

January 12, 2006

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, January 12, 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 December 1, 2005. Ed Bitner seconded. Motion carried.

Old Business

Edgewood Village Status Report

Frank Nierzwicki, Director of Planning Services, gave an update on Edgewood Village:

- January 4, 2006 a stop work order was placed on the south side of Edgewood Drive.
- January 7, 2006 work being conducted in violation of stop work order.

Frank Nierzwicki has been in contact with Mr. Dunn and Mr. Voils. There has been a counter proposal from Mr. Dunn. Some of the things he is making progress on are:

- Management contract on age requirement
- Completing concrete driveway
- A prepaid seeding agreement for his area
- Letter stating he will build his section of the fence behind the property on the south side of Mustang Drive within two to three weeks.

These are the areas Mr. Dunn feels he is in control of. Frank has not heard from Mr. Voils on what he is proposing to do. Mr. Voils is the contractor of the house being erected. There are still violations with the trailer on the North West corner, debris on the property and the issue with the fence. Frank does feel he is getting better interaction from Mr. Dunn. He is trying to get this resolved as soon as possible and has been in touch with the Town Attorney. Mr. Dunn also has an Attorney.

Russ Ryle mentioned the heavy rains they received, producing 3/10 of an inch in a 20 minute period. He showed photos of "Lake Mary Street" after the rains. A photo of the property between his and Mr. Fisher's with the standing water they never had before and one of standing water in back of the second house, east of him. There was never standing water there either. The next photo is the corner of his property looking along Mr. Fisher's back row with the view of the house under construction with the stop work order on it. There is a puddle behind the garden home. Another photo showed the natural drainage with Mustang Drive being higher. Ed Bittner asked what the outside temperature was when the photos were taken. Russ said it was about 39 degrees with the ground temperature above freezing. He has a friend with a digital weather station and the ground temperature has not been below freezing at six inches all winter. Russ then passed out copies of a news article that contained an error. The article states the management agreement has been reached and it has not. He commended Frank Nierzwicki on all his work and was pleased to see Mr. Dunn being cooperative. He also pointed out his original paperwork on this project was May 1993. The trailer in question has been there for years, migrating down the street. William asked Russ who put the fencing up between his property and the addition behind him. Russ said he put the fence up on his property. He also commented that before this became an issue, the house west of Kinser's and the Hanna's put their fence up. Russ mentioned our

deed calls for a 7-8 foot easement for utilities and their fences are south of the easement. His property line is actually 8 feet north of the fence. William reiterated all the homeowners put up the fencing that is there and not Mr. Voils. Russ pointed out the holding pond, north of Mustang Drive adjacent to the big apartment building, never gets any water. Sandra asked who the Engineer was at the beginning of the project. Russ said the original engineering was done in 1994. Russ does not have any copies of the drain permits but he knows they had to get a DNR permit to build in a flood plain and he believes that area is in a flood plain. He doesn't have the specs of the flood plain. William remarked he has looked on 3-4 occasions and could not find anything on the flood plains either. Frank mentioned he and Rick Coppock are looking at a drainage plan. Russ asked, as a taxpayer, why should they pay to correct the problem of the developer? Ed Bittner had a few questions for Russ Ryle.

- Do you know for a fact this is a flood plain? Ed knows exactly who to call to find out. Russ asked him to find out where the records from 1993-1995 are.
- Do you have " No Trespassing " signs on your property? Russ said no. Ed went on to say he had a legal matter before and found that home owners are not held liable if there is a sign posted.

Evelyn Ryle commented on some of questions:

There are two garden homes which have fences separating them from the easement but she does not know who put them up. She has heard from the neighbors who need fencing. Between Mr. Fisher's property and Lot 7 (Ellen Raynard's house) school children walk up so close to her porch and window she could touch them. The children are very rude when she politely tells them about being on private property.

She believes the ground has not been frozen; she has dug and transplanted a few things. She also saw a person dig a foot and half down with a posthole digger. Russ added there was an inch of rain over that last 48 hours and there was not any standing water.

