

## June 8, 2009

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, June 8, 2009, at the Fire Department Training and Conference Room. Dianna Bastin called the meeting to order at 7:30 p.m. with 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:** Jim Davis, Jim Ragle, Tony Bowlen, Mike Farmer, Jeff Farmer and Connie Griffin were present.

### Approval of Minutes

Dianna Bastin entertained a motion for the approval of the minutes for the Regular Meeting May 26, 2009. Dan Swafford so moved. Phillip Smith seconded. Motion carried.

### Accounts Payable Vouchers

Dianna Bastin motioned to pay Accounts Payable Vouchers. David Drake so moved. Scott Oldham seconded. Motion carried.

### Budget Meeting Schedule

Dianna Bastin announced all budget meetings will be held at the Fire Department Conference and Training Room located at 5080 W State Road 46 unless otherwise listed.

- Monday, June 29, 2009 at 6 p.m. Supervisors will present their budgets as a group
- Monday, July 6, 2009 at 6:30 p.m. Round table with all Supervisors to discuss budgets
- July 29, 2009 will be the first publication
- August 5, 2009 will be the second publication
- Monday, August 10, 2009 at 7:30 p.m. Pre-adoption Public Hearing of the 2010 Budget
- Monday, August 24, 2009 at 7:30 p.m. Final adoption of the 2010 Budget will be at the regular Council Meeting

### Resolutions

#### Resolution 13-09 Transfer of Funds

**Sandra Hash** explained there was a discrepancy in the billing for the 2009 Fleet Insurance. The Police Department was under charged and the Fire Department was overcharged. This Resolution will move \$1,199.00 to the appropriate fund.

Dianna Bastin entertained a motion for Resolution 13-09 Transfer of Funds. David Drake so moved. Dan Swafford seconded. Motion carried.

#### Resolution 14-09 to create a separate fund for receiving and dispensing donations for recreational hiking and biking trails

**Sandra Hash** stated this was discussed at the last meeting. The community has pledged several donations for the trail and this fund is being set up to collect and disburse those donations in order to trace the matching for the \$169,000 trail grant. Main Street is holding some of the donations. The bill paying procedure will be: when the Town receives a bill, a copy will be forwarded to Main Street. They will write a check to the Town for the amount. It will be deposited into this fund and a check will be issued for the billed amount. Dianna read from the Resolution this account is a perpetual fund and is non-reverting at the end of the year. The fund shall be terminated by Resolution. If there remains a balance in the fund at the time the fund is terminated or comes to an end, the balance shall be returned to the General Fund.

Scott Oldham made a motion we adopt Resolution 14-09. David Drake seconded. Motion carried.

## **Ordinances on Second Reading**

### **Ordinance 09-07 to amend Sections 52.006 and 52.023 of the Ellettsville Town Code concerning Private Sewage Disposal Restricted**

**Connie Griffin** stated the current Ellettsville Town Code did not include the term “privy” or “vault” as a definition but they are used in Section 52.023.

David Drake made a motion we adopt Ordinance 09-07. Dan Swafford seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

*The following discussion took place before the vote*

Dan Swafford asked if this ordinance will cover any kind of septic system including porta-johns brought in for special events. Connie Griffin explained the code states “it is unlawful to construct or maintain any of those”. You can not have an outhouse or porta-johns at residential homes. The current codes do not specify contractors or festivals having porta-johns. Connie will research Indiana Code for construction sites and festivals. Sandra stated we are not changing the code; we are adding a definition and defining what it means. Connie said “permit processes” could allow porta-johns on site.

### **Ordinance 09-08 to amend Section 92.01 of the Ellettsville Town Code concerning Streets and Sidewalks**

**David Drake** asked Sandra Hash to make some changes to the wording and delete “it shall be the duty of” to remove any implications the Town had “the duty to remove the snow”. The ordinance now states “the Town may remove or cause to be removed that snow and ice”. Connie said the code does not state how the bill (to remove snow) would be paid for nor do we have one stating who would be in charge of enforcing that particular violation in current code. David Drake stated it would be up to the Street Department to decide how they caused it to be removed.

