

## February 9, 2006

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, February 9, 2006, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Frank Buczolich called the meeting to order at 7:00 p.m. leading the Pledge of Allegiance.

**Roll Call:** Frank Buczolich, President; Ed Bitner, Vice President; William Evans and Don Calvert were present. Sandra Hash, Secretary and Frank Nierzwicki, Director of Planning Services were also present. Lisa Creech and Terry Baker were absent.

### Approval of the Minutes

William Evans made a motion to approve minutes from the meeting of January 12, 2006. Ed Bitner seconded. Motion carried.

### Election of Officers

William Evans made a motion that we re-elect Frank Buczolich as President. Don Calvert seconded. Motion carried.

William Evans nominated Ed Bitner for Vice President. Frank Buczolich seconded. Motion carried.

Ed Bitner nominated Sandra Hash for Secretary. William Evans seconded. Motion carried.

### Old Business

#### Edgewood Village, Status Report

Frank Nierzwicki, Director of Planning Services, gave an update on Edgewood Village. He is looking into erecting the fence, cleaning up the debris and removing the trailer. The developer has until February 22, 2006, 30 days from the notice, to respond. He contacted some groups for fencing and towing and asked the Street Department for an estimate for removing the debris. He will be speaking with Mr. Dunn and Mr. Voils on Friday concerning their progress. William Evans asked how many estimates have been received on the fence. Frank has one proposal on the fence with two others interested. He has 3 or 4 groups interested in removing the trailer but he needs to work on where the trailer will end up.

### New Business

#### Sims Rezone request 5000 Block of SR 46

**Frank Nierzwicki**, Director of Planning Services, stated the staff recommends conditional approval of the rezoning petition from C-3 to PUD. He has been in contact with the petitioner, Mr. Sims, and his consultant over the past months on this property. The plans have been reviewed by Rick Coppock; Town Engineer, Jim Ragle; Street Superintendent and Mike Cornman; Assistant Fire Chief. Rick Coppock sent a letter to the petitioner with some concerns on the development. The petitioner made an effort to make the changes to the development plan. The issues required before PUD approval are:

- The petitioner needs to have 4 feet sidewalks installed by the apartments south to SR 46. An 8 feet side path from the Burrell property to SR 46.
  - *The petitioner said he will pay for the materials for the installation of the sidewalks and side paths.*
- The petitioner needs to install a curb and gutter on Capitol Avenue from SR 46 to the apartment complex.
- The petitioner is required to have Capitol Avenue extended to 24 feet wide to ensure safe traffic in and out of the proposed development. The current width of Capitol Avenue is between 18 ½ and 19 feet.
- The density of the proposed development is approximately 10 units per acre. The density raises other concerns

with buffering between the adjacent homes and road safety issues. The development should be reduced to 6 units per acre.

Some of the issues on the land use:

- Have petitioner's property zoned from commercial to PUD. It is consistent with current and future development patterns along SR 46 and Lakeview Drive.
- The density of the proposed development is a main concern with this petition.
- The traffic volume generated by this proposed development. Forty two-bedroom apartments on Capitol Avenue need to be addressed.
- The proposed development would be developed on a cul-de-sac without a second entrance or exit.
  - The petitioner said they would build a 12 feet asphalt emergency entrance stub on the east side of the development connecting to the future Burrell development.
- The adjacent home owners **DO NOT** approve of this rezoning request.

A lot of work has been done by Town employees on this review. At some point the fee schedule should be reviewed. Currently we do not charge enough to cover the engineering review. This development would benefit from a secondary road for entrance and exit. This area, the area to the north behind the current land owners and adjacent property will be developed at some point. Frank and Laura were at this site last week taking measurements and photos. He went over the photos included in the packet.

