

March 27, 2006

The Ellettsville, Indiana, Town Council met in regular session on Monday, March 27, 2006, at the Fire Department Training and Conference Room. Patrick Stoffers called the meeting to order at 7:30 p.m. Sandra Hash led in prayer and William Evans led the Pledge of Allegiance.

Roll Call: Members present were Patrick Stoffers, President; William Evans, Vice President; Phillip Rogers and Dennis Williamson. Mike Spencer, Attorney and Sandra Hash, Clerk-Treasurer were also present. Lisa Creech was out of town.

Supervisors Present: Jim Ragle, Jim Davis, Ron McGlocklin, Frank Nierzwicki, Mike Farmer and Jeff Farmer were present.

Approval of the minutes

William Evans made a motion to approve the regular minutes of the meeting for March 13, 2006. Phillip Rogers seconded. Motion carried.

Action to Pay Accounts Payable Vouchers

William Evans made a motion to pay the Accounts Payable Vouchers. Phillip Rogers seconded. Motion carried.

Resolutions

Resolution 07-06 to appropriate the INDOT Street Light reimbursement of \$62,297.24

Sandra Hash explained the street lights were originally paid for by an additional appropriation out of the General Fund. The reimbursement should be put back into the General Fund. New legislation passed last year allowing the legislative body to appropriate a reimbursement grant without going through the State additional appropriation process. This resolution clarifies where the money came from, how we received it, what we spent it on and the appropriations we want to put it into. Patrick asked if it would be returned to General 454 and General 455. Sandra stated General 455 is a new appropriation used for the Gateways and any other improvement plans. Patrick clarified “for the record” G-454 Street Light Fixtures \$8,330.63 and G-455 Town Improvements \$53,966.61.

William Evans made a motion to adopt Resolution 07-06 to appropriate the INDOT reimbursement for Street Lights. Phillip Rogers seconded. Motion carried.

Ordinances on Second Reading

Ordinance 06-06 to Amend Section 52.113 of the Ellettsville Town Code concerning Special Water Meters

Mike Farmer of the Ellettsville Utilities has asked Council to amend an ordinance deleting the use of Special Meters. All the information was reviewed at the last meeting.

Dennis Williamson asked how many meters are there. Mike Farmer said there are 240 active meters and most of them are out of Town. Patrick reiterated this is the last year to use the Special Meters and the ordinance will take effect December 31, 2006.

Jim Ward asked what the alternatives to the Special Meters would be. Mike Farmer stated a water only meter can be installed in ground. A lot of people with irrigation systems are using these. There are different applications for the water only meters depending on water usage and needs. Anyone interested in one of these can call the Water Company. A customer action report is taken and then someone will call back to go over what is needed. Jim Ward went on to say Bloomington averages the January – March water bills as a base for the usage and gives a wastewater discount accordingly for the summer months.

Ed Bitner made some comments at the last meeting and he said none of them were addressed at this meeting. He was told the reimbursement for turning in the Special Meter would be \$35.00 and not the \$70.00 he paid. The people who voluntarily turned them in early received \$35.00, which was the agreement when you bought the meter. He asked if the \$70.00 could be applied to the cost of the new meter since it is not a “voluntary” return.

Patrick reviewed this section in the original code and it does not specifically suggest voluntary or involuntary. The code says “the cost of the meter was \$35.00 and the Town will collect a \$35.00 deposit and upon the meter being returned the \$35.00 deposit would be returned”. Patrick read the code. Ed thought the agreement was “because it was purchased voluntarily then it should be returned voluntarily. He is trying to save himself and 239 other people the cost of a new meter.

William Evans made a motion that we approve Ordinance 06-06 to Amend Section 52.113 of the Ellettsville Town Code concerning Special Water Meters. Phillip Rogers seconded. Motion accepted.

New Business

Final Plat approval for Autumn Ridge Phase III

Bernie Guerrettaz of Bledsoe, Tapp and Guerrettaz is requesting Final Plat approval for Phase III Autumn Ridge subdivision.

Frank Nierzwicki, Director of Planning Services, had a few items to review. The first is an issue with the status of the Letter of Credit. Sandra received a letter from Monroe Bank stating the Letter of Credit would be delivered on Tuesday, March 28th.