David Drake made a motion we adopt Ordinance 09-08 as amended. Dan Swafford seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

*The following discussion took place before the vote*

David Drake reiterated the only changes made were taking out “it shall be the duty of” and taking out “Commissioner” and making it Street Department. David does not expect the Street Department to hire people to remove the snow. Scott Oldham asked how is this going to be enforced. There are many people physically unable to remove the snow. Connie stated adding the terms “practical and reasonable” will add common sense to the enforcement of the code.

**Darlyne Sowder**, resident and business owner on Temperance Street is responsible for three fourths of a block of sidewalks. She asked if warnings will be given before removing snow. Dianna stated the “reasonable and practical” will come into play at that time. Ms. Sowder’s other concern is the snow plows throwing snow on the sidewalks. Sandra reiterated this is an existing code about cleaning sidewalks; it has been on the books since 1985. Connie stated a “reasonable path” needs to be cleared for people who want to walk. David Drake reiterated the practical aspect of this ordinance is not being changed; they are taking out the part stating “a lien can be taken out on the property” and making it a fine violation instead. This would be acceptable to most people.

### **Ordinance 09-10 to amend various Sections of Chapter 94 of the Ellettsville Town Code concerning Abandoned, Salvaged and Scrap Vehicles**

**Connie Griffin** read the ordinance asks the Department of Planning Service and Code Enforcement Officer to assist the Ellettsville Town Marshal and Police Department with Enforcement of abandoned, salvaged and scrap vehicles. The adoption of State Code I.C. 9-13-2-1 Abandoned Vehicle definition as it applies to private property and 9-22-1 Officer Defined. The chapter title change is from “Abandoned Vehicles” to now “Abandoned,

Salvaged and Scrap Vehicles”. Code clarification “the Town of Ellettsville does not set the fees for towing or storage. Fees are assessed by local towing companies.”

Scott Oldham made a motion we approve Ordinance 09-10. 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.

**Ordinance 09-11 to amend Section 152.220 and 152.228 of the Ellettsville Town Code concerning Parking, Loading and Driveways, Fees, Fines and Enforcement**

**Connie Griffin** stated the original code pertained to motor vehicles but this amendment will expand the prior code to include recreational vehicles and watercraft. Minor vehicle repairs shall be permitted in R-1 and R-2 zones “if the vehicles under repair are owned by the current owner or resident of the property”. Section 152.220 (C) (7) of the Ellettsville Town Code shall be repealed and addressed under Ordinance 09-17. Section 152.228 has a fee change; driveway permits will go from \$5 to \$25. The violation notification protocol is being expanded by allowing a posted notice to be used instead of sending only certified or regular mail. Tickets may be levied against the property owner who does not comply within 30 days. Subsequent tickets for failure to comply shall constitute a Class E ordinance violation and shall be subject to a fine. The fine shall be \$25 for the second ticket and for each day the property is not in compliance subsequent to the date of the second ticket.

Phillip Smith made a motion we adopt Ordinance 09-11 to amend Section 152.220 and 152.228 of the Ellettsville Town Code. 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.

*The following discussion took place before the vote*

**Ed Bitner**, Main Street resident read the ordinance in The Journal and realized most of this is what he proposed years ago when he was on the Plan Commission. He is glad to see the parking in the yards being addressed in this manner.

**Ordinance 09-12 to amend various sections of Chapter 152 of the Ellettsville Town Code concerning Planning and Zoning**

**Connie Griffin** stated this ordinance is adding “definitions” back into the Town Code that had been removed. Section 152.336 (A) Conditional Use, (B) Special Exception, (C) Variance. Section 152.35 Filing Fees Petitions for all conditional uses and special exceptions: \$150; the Director of Planning Services would enforce and regulate under this section. Section 152.360 Violations and Fines was expanded by adding “Any person, firm or corporation violating any of the provisions of this chapter shall be fined \$25 for each offense. Separate offenses shall be deemed committed on each day during or on which a violation occurs or continues. Any person(s), company, business or non-profit organization that violates any of the provisions of this section commits a class E ordinance violation.”

