

May 14, 2012

The Ellettsville, Indiana, Town Council met for a Regular Meeting on Monday, May 14, 2012, at the Fire Department Training and Conference Room. Scott Oldham called the meeting to order at 7:00 p.m. Dianna Bastin led the Pledge of Allegiance followed with a prayer by Phillip Smith.

Roll Call: Members present were Scott Oldham, President; Dan Swafford, Vice President; Dianna Bastin, David Drake and Phillip Smith. Sandra Hash, Clerk Treasurer, Darla Brown, Town Attorney, and Rick Coppock, Bynum Fanyo and Associates, Town Engineer, were also present.

Supervisors Present were: Jim Davis, Jim Ragle, Tony Bowlen, Connie Griffin and Jeff Farmer.

Clerk Treasurer’s Report

April 2012 Fund Balances

	Beginning 2012 Balance	April Beginning Balance	MTD Revenue	MTD Expenses	April Ending Balance
General	\$462,248.72	\$128,951.05	\$118,513.10	\$133,354.03	\$114,110.12
MVH	\$ 50,830.82	\$ 775.09	\$ 14,985.91	\$ 28,066.33	\$ 37,694.67
		Temporary Loan	\$ 50,000.00		
Water O&M	\$199,135.80	\$205,379.42	\$142,049.87	\$143,779.73	\$203,649.56
Waste Water O&M	\$190.643.47	\$213,965.92	\$ 94,373.69	\$155,311.47	\$153,028.14

Approval of Minutes

Scott Oldham entertained a motion for the approval of the minutes for the regular meeting on April 23, 2012. Phillip Smith so moved. David Drake seconded. Motion carried.

Accounts Payable Vouchers

Scott Oldham entertained a motion for action to pay Accounts Payable Vouchers. Dan Swafford so moved. Phillip Smith seconded. Motion carried.

Proclamation – Declaring the Month of May Huntington’s Disease Awareness Month

Scott Oldham was contacted by Melanie Nagy who is with this group. Trae Carroll, a student at Edgewood High School, whose mother lost her battle with Huntington’s Disease in 2010, is doing the basic leg work for this. The Proclamation reads as follows:

Proclamation Town of Ellettsville, Monroe County, InDianna

WHEREAS, Huntington’s Disease is a strongly genetic, neurodegenerative disease that typically affects people in mid-life, and places each child of an affected parent at risk of inheriting the expanded gene responsible for causing the disease; and

WHEREAS, HD is a rare and orphan disease affecting 30,000 Americans while placing another 200,000 at-risk; and

WHEREAS, the average lifespan after onset of Huntington’s Disease is 10-20 years, and the younger the age of onset, the more rapid the progression of the disease, resulting in children who develop the juvenile form of the disease rarely living to adulthood; and

WHEREAS, Since 1993 when the gene that causes HD was discovered, research into the causes are currently exploring many new avenues and approaches including focus on way to delay onset of HD, development of effective therapies that may slow the progression of HD and ultimately, a cure for the disease; and

WHEREAS, there is at present no effective treatment or cure for Huntington’s disease, raising awareness about HD is critical to the advancement of vital research and support services; and

WHEREAS, InDianna has one of the highest incidences of Huntington's disease in the country:

NOW, THEREFORE be it Resolved, that the Ellettsville Town Council, Ellettsville, InDianna do hereby proclaim the month of May, 2012, as

HUNTINGTON'S DISEASE AWARENESS MONTH

ADOPTED this 14th day of May in the year of our Lord, Two Thousand Twelve.

Ordinances on First Reading

Ordinance 2012-09 to Amend Various Sections of Chapter 152 of the Ellettsville Town Code Concerning Planning and Zoning; Planned Unit Developments – Connie Griffin

Connie Griffin, Director of Planning, The Plan Commission has added new verbiage to the Planned Unit Development (“PUD”) Code. They will be using words such as “new”, “improved”, “advantages”, “enhanced”, “conserving”, “compatible”, “protect”, “suitable” and public benefit. The revisions as suggested and determined by the Plan Commission include some minor revisions such as grammar and two sections with new additions, District Intent and General Regulations. Some of the other areas are changes to Town Code that directly affect public health and safety, health, sanitation and zoning regulations that shall apply to PUDs even if such changes are adopted during the PUD build out. Changes and amendments to the preliminary PUD plan shall be subject to the procedures for approval of a new preliminary plan. Therefore, if someone does make some changes to the following elements they would need to come back as if it was a new PUD application. Changes in percent of open space, number of parking spaces, infrastructure and number of buildings and a few other items are also included. The code changes promote the concept of using land within the jurisdiction of Ellettsville to its most appropriate use to preserve desirable features and to mitigate the problems that may be presented by specific site conditions. Therefore, on the first reading the Plan Commission suggests the consideration of these revisions as stated in the ordinance.