Frank Buczolich asked if there has been any movement on the drainage issue. Frank Nierzwicki said there needs to be grading permits. A grading permit would be more universal covering the development rather than just one lot. Russ suggested grading the whole development area so the water drains properly. Frank Nierzwicki gave the example of Prominence Point; the whole site was graded up front rather than one lot at a time. The cost is reduced by doing it this way.

Evelyn would also like research done on the drainage where the trees sit in the low spot between Lot 7 (Mrs. Raynard's house) and the house that is under construction. When the leveling was being done, they cut off the hillside in the 10 foot easement line. They pushed the dirt to make a flat space where the unit was being built. They took excess dirt from around the trees to widen the area, making the trees sit in a swell. The house is being built barely a few inches above the swell in a few places and the whole swell appears to be narrowed to a place behind the trees where the water is standing instead of spreading out. In front of the trees and closer to Lot 7 the ground has been filled in, slightly, but should be researched to see how it affects things. During this process the end of a 3-4 inch pipe that Mr. Ragle installed from the south side of Reeves Road may have been reburied. The pipe brought flow from the south side, under Reeves Road to head through the swell. The normal swell that was there is now being stopped by the drainage pond. William asked Frank Nierzwicki to have Jim Ragle check all the drains in that area.

Frank Buczolich mentioned walking through that area during the next rain to specifically see what is going on. He has an idea of where the drain is but will walk it again. He asked if the Street Department does any high water maintenance on inlets of any kind. Frank Nierzwicki said he thinks the Street Department does maintenance but is not sure of the schedule. Part of the problem on Mustang Drive is caked mud. It is not on the street system that is accepted in the Town. Frank Buczolich clarified it is handled by Bloomington crews during high water times to make sure the systems are doing what they are supposed to be. He also would like to walk the area with Frank Nierzwicki.

Request for change in zoning at 242 W. Main Street from Residential, Single Family R-1 to Commercial C-3

Frank Nierzwicki announced there was a technical issue on the notification. Sheila informed him earlier the notification is now correct. Originally Sheila wanted to go from R-1 to R-2 and the notifications went out with R-2 but when they decided to go with C-3, the notifications did not go out. All the required documentation is now in place and he would recommend the change in rezone. Ed Bitner made a motion that we change the zoning from R-1 to C-3 at 242 W. Main Street. William Evans seconded. Frank Buczolich requested a roll call vote. Dan Calvert – yes, William

Evans – yes, Frank Buczolic – yes, Ed Bitner – yes, Sandra Hash – yes. Motion carried.

Sandra explained she has asked the Attorney to prepare an ordinance; it will have go before Town Council for approval and must be recorded to be final.

Parking and other non-moving violations, discussion of ticketing authority by Planning Department

Frank Nierzwicki explained most residents of Ellettsville will comply once they know there is a violation. He has written letters and notifications on high grass, parking on the grass, debris and refuse and once they have come into compliance they are in the good column. The repeat offenders create some frustration. He would like to implement a *Fine System*. Section 10-99 in the Ellettsville Code states a Class A ordinance violation has a fine of \$2,500, which is the maximum a municipality can institute in the State of Indiana, down to a Class E ordinance violation for \$25. After more review he did find there is an option in Section 3 that reads *Repeat offenses shall cause the classification of that violation to increase one level of seriousness; except in the instance of class A ordinance violation. A repeat offense occurs when a citizen has previously been cited for the same type of violation within one year from the date of the current citation.* After discussing this with Laura, they could follow the code as is for every offense with each resident having a file with separate one year calendars or have everyone on the same calendar year. He is trying to find ways to cut down the number of letters and have more enforcement for non moving violations which would require an ordinance change. Ed suggested tracking habitual offenses instead of giving them a clean slate every year. Frank replied the most numerous offenses in Town are parking on the grass. He would like a violation book where the Planning Department would be able to write their own tickets to the vehicle and not residents. Sandra remarked the change would not affect the trash and weed violations; they would stay the same with a letter. Frank verified they would stay the same. William asked if these records would be stored in a file. Frank stated some of the fines are \$50 with points adding to the cost.