David Drake made a motion we adopt Ordinance 09-12. Dan Swafford seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

**Ordinance 09-17 to amend Section 152.143 of the Ellettsville town Code concerning Grading and Erosion Control Applicability**

**Connie Griffin** explained the original code included land areas of 1,000 square feet or more. This code will now include land areas of less than 1,000 square feet. The Director of Planning Services proposed this code because of parking on the grass issues and enforcement concerns. This code will allow for parking on the grass for short durations of time but if land disturbing activity, such as parking, causes erosion issues this code would allow enforcement based on erosion concerns. The new ordinance states “The Director of Planning Services or Code Enforcement Officer, upon written order or posting of a notice of violation, shall issue an abatement date of 10 days to repair the affected area. If the person, company or corporation refuses to abate or repair the situation, a Class E ordinance violation occurs and a fine of \$25 will be assessed. Unpaid fines shall be a lien on the

property collected as taxes are collected and turned in to the Town Treasury”. Dianna Bastin stated this will “phase right in to the stormwater issues that we will be addressing in the future”.

Scott Oldham motioned we adopt Ordinance 09-17. 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.

#### **Ordinance 09-15 1-2009 House of Prayer/Mitchell annexation**

**Dianna Bastin** stated this ordinance was discussed at the last meeting. Frank Nierzwicki was not present this evening. Sandra Hash said this is a new ordinance because the legal description was changed. Mike Spencer stated the description did not include all of the lots and this amended the ordinance.

David Drake made a motion we adopt Ordinance 09-15. Dianna Bastin seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

#### **Ordinance 09-16 to rezone the west corner of West State Road 46 and Deer Park Drive from R-1 to R-2**

**Rick Coppock**, Bynum Fanyo and Associates presented the rezone request for part of the track from R- 1 to R-2 which is the area around the existing duplex. The lot north of the existing duplex will remain R-1.

Dan Swafford made a motion we adopt Ordinance 09-16. David Drake seconded. Roll call vote: Dianna Bastin – yes; David Drake – yes; Scott Oldham – yes; Phillip Smith – yes; Dan Swafford – yes. Motion carried 5-0.

*The following discussion took place before the vote*

Dianna Bastin asked Rick Coppock if most of the questions have been answered for the neighbors. Rick said there will be another opportunity for the neighbors to ask questions. This ordinance is to determine the land use. The next step will be to go back to the Plan Commission for preliminary plat approval at which time all property owners will be notified again. During the Plan Commission meeting, items such as drainage, traffic, lay out of the lots, water and sewer issues will be discussed. David Drake stated he voted against several things proposed for this piece of property but he does not know how, from a zoning point of view, we can say that duplexes are not appropriate for this piece of land when that is what’s already there. David agrees drainage issues are very valid concerns for this piece of property; but this issue will be for the development plan stage not for rezoning. The Council needs to follow the criteria set out for them, by law, without interjecting personal likes or dislikes.

### **Supervisors Comments**

#### **Hiring of New Part-time Fire Fighters**

**Jim Davis**, Ellettsville Fire Department explained the Fire Department has a continual turnover of part-time employees. Most of them have other jobs or work two to three part-time to make a living. The Fire Department is running out of part-time people and they need to stay under the over-time requirements. The department brought in several volunteers June 3<sup>rd</sup> and of those volunteers, two are currently certified firefighters (Pete Hodge and Toby Liff). Jim Davis has gone through the process Town Code requires for volunteers to be brought on. The Board of Officers, along with David Drake are recommending Pete Hodge and Toby Liff be brought on as part-time firemen to replace the ones lost in the past. The Fire Department covers over 20,000 hours of part-time employment. David Drake reiterated this does not increase the money that is paid or the budget; it merely spreads the hours that we are paying now out among a couple of people that may be more available. The Fire Department is very lucky to get experienced firefighters. Jim Davis stated they lost four part-time firefighters in the last 7-9 months. They are still on the roster but not working for whatever reason.

David Drake made a motion that we hire Pete Hodge and Toby Liff as part-time firefighters for the Ellettsville Fire Department. 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.