Ordinance 2012-11 to Adopt Supplement 2012 S-8 to the Ellettsville Code of Ordinances

Sandra Hash explained this is standard procedure. There have been quite a few ordinances that have affected Town Code in the last twelve months. All of the ordinances that have been changed such as annexations and the Personnel Policy update have been updated into Town Code. This is the first reading to accept the Supplement. If there are areas in the Town Code that are affected by Indiana Code they are updated as well

Dianna Bastin asked if the updates are ready at Town Hall. Ms. Hash replied they are. Ms. Bastin asked when they can pick them up. Ms. Hash answered they can be picked up immediately.

Ordinances on Second Reading

Ordinance 2012-10 Amending Ordinance 2011-13 Fixing of Salaries for Budget Year 2012 Concerning Law Enforcement Officers Wages When Participating During Off Duty Hours in Programs Administered by the Division of Traffic Safety, Indiana Criminal Justice Institute

Sandra Hash explained these are grants the officers worked. The ordinance gives the Town permission to pay them. Phillip Smith asked if this has to be done for every grant. Ms. Hash replied this is a blanket for the police. Scott Oldham asked if it is for the grants coming out of the Division of Traffic and Safety. Ms. Hash responded that is correct. Right now it's for seat belt pullover and drunken driving.

Scott Oldham entertained a motion to adopt Ordinance 2012-10. David Drake made a motion to adopt Ordinance 2012-10. Phillip Smith seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith – yes. Motion carried 5-0.

New Business

Chapel Hill Wilderness – Final Plat Lots 1 and 2, Smithville Warehouse – West State Road 46

Connie Griffin, Director of Planning, this is the location of the Smithville project at 7640 West State Road 46 near Red Hill Road. The Smithville project was approved by the Ellettsville Plan Commission on December 2, 2010. The development area consists of ten acres and was rezoned from Agricultural 1 to Industrial 1. The parcel was needed for an expansion and consists of a warehouse, office building, truck garage, truck shed, trailer shed, equipment storage yard, driveways and parking lots. This is private property, a private commercial development. The final plat has historically been signed by the Town Council President. In order for the plat to be recorded they need to have the Town Council President's signature on the final plat.

Scott Oldham explained the mylar states they have reviewed and approved it as a Town Council.

Scott Oldham entertained a motion to sign the final plats for Lots 1 and 2 for Smithville Warehouse Chapel Hill Wilderness. Phillip Smith made a motion that Scott Oldham sign the final plats for Lots 1 and 2 for Smithville Warehouse Chapel Hill Wilderness. Dan Swafford seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith – yes. Motion carried 5-0.

Donation Drop Off Box, Disabled American Veterans, Marion County, Representative – Timothy Phillips, District Manager, Indianapolis, IN and Becky Lee – Connie Griffin

Connie Griffin, Director of Planning, Mr. Phillips and Becky Lee are not in the audience. Phillip Smith asked if they knew they were on the agenda for this meeting. Ms. Griffin replied it was discussed at the last Plan Commission meeting. This initially started off as a request for information from Timothy Phillips and Becky Lee. They were requesting information for having a Disabled American Veterans drop location. They were proposing to have these boxes in residential areas for people to bring items. Then they would take the items to an InDiannapolis store for resale. When they contacted the office on March 28, 2012, she suggested they come before the Plan Commission. Technically there is not a code for residential that would allow this. There is not an accessory use in a commercial zone. They failed to come to the first Plan Commission meeting but they attended the meeting on May 3, 2012. It was suggested they attend this Town Council meeting. They went ahead and put the donation box at the Orscheln site without the approval of the landowner. The owner immediately requested it be removed and it was the next morning. Carl Thurman is now requesting to have a donation box at his commercial location. This is near the Heritage Trail head. It is her opinion that the location be denied. A good location might possibly be at a recycling center.

Scott Oldham, the location on Mr. Thurman's property is right across the street from the RBB Store who basically does the same thing as the DAV.

