

**May 12, 1997**

The Ellettsville, Indiana, Town Council met in regular session at 7:00 p.m., Monday, May 12, 1997. Member's present were Michael Cornman, President, Geraldine McIntyre, Vice President, Donald Ashley, Patrick Stoffers and Gina Hawkins. Mr. Cornman called the meeting to order. Donald Ashley gave the prayer.

SUPERVISORS:

COMMENTS:

CONCERNS JACK AND JILL DAYCARE ALLEY:

Linda Smith and her husband are the new owners of Jack and Jill Daycare, 121 South Second Street. She has a comment and a question on resolving a problem. Her employees park on the opposite side of the alley behind the day care, the alley runs north and south. When they pull in they would be facing the building going west. There is a house on the corner of Association and the alley. The people who have their vehicles parked there will continuously park along and into the alley, therefore her employees cannot maneuver their vehicles in and out to park, to see. The parking lot on the south side of the building is for her customers, for her clients. They have asked them numerous times, would they mind moving their vehicles. She has called the Ellettsville Police Department. It is a real nuisance. She is afraid someone will back out and back right into a vehicle and she is really going to have to call the police for a traffic accident. Her question is how far can they park into the alley? Originally there was no parking along there, they have dumped gravel, and the gravel eventually has come off into the alley. The neighbor will use their parking lot on the weekends. They have come to the daycare on the weekends to clean and do things and found the neighbor's car parked there. They have changed their oil in their lot. She has picked up beer cans. Her main concern is parking because her girls can not back out, to see, without someone going out there to direct them, or they are going to hit one of their vehicles. She did not know if there was a town ordinance that they could not park there? Could the Town put a "no parking" sign there? What suggestions does the Council have?

Mike Cornman asked Mike Spencer, the alley right always considered a thoroughfare, and nobody can park on that alley is that correct? Mike Spencer does not know what our ordinance says on alleys. Mike Spencer looked at the Town Code Book.

Mike Cornman asked, Linda you did call the Police Department? Linda said she has called them because they have blocked the parked cars. She has called them to come over and they had to ask them to move their vehicles. She said in the winter time they have the parking lot plowed. There have been times when they actually parked in the lot, and we had to say you need to move your vehicle because we are going to have a private individual come in a plow our parking lot. She is sure there are other things the police could do other than coming up and towing cars. She said yes she had called them and they suggested they come to a meeting.

Geraldine asked if she had signs saying Jack and Jill Daycare parking? Linda said we have signs along the building that says Geraldine said I mean along where they park---? Linda said no. Linda said where the building is a sidewalk comes out a long the building and it divides the- Geraldine said you have that little parking down there in front of the building. Linda said right- Geraldine said then on the side you have where people drop off their kids. Linda said exactly and that is where------. Geraldine said and right behind there is where you are talking about. Linda said right, if you pull in off Association. Geraldine said when they park there they have to back out into the alley to turn around to get out, right? Linda said right, either way they are go out to Temperance or Association, they cannot get out.

Mike Cornman said we will let Mr. Spencer look at that Mrs. Smith and they will come back to that.

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#### MINUTES AND CLAIMS:

Mike Cornman asked if there is a motion for minutes and claims? Geraldine McIntyre so moved. Donald Ashley seconded. Motion passed 5-0.

#### SRF CLAIM:

Mike Cornman said request number 34-Reynolds Incorporated \$370,757  
request number 35-Bynum Fanyo & Associates \$8,908  
Request number 36-R.W. Armstrong \$7,355

Total request \$387,020.

Mike Cornman said after being reviewed, at the last progress meeting, everything appeared to be in order according to Gary Miller and Rick Coppock. Mike said is there a motion to accept this State Revolving Fund Claim. Patrick Stoffers so moved. Gina Hawkins seconded. Motion passed 5-0.

#### OLD BUSINESS:

#### NEW WATER TANK:

Mike Cornman said he was informed by the engineers that they are still working on the new water tank getting appraisals and doing soil testing. Mike asked George if he had anything to add on the progress of the new tank. George said they have done some soil bores and everything is going pretty good.

Mike Cornman wanted to know if they were the cause of the brown water for a couple of days. George said part of the cause. This was discussed.

#### ARROWHEAD DRAINAGE AND FLOODING PROBLEMS:

Mike Cornman said the original complainant called him and left a message on his answer machine saying she would not be here for this particular thing.

Everett Lane said he assumed this drainage was for the new construction. Mike Cornman said the original complaint on the agenda was Seneca Street in the original Arrowhead with the houses he thinks on Sue Street. They have a higher ground water table in that area and they are having a difficult time with drainage from their own properties. Mike said that is what this was for.