**Bernie Guerrettaz** of Bledsoe, Riggert & Guerrettaz, Inc. introduced the petitioner Chris Sims. They are requesting a recommendation for their development plan approval. This is further a long in the design process than what you would normally see with an outline plan approval with a rezone. This project is located between the Third Base Lounge and Pizza Pantry. The current use on this site is mixed. There is single family residential and also commercial with the Burrells working on a PUD on the east side of the property. In accordance with the C-3 zone, they are proposing to develop on top of the hill. This is consistent with what the zoning allows. The Sims put a different element to their building design. Instead of a long, narrow, thin, two or three story complex there will be 10 buildings with 4 units each. He showed different sides and views of the apartments they are proposing. He explained the Sims unknowingly acted as planners when they decided to come in with the multi-family concept for this project. The area goes from retail/commercial businesses into single family residential which will be buffered with a pattern of a less dense use with this multi-family development. This property was zoned C-3 as early as 2004 according to Frank's report with no further expectation, restrictions or conditions placed upon it. The Town has expanded its utilities and public services and revenue generators are needed. One example of a revenue generator is the water department having some connections to the east towards the Burrell property. One aspect of this petition that was not brought forward is a pedestrian connection to the south. He pointed out on the overhead where an easement would be for a pedestrian access coming out of the Burrell property. The Burrells are considering a mixed use property with open green space toward the east. He pointed out a 12 foot emergency access, which was added after discussion with Planning and Engineering staff and also expanding the width of Capitol Avenue. He compared the traffic flow with Lakeview Drive, Harmony Road and Garrison Chapel Road. He feels they have a good plan and are sensitive to the neighbors. The density is anticipated by the zoning ordinance and is 1/3 less than required. All of the buildings exceed the minimum requirements for what they are trying to do. They separated the buildings and put the foundations in such a way they match and work with the existing topography most suitable for the property. He reviewed his notes and reiterated:

- The utilities are on site, adjacent to the property and will meet design standards under the Town and Eastern Richland Sewer Corporation
- This is on a principle arterial through Ellettsville and Monroe County
- This is where you want the density for transportation, utility and existing purposes

**Rick Coppock** of Bynum Fanyo questioned a house that was on the map. It was announced the house not located on the property in question. Mr. Holtz owns south of the road but he granted an easement for the Sims to put utilities through there. Rick Coppock would like to walk the site and see the property lines. He is waiting for a final erosion control plan which meets the Rule 13 guideline the Town is subject to. Sandra Hash asked if the set back lines are met that were laid out in the notes. Rick described the different set back listed in the PUD. Frank Nierzwicki pointed to the petitioners diagram showing the buffer with evergreens. Bernie went on to explain the ordinance states "when you come across a change in zone classification, you double the rear set backs". This is not necessarily when you change a

zone classification but when you change a land use classification. Then landscape buffers are used to soften that. They are asking for a PUD instead of a straight petition so they wouldn't have to build up and slide them back. While meeting with Mr. Sims, Frank suggested going with a PUD because some of these issues can be worked through with the Plan Commission and Council. They put in some landscape buffers between the residential homes to soften the impact. Bernie pointed out some trees that would come down, which drives would stay the same and which streets would be widened for emergency vehicles. Sandra asked how many feet there would be between the northern apartments and the existing homes. Someone answered about 50 feet. Bernie asked Ronnie Harth about his property. Mr. Harth, an original home owner, pointed out on the map his concerns. There was a discussion about the number of residents in the area already, which houses will come down and clarification of where the streets are. Sandra read the general requirements from the Town Code for the Plan Commission. *The purpose of the regulation is to insure provision of adequate light, air, open space, drainage, streets and public utilities.* She stated in a more open area this might not be too bad but right now it looks like an awful lot of asphalt and house tops in a very small space. Ed Bitner's concern is the greenery being a buffer to the north but it takes years to grow greenery. His next concern was the number of people and the number of cars which could be up to 110 cars just in that area. He does not think enough buffer zones could be put in to handle all the people and cars they want to put in there. There was further discussion about children playing and the sidewalks heading towards the Burrell property. Frank thinks this is good discussion and opportunity for neighbors. Don Calvert, who admits his concerns may be trivial, stated he does not oppose this if it is done right but in the professional letter written to Frank Nierzwicki, there are misspelled words and words left out. He wonders what kind of work might be done since in the very beginning there is a lot of errors and mistakes. Frank Buczolic asked Sandra to read Douglas Norton's letter into the minutes.