Dan Swafford is the one on the Plan Commission who made the motion to send it to Town Council because there is no legal representation. He asked Darla Brown if it is used for a business to obtain money, does the Town have a right to tell the business what he can or cannot do. Is the zoning correct for this? A question was posed to Mr. Phillips if this was a not-for-profit organization and he said no, it was a for-profit organization and they donate a certain percentage and he couldn't tell what percentage went to disabled vets. The Disabled American Vets is the name of the corporation. It is misleading. Mr. Phillips is to provide the percentage that goes to the Disabled American Vets. Mr. Swafford asked Ms. Griffin when her first contact was with Mr. Phillips. Ms. Griffin replied her first contact was in March. They said they had approval and the box had been there since October. She questions this date. Mr. Swafford said their comment was Bloomington gave them permission so they just thought Orscheln was in Bloomington so they set it on their parking lot. He asked

them to move it right away because the landowner does not want it there. They did comply. When asked who gave them permission to set the box, they said it was a business. There's a lot of questions. They are willing to pay \$200 to \$300 to leave a box on Mr. Thurman's property. Ms. Griffin called the City of Bloomington Planning Department and was advised they gave them permission to put a box at Big Lots but with Ellettsville's jurisdiction they have no say. Technically they did not receive the Town's approval and nor did they get Cowden Enterprises permission.

Dan Swafford, as a business owner it is a way to make additional monies. However, he doesn't know who makes this decision. Ms. Brown advised she will look at it.

Dan Swafford made a motion to table this. David Drake seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith – yes. Motion carried 5-0.

First Assembly of God Development Site: 5050 West State Road 46, Bloomington, IN 47404, Ellettsville Municipal Code Violations – Soil Erosion Control – Connie Griffin

Rick Coppock, Bynum Fanyo and Associates, Town Engineer, he and Connie Griffin went to the site on May 14, 2012 to look at things they've had problems with in the past and what needed taken care of to bring it into compliance with the erosion control issues. Connie Griffin had provided a letter to the church explaining and prioritizing what needed to be done. There are some members of the church who are present and would like to speak. The detention pond next to the Fire Department needs to be dredged. The pond has approximately 15 inches of sediment. The end of one of the pipes that drains the roadway is almost covered over and it needs to be dredged and re-seeded to allow it to have the capacity for stormwater. All of the areas that have been disturbed and don't have stone on them need to be temporarily seeded. In the plans there is a temporary seed mixture for that purpose and these needs to be established with 70% coverage to be in compliance. There are a couple of area inlets, one has straw bales around it and the other one had a straw bale fall in it. They need to be protected with something that will prevent sediment from washing into the inlets which then goes into the pond and fills the pond up with sediment. There are some washout areas in the roadways and parking lots where it has washed all of the stone out. There is a piece of curb that has undercut the curb and if something isn't done it will break and cause another cost issue. Those areas washing out need to be filled in with #53 stone and compacted. With the heavy rain the other night you could see the top of the outlet control structure in the pond had a lot of debris on it. It needs to be cleaned and maintained. These are all things that need to be done. The Town has sent the church letters in the past and requested these issues and other issues be taken care of.

They've looked at what the fines would be for the church. Since they were last notified they needed to stabilize the site 168 days have passed and with a fine of \$100 per day that is \$16,800. They would like to see the church address the issues that have been noted during this meeting. Give them to June 11, 2012, to bring all of the issues in compliance. If not, then they would have that fine in addition to another 28 days which would bring their total up to \$19,600 in fines that would be owed to the Town. The fines, themselves, should be an incentive to make the improvements and do the seeding as the Town has requested. The fine according to the Town Code can be as much as \$100 per day per occurrence. They've just looked at the whole site as being one occurrence. Each issue is a fineable matter.

Scott Oldham asked how responsive the church has been to the Town when they've tried to contact them. Mr. Coppock replied at different times some people have been very responsive but the church in general has not been real responsive. Several issues have been cited in the past and they have not been taken care of. They have not been very responsive in repairing or taking care of the issues.