#### CONCERNS JACK AND JILL DAYCARE ALLEY CONTINUED:

Mike Spencer said the Ordinance of 443-5 indicates that no vehicle shall be parked in alleys within the limits of the town or so as to obstruct any alley or driveway. So there is an ordinance that prevents parking in an alley or a way that obstructs the alley.

Mike Cornman said what the Council will do is make sure the police department and the town marshals are well informed. To make sure it is relayed on to we make look into him sending a letter to the actual land owner of the house. Mike said they will make sure they are aware of it, that they should not do that. Once they have been warned, we will tell the police officers to tow the vehicle or ticket appropriately.

#### JR LANES CONCERNS CONTINUED:

JR said maybe he is getting the cart ahead of the horse, he was under the impression that this was about the new 30 acres that they purchased. His request would be, he would like the town to consider this. JR is requesting that they build retention ponds before any of the other construction. The reason he is asking this because this Arrowhead was started if he remembers right in 1969. The water retention pond that joins his property on the

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south side is still not completed. Geraldine said it is being filled up. JR said it is exactly right. JR said he noticed they have been hauling dirt in and like two days later they push the dirt in the retention pond. It is being filled up. It was never completed according to the plans and their agreement. There was a long discussion on this matter.

JR said he talked to Rick Coppock and Jeff Fanyo and they both told him the town has enough money in here if they do not complete this retention pond they will hire an outside contractor, we have the bond money, we will do it this way. As of today it is still not completed and it was started in 1969. His request now before you approve anything on the other property, that the retention ponds be built first and the one next to his property completed.

Mike Cornman said we will look at that and see if that is something they will do or something the Plan Commission-make sure we get the right area and this is something we can do legally. They will look into that and review the original agreement and see if we will revisit that and see what is happening and look into it, we will do that.

JR said they have been filling in the retention pond for the last 2 to 3 years. They fill in so much each year. JR said the retention pond today is probably like a 1/3 or maybe a 1/4 of the size it was original built.

Geraldine asked Mike Spencer as Planning and Zoning when they come in and we give them an agreement on the final plat and that detention pond is in the final plat, don't they have to go by that final plat and reserve that detention pond. Mike Spencer replied right. Geraldine said what we need to do is get the Planning Commission to look that over and take action, can we take action? Mike Spencer said the Plan Commission. Geraldine said yes as the Plan Commission can we take action and make them-the other day one day last week she was going down Thomas Road and there was a dump truck there dumping dirt and put in retention pond, and she saw it with her own eyes. Geraldine said we need to bring this up before the Plan Commission. There was some more discussion.

#### CHANGE ORDERS FOR ELLETTSVILLE WWTP FACILITY:

There are none but there will be at the next meeting.

#### RESOLUTION 5-97-TRANSFER OF FUNDS:

Mike Cornman read Resolution 5-97. Mike Cornman asked if there is a motion to accept Resolution 5-97. Geraldine McIntyre so moved. Patrick Stoffers seconded. Motion passed 5-0.

#### ORDINANCE 97-6 TO AMEND ORDINANCE 96-11-FIXING OF SALARIES BUDGET YEAR 1997:

Gina Hawkins read Ordinance 97-6. Gina Hawkins made the motion to accept Ordinance 97-6 to amend Ordinance 96-11. Geraldine McIntyre seconded. Motion passes 5-0. This is a first reading.

#### PSI STREET LIGHT PROPOSAL-SPRING VALLEY SUBDIVISION PHASE II ELLETTSVILLE:

Jim Ragle said a new addition and that part back there does not have any street lights, there are 3 lights that go in there. Mike Cornman said 3 lights at \$7.01 per light per month. Jim Ragle thought it was six something evidently they have raised. Mike Cornman said so it is your recommendation (Jim Ragles) to do this? Jim replied yes.

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Mike Cornman asked is there a motion we accept the PSI street light proposal for Spring Valley Subdivision phase II. Donald Ashley so moved. Gina Hawkins seconded. Motion passed 5-0.