Douglas D. Norton  
5120 N. Capitol Ave.  
Bloomington, IN 47404

Frank Nierzwicki\Ellettsville Plan Commission  
Re: PUD Zoning 5100 block, N. Capitol Ave., or 5700 block Hwy 46 W.

Dear Frank and Members of the Ellettsville Plan Comm.;

Sorry I cannot be there to attend this very important meeting. After reviewing Plans for the proposed development, I must admit I have some serious problems and questions about what is being proposed. Our neighborhood up on Capitol Ave. is very unique to this community in that we have a very country setting while still being right in town. The neighborhood, as you know is not very large and does not have a lot of open ground. In fact I believe the project in question will cover an area of approx 3 acres. The street was not designed for the flow of a lot of traffic, and of course it is a dead end street, meaning one way in, one way out. While we are not completely opposed to change we are concerned about how the change takes place, and if we will be able to maintain the integrity of our neighborhood, and keep the country setting that we have become used to.

I believe the plans call for a total of 10 buildings to be built on 3 acres of grounds I am not an architect or a planner, but it seems to us that is about 4 to many buildings for that space to allow for enough green space to maintain a Country setting. 3 acres is not much ground for 10 buildings with ample parking, and streets for traffic flow. As I said before the street its self was not designed for a great deal of traffic flow, especially where it intersects with Hwy 46. With the addition of 10 buildings you are looking to increase the flow of traffic on that road (which is not much more than a wide driveway), by a possible 80 vehicles. With only one way in and out, that becomes a very dangerous situation. If the project is approved we still feel like there are several things that need to be done to maintain what we have had up Capitol Ave. for years.

We believe that the street must be improved to include widening, curbs, sidewalks, and ample lighting. We would like to have natural buffers between the apartments and our homes, to include dirt mounds, trees etc., enough to set the rest of the neighborhood apart from the apartment complex. We would like to see a copy of proposed lease or rental agreement so that we can be assured that the area will be maintained by renters and developer to maintain the integrity of the rest of the neighborhood. We would like to know about trash collection and position of dumpsters for the area, and to be sure that the exterior is required to be kept neat by all the renters. With current plans calling for 10 buildings we just feel that that is much too dense for that amount of space. Perhaps another road going to the East connecting to Lakeview Dr. would help with traffic flow, and reduce the dangerous situation that will be created on Capitol Ave.

Once again let me say that we do not completely oppose development, but we oppose it if is not done right, and with respect to the other property owners in the area. I want to thank you for your time, and I will appreciate it is you will take into consideration what we are asking for, and certainly why we are asking for IT.

Sincerely,  
Douglas D. Norton  
5120 N. Capitol Ave.

Frank Buczolic opened the floor for questions or commentary from members of the public.

**Dan Swafford** lives at the end of Capitol Avenue. He and other residents have met together and have the same concerns as Doug's letter. He pointed out a few things on the over head visual; traffic flow and connecting roads. Frank Nierzwicki explained the road of concern would not be open to traffic and only for emergency vehicles or a foot path. Mr. Swafford asked if the road would be asphalt or dirt. Frank answered that it would all be asphalt. Frank went on to explain a dead end would be a stop for pedestrians and emergency vehicles "right now". Mr. Swafford reiterated "right now" and added "once that is connected and we do have traffic flow we are going to be in trouble because there is already housing. So if we are planning for the future let's plan for the future and make that a wide enough street to get through if they are going to connect that".

William Evans mentioned the residents around the Litten Estates originally were not happy with the new development as proposed. They met with the architectural firm and developer to work out changes that they thought were better, which basically satisfied all of them. He suggested Mr. Swafford and the other residents get together and try to reconfigure this so that it would be agreeable to all of them. Mr. Swafford agreed this would be a good starting point. He also agreed he and the other residents have a meeting with Frank to discuss all their concerns before bringing them to the Plan Commission meeting. Sandra asked Mr. Swafford to briefly discuss his list of concerns:

- Density of the units on three acres.
- Height of the buildings.
- Heard through the "grapevine" the Sims were working on a project, only one neighbor was contacted.
- Street width, sidewalks and lighting.
- Would like to see a copy of lease agreements.
- "Heard" some of the lower units would have retail. (It was said only a "Management Office" would be there).
- During construction phase where would trailers and contractors park?
- Access for the residents coming in and out of the dead end street.
- Maintaining debris clean up - concerned about nails on the street and asbestos from torn down houses.
- Landscaping and erosion plan.
- Drainage.