Sandra Hash stated they received a letter by email late today from the Assembly of God and she forwarded it on to Town Council. Mr. Oldham asked for the gist of the letter because most of them haven't seen it. Ms. Griffin read the letter as follows:

"I, Justin White, am the most current board member of the Ellettsville First Assembly of God Church elected in February of 2012. Only within the last week was the violations and other issues pertaining to our development site on State Road 46 brought to my attention. After the board meeting Saturday the 12th of 2012 at 9:00 a.m. at the church I was able to find out more information regarding the issues pertaining to the ignored letters sent to our church. Those letters had been forwarded to the land developer and the Pastor believed everything was being handled. The church board has been asked to follow up on the citations and violation with the land developer. During this time we would like to ask for a grace period to allow us to get a plan of action to address these concerns asap. We do understand that the council has been gracious with not enforcing the fines that are associated with this. If you would allow us the opportunity to rectify these situations we will get these handled top priority. There will be two board members attending the Monday, May 14th, meeting. Also the pastor is contacting Rick Coppock to possibly attend the meeting. We truly want to be in good standing with the Town and we are diligently working on these issues. Please feel free to contact me."

Dianna Bastin asked Mr. Coppock where June 1st comes in. Mr. Coppock replied it's June 11th because that's the Town Council's first meeting in June.

Justin White is the newest trustee. The pastor and other board members have a special meeting tonight and are unable to attend this meeting. Friday was the first he was made aware of the violations that were occurring on the property. He apologized to Town Council for the negligence of the church. They are more than willing to do whatever recommendations there are to the property to make it to code. He's not aware of what the code is other than what he has seen in the emails sent to him. They are more than willing to give their phone numbers if anyone would need to reach them. They are working with Rick Coppock and he just handed them a letter tonight to try and rectify this matter. Mr. Oldham asked what the intent is on the site. Are they still building, are they looking to sell or what are they trying to do? Mr. White replied their intent is to build. Right now they don't want to erect building until they have enough money to complete the church. Mr. Oldham asked if he had a timeline for building. Mr. White responded he does not. They need to decide what they need to do to get the lot presentable until they get everything together. Everything is ready and they need to go ahead with the building. Drainage is ready to go and that's Phase 1 of the project. Mr. Oldham asked if they're looking at months or years. Mr. White answered he couldn't say. He doesn't know.

David Drake, obviously the goal is to get compliance and not to make money for the Town. He thinks they should assess a fine at this meeting and then hold the fine in abeyance by June 11, 2012. He is uncomfortable with making the fine even though they'll never have to impose it. That's a lot of money. Even though they're not able to get the work done he would rather have the money they do have be available for them to continue to work on the site. He's not opposed to a fine but it sounds like an awful lot of money. Dianna Bastin asked if he was talking about the \$16,000. Mr. Drake replied he's talking about the \$16,000. Mr. Swafford asked Mr. Coppock how much it would take to get it into compliance. Mr. Coppock replied that's a tough call, a ball park range would be from \$8,000 to \$12,000. Mr. Oldham asked if there is a bond for this property. Mr. Coppock replied there are no public improvements so there's no bond. Mr. Oldham asked if the road would have a bond. Mr. Coppock responded they're required to build the road but it isn't a plat or subdivision of property. It's a development so there's not a bond. Mr. Drake reiterated he's not opposed to a fine. If their goal is compliance he doesn't know whether or not it'll make any difference if the fine is \$5,000, \$10,000 or \$17,000. He would be a lot more comfortable with a fine around \$5,000.

Dan Swafford said considering the fact he's ball parking at \$8,000, he asked Mr. White how long he thought it would take them to get into compliance. Do they have the funds available to bring it up to compliance and how quickly could they get it done? Mr.

White replied they've already scheduled stone to be hauled in on May 16, 2012. They are working to rectify some of the problems they are having. They did a scheduled grass mowing on the front part of the property Saturday and they talked to them about doing the rest of the property. They were cutting down some of the grass but it doesn't look like they've mowed the whole property.

Scott Oldham heard Mr. Coppock and others say they've had difficulty in contacting the church in the past. Now, they're here asking for forbearance to hold off a fine. What can they offer in the way of saying this is not going to be a continual issue? Clearly there's a disconnect somewhere within their organization. How can this be rectified? Mr. White replied they can have their personal contact information. They were not privy to this information until Friday. The pastor had forwarded it to the land developer expecting it to be taken care of and he didn't follow-up on it. A lot of people in the church weren't aware of it either.

Dianna Bastin noticed there was some mowing done. She wondered if some of the volunteers with the Fire Department had done it just as a continuation of the lawn. Now she knows the church has done the mowing. The Town does seem to have their attention. The problem is that businesses are building and they do not follow code and then the Town says their going to fine them but never does. Not that she's looking to make the church an example. If they don't see some progress pretty quick then they do need to assess some sort of fine.