The next issue was with the water run off. Jim Davis, Ellettsville Fire, spoke about Phase III. He does not have a problem with Phase III but believes there is supposed to be a retention pond. When there are heavy rains, the water comes down the hill and washes out the gravel road. He put in some round bales to stop the water from flooding the Fire Station. At what point is a retention pond put in? There is a tremendous amount of water that flows down on the east side of the property. The issue needs to be addressed some time soon. Bernie Guerrettaz only found out about this last week. He also spoke with Rick Coppock about the Letter of Credit and the water flow. He received a bid price from Stanger Excavator to put in the pond and this bid is included in the Letter of Credit. The pond will be put in this spring and two inches of asphalt. The curbs and utilities are in. With the Letter of Credit on file now; there are ample funds to take care of the construction costs and contingency. Once they were notified there was an issue, they started working with the Town Engineer to take care of it. Sandra explained the \$53,000 bond on this project will expire in May. Frank said the Town is taking a strong stance on having Letter of Credit bonds in place for construction. He asked Bernie if this was the last phase. Bernie informed him two or three more phases will be going in. Patrick asked Frank to address the drainage issue. Frank said there are a couple of different ways the Town Council can handle this. The first way is wait until the bond is in place or approve it tonight with the stipulations. Dennis Williamson asked Bernie to promise to work with the Fire Chief on this issue. Mike Spencer suggested if approval is made, approve it subject to receiving a Letter of Credit.

William Evans made a motion to approve the Final Plat approval for Autumn Ridge Phase III with the stipulation that the necessary pond issue is resolved before continuing with the project and that we receive a Letter of Credit before continuing and before signing. Dennis Williamson seconded. Motion carried.

Sims Development Outline

Bernie Guerrettaz is requesting approval for the outlined plan of Capitol Avenue Apartments. This is a 40 apartment housing area behind Pizza Pantry on Capitol Avenue. Chris, Tim and Mike Sims are the petitioners. This is the third public meeting on this petition and there have been two neighborhood meetings that were very productive. This is a C-3 zone. For financing purposes each building will be on its own lot. Utilities will be connected and stubbed as requested by the Town of Ellettsville Utilities. Bernie is in agreement with all of Frank Nierzwicki’s recommendations listed on his Staff Report. He then gave a summary of the project:

- The units have been set back to keep away from Mr. Harth’s property which is consistent with the zoning ordinance.

- Maintaining storm water detention on the site.
- Looking at a three way intersection on SR 46. Preliminary design has been done.

This petition is consistent with the growth pattern of Ellettsville.

Frank Nierzwicki went over his Staff Report and pointed out the Plan Commission action on March 2, 2006 recommending approval of the above development as presented (with eleven stipulations) on a 4-1 vote. The ordinance is not ready for this. Patrick clarified there was nothing to decide on tonight. Frank went on to say the neighbors have followed this very closely for a few months and there are still concerns that have been expressed on some side issues and tonight would be a good opportunity for the Council to receive some of the comments.

Doug Norton, property owner on Capitol Avenue, is not an adjacent property owner but will have to drive through this project. There have been several meetings. There are two sets of objectives and emotions. Their neighborhood is a unique part of Ellettsville. This project is a tough point to argue, as a businessman himself, he can understand the Sims' approach to this business venture but would like to keep the integrity of the area he lives in. A couple of years ago the neighbors got together because they were tired of driving up and down a gravel lane and decided to black top it. Little did they know the money they spent on this would lead to a development none of them want. Some of the issues still bothering him are the zoning and the actual plans. It looks good but they want to "put ten pounds of sand into a five pound bag". The area has a small drive and the amount of apartments and people are too much. This is a nice design but the wrong place. It is a nice piece of property but it is too dense for this design.

Dan Swafford asked about the zoning of this property. Patrick clarified there is nothing on the table to be voted on this evening. Frank gave a history of this property's zoning. Part of the Sims' property was residential at one point. Part of the property close to SR 46 was C-3. In 2004, the Sims requested all their property be zoned C-3 and that was approved in fall of 2004 as a rezone to C-3. The proposal the Sims are asking for now is to rezone all their property to a PUD. Dan Swafford asked Frank to explain the difference between C-3 and PUD. Frank explained a C-3 zoning is the high end commercial zone allowing up to 17 units per acre. They are usually located along the SR 46 corridor. There are stipulations to what can be developed in a commercial area. A PUD is a Plan Unit Development which allows the Town (Jurisdiction, County or City) to negotiate some changes with the developer. The Town added eleven stipulations with the development. Some examples are sidewalks and green spaces. Dan went on to say they are not against the development of this property but it is too dense. It will be nearly impossible for 40 apartment units, seven current residents and three businesses to use this one way in and one way out road. Another entrance needs to be looked in to with the development on the other side of Lakeview for safety sake. He feels the decision was forwarded to the Town Council prematurely and should have stayed in the Plan Commission until all the questions were answered and concerns were worked out.