#### **2008 & 2009 DNR Grant**

**Jim Davis** passed out handouts and explained these are 50/50 grants with the maximum amount being \$10,000 (\$5,000 from the Town and \$5,000 from the State of Indiana). Jim explained they were turned down in 2008 because they received grants in the past. Money was left over so the grants were reviewed again and Ellettsville Fire was chosen to receive the 2008 grant even though we are halfway through 2009. The Fire Department applied for and was awarded the 2009 grant. Jim Davis checked with Sandra Hash and the Cumulative Equipment Fund has a good cash balance. The money is already in the budget to do this. The 2008 grant needs to be spent by mid July of this year and the 2009 grant must be spent by late summer of 2009.

Chris Clouse, Ellettsville Fire Department further explained the 2008 Community Rural Fire Protection/DNR Grant is a federal grant that is administered by the Indiana Department of Natural Resources. They will be purchasing 17 SCBA (Self Contained Breathing Apparatus) face masks with bags. Having the masks will bring the Fire Department up to compliance with the National Fire Protection Agency (NFPA) requirements. The physicals and fit tests have been completed. The total grant amount is \$10,028.24 with Ellettsville's responsibility being \$5,028.24. David Drake asked if the equipment we are purchasing is replacing older equipment. Chris stated a grant was awarded to the County at which time they upgraded all their air packs with the new style. The new masks will give them more freedom to work. Each air pack, on the truck, has its own mask but the NFPA recommends each individual firefighter should have a personal air mask.

Chris Clouse explained the 2009 grant. They are going to purchase four complete fire helmets and parts to repair five others in stock. Ten pair of fire gloves, six pair of suspenders, six pair of fire boots, two multi gas detectors with calibration tools, EMS suction unit, EMS bags for squad, engine and rescue. The total grant amount is \$7356 with Ellettsville being responsible for \$3,678. This grant will outfit the new firefighters. Chris further explained the two multi gas detectors with calibration tools will save money annually. The current detectors need to be sent back to the company annually for calibration at a cost of \$250 each. The multi gas detectors will detect four dangerous gases. David Drake clarified the Ellettsville matching portion of the grants will come from the Cumulative Equipment Fund and not the day to day operating budget of the Fire Department. The Cumulative Equipment Funds are for the purchase of equipment and other capital type things. Dan Swafford asked if there are enough funds to last throughout the year. Jim said there is a \$50,000 balance in the Cumulative Fund; the only item budgeted to come out of that fund is the payment on the aerial truck.

Scott Oldham made the statement "I don't care where the money comes from this is safety equipment, we are buying it". Jim explained this is a non reverting fund and money comes into each year.

Dianna Bastin asked if the NFPA is requiring each of the firefighters to have their own face masks. Chris Clouse said yes, each active firefighter has their own face piece.

Jim Davis stated this cost is in the budget and does not need to be voted on. He just wanted to inform the Council he was spending the money.

#### **Monroe County Sherriff's Department Antenna on McNeely Tank**

**Mike Farmer** has been approached by the Monroe County Sherriff Department to place an antenna on top of the McNeely water tank. It is a small antenna and there is enough room for it. The Utilities Department will need to get some deed restrictions lifted for the County and a contract will need to be drawn up. T-Mobile has been slow to get back to Mike Farmer regarding any technical problems between the two antennas. Scott Oldham spoke with Lt. Barnes and the antenna will be used to transfer data to and from central dispatch. This will be a huge advancement for officer safety and something they really

need. Mike Spencer stated there needs to be a contract. Dianna Bastin asked Mike Farmer to start the process.

**Council Comments**

**Sandra Hash** announced she and Amber will be out of the office June 15 - 18 attending their annual State Board of Accounts Conference. The office will still be open all week.

**Adjournment**

Dianna Bastin entertained a motion we adjourn. Scott Oldham so moved. Dan Swafford seconded. Motion carried. Dianna Bastin adjourned the meeting at 8:26 p.m.

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Dianna S. Bastin, President

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David Drake, Vice-President

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Scott Oldham

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Phillip Smith

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Dan Swafford

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Sandra C. Hash, Clerk-Treasurer