Phillip Smith thinks they need to let the fines stand as is until June 11, 2012, to find out what improvements were made. If the church is willing to put forth the effort than he is willing to vote for dropping the fine. Their main goal is to get it straightened out so there's not mud coming down on the road and to get it back up to code.

Bill Schneider lives in Autumn Ridge behind the Fire Department adjacent to the church property. He agrees 100% with Mr. Drake and Mr. Smith. In six months the church has done very little in regards to the erosion citations issued in October. On September 29, 2011, he contacted Pastor Carter by phone regarding the buried trees. He was going to look into the situation. One week later he called Pastor Carter and left a voice mail message and he never returned the call. He called Pastor Carter one time a week for five weeks and the calls were never returned. On December 29, 2011, Pastor Carter answered the phone and told him the trees that accidentally had extra dirt on them would be taken care of in due time. He tried to get a date from him. They said they were going to do something and it didn't happen. Four months went by. He volunteered to tithe the expense of unburying those trees which would cost \$1,500 to \$1,800 and he asked if he could set up a campaign. Pastor Carter told him no. He then offered to set up a volunteer committee supervised by an arborist to unbury the trees. Pastor Carter said no. Nothing has happened. Pastor Carter is also President of the Board of Elders. There are six units on Harvest Lane that were sold for \$180,000 to \$200,000 and they can't open their windows in the summer time because of the dust and the dirt. It was to be 70% seeded last October. The Town did all of the seeding along the sidewalks on Harvest Lane last October and it looks great. The church did the same thing last October but it didn't take. He also noticed a brush pile on the property.

David Drake made a motion that a fine be assessed in the amount of \$5,000 from October 28, 2011 to May 14, 2012. The site will be re-inspected on June 11th and should the items be properly addressed and approved the recommendation would be brought to the Council at the June 11th meeting that the fine be waived. If the site is not brought into compliance by that date then an additional 28 days be added to the non-compliance at \$100 a day. Dan Swafford seconded.

David Drake explained the reasoning for his motion is that it needs to be enough of a fine to make it worthwhile to fix the problems but not so much it completely bankrupts them.

Bill Schneider doesn't disagree with Mr. Drake but believes they're setting a precedent and should consult with the Town Attorney. The Town has ordinances and codes that are being enforced at certain levels. When you start changing those on a vote making it so subjective it sets a bad precedent for future incidents. It is their duty as officers of

the Town to enforce the regulations. In his opinion, when you start going against what is written they're not doing their job. Their job is to enforce the ordinances. They can interpret things when they're done. But, to set limits now, they're changing the code.

Russ Ryle thanked Mr. Schneider for his comments and he agrees completely. They have a code and rules and they should follow them. It would be horrible to start setting piece-meal precedence and have it haunt them in future issues. He would like to see the fines stand in the full amount with the understanding that it will be assessed June 12th if everything is not fixed and the Town will use that money to fix it. Then the Town will put a tax lien on the property until the costs are recovered. This whole issue points out a glaring hole in the current code which needs to be addressed in the future. The Town is at risk on most developments for non-compliance. The Town does not have the means to go in behind a non-complying contractor or property owner and straighten out the public mess and the drainage. Since there is not a bond on this operation he would like to look at using the fines in their full amount as a way of getting the funds a bond would have provided. His real objective is to have something in place that says that property is going to be brought to code shortly after June 11th either by the church or the Town by collecting the fines and doing it for them. This property does not need to set another year.

Justin White understands Mr. Schneider is upset when he looks through his window and sees construction. If things don't get corrected, he'll come out himself and do the repairs. He apologized for anyone being upset over something the church has done.

Darla Brown, Town Attorney, the goal of the code is compliance and not necessarily to collect money. The Town wants to try and enforce the code as evenly as possible across the board. The code does allow for some discretion and some subjective interpretation. The issues to look at are things such as are people cooperating. Mr. Drake asked if he could avoid that issue by saying they'll back the date up to 50 days prior to May 14th and make the fine \$100 a day. Ms. Brown replied they have the discretion to do what they want to do in this situation. Just because the code says a fine shall be imposed of a certain amount doesn't mean that it has to be. Mr. Oldham asked if the code says up to \$100. Ms. Brown responded she thinks so. Mr. Smith stated it's \$100 per incident per day. Mr. Drake commented the Council always has the discretion to be reasonable. Ms. Brown stated she understands the points Mr. Schneider and Mr. Ryle are trying to make but if they prosecuted this case in court the judge would have the authority to issue a lesser fine than they ask for. Just because they may ask for \$16,800 and they push for that the judge may give them that or he might not. It would depend on the circumstances. The judge would look at the same things the Town Council would look at, such as what efforts have there been to comply, what's the chances of the party complying in the future and those types of things. She doesn't see anything wrong with Mr. Drake's motion.