Ronnie Harth lives behind where this development is to be built. He has been out of town for the last three weeks and has not been able to give his input into this. His major concerns are:

- Reimbursement for the driveway. All the residents put in \$1,890.00 to have the road paved and now the Sims will be using it and they would like to be compensated.
- His privacy. The plans show walkways close to his property and the apartments will have children. He would like a fence or some barrier to keep people out. More people mean more violence and crime.
- Traffic situation.
- Who will maintain the driveway they paid for? Keeping it black topped.
- Mail and newspaper boxes relocated from the end of the street.
- Power and cable lines running across his property line. Lines are too low for LP trucks to deliver supplies.
- Access easement from his house to the road cost him \$2,790.00.
- Nice wooded area he has maintained.

Fred Baugh is an adjacent land owner. He reiterated the property was zoned C-3 in 2004. He believes that is when the street was annexed and the Town was to take care of snow removal and all patching of the road. The residents paid \$1,890 each for the street and now someone else is coming in to use this road for an access to make a profit. He gave an example of the traffic problem; after an accident was cleared, he waited 12 ½ minutes and two police officers still would not let him go across the traffic. One of these days there will be a fatality at this intersection due to putting all the apartments in.

Ms. Robbie Bex lives next to Ronnie Harth at the end of the street. She has some legal issues she needs to look in to. One is the driveway easement Mr. Sims is trying to take away. She was against Capitol Avenue because she was fine with her driveway. Since her neighbors were threatened, told she would be taken to court if she didn't agree with Capitol Avenue, they paid her part of the road. She did not want to give up her easement for her driveway. When she found out her neighbors paid her portion, she felt bad and spoke with Chris Sims. She told him she would pay him the part the neighbors paid for her. She could not pay it all at once and signed a "driveway loan agreement". She also told Mr. Sims that "if I'm going to pay for this driveway I'm totally against and I don't even want to use because both my trash truck and the Lincare oxygen delivery truck can not get up because of the electrical wire" she is not going to give up the easement to her other driveway that she has used for the last eleven years. She wants to pay them back because they are good neighbors. She still wants an easement to Capitol Avenue since she is paying for it but she is not going to give up the easement to her other driveway. She was told she gave it up, when she signed this new driveway easement. At the time she did not know it and does not remember signing the paper. She has been asking for a copy of the paper with her signature on it. She just saw it today. She was calling Frank, the Director of Planning, thirteen times per day and did not get a response until tonight. She has a lot of legal issues she would like to look in to and she needs some time to do it.

Barbara Rowse is a property owner on the east side and adjacent to the Sims. Her concerns on this development are:

- Reimbursement for paving Capitol Avenue.
- Process of having survey done.
- More time to settle issues before approved.

Chris Sims addressed some of the concerns the neighbors have:

- He and his brothers paid three shares of Capitol Avenue being black topped.
- The neighbors will still have use of the street and does not know why they want to be reimbursed.
- Frank confirmed the street can accommodate the traffic.
- A lease agreement for apartments has been submitted and is extremely restrictive (as the law will allow). They intend to have their mother live in one of these apartments. It is their intention to maintain them to very high standards.
- The buffer has been dramatically increased along the north side of the property by Mr. Harth's. They have gone beyond what most projects would require.
- The easement issue; there were never any threats made about easements or proposed driveways. They have not been reluctant to provide Ms. Bex with that information. It is recorded at the courthouse and it is public knowledge.
- Mr. Guerrettaz and his firm have surveyed the property line with Mrs. Rowse's property and found it to be a foot or two off of her line rather than being on her property.

He doesn't feel there are any problems with any of these issues. There are only going to be 40 units and with his past experience he does not feel there will be 80 people and 80 cars. He wants to work with the neighbors as best as he can when this project is going on. Things will change for the neighbors. It is a country setting but they do live within the city limits and a lot has changed in the last few years with more changes as time goes on. He hopes the Board will look at the benefits of this type of development and understand bringing households into Ellettsville is great for businesses and increases the tax base.

Supervisors' comments

Ron McGlocklin, Ellettsville Police Department, has met with Ed Richardson of the Smithville Telephone. Mr. Richardson would like an access road from the west end of the Police Department property around to the north side. It would be a private, black top drive

that would give the Police Department a second access to the highway and also to Smithville Telephone. All the curbing, gravel, black top and expenses would be paid for by Smithville Telephone. Dennis Williamson asked if there are any gates or blocked roads now or in the future and Ron said no. He also asked if Smithville Telephone would be using this road and Ron said "this has been discussed with the General Manager and they are not going to use it". William Evans suggested Ron speak with Ed to clarify the labor work on this project. He does not think the Street Department can do it. Ron said he was going to speak with Mr. Ragle about using their equipment to pave the street to hold the cost down. Patrick suggested developing an agreement for this and engage Mr. Nierzwicki through the planning process. Ron agreed and said a set of prints will be drawn up.