Sandra questioned collecting the fees. Mike Spencer redid an ordinance last year making the Clerk Treasurer the ordinance violation clerk in charge of collecting the fees. There is a limit on the amount to be collected by the ordinance violation clerk. What would she do if the fine was over that limit? The ordinance instructs a list be presented to the Council of fees she could not collect. The list would then be forwarded to Mike Spencer for collection. After presenting the list to Mike he said the only way to collect the \$30 violations were with a lawsuit (which would be costly). The auditors told her if she gets a judgment on an ordinance violation through the court system then the Town would be entitled to a portion of the court fees. In order to do this, she will need to learn the process. She spoke with Jim Fielder who has said he will put a packet together. This would be more like small claims. Sandra hopes when this plan is laid out, it will be in detail.

Frank looking into other cities and towns has found Ellettsville is low on parking violations. \$25.00 is a good fine for a ticket. The police parking violations are \$6.00 which they only receive \$3. After 30 days the fine increases to \$30, Sandra sends a letter but if they don't pay, that is when she has problems because Mike Spencer said it would not be cost efficient for him to handle it. She needs another avenue to take. Frank said we need to be very open on this process when we make these changes. He gave an example of Jasper, IN (Huntingburg being more our size) has two hour street parking and sell parking permits. They enforce this Monday through Friday 8 a.m. to 6 p.m. We could include something like this into our ordinance.

The next issue he brought up was Stop Work Orders. The fee is \$25.00 per day. He feels this is a higher type of offense and would like to make a change at some point. Frank Buczolic clarified it would be easier to ignore a \$25.00 Stop Work Order. Frank Nierzwicki went on to explain if we issue a Stop Work Order there is no fee to the builder. The fee is they can not get their work done. If they work, in spite of the Stop Work Order, they get fined \$25.00. William Evans suggested the fee be \$500.00 minimum. Frank explained the way the system is set up, the first day is free. The first day is \$25, the second day is \$100 and the third day is \$500. He suggests the first offense be \$500 with \$1,000 for the second and up to \$2,500 for the third day. Ellettsville had two Stop Work Orders at one time. Phat Dad's at 501 Temperance and the Fall Festival Building (the County placed that one during the Christmas break). He will talk with Mike Spencer on revising the fees and making them a Class D Violation. Presently the Stop Work Orders are not listed with a "class" which puts it in a "catch all class" starting at \$25.00. He will also research the Planning Department writing non movement violation tickets. He would also like to capture and keep the revenue in the Planning Department for a future full time person. Sandra said it can not contradict Indiana Code. Frank does not want to make a "fast buck" for the Town with the higher fees but wants compliance. Ed Bitner asked where the money will go if not to the

Planning Department. Sandra said it would be deposited into “General Fund” which funds the Police, Fire, Clerk and Planning Department.

New Business

New Binders for Planning Commissioners

Frank Nierzwicki presented the board with Planning Commission binders. All the members will now receive the *Planning Commissioners Journal*. This publication is quarterly. He went over the binder and some of the items were: meeting dates, past Planning Commission Minutes, Richland-Bean Blossom Demographics and Indiana Citizen Planner’s Guide, which includes Plan Commission Basics, Board of Zoning Appeals and Avoiding Pitfalls.

These are tools to help to get more information. He has compiled all this information as a service for the Board. Sandra asked if she could put together the Zoning Code chapter for the binder. Ed Bitner said it would be nice to have the Planning Code in the binder. Sandra will have the codes copied for everyone by the next meeting. She also mentioned there is an updated Town Code Book she brings to every meeting and the Code is also on the internet. There was a discussion about other information that could be kept in this binder and whether it was necessary or not. It was decided Title 15 will be copied and added.

Ellettsville Redevelopment Commission

Frank announced the Town Council passed, on December 27, 2005, a Redevelopment Commission for the Town of Ellettsville. Under the Indiana Code:

- ❖ Five member group (3 appointed by the Town Council President and 2 by the Town Council)
- ❖ Requirement will be “live in Town”
- ❖ Paid Commission

This Commission is going to be a tool for Economic Development to capture revenue for infrastructure improvement. We will not see any benefits, in the short term, with the money but this will give us a focus. It will force the group and Town to see where the proprieties are. An advisory committee will be formed but they will not have to live in Town. There are a number of business people who may be interested but not live in Town. He suggests the Chamber of Commerce appoint people. He also thinks a representative from the Main Street Committee, School Corporation and Fall Festival be on the advisory committee. The idea is to have a buy in from the community. He will write detailed information so each person understands their role. He is hoping to have the appointments by the end of the month. Ed Bitner asked where the money will be coming from for this Commission. Frank Nierzwicki. said from the Town budget. Sandra asked if the pay will be comparable to the Plan Commission. Frank said “at least”.