Dianna Bastin thinks she can live with Mr. Drake's motion. She wants to see the Town Council levy a fine and say this is it. For example, this is the day, it needs to be fixed and they aren't going to discuss it at every meeting. She feels for anyone who has just entered the work site and still has yet to have all of the information.

Scott Oldham, the fact that this is a church as opposed to a business has a great bearing on what this council is likely to do one way or another. He thinks the fact the Assembly of God Church is what's proposed to go in there reflects on a lot of this. If this was a retail establishment he doesn't know if they would be having the same conversation. He agrees that \$5,000 is a lot and \$16,000 is a lot. The dollar amount doesn't really matter if they're going to gain compliance. The issue becomes what's the track record of the Town contacting the church and having compliance.

Ken Cook, Trustee at Assembly of God Church, the people who are going to have to pay this fine did not know any of this was going on and it was kept a secret from them. A lot of the decisions were made without the board or people knowing what was going on. As soon as they found out they wanted to attend this meeting as an act of good faith. They will be responsible to see that it meets the code. They intend to start the morning of May 16, 2012. He has already contacted a man to start hauling stone. He also talked to him about seeding. Rest assured that it will be

done. As far as the dates, if it is physically possible they will meet them. They welcome anybody to come to the site. If there are any problems they're to contact him or Justin White. They have checked whether or not they have the money to back this up because they don't have a bond. The secretary - treasurer has assured him the funds are there when they need it.

Roll Call Vote: Scott Oldham – no; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith – no. Motion carried 3-2.

Supervisor Comments

Scott Oldham, The Town Marshal had to leave due to a small emergency. There is a performance agreement to enter into an agreement with Maxwell Office Products for which he is requesting authorization. This is an agreement for the continuing maintenance of a copier. This will save the department for maintenance, toner, etc.

Darla Brown, Town Attorney stated it's a fairly simple contract and is self-explanatory. One thing to be aware of is that the contract includes maintenance, service and repairs due to normal use or normal wear and tear. The contract does not include any repairs that are made necessary because of accidents, fire, storms, burglary or things of that nature. The contract is \$105 per quarter and it includes \$6,000 copies per quarter. The contract is in effect for one year and either party can cancel after that with 30 days notice.

Sandra Hash added they have a maintenance agreement on the copier at Town Hall and they've had it for years. They've gotten a lot of mileage out of their copier. The drum recently went out and they came and replaced it. For the Clerk-Treasurer's office the maintenance agreement has been a good thing. The maintenance agreement is through Gordon.

Dan Swafford asked what the price of the maintenance agreement is. Mr. Oldham replied \$105 on the first of each quarter. Basically the cost is \$420 per year. If they go over 6,000 copies in that quarter they'll be charged .0125¢ per copy. Mr. Swafford asked how long the contract is good for. Mr. Oldham responded it is good until May 2013.

Scott Oldham entertained a motion to approve Maxwell's contract for the copier at the Ellettsville Police Department. Dianna Bastin made a motion to approve Maxwell's contract for the copier at the Ellettsville Police Department. David Drake seconded. Roll Call Vote: Scott Oldham – yes; Dan Swafford – yes; Dianna Bastin – yes; David Drake – yes and Phillip Smith – yes. Motion carried 5-0.

Jeff Farmer, Ellettsville Utilities acknowledged there was a heavy rain on Monday night and they did their best to get sandbags in front of Town Hall. They were unsuccessful and several inches of water flooded Town Hall on their brand new carpet. Luckily, only half of the carpet had been laid. The guys worked hard until about 1:30 a.m. getting the water out of Town Hall. They were closed the next day which was Election Day. They came in, continued to work on it and they realized they needed professional help. They got Moore Restoration to come in and dry out the carpet. They saved the carpet. The rest of the carpet got laid. Water got soaked up in the walls and they actually removed their last piece of equipment on May 14, 2012. The office was closed on Wednesday and Thursday and this is something the Town Council needs to approve. Town Hall opened on Friday of last week.