Jeff Farmer, Ellettsville Utilities is requesting to promote Travis Summerville from Temporary Full-time Laborer to Regular Full-time Laborer. Patrick asked Sandra if the Salary Ordinance needs to be amended relative to this particular request. Sandra said "No the Salary Ordinance in Utilities covers ranges by job title". Jeff stated for the record this employee will start at the minimum pay range and go through the probation period as all other employees. He will be split between and Water and Waste Water. Dennis asked if there was money for this position. Sandra said "yes Utilities does have the money to cover this position". Patrick asked if this will effect potentially adding any TFT this summer. Jeff said the plan is not to replace that position unless further needs would require. He added at the bottom of the memo there is a seasonal part-time position that is generally filled and he did not want to confuse the two but they will not be filling the TFT position once this employee is promoted.

William Evans made a motion to promote Travis Summerville from a TFT Laborer I to a RFT Laborer I effective today (March 27, 2006). Phillip Rogers seconded. Motion carried.

Mike Farmer, Ellettsville Utilities, wants it noted in the next few days the Town of Ellettsville Utilities will change how they receive after hour calls. They will be switching to an answering service. He will send out a memo when this is activated. Presently, the after hour emergency calls are forwarded to the Fire Department. They have handled this very graciously and very well. Sometimes they have their hands full with their own business. The answering service will have a set procedure to follow. The voice message at the beginning will state "This is for emergency services and requests only". This will be very handy for the Utility Department when there is a main break and the calls were tying up the Fire Department lines. He really appreciates the Fire Department taking care of the calls for this long.

Frank Nierzwicki, Director of Planning Services reviewed the sign issues in Ellettsville. A meeting was held in August 2005 at Eagles Landing concerning legal and illegal signs. At that meeting, a representative from the Indiana Department of Transportation, Bloomington Sub-District and the Development Engineer from Seymour were all in attendance. He has been trying to work with people on the sign issues. One of the issues is lighted versus unlighted signs. There was a special work meeting scheduled but it was postponed due to snow. Due to time issues and "open door" policies, this work session will roll into the next Plan Commission meeting. There have been some correspondences sent out concerning types of signs that are legal. He explained the photos that were included in the packet. These photos with signs and many other sign issues will be addressed at the next Plan Commission meeting. The Planning Department is willing to work with the businesses on this. The sign ordinance is being corrected to allow lighted signs as a benefit towards businesses. He stays within the Town limits when enforcing the codes.

He attended the Indiana Planning Association Spring Conference in Indianapolis last week. The topic was "Keeping Things Legal for City and Town Planners". Dennis Williamson commented on the lighted sign issue. He does not know when the code was passed but it seems the lighted signs had been omitted or lost. There is a reference to bulbs and a reflector not affecting other people's property which implies it is a lighted sign. While reviewing the code, Frank noticed a major revision done in 2003. All the issues will be addressed and corrected. Dennis Williamson also asked Frank to clarify the "political sign

issue”. Frank stated the issue has been addressed and a letter sent out to both the Monroe County Republican Party and the Monroe County Democratic Party. He read the letter: “I’m taking this opportunity to remind both the Monroe County Republican and Democratic Parties of the Ellettsville Town Code 152.256 concerning political signs. The code states “*political signs should be placed in an uncluttered manner 30 days prior to election and taken down immediately after the election*”. Both parties were carbon copied to each other and the letter is on file. There are other active parties but Frank has not been able to find mailing addresses. Dennis announced he is not against political signs or what they say, but the Town does have an ordinance that says 30 days and he would appreciate if people would comply with it.

Sandra Hash has been approached by an insurance salesman outside of the May Agency. They requested her to insert fliers into the paychecks. If there was interest, it would be 100% funded by the employee. Patrick does not object to putting the information in with the paychecks.

Dennis Williamson reminded everyone to turn their clocks forward on Sunday. It is also spring time and it will warm up. It is time to start cleaning up winter clutter around the yard.

William Evans attended some classes on planning in Indianapolis last week. They were very interesting and showed how to plan ahead for growth. They started with the 2000 Census and tried to project where we were going to grow, what we could do and the infrastructure needed to maintain the growth. He will be receiving some free software and plans on teaching Frank the program. He also clarified, from an earlier statement, he did make a motion to pass the Sims development onto the Council and the vote was 4-1. He is not the one totally responsible for that.

Adjournment

Patrick Stoffers adjourned the meeting at 8:45 p.m.

Patrick Stoffers, President

William Evans, Vice-President

Lisa Combs-Creech

Phillip Rogers

Dennis Williamson

Sandra C. Hash, Clerk-Treasurer