**Chris Sims**, developer, appreciates the neighbors concerns. The Town zoned this property C-3 with the intention some day there would be some type of development on that property. The ordinance allows taverns, kennels and storage buildings. C-3 allows for substantially more; as dense as this property is, it allows for a density of up to 60 units. He and his brothers took a lot into consideration before it was brought to the Plan Commission. He explained living in Town in a country setting is hard to maintain over a long period of time with adjacent property zoned C-3 you have to expect development some day. They are willing to meet with the neighbors to try and work things out. They did take a lot of the concerns into consideration. He grew up on this site and his mother still lives there. He and his brothers have run businesses in Town for 30 years, feel they have a good reputation and it is their intention to maintain this development to a very high standard. He presently owns an apartment building in Ellettsville and would be glad to share the lease agreement. As far as erosion control, that is taken care of in the construction documents. He would be glad to review all that information with the neighbors. He would like to stress Ellettsville is a market for development that can not be compared to Monroe County. The Town of Ellettsville needs the revenue from property taxes. The density does not exceed the current standard. If they knock the density down greatly they will not be able to justify the cost. It will hinder the development to the point it may not happen. He stressed to the Plan Commission, he hopes they understand it is their responsibility to try direct planning in a positive way. It does need to happen. The property taxes help improve our schools and fund both the police and fire departments. This proposal is not drastically out of line. There are some issues that need to be addressed but not the density issue. William Evans reiterated having a meeting

with the residents worked well with the Litten Estates development and he would like for them to try that to start with. Frank Nierzwicki mentioned this is an open meeting and people have the right to talk and not have to save it for a private meeting later. Sandra asked about Frank's remark about the Sims paying for the sidewalk supplies to Highway 46 along Capitol Avenue. The Town is not equipped to install those sidewalks. Mr. Sims said the idea he and Frank came up with is; this is an existing city street and as a compromise if Mr. Sims paid for the material the Town will install the sidewalks. Frank said we "can pave" in the Town of Ellettsville but we do not have the expertise for doing form work with concrete. Mr. Sims feels the details can be worked out. Sandra's other concern is we did accept the street into Town in its present condition but we did that because of the number of homes it was servicing. As a Plan Commission member, she was taught, as things changed, if they did not meet the Code when the improvements is made it has to be brought up to Code. She said an 18 foot street may be sufficient but the past standard has been 24 feet. Mr. Sims thinks there is a compromise they could come up with. He hopes the Plan Commission would take into consideration the restrictions on a developer. If the projects expense is too great it becomes unfeasible in a market like Ellettsville. Sandra replied there shouldn't be a burden on the taxpayers of our community to upgrade existing facilities to accommodate new development. Mr. Sims said we should look at the amount of property taxes this would generate; he feels the return will far out weigh what the Town would have to put out. Sandra explained how the property tax works: Development in the Town does not affect the tax rate; our base rate stays the same. The State allows a percentage of increase annually. We could quadruple in size and the State would hold us to an annual increase of 3.9 percent unless we qualify for a levy appeal. Although the apartments would add to our tax base, that would increase our assessed value which in turn would lower the tax rates. It does not increase the revenue the Town receives from those taxes. It helps everyone by lowering the rate. Chris Sims concluded with they will be meeting with the neighbors to work out some details.

Ed Bitner clarified this is zoned C-3. His understanding is before anything is developed, it needs to come before the Plan Commission to be approved. He is all for change. He also commented on the Litten Estates situation and how it was resolved just by meeting, discussing and resolving issues. There is a solution to all problems.

Fred Baugh, resident at 5114 Capitol Avenue, has a lot of concerns about this development. He has spoken with a lot of people and his understanding is when you put apartments in, the property value of the homeowner's will go down. Ed Bitner added the property assessed by Monroe County Assessors.

