

## January 11, 2007

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, January 11, 2007, 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.

**Introduction of New Members:** Frank Nierzwicki introduced Dianna Bastin and Dan Swafford.

**Roll Call:** Members present were Frank Buczolich, President; Ed Bitner, Vice President; Don Calvert, Terry Baker, Dianna Bastin, Dan Swafford and Sandra Hash, Secretary. Frank Nierzwicki, Director of Planning Services was also present.

### Selection of Officers

Ed Bitner made a motion that all offices remain the same as last year. Terry Baker seconded. Ed clarified Frank Buczolich President; Ed Bitner, Vice President and Sandra Hash, Secretary. Motion carried.

### Approval of the Minutes

Ed Bitner made a motion to accept the minutes of December 7, 2006 Planning Commission meeting as written. Dianna Bastin seconded. Motion carried.

### New Business

#### Community Forum concerning Planning Issues

**Frank Nierzwicki** stated there was a request made by the Town Council to conduct community forums. The Town Council President, Dennis Williamson, suggested these forums be held during Plan Commission meetings. Frank Nierzwicki asked for opinions regarding these forums being held separately or piggy backed with Plan Commission meetings. He listed the planning issues for the new members: covenants versus ordinances, issues with speed humps, parking, signage and drainage. Sandra suggested piggy back meetings with Plan Commission meetings because she would rather attend one late meeting a month instead of two. Don Calvert suggested the agenda be rearranged and flexible based on who is attending and what needs to be discussed. An example given was a gentleman who sat over two hours to explain his company would not be able to build on a parcel in town. Dianna Bastin stated she is a Dispatcher and requires a certain amount of sleep. Don Calvert reiterated if the forums and meeting piggy back then a time limit will need to be set. Frank Nierzwicki suggested forums could start before the meetings with a thirty minute time limit per topic. There was continued talk and discussion about how the forums should be run. Ed Bitner suggested using the "Robert's Rules of Order", an outlined procedure on how to conduct meetings.

Frank Nierzwicki summarized the forums will be the same nights as the Plan Commission meetings and start based on the topic. The Journal and Herald-Times will be notified with the time change. There will also be occasional "Special Meetings".

Frank Nierzwicki stated Edgewood Village will be on the February agenda for a change in their PUD. A McNeely Development (approved a number of years ago to be called Richland Square) located north west of Kelli Heights and next to the water tower will be on the agenda in March to reduce the density on the proposal. Ed Bitner asked when this was originally approved. Sandra said during Diana Evans' term as Clerk-Treasurer.

Frank Buczolich clarified the Community Forums will be planned as needed. Sandra added they will start earlier if needed and be on the same night. The members agreed they did not mind an occasional Special Meeting.

### Privilege of the Floor – non Agenda items

Frank Nierzwicki followed up with Mike Spencer regarding comments that were brought up at the recent Town Council

meeting concerning covenants and ordinances.

- Covenants: Indiana Code states the Town may enforce covenants.
- Ordinances: When a subdivision is platted and approved by the Town, the streets themselves are given to the town to maintain and protect.
- Safety: It is the responsibility of the Town for safety. If the town feels there is a safety concern, it trumps and has powers over covenants.

Frank Nierzwicki explained the parking on the street was determined by the Town Council. There was a need to have “No parking” on the street due to safety issues and this supersedes any covenants that may be on the books. Dianna clarified an ordinance over rides a covenant.

**Art Hayes** asked, if this is true, why is there a sidewalk next to the street in the Meadowlands. The Meadowlands covenants state the sidewalk can be next to the street but the law says there will be a six feet shoulder and five foot sidewalk. Frank Nierzwicki explained the original plat called for more setbacks. The developer approached the Plan Commission and asked for the sidewalks to be closer to the street. This was agreed to at that time. Mr. Hayes said different parts of the Meadowlands have different setback lines and what he is trying to point out is the Meadowlands are in direct agreement with the covenant with “no parking” on the street. Kelli Heights had parking on the streets with the covenant and when the no parking ordinance was introduced in 1978; Mike Spencer and Terry English (attorneys) allowed for guest parking on the streets. Mr. Hayes feels the wording is a “technicality”. He asked Sandra if he was still on the next Town Council meeting agenda. Sandra stated the Town Council President gave direction for Mr. Hayes to discuss his concerns with the Plan Commission. Mr. Hayes requested his items remain on the agenda. He feels he is being stone walled during the Plan Commission meetings. He wants his information given out to the public by way of television and recorded. The original law, the Meadowlands Subdivision was built under, was ignored and now he has a problem with the sidewalk in front of lots 18 and 18A. On street parking is good for traffic calming.

Sandra will check with Dennis Williamson to verify how Mr. Hayes’ complaints should be handled. Her understanding was Dennis wants the Plan Commission to handle these complaints with a “citizen’s forum” rather than at a Council meeting. All final decisions would be made through the Council but he is hoping the Plan Commission makes a clearer picture of what needs to be corrected or changed by the time it gets to the Council.

There was discussion between Sandra and Art regarding Lots 18 & 18A in the Meadowlands. He stated when this was platted and recorded with the County Recorder; it was referenced back to section 3 which showed the sidewalks next to the road which was in violation of the Town Code. The reason he keeps reiterating this is because it is much safer when the sidewalks are not next to the street. Sandra explained nothing was changed; all they did was take two lots and made them into one. His argument is section 3 states the sidewalk next to the road but the plat Frank Nierzwicki and Patrick Stoffers signed states “what is in accordance with the ordinance”. The ordinance states there should be a 6 foot strip of grass and then the five foot sidewalks.

Frank Buczolich asked Mr. Hayes what he would like to take to Town Council. Mr. Hayes would like an investigation on why this has been going on for all these years. It is a violation of the law by the way the sidewalks were put in. Mr. Hayes would like the new subdivisions to be built in accordance with the Town Codes.