Scott Oldham said basically, the Personnel Policy talks about temporary emergencies and closings for severe weather, etc. If the emergency occurs during non working hours, the Town shall decide when the Town facility shall be closed. Facilities are officially closed for temporary emergency conditions before the beginning of the work day, time off from scheduled work will be paid to full time employees (excepting public safety employees) and regular part-time employees on a schedule affected by the facility closing. This basically means they get paid for the facility being closed.

Dan Swafford asked who helped come in and clean up the flood. Mr. Farmer replied it was Moore Restoration. Mr. Swafford asked if they signed off on a check for

mold. Mr. Farmer responded they did. They checked moisture in the walls. They have a sophisticated piece of equipment so they can even get into the base plates.

Dianna Bastin stated, it was her understanding during all of this that if they sealed the building, turned on the fans, put the air conditioner at a certain temperature and didn't have people running in and out that they could get ahead of it and the mold wouldn't get a chance to develop. Mr. Farmer said that's what he understood. Ms. Bastin said she got this information from Brian Miller. This should have taken care of any mold. Mr. Swafford said he has issues with mold and he has issues every time he walks into the building. It would be nice if they could get someone in there to check it out. When the Planning Department was looking for office space they looked at a building up the street from Town Hall. He crawled under the floor and there was probably two inches of black mold. It would be nice to make sure there is not mold growing underneath the floor or in the walls just for employees' safety. Mr. Farmer said this was part of Moore Restoration's guarantee. He will talk to the manager to find out if there's additional follow-up they could do to make sure there's no mold. Fortunately, there's not a crawl space in the building, it is on a concrete slab. Ms. Bastin said there was an issue a few years ago. There was carpet in the lobby and water and moisture would blow in under the seal on the door. They did their best to take care of that. The carpet came up and they put tile down in the entry. They waited to put this new carpet down in the office area. She doesn't notice the odor and doesn't think there's a problem now. She doesn't want people to think there's black mold growing in Town Hall. They have slowly but surely been working on this issue. The difference is miraculous. It's been a slow, step-by-step process and then the rains came. Mr. Farmer stated the doors will be next. The utility guys worked hard and they did a great job.

Jeff Farmer explained there was a hydrogen sulfide problem at the Smithville lift station for years. Neighbors have complained for years. Obviously, Smithville is across the creek from the lift station. Studies have been done on it. The Town owns a lift station out by the early childhood center and the Lifeway Baptist Church also has a lift station that dumps into it. The volume that goes into that station is not enough to keep the force main pumped out. What happens is it goes anaerobic in that force main. Then when it is released into the gravity sewer it releases the H₂S. Approximately one week ago he sent emails to Town Council trying to find some ways to correct it. One of the ways that have been tried at other places is chemical feed into the lift station. The problem with that is the cost which is anywhere from \$7,000 to \$10,000 a year just for the chemicals. This doesn't include the chemicals to feed it. They've never really had much success with this. He checked with two companies. He is familiar with the Anua product. They did a 90 day trial at the Pointe Golf Course with it last year and the South Central Regional Sewer District purchased that piece of equipment because of the results. He checked two different companies for quotes. One quote was \$38,000 and the other one is close to \$20,000. Covalen is willing to let them do a 90 day performance trial in Ellettsville. There are other expenses that will be associated with this. It does use some water and the shells in it last for five to seven years. Replacement shells are \$2,000 and the water use is minimal. If they like it it will have to be housed in some kind of building. This is something that will be run year round. It serves two purposes. It takes corrosive hydrogen sulfide out of the lift station and the collection system and it takes the odor out. Mr. Oldham asked if they have the budget for this. Mr. Farmer replied they have \$300,000 in the capacity user fund which is for this kind of purchase. They also have close to the same amount in their O & M account. The quote from Covalen is \$19,875 and the quote from B.L. Anderson is \$38,800. Ms. Brown commented this is under the amount in Town Code for purchases and it is not necessary to have a motion.

Dan Swafford asked if this is a typical problem with lift stations. Mr. Farmer replied the lift station is not the problem. It's the force main from the other lift station. On Wednesday nights, Friday nights and Sunday afternoons the church kicks on which then kicks on the Town's lift station. Otherwise there is nothing else going into the force main. So, it sets there for long periods of time. If there was development out there and it was pumping four or five times a day they wouldn't have this problem.

Council Comments

Dianna Bastin thanked the Street and Utilities Departments and anyone else that came out in the water.

Phillip Smith commended the Street and Utilities Departments for their hard work during the flooding.