ORDINANCE 97-7 AN ORDINANCE PURSUANT TO IC 8-1.5-3-9.1  
REMOVING THE TOWN'S WATER UTILITY FROM THE  
JURISDICTION OF THE INDIANA UTILITY  
REDULATIORY COMMISSION FOR THE APPROVAL OF  
RATES AND CHARGES AND THE ISSURANCE OF  
STOCKS, BONDS, NOTES, OR OTHER EVIDENCE OF  
INDEBTEDNESS:

Mike Cornman read for the first reading by title only. Mike Cornman asked if there is a motion to accept this as a first reading Ordinance 97-7. Mike Cornman thinks this is a good idea to start the ball rolling for this. There is a provision in Indiana Law that if the tax payers are not necessarily in favor or this they may petition the Council. A petition signed by at least 10% or 500 of the registered votes of the town as determined by the local election board, which ever is less. They request the Town Council to submit the question of: removal from the jurisdiction of Indiana Regulatory Commission to a referendum at the next election. Mike said just as an example it will cost the town nearly \$30,000 in professional fees to do our bond issue with the water tank, otherwise it would not have to go towards it no bigger than the project is. As an example the majority of the small water utilities in Indiana are dropping out of the utility regulator Commission. Mike said he thinks it is a good idea that we take a look at this and see if people in the community are interested or not. He thinks it is a good idea that we move ahead and at least give this a first reading and an opportunity to go. If the public does not want to then we will have a referendum we can decide that way. Public hearings for any rate changes or bond issues are held in Indianapolis. We would be less likely to drive to Indianapolis. If we where not in the Utility Regulatory Commission it would be done right here locally instead of going to Indianapolis. He thinks we are better atoned to what is going on in our community than some people in Indianapolis may have no idea what is going on locally through economic growth and issues of our own community.

Mike said he thinks it is going to take one step of bureaucracy out, that is kind of a waste of time and money. He asked that it be put on the agenda he thinks it is worthy of a first reading and he suggests that there be a motion to do so. Patrick Stoffers so moved. Mike Cornman said there is a motion to accept Ordinance 97-7 for a first reading. Gina Hawkins seconded.

Geraldine McIntyre said why are we doing this now while we are getting ready to hire a Utilities Director? Mike Cornman said he does not know that there is any connection what's so ever. Geraldine said she really thinks it is a mistake to take the Town out of that. Geraldine said if you have problems you are going to pay maybe to get your water rates or something like that increased. Then the Regulator Commission still has a lot to say on how you do things. She thinks some of the towns who have dropped out wish now that they had not. Geraldine said she has talked to two of the towns that have and she feels it is a big mistake for the town to do it.

Gina asked Geraldine whom she had talked to just for the records? Geraldine said they told her not to say, it is a private conversation and she still thinks it is a big mistake.

Doug DeFord asked Mike if you appoint a local board if you get out of that? Mike Cornman said well no the same steps still apply, we would approve the rate increase here, then it goes to Indianapolis, the Utility Regulator Commission. It would just be that part out of it, so it would still come here and it would stop here at the Town Board.

Mike Cornman asked is there any other questions? There is a motion and a second.

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Motion did not pass 2-3, those voting no, Patrick Stoffers, Geraldine McIntyre, and Donald Ashley.

RESOLUTION 6-97 A RESOLUTION AUTHORIZING AND DIRECTING THE  
PUBLICATION AND MAILING OF NOTICE  
CONCERNING A PROPOSED ORDINANCE REMOVING  
THE TOWN'S WATER UTILITY FROM THE  
JURISDICTION OF THE INDIANA UTILITY  
REGULATORY COMMISSION FOR THE APPROVAL OF  
CERTAIN MATTERS:

Mike Cornman said this will not be voted on because we did not get Ordinance 97-7 a first reading.

ORDINANCE 97-8 TO ESTABLISH A CASH RESERVE FUND:

Mike Cornman read Ordinance 97-8. Mike Cornman said this is regards to our Planning Grant that he wrote a letter to the Council members about a month ago. This is a way that the State Board of Accounts has recommended that we have funds available for Planning Grant. The Planning Grant does in effect have just as much impact on utilities as it does the general fund as well. It was suggested by the Clerk that we do not take this type of money out of the general fund at the present time. This money should be taken out of the water utility that seems to have the funds available. Ty Conor at H. J. Umbaugh Associates said in his calculation of the proposed up coming bond for the water tank this money was not included because he knew this maybe coming about. Let revisit the Planning Grant, we were look for a \$30,000 planning grant, which would require at \$15,000 match. The Ellettsville Area Economic Development Corporation has in effect raised \$7,000 for this. This is where we are kind of at a stopping point. There have been numerous calls made trying to come up with the match of this money. We may have our planning grant he has been working on for little over a year now. The Planning Grant will be facilitated by Monroe County and will focus on Ellettsville and Stinesville. He has been told that the Stinesville Town Council is going to look to putting money in as well toward this, it will be a small amount or a little bit larger amount they do not know for sure. What ever money they put in would just be less money that we would have to spend on our match. We have asked for the maxim of \$8,000, however whenever we appropriate the money out, which would take at least another month to do. If you appropriate the money out, if this ordinance and the following ordinances pass, that this money would go into, we would have to have an additional appropriation to have the money come out. We may not have to use all the \$8,000, it may just be-----what ever the Stinesville Town Council kicks in it would just be that much difference.