Ronnie Harth's main concern is the Department of Transportation works with this development so their access is easy to get in and out of. Sandra added it does call for widening the entrance to the highway. She gave Chris Sims a vote of confidence because he took a development at Vine and Matthew that was in poor repair and he has made it 100 percent better.

Robbie Bex pointed out a driveway easement through the proposed development to her home. Chris Sims pointed out the location on the over head explaining before the road was black topped there was a gravel access to her house. It was almost a full circle around the development area. Robbie Bex expressed she was totally opposed to the black top drive way when Mr. Sims approached her about it. She felt he was totally belligerent with her when she refused. She then heard he held other meetings with the neighbors regarding putting in the black top but she was not included since she was opposed to it. He then threatened to take her to court because she didn't pay for it. She said he scared the other neighbors. All the other neighbors put in an additional \$200 a piece to pay for her part of the driveway. She did sign an agreement to pay her neighbors back for the black top driveway. Sandra asked how much each neighbor contributed to the driveway. It was explained by different members of the audience that each amount was different depending on the location of your home. The general agreement was that it cost each person at least \$1800. When the driveway agreement was entered in to, 18 months ago, there was no explanation on future use.

Bernie Guerrettaz mentioned he would see if the easement still exists. He also stated his company was involved with Litten Estates. The community around it was very active and vocal and they were able to work with them. He responded to some comments made:

- He did not speak with any of the neighbors.
- The plans are not a rag tag piece of stuff even though there are some misspelled words.
- The acreage is 3.77 not 3.
- A plan for erosion control will be submitted that meets MS4 for designation.

- The correct permits will be pulled.

Sandra made a request to attend the meeting between the developer and neighbors. Frank Nierzwicki will get together with all the parties to recap all concerns.

William Evans made a motion to table the Sims rezoning request until next month. Don Calvert seconded. Roll call vote was taken. Ed Bitner –yes; Frank Buczolic – yes; Bill Evans – yes; Don Calvert – yes; Sandy Hash – yes. Motion carried.

Ed Bitner told Frank Nierzwicki he would also like to attend the special meeting because he will not be at the next month's Plan Commission meeting. Frank Nierzwicki asked if a daytime meeting would work and there was a "no" response. Frank Nierzwicki then clarified a weekday meeting after 6 p.m.

### **Town Code concerning lighted signs**

**Frank Nierzwicki** make known an issue concerning our Town Code on lighted signs. He asked Mr. Bob Double to give a presentation and explain the pictures that were handed out.

**Bob Double**, 26 year resident of Ellettsville and self employed in the sign industry, called attention to some deficiencies in the current ordinance. He would like to petition the Commission to consider modifying the Town code as it pertains to the signs. He read ordinance 152.261 section (B) paragraph (3) under "Signs Permitted in Commercial C-1, C-2 and C-3 districts and Industrial I-1 and I-2 districts. The areas of the ordinance that he proposes to change are:

- The lighted sign issue. Most of the retail businesses in Ellettsville that have lighted signs (Richland Plaza and Jack's Defeat Creek) were grandfathered in. Any new businesses or modifications, by his understanding, would need a variance in order to have a lighted sign. He feels it is too restrictive and he would petition to remove it so it would read that they could have a fascia sign.
- In addition to the fascia signs, in paragraph (8) he would like to remove "unlighted signs". He feels they are describing the pole sign using the example of the Long John Silvers sign as a free standing sign.
- In paragraph (9) remove "unlighted" also in "read board signs" which is the sign under the Long John Silvers sign. He thinks it is a restriction that is not plausible for retail business.
- Regarding the fascia signs. Having a static limitation is unreasonable because businesses vary in size. He included some pictures of area businesses in Richland Plaza with the static sign limitation and with their current signs. The modification with the License Branch was not too severe but both Hoosier Bar & Grill and Buehler's were "absurd".

He proposed to change the ordinance to read:

"The sign face area shall not exceed 1.6 square feet for each linear foot width of building frontage." This is the same formula the City of Bloomington uses for fascia signs.