Scott Oldham stated The Department of Natural Resources is going to be doing some rehabilitation to the creek. He asked Jim Ragle if it will impact the creek to the better with the ability of the creek to handle water and not flood out the bridges. Mr. Ragle replied he thinks it's going to be more stabilization of the creek banks.

Privilege of the Floor

Bill Schneider sent a letter to Councilman Scott Oldham via email to Sandra Hash on April 20, 2012. In the last paragraph of the letter he stated, *"Please be prepared for sure to explain how the Town engineer is compensated. When is being paid by the City would he also be compensated by his employer, Bynum Fanyo & Associates? If Rick Coppock is on a retainer by the City and the inspection site is engineered by Bynum Fanyo of which he is salaries how is this not a conflict of interest? I would like this explanation in writing the evening of April 30th. If not possible then when could I have a written response?"*

Scott Oldham replied they briefly touched on this when they talked beforehand. Some of the questions in the letter have been dealt with. As far as the contract with Bynum Fanyo and the Town Engineer. That's a matter of public record and he is welcome to review it whenever he likes. As to the internal policies of Bynum Fanyo they can't comment on those because they really don't know. Mr. Schneider asked if he is the Town Engineer and the site is also engineered by Bynum Fanyo then he is saying it's not a conflict of interest even though he is being paid by both parties when he is at the site. Mr. Oldham replied he doesn't know whether he's being paid by Bynum Fanyo because it's between Mr. Coppock and Bynum Fanyo. There have been two separate counsels for the Town that have looked at this and they have determined it's not a conflict of interest as long as it is known to all parties involved. Ms. Brown confirmed that is correct if both parties agree and waive off on the conflict then there's no problem. Mr. Schneider asked about the citizen who is buying real estate that is being engineered and inspected by the same person. Ms. Brown said his question is whether or not there's a conflict with Rick Coppock serving Bynum Fanyo and the Town at the same time. She doesn't have an answer to the other question. Mr. Schneider said the whole reason it is brought up is the fact that there is one individual who is balancing doing both things. He is being paid by the Town and the engineering company. Things could transpire that one person is playing God.

David Drake asked if he would like to pay more taxes so they could hire a Town Engineer that wouldn't have a potential conflict of interest they would be more than happy to do that. Unfortunately, since they can't afford to do that they have to hire a private company to do that and there is always going to be the potential for a conflict of interest unless they go out and hire multiple engineers. The Town can't afford to do this.

Bill Schneider, the first question is if he is willing to pay more taxes. Mr. Drake commented his point was the only way they could avoid a conflict of interest is to do what the City of Bloomington does and hire full time engineers. The Town can't afford to do this because of the tax base. Mr. Schneider stated he is already paying the maximum taxes per law of the State of Indiana on his property. He has exceeded the 1% limit every year since the two \$10,000,000 bond issues were passed for the schools. So they can't get any more money from him. Mr. Drake reiterated they can't get any more money to hire additional personnel so they have to use private companies. This always has the potential for a conflict of interest.

Bill Schneider, last November, he talked to the Plan Commission about a tree ordinance. At the same meeting, he brought a copy of the Bloomington Tree Ordinance. The Plan Commission, at that time, agreed at the beginning of the year

they would look into having a tree ordinance so things don't happen as they did at the church site. He is requesting status of the tree ordinance. Phillip Smith replied the Plan Commission has not had the time to work on it. It's going to be a back burner item. There are more important things to do in the Planning Department than working on a tree ordinance. It may be years before one is done. They have ordinances they've been working on for the past two years that haven't been finished as well as other projects. You're looking at a department that has one and a half people. The Town isn't Bloomington and it doesn't want to be Bloomington. Mr. Schneider asked if anything was ever done about the chicken ordinance. Mr. Smith responded he is working on it himself.

Dianna Bastin would like for Mr. Schneider and anyone who views this meeting to understand that the Town Council never questions the integrity of our employees. They don't have a problem with anyone. All of the proper paperwork has been filed and Mr. Coppock's integrity has never been questioned. She believes it was questioned tonight and she wanted to say something.

Bill Schneider apologized. He was not trying to question anyone's integrity. That was not his point. His point is as a citizen coming in to purchase property within this community.

Adjournment

David Drake made a motion to adjourn. Phillip Smith seconded. Motion carried. Scott Oldham adjourned the meeting at 8:25 p.m.

Scott Oldham, President

Dan Swafford, Vice-President

Dianna S. Bastin

Phillip Smith

David Drake

Sandra Hash, Clerk Treasurer, IAMC, MMC