryle, Reeves Road resident** - stated for the last several years there have been a number of issues with PUD zoning and the completion of the plan as promised. He and his wife would like to suggest to the Town they adopt a slight change in their policy that whenever the Town approves a PUD development so the Town and the taxpayers of the Town do not become the financial assets of last resort when there are problems. Evelyn Ryle then read their letter into the record.

*P.U.D. stands for planned unit development. It is a zoning tool by which land not meeting regular zoning requirements can be developed often with a higher density of construction for the economic benefit of the developer and property owner. The granting of P.U.D. exceptions seldom benefits the Town of Ellettsville. It produces housing units that have proven very problematic to construct, to sell, and to maintain. Its neighborhoods present ongoing density-related parking, transportation, and safety issues that will last almost forever. Two of our last major P.U.D. neighborhoods, the Mustang Drive development and the Autumn Ridge development, were not completed as promised in a timely manner even with the generous financially-motivated concessions effectively granted to their developers under the provisions of their P.U.D. status. Both continue to burden our town and its taxpaying citizens with their considerable need for staff time and remedial services paid for out of our town's budget. The P.U.D. zoning provision can be a useful tool, when properly applied, to develop land not quite up to other zoning requirements. However, these projects contain an inherent risk of problems, failures, and becoming a burden to our town for years to come. We humbly propose to the Town of Ellettsville, Indiana that it adopts and enforces the following policy. Any project approved under the P.U.D. zoning status must include provisions requiring a bank letter of credit, performance bond, or other financial guarantee sufficient in amount to cover the full cost of roads, sewers, water lines, and other infrastructure to be constructed. These financial documents should be in force for a minimum of three years with an additional three year renewal period guaranteed if needed. Further all parties must agree that the Town of Ellettsville, Indiana will seek to use these guaranteed funds as needed to complete project infrastructures at the end of a two year period from the date the P.U.D. is approved regardless of the completion of structures in this project. Further we propose as a matter of public safety the town restrict additional building, utility, and occupancy permits related to the construction and*

*occupancy of any structures in a P.U.D. project after two years from the original date of project approval. These would only be approved after all roads, sidewalks, landscaping, and other amenities as promised are in place within the completed parts of the development. Additional letters of credit or performance bonds in a sufficient amount to guarantee the town can complete the balance of this project's planned infrastructures at then current prices must also be provided before additional construction commences. Respectfully, Russ and Evelyn Ryle*

Phillip Smith suggested this should be brought before the Planning Commission first. They will then send it to the Town Council.

**Adjournment**

Dianna Bastin made a motion to adjourn. Dan Swafford seconded. Motion carried. Phillip Smith adjourned the meeting at 8:42 p.m.

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Phillip Smith, President

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Scott Oldham, Vice-President

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Dianna S. Bastin

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David Drake

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Dan Swafford

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Sandra C. Hash, Clerk-Treasurer