Plan Commission retreat and possible joint training sessions with Park Commission, Chamber and Main Street groups

Frank informed the board that Main Street will be putting together a Mission Statement this summer. He feels we are all interconnected and at some point we should have a training session away from Town. This is good to have all the groups interact on different issues. He also mentioned there is a new appointment on the Park Board – Brett Williamson. Brett represented the Town at the Alternative Transportation Meeting at the Court house. They discussed trails and other items.

Non Agenda Items

Don Calvert commented on an e-mail he received. He read the part that concerned him. *Any member excusing himself due to a conflict of interest from any part of the meeting shall not be paid for the meeting.* He does not like that. He feels that when people have abstained it would only be a 2-3 minutes discussion of a two hour meeting. He feels they are being penalized for being professional and being penalized for not placing this commission in jeopardy with a lawsuit by voting when really shouldn’t. He does not think this is very professional or shows much confidence in the people on this commission and it needs to be changed. Sandra did not realize this until the end of last year when she was working on paying the Plan Commissioners’. She shared this information with everyone when she read it in the Town Code. She did not penalize anyone for this. Don clarified it was 152.313 in the Town Code. Frank Nierzwicki

suggested making some changes since it is in the Town Code. Sandra informed the board the Plan Commission use to be a voluntary position; Mike Spencer researched it and she was questioned by the auditors about the elected officials getting extra compensation for being on the Plan Commission because Indiana Code states *you will not be paid more than what is on the salary ordinance*. She includes this on the salary ordinance at the advice of Mike Spencer. She will have to go back to the old Town Code to see if this was rearranged when Bill Land redid Section 152.313. The Park Board is a flat fee with no attendance requirement. The Council at that time did not want to make it a flat fee with no attendance requirement because they were having trouble getting the Plan Commission members to all attend. William suggests the first thing that needs to be done is check the State Codes and see what it says. If this is not in the State Code and only in the Town Code; the Town Council can change this.

Don Calvert asked if there are going to be street lights in Phase 3 of the Springs Valley addition. Frank Nierzwicki is not sure but with the new developments going in, he is writing in the developer will put the lights in. Sandra added that the problem is with Cinergy. Last fall all their policies changed. In the past, if you were going to rent the pole and light fixture, they installed it at no charge and the Town entered a ten year contract at a per month cost of about \$7.00 per light. Cinergy has informed her that when those ten year contracts expire, they won't renew them. In order to get a light put up, it costs \$1,600.00 per pole for installation. We budget \$35,000.00 for street lighting to pay the usage and new pole installation would wipe that budget out. The new developments have been caught in the middle of this transition. If you can not pay the \$1,600.00 up front, you can pay \$26 a month until it is paid off. Frank is going to look at other ways of getting this done; letters of credit, bonds and other items. Sandra feels we are using our bonds more effectively now.

Privilege of the Floor – non Agenda Items

Ellen Raynard, homeowner of the last house on Mustang Drive, has a drainage problem in her backyard. The water comes down from all the houses. She can not mow after it rains in the summer because it is too wet. She appreciates everything the board is doing with the area but the drainage problem. She would also like to know if a house will be built on top of the drain. Frank does not know. Ms. Raynard and her neighbors have been watching and documenting what is going on with the development. They have noticed more materials being delivered and work is being done on the weekends. She has had a lot of problems with her house and can not get Mr. Voils to get anything done. Her range hood fell the other night and Morrison's came out to fix her problem. She feels Mr. Voils has done shoddy work on the houses.

Adjournment

Ed Bitner made a motion for the meeting to be adjourned. Don Calvert seconded. Motion carried. Meeting adjourned at 8:27 p.m.