Mike Cornman said another thing he has been told by a couple local business, corporate type business, that they might give a little bit more money to our match as if Ellettsville and Stinesville where to put some money into the match to have some type of ownership. The goal from the very beginning was that we would not to put any money in. We can recall the Planning Grant has taken several different changes the shape the way it is. Now this has come to the point where we are roughly \$8,000 shy of the goal and this is one way we can do this is by transferring money out of water utility into the general fund which is what this is.

Mike Cornman said that is why he would like to recommend to the Council that we have first reading on 97-8, accept it for first reading.

Mike Spencer said based on what you just said pass the first one and do not address the second one.

Geraldine said it is here understanding this is taken out monthly. Ounce we reach the \$8,000 then we will not do this know more? Mike Spencer said this is not particularly May 12, 1997 Ellettsville Town Council minutes continued

Clear, it says you may. Geraldine said that is what she is saying it's not clear whether it continues even after you get the \$8,000 it says it will be taken out so much monthly. Mike Spencer said that particular Ordinance provides for \$8,000, what you do after that you may want to pass a separate Ordinance to deal with that. Mike Spencer said the statute provides that you may do it monthly or-----now he thinks the language in there says may does it not? Geraldine said it says monthly contributions, it does not say may.

Mike Spencer asked Mike Cornman to read the sentence.

Mike Cornman read that a cash reserve fund be created on the records of the Ellettsville Water and Sewer Utilities so that monthly contributions or transfers can be made.

Mike Spencer said can be made, it does not say they have to be made it just says they can be made. Essentially in many ways it's no different from any of the other reserve funds that we have set up. It is essentially creating a depository for these funds that we can put money into if we want to, it doesn't say you have to, it doesn't say each month you have to put that money in, it just says you can do it if you want to, it gives you A repository where that money can be placed. Once you pass the Ordinance you are entitled to do that, and that Ordinance also goes even farther and says you will transfer \$8,000, does it not?

Mike Cornman said yes it does and he read from the Ordinance-Once having created that account and provided sufficient monies are available, Eight Thousand Dollars (\$8,000) shall be transferred to the reserve account. Mike Cornman said this is setting up a way to do it and this particular ordinance would be to say that were going to put up to \$8,000 in to that account. Mike Cornman said by all means this was only intended for the Planning Grant. Ty Connor has asked him about making sure we do not continue and drain the water company. That is not the intent here this is just a one time deal because of the status of our General Fund cash flow, that is the reason why he is asking this be established.

Donald Ashley said he understands the \$8,000 they are going to transfer but any money that you want to transfer from that point forward, do we have regulations on that as a Council or does it just bingo and be transferred? Mike Cornman said he understands if we want we have to have a majority vote to transfer and money into this account. Mike Spencer said you have to have appropriations and resolutions to transfer out of that account. At that point and time it is still water utility account, when it is in that reserve account, it is still Water Company money, it does not get into the general Fund until there is a motion to transfer or Resolution to transfer it out of there. Mike Cornman said the second one is.

Donald Ashley asked if they are going to do it on a month to month basis. Mike Spencer said you can. Geraldine said the way it reads you can do that, once you start it there is no ending to it the way that reads. Mike Cornman said we still cannot spend any of the money out of it unless it comes before the Council any ways. Mike Spencer said right it can not be transferred out of that account into the general account unless there is Council approval.

Mike Cornman said by all means this was not an idea to drain money out of the water utility, but the way the Indiana law read, this is the way you had to do it.

Mike Spencer said he supposes the other option if you wanted to after you get this job accomplished you go back and revoke that ordinance, that is one way of doing it because you have concerns about that. If what you want to do is get the money over there for this specific grant, that is the way you can do it. If you are concerned about future transfers and you do not like that reserve account being there, you can eliminate that reserve account by another prior ordinance.

Mike Cornman said the officials with the Department of Commerce, with trying to get more grants if we do not have a claim together then we probably are not going to get any grants at least from the Department of Commerce.

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Mike Spencer said as he recalls this is not the first time money has been transferred out of the Utilities Department, some years ago. Mike Cornman said yes I would say you are right.

Donald Ashley said if I understand right what you are going to do is transfer out month by month to reach the figure \$8,000-----. Mike Spencer said he did not think it would -----conditions being on a month to month basis.

Mike Cornman said Ty Connor of H.J. Umbaugh said the money is available now, that we could transfer it in there, more or less an Indiana Statue. There was more discussion.