William asked with this change, would the signs at Richland Plaza be legal. Mr. Double said he has not checked Buehler's Buy Low but thinks it should fall within the new proposed changes. Frank Nierzwicki stated the signs are legal now. He wanted this information brought up because we need to update and modify the Town of Ellettsville. If Richland Plaza chooses to upgrade their fascia, the codes should be updated. Sandra commented that the reason it was inserted into the code is due to the concern of light pollution. This was discussed with the comprehensive plan and the ideal for the corridor on Highway 46 was to move from the overhead lit signs to more of a limestone theme monument sign to reduce the light pollution along the highway and enhance the beauty of the entrance of the Town. This was discussed with the comprehensive plan and not an oversight. The sizing of the signs is a little off but the lighting originated because of the concern for light pollution. Frank agreed street lights and gas stations tend to be light polluters of the sky. The beam should be towards the ground. He suggests 3-D signs like the CVS sign where the light is contained and the words are raised off the fascia. Mr. Double mentioned all this was prompted because Richland Plaza is planning to renovate and change the signs and fascias. Ed Bitner asked if the signs Richland Plaza are proposing are the same as CVS. Mr. Double said yes. Dan Swafford commented his present signage is glass with fluorescent bulbs behind it and the new lighted signs would cut down on light pollution tremendously. His business will be better seen because the light pollution is actually blocking his lettering now. Ed Bitner went on to say he knows where Ellettsville is when he is flying at night because of the lights of Richland Plaza.

Frank Nierzwicki said he will be able to work on this before next month's meeting. He has to take care of a development and stated Mike Spencer has been on vacation. Frank will work with Mike Spencer on this when he returns but will work with Mr. Double on a draft before the next meeting.

### **Town Code revision request – non moving code violations (parking issues)**

**Frank Nierzwicki** followed up on the previous meeting regarding parking tickets and moving violations. There were approximately 300 letters sent out between July 1 and December 31 with a majority of them parking on the grass. The current procedure for handling these are:

- They find a violation
- A letter is sent out
- The person has two weeks to correct the situation
- If the situation is not corrected, a second letter is sent and they try to collect on the fine

A majority are in compliance after two weeks but when Frank returns a month later or so the cars on the grass again. That is why so many letters are being sent out. He has been asked by Plan Commission to research parking enforcement codes in other Towns similar in size in Indiana. He looked at Auburn, Bloomington, Jasper, Pierceton and Warsaw. He found some common themes and would like to suggest creating a Parking and Enforcement Division. This would be a subdivision of the Planning Department, managed by the Director of Planning Services. He read the memorandum with the recommendation for changes in the parking enforcement codes for Ellettsville.

1. Powers and Duties. Parking Enforcement Officer shall enforce all ordinances and where applicable and appropriate, state statutes dealing with the regulations of parking in the Town. To this end the officers shall have all powers ordinary and necessary to carry out their duties.
2. He would like to amend Code 152.220 as follows:
  - All parking violations will be enforced by the Parking Enforcement Division of the Planning Department.
  - The property owner and or tenant will receive a written notice by the Enforcement Division for the first offense during the calendar year. The offender will have two weeks to rectify the situation. This notification will serve as the final notice by the Town. Following the two week notice the Parking Enforcement Division will start writing parking tickets for each offense.
  - The Enforcement Division will take photographs of each parking offense and keep a copy on file.
  - The parking fine will be \$15.00 and will increase to \$30.00 if not paid the Town's Clerk-Treasurer within seven (7) calendar days.
  - The parking fine could be appealed to the Town's fine review board. The Town review board will consist of the Clerk-Treasurer or designee and two Town employees appointed by the Town Council President.
  - All proceed from parking fines will be deposited in non-reverting fund for supplies and training. This fund will be under the control of the Planning Department.
3. The cost of a driveway permit will increase from \$5.00 to \$15.00 effective July 1, 2006.

Frank went on to explain his requests in more detail. He would like for Laura and himself have the authority to write tickets for parking on the grass. It is allowed in Bloomington to have non sworn officers be able to write non moving violations. He needs to work on the wording with Ron McGlocklin; Town Marshal and Mike Spencer; Town Attorney.

He would like to use a "calendar year" notice to monitor this program. He would like to change the fine \$15.00, which is the same as Bloomington and other Towns he researched, doubling to \$30.00 after seven days. He also explained the "review board".