Frank Nierzwicki is hoping to have a draft thoroughfare plan for the Town by the end of March. There has not been an update in some time. There is money available for reimbursement. There are things that have happened and have been built in the Town that Frank Nierzwicki does not understand. His job is to insure what happens from here on. Mr. Hayes wants the new addition of Meadowlands to be built correctly. Sandra clarified the plat has already been approved for that.

Mr. Hayes brought up trees in the area between the sidewalk and street. Eventually the trees will grow big and the roots will tear up the sidewalks. Frank Nierzwicki explained Planners look at different type of trees throughout the state that are less invasive and less destructive. There was more discussion about the Meadowlands speed humps, sidewalks and straight streets. Frank Nierzwicki feels the Town has learned a lot with the Meadowlands Subdivision.

Sandra asked Art Hayes if his agenda request should be modified. He has spoken about streets, setbacks and trees but wants to be on the agenda for ordinances, covenants and restrictions. Frank Nierzwicki stated ordinances with public

safety issues takes presendence over covenants. Art Hayes said “if that is true then why are you letting them violate all the ordinances and letting them park on the streets”? Mr. Hayes feels he is being stone walled.

Dan Swafford, being new to the Board, would like for Sandra to email him what should be listed on the agenda. He does not feel anything is being accomplished.

**Russ Ryle** welcomed Dan and Dianna to the Board. He would like to know the difference between the legal status of a final and a preliminary plat and what can and can not be changed. He requested a document explaining the relationship between final plats, covenants, ordinances and preliminary plats. What are the requirements and restrictions when a preliminary plat comes to this Board? Mr. Ryle asked Frank Nierzwicki about preliminary plats. Frank Nierzwicki explained he reviews preliminary plats from a planning perspective and Rick Coppock reviews it from an engineering perspective. Mr. Ryle asked who certifies preliminary plats to verify they are not in violation of any existing planning rules or ordinances. Sandra stated Rick Coppock reviews all plans and lists all non compliant conditions. He works with the developer to verify all concerns have been addressed. Mr. Ryle feels there should be a “written certification” that states the preliminary plat is in compliance with the planning restrictions, ordinances and covenants. Sandra agreed and added plans look good on paper but, not being engineers, the Plan Commission can not tell if a development would work at a certain elevation or not. The town depends on Rick and Frank to make sure developments work. Mr. Ryle would like to see a certified, trained, professional review the final plats before accepted by the Town. This person would verify what is built is in the right place and at the right elevation. Sandra said this has been discussed through the years. A building inspector inspects the building but there isn’t anyone to recertify the land to make sure the elevations have been met. Frank Nierzwicki explained the procedure Bloomington goes through with new developments. They have the people to inspect and verify all the work is done correctly. Frank Nierzwicki went on to say Monroe County handles our building inspections which is a step in the right direction.

**Evelyn Ryle** reiterated the Town needs someone to verify whether a developer has done what was indicated on the preliminary and final plats. Russ added an expensive “per unit fee” should be added to developers who bring projects to Ellettsville. Developers build here because it is cheap, they make money and then leave town leaving Ellettsville with the problems. Frank Nierzwicki explained fees have been increased and grading permits have been structured so drainage plans would be presented for a whole subdivision. It was clarified the Town needs to have an “as built inspection”. There was conversation and discussion between Frank and Russ about the past and future of the streets in Ellettsville and Reeves Road. The discussion turned to rain and water drainage on Reeves Road. Russ Ryle asked Frank Nierzwicki to put together an ABC’s of Planning and Development in straight English. Sandra suggested bringing in a speaker to conduct a session on Planning and Zoning. Russ would rather have something in writing that is easy to read, understand and is straight forward. Art Hayes stated the Town needs a Traffic Engineer to help expand streets and work with right of ways. Frank Nierzwicki agreed with Art and added it would be expensive to hire someone ourselves but suggested maybe sharing a Traffic Engineer with the surrounding communities.

**Ed Bitner** asked for the progress on the Jack and Jill Daycare sign. Frank Nierzwicki explained there is a letter that has been written by Mike Spencer. The attorney needs the authority from the Town Council President to mail out. There is also a letter regarding the Springs Valley drainage issues. Frank Nierzwicki explained, to the new Plan Commission members, the issues with Jack and Jill and also Springs Valley.

Ed Bitner inquired about the Redevelopment Commission pay whether it was once a month and had an attendance requirement. Frank Nierzwicki explained the Redevelopment Commission is paid twenty-five dollars per meeting attended. Ed explained the money is already budgeted for meetings that are canceled so he requested payment for the canceled meetings. Sandra explained there are “special meetings” that are not budgeted. The canceled meetings help cover the cost of special meetings. There are different stipulations in the Indiana Code. It is not required to pay Plan Commission members. In the past it was a volunteer position. The Council made the decision in the 90’s to pay \$25 per meeting attended. There was continued discussion about meetings and payments.

**Ted Robertson** stated he and Art had talked about extending Hartstrait Road north to connect with Paddington Park and the Meadowlands making it a four way intersection and an arterial road to State Road 46. Frank Nierzwicki replied he would like to address this issue with the thoroughfare plan. There are several areas that need arterial roads. Ted asked if the Plan Commission would be the committee to address these issues. Frank Nierzwicki responded the thoroughfare plan would take comments from the Plan Commission and hold public meetings for community input. He also noted

there is a lack of traffic lights on State Road 46 which is under the control of the Indiana Department of Transportation (INDOT).

## **Adjournment**

Ed Bitner made a motion for the meeting to be adjourned. Terry Baker seconded. Motion carried. Meeting adjourned 8:38 p.m.