Darlene Sowder asked if they have extra money in the Water Department? Mike Cornman said there could be, yes, it just comes out of our operating balance is all it does, the water money stays in at a certain point then it will go into a certain account, before it gets to a certain account we will put it in to this reserve fund. Mike Cornman said it is almost like establishing a new account with in the Water Utility.

Darlene Sowder said did not we just raise rates or was that just sewer. Mike Cornman said that was sewer rates. Darlene asked, it is not all the same thing. Mike Cornman said no, this money would come out of the second ordinance, this is the way Indiana Law says it comes out of the Ellettsville Water and Sewer Utility, but when we do the next ordinance, the money we are asking for comes out of Water Utility.

Darlene said so in other words maybe people are paying to much for their water and that is why you have an extra amount of money. Mike Cornman said no, that is an operating balance, we always have money in there as it's an operating saving's account so to speak. Mike Cornman said also we are doing a water tank right now and could we have money saved up to do that, some money set up to do that and we will ask for at least \$8,000 of that savings so to speak, so we can use this for this purpose. Mike Cornman said the Water Company is a solvent Corporation right now.

Geraldine asked do they have to keep money reserved, so much as they have to keep \$40,000. George Webb said \$45,000. Geraldine said for breakage or something so they have to keep it so they can get right to it, a lot of it is invested, goes toward water towers and tanks and something like that.

Darlene asked if they still have enough left for the tank? Mike Cornman said yes we do, in all their calculations this was considered in that -----, keep that in mind.

Geraldine said we do need this planning grant, there is no doubt about that.

Mike Cornman said he understands the Councils concern about the formula we used to get there and by all means if it looks as money would go into this reserve fund is only if we want it to go there, if we do not want it to go there it wouldn't go there. Mike Cornman said if you want to appeal this after it is all over with that is perfectly fine with him.

There was more discussion.

George said the Planning Grant does include partial utility requirements, it is a portion of your plan.

Mike Cornman said the State Board of Accounts that regulates the utility accounts not the URC, they said that there is no other way for the utility, a Municipal owed utility to give money for a Planning Grant or any type of grant. Charlie Pride of State Board of Accounts refereed him to this Indiana statute.

Gina Hawkins said this is kind of minor but you gave this Ordinance 97-7 the same number as 97-7 up here (referring to the agenda for the IURC), do we need to number this

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one 8 but since this one did not pass anyway does that matter? Geraldine said it did not pass so it does not matter.

Gina Hawkins made the motion we accept Ordinance 97-7 Establish cash reserve fund for a first reading. Patrick Stoffers seconded. Mike Cornman asked if there were any questions. Mike Spencer said he would make it 8. Gina Hawkins said she will amend her motion. Donald Ashley said before you amend your motion could we make a motion such as this, he is uncomfortable with the monthly thing, a motion since it is to establish the fund to go to the \$8,000 and then dissolve that----- . Mike Cornman asked if they could do that? Don said just cut it off at that point and it's done. Mike Spencer said he would have to redo that ordinance. Geraldine McIntyre said can we make a motion that we accept this ordinance and then after the amount is provided that the Council take another look at the Ordinance with out it being changed? Mike Cornman said why don't we do that anyway after it is over with somebody of the five can bring it up to do so.

Mike Spencer told Don his senses is he would be hesitant about doing that because it does not look as we are really creating the Ordinance, it may cause State Board of Accounts to question it.

Gina said we will just have to remember after we use this money then we will have to ask Mike for another Ordinance to dissolve this fund.

Gina Hawkins said she wants to amend her motion to accept Ordinance 97-8 to Establish a cash reserve fund for a first reading. Geraldine McIntyre seconded. Motion passed 5-0.

#### ATTORNEY FEE AGREEMENT:

There are some words that need to be corrected. This will be on the next meeting's agenda.

#### COMMENTS:

#### SOLID WASTE-GERALDINE MCINTYRE:

Geraldine informed the Council that Solid Waste is having a retirement party for Jim Conley, he is leaving. They are replacing him with two people inside the district and they will be sending out a notice to the Town Board on when they are having the reception.

Gina Kapsensk has a question, what ever happened to the new town map, ads were sold and she does not see any----- . Mike Cornman said yes, he has a note on his desk to call the lady for some pictures coming in and then they will be printed out.



ADJOURNMENT:

Gina Hawkins made the motion to adjourn. Patrick Stoffers seconded. Motion passed 5-0.

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Michael D. Cornman  
President

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D. Gerald McIntyre  
Vice President

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Donald Ashley

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Patrick Stoffers

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Gina M. Hawkins

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Diana K. Evans  
Clerk-Treasurer