The time table Frank Nierzwicki is looking at:

- Presenting this information
- Taking comments from the public and Plan Commission
- Return next month with a form Mr. Spencer approves of
- Present the form to Plan Commission for approval next month

- If this is approved and/or amended then take it to the Town Council

Frank quickly added photos will be taken of the offenses recording the date and time.

Sandra commented on the non-reverting fund. The Town's non-reverting funds have been set up for specialized things such as grant proceeds and donations. The Police Reserves and Volunteer Fire Department, who are non profit organizations, both have funds. In the past, the Town collects fees for filing petitions, zoning changes and developments. Those fees are captured in a specific revenue account, in the General Fund, so they can be tracked. The Planning Department is part of that General Fund. She does not see the need to do a non-reverting fund, nor does she think it is proper to do a non-reverting fund. She suggests this be a budgeted item in a regular budget line. The Police Officers have a special fund for training that is a non-reverting fund but it is laid out by Indiana Code. Frank Nierzwicki has received comments from other supervisors that suggest this money be dedicated towards these operations. Sandra went on to give another example and said she has a call into the State Board of Accounts to get their interpretation.

**Dale Sissman**, Ellettsville resident, mentioned Frank has been to his property and says he is parking on the grass. Mr. Sissman clarified there is a foot of gravel under that grass. He is disabled and he parks one vehicle in his backyard. He does not drive often, the car isn't moved often and the grass grows. Frank wrote him a letter and will fine him \$50.00 per day for each offense not the \$25 or \$30 he has discussed this evening. He read this section of his letter.

Frank Nierzwicki informed the board the proposal would drop the fines to \$15.00 per offense. Mr. Sissman made the comment Frank's future plans do not affect him and his ticket. Mr. Sissman asked why he has to put down more gravel to kill the grass to make Frank happy. He explained if he put down more gravel, he would have to build a retaining wall so the gravel does not fall into the grass. He sees no reason for Frank to tell him what to do with his property. He has a Presidential deed on his property. If Frank tries to enforce this and tells him he can not park there, then Frank is breaking Federal Law which is discrimination on Disability Acts section 88 and he will take it to Federal Court. Don Calvert asked if Mr. Sissman could spray grass killer on the grass growing through the gravel. Mr. Sissman answered he is on current COPD and spraying would kill him faster than it would kill the grass. He does not feel he should spray poison in his yard to make Frank happy and he will not do it.

**Gib Fisher** received a letter from Frank Nierzwicki also. He put gravel down and does not think it looks any better than the grass. He complained about a garage along the highway that has cars without license plates. There is a truck (with garbage in it) and a car in a yard without plates by School View Apartments. If the Town wants to clean up correctly, they should start with these eye sores first. Get rid of the cars without plates and garbage in them.

**Chris Kleindorfer** came to speak for his mother Mary Kleindorfer. His mother lives next door to Mr. Sissman. He feels as though he went to sleep and woke up in Mayberry and Frank is Barney Fife. This proposal is the most ridiculous thing he has ever heard in his life. There are people on the new highway speeding. There are other real issues and parking on the grass is not one of them. He thought this ordinance was enacted to stop people from putting junk cars in their yard. His mother is homebound and people are in and out all day. There is not enough parking for everyone all the time and they have to park in the grass at times.

**Glen Johnson**, resident on Poplar Drive, received a letter from Frank. His neighbor received one first which made him quit parking on the grass. Then a tree limb fell across Mr. Johnson's driveway, neighbor's house and some trucks so he temporarily parked two vehicles in the yard for three days. He has lived on his property for 28 years and that was not a requirement when he bought the property and he does not think it should be changed today. If they want it changed with the new subdivisions going in, have them put this information in their covenants.

**Larry Leonard** also received a letter. He received a letter before going on his honeymoon and a second when he returned. He tried phoning three times before Frank Nierzwicki finally returned the call and came out. He has a gravel driveway that comes right up to the garage he purchased nine years ago. There is also a gravel section to the side that was unused when he was single and the grass had grown up. Now that he is married, they have been parking on both areas. Frank said he was willing to work with Mr. Leonard to make sure the driveway was done correctly and suggested rail road ties. Mr. Leonard does not like rail road ties because they attract bugs, rot and fall apart easily. He has drawn up the plans and called Frank Nierzwicki twice and has not received any phone call back on how to fix this situation. He has not been fined the money. Mr. Leonard has just put in new windows, siding and is ready for new gutters on his



house. Now he needs to put in a new driveway with an increase in the cost of the permit. He questioned the increase. He doesn't understand what the problem is. He isn't parking in his yard; he doesn't have a lot of cars in the yard or driveways and when he asked Frank about weed killer Frank responded "that is not good enough". Mr. Leonard does not have the money. He just got married and is doing home improvements. His concern is he can not get the driveway taken care of in the allotted time given.

Frank Nierzwicki's responses were:

- He is enforcing the codes already in the books
- The issue on the gravel; there is some gravel, there was gravel at some point
- Rail road ties are used to keep the gravel from migrating off site with rain
- He agreed it is hard to get a hold of him. He has been out doing inspections with different people at different times.
- He agreed it is hard to return calls. He does work hours after 5 p.m. but sometimes it is difficult to connect with people.
- He has one person to help two days a week
- He has to follow the code on the "junk cars"
- The parking in the yard; they are taking photos.
- Weather is an issue; the yards are wet, becoming mud causing ruts.
- He has to work with Landlords and tenants

The toughest part of planning is the enforcement. He has made an effort to make sure this was in the press. He wanted to have discussion. The Plan Commission will give guidance. His time is an issue with how much he can spend on this.

**Ed Bitner** made a comment on the non-reverting funds. He was going to bring it up but felt Sandra explained it well. The comments regarding the parking on the grass code; he was involved with getting the code started but did not vote for it. His problem was not with parking on grass it was with people rutting their yards when they drove through. The driveway permits having a fee attached were proposed at a higher rate but they settled for \$5.00 to let the Planning Director know someone was putting in a driveway and they could go and assist them as needed. Frank Nierzwicki said the amount of time the staff puts in with the driveway codes and reviewing compliance requires a lot of time with a little amount of money to coming in.

There was more discussion between Ed and Frank on "junk cars", cars without plates and cars with no engines. Frank suggested working with Ron McGlocklin, Town Marshal. These vehicles would fall more under "abandonment".

There was more discussion on ruts and people visiting and parking in the yard. Frank went on to explain the evolution of the driving habits of people starting in the late 1960's. Larry Leonard voiced his concern that if he has friends come over; they should be able to park in his yard because they can not park on the street. He takes care of his yard. Sandra added this has been an on going problem with the Town for years and an area of Town has been patrolled and letters sent that have never been addressed before. People in the past have come and complained strongly about the parking on the grass issue. There have been many different versions of parking on the grass compliance to try and make it work. She read the current ordinance and procedure on parking. At the time, Jeff York gave the people the opportunity and time period to make it right. The code was relaxed. She gave her personal situation on the parking; having four drivers sharing a double driveway. There are times another daughter comes home to visit and has to park in the yard. Sandra understands everyone's pain. They have not been able to resolve this problem. She feels right now there may be a little overkill going on. Property owners do have property rights and we do need to respect those property rights. The State of Indiana has some codes that dictate what can be done on real property. There is a need for enforcement but she is not sure the Town of Ellettsville is ready for a full blown Parking Enforcement Department. There has to be a meeting in the middle. Frank said in general with Planning and Zoning issues and on a lot of different enforcement issues, people have not been used to enforcement for a number of years. There are many different levels we are dealing with on this and he wants to be fair. Sandra went on to say there are two properties that have been in total disrepair for a decade. We have not been able to resolve those issues at all.

There was more discussion on the inconsistency. Gib Fisher brought up parking on the street during garage sales. All the people should be treated the same.

Frank Buczolich clarified the Parking Code stands as it is until some changes are made. It is as written.

Sandra asked Frank Nierzwicki where the \$50.00 a day fine is from. He said he would talk to her the next day after he checks with Laura.

## **Adjournment**

Ed Bitner made a motion for the meeting to be adjourned. William Evans seconded. Motion carried. Meeting adjourned at 9:30 p.m.