

## February 7, 2008

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, February 7, 2008, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Sandra Hash called the meeting to order at 7:00 p.m. and lead the Pledge of Allegiance.

**Roll Call:** Members present were Sandra Hash, President; Terry Baker, Vice President; Frank Buczolich, Don Calvert and Dan Swafford. Frank Nierzwicki, Director of Planning Services, Connie Griffin and Micah Austin were also present. Phillip Smith was absent.

**Sandra Hash** announced Ron Wayt resigned from the Plan Commission.

### Approval of the Minutes

**Sandra Hash** made a correction to the minutes. It is stated the vote for President was opposed by Ron Wayt, and Phillip Smith, but it was actually Dan Swafford rather than Phillip Smith. He voted both ways. Dan Swafford's final vote was yes to nominate Sandra Hash. No other changes were made.

**Sandra Hash**, the first thing on the agenda is the approval of minutes from the January 22 2008 meeting. Do I have a motion: Dan Swafford made a motion that we approve the minutes of January 22, 2008. Terry Baker seconded. All approved of the January 22, 2008 meeting minutes. Motion carried.

### Old Business

**Request for new communication tower on West SR 46 (Chapel Hill Wilderness LLC) Smithville Telephone Petitioners.**

**Sandra Hash-** The only thing we lacked at the last meeting was the independent engineer's review.

**Frank Nierzwicki-** We received the information from the consultant, Paul Dugan. We have a letter before you, and Mr. Dugan gives conditional approval by the Plan Commission, thirteen items were cited on the letter, of the thirteen, 10 have been addressed by the petitioner. My recommendation is that the Plan Commission grant conditional approval tonight with the petitioner completing the three requests within the next ten days before a building permit is issued by the Town.

**Sandra Hash-** Are there any questions by the petitioner or the floor?

**Stewart York-** What are the three remaining items?

**Frank Nierzwicki-** A site plan, proposed landscaping, and the remaining item is payment for the independent consultant.

**Sandra Hash-** Any other comments, seeing none, I would entertain a motion that we accept the consultants conditional approval with the stipulation that the remaining items be completed before a building permit is issued by the Town. Terry Baker, so moved. Dan Swafford seconded the motion. All in favor, motion carried.

### New Business

**Review of Town Sign Enforcement Procedures (152.255-152.263) Discussion**

**Frank Nierzwicki-** We would like to outline and review our sign enforcement procedures and issues we are trying to address, concerning Town Code. Prohibited signs and codes were read and discussed in any zoning district. The chapter was reviewed, definitions read and specific sign issues and codes were discussed, as well as the website location

to review the Code.

- Examples of prohibited signs were featured on the power point presentation, and were discussed and explained why they are prohibited.
- Enforcement letters and phone calls have been made, with nine out of fourteen sign violators being brought into compliance.

**Connie Griffin-** Any questions or concerns about the code?

**Sandra Hash-** Does anyone have any questions or comments. If so, please come to the podium.

**Kirby Apathy, Vee Twin Performance Center-** I have a sign that has legs, that just sits on the ground, it was blinking. I was told it couldn't blink, so I turned off the blinking and they didn't say anything else, besides that. How long has this been an ordinance?

**Frank Nierzwicki-** It goes back to 2003.

**Kirby Apathy-** This was way after 2003. What do I have to do to that sign to make it ok? Just make it permanent?

**Frank Nierzwicki-** Make it a permanent sign, have it embedded in the ground, and we will work with you, if you want to go ahead and do that.

**Sandra Hash-** We have some height requirements.

**Frank Nierzwicki-** Discussed sign design requirements.

**Kirby Apathy-** Do I have to take it down right now?

**Frank Nierzwicki-** We will work with you, as long as you are in contact and we see progress on changing the sign, you will not have a fine. We may conduct a work shop later on this year. Make an appointment with me, so we can get a plan in place.

**Bryan Robertson, Universal Dynamics Martial Arts-** I have my business since January 2004 in Eagles Landing. I've tried to find out about the sign codes, and did not receive any information until I received a violation letter in January of 2008. I'm one of the people that has one of the black signs and I do want to abide by the ordinance, but I do have a contract until the beginning of May, and I do appreciate being able to keep it up until then without being fined. I've had this up since the end of the summer since last year, and nobody said anything about the sign. No one replied for the last four years when I was trying to get information about the code and I knew nothing about the website information. I've left many phone calls.

**Frank Nierzwicki-** We spoke last week.

**Bryan Robertson,** Like I said that was the first time we have spoken in all of the time I've had my business open. I had to find out by second hand information. He discussed information he received from the Black Sign Owner, Glen Witham, about 64 businesses, not 14 as the slide suggested that are in Town Code violation. I find it interesting that only 14 are cited as being in violation. In defense of black signs, I know there are a lot of temporary signs in the community and a lot of homemade signs are cheaply and look shabby, black signs are maintained and look good, especially for people traveling on SR 46, since Eagles Landing sits back from the road. It is visually difficult to see the location, even though the owners have tried to put up better signage, so what am I suppose to do?

**Frank Nierzwicki-** A couple of things are going on here. We had a meeting with business owners in Eagles Landing in 2006 about signs, during lunch in August. We tried to get owners of businesses to attend, but we only had about 3 or 4 people attend. The issue with the sign, it isn't just the black signs; we have looked at a number of different signs, like moveable signs. Eagles Landing have one large sign, and they have a number of businesses on the sign, they have more businesses that space on the sign. What has happened is a spillover effect, onto the fence with banners and other signs. We can work on having another monument sign at Eagles Landing, with space for the other businesses.

**Sandra Hash-** We've went over the sign ordinance many times and I attended the work session at Eagles Landing. It wasn't very well attended.

**Bryan Robertson-** I had no idea about the meeting, I work a day job and try to run my business at night. So, that wasn't very convenient.

**Sandra Hash-** There was also members from the Indiana Department of Transportation at the meeting to answer questions. As a Plan Commission we want signs to have nice curb appeal. So many varieties of temporary signs reduce that cosmetic look. We've had the codes for years, but they are very difficult to enforce. In response that you've had your sign up for awhile, and now you've received a letter I think these things come about in cycles. We try to work them in and try to address the issues as time allows. If you read the code you will find some options, so please review the code and we will try to come to an agreement, work with Frank on this.

**Frank Nierzwicki-** One other item, I had a meeting with the other area planners, and I asked Greg Zody, Monroe County Planning Department Director, about their codes. Town boundaries are hard to distinguish. Monroe County has sign ordinances as well. They have given us permission to contact the "county" sign violators by letter to let them know as well that they have signs displayed that are in violation of county code.

**Bryan Robertson-** The black sign I've had up has helped me more than any other sign I've used. We have a lot of special promotions.

**Sandra Hash-** There are provisions in the code for special occasion and promotional advertising.

**Connie Griffin-** I would like to make a couple of comments. Frank has had limited time for enforcement issues, and now that he has a new member on his staff; we will be enforcing several things in town. One reason the number (14 sign violators) seems small, is because I'm making quadrants of the town to conduct enforcement, so naturally I'm going to look at SR 46 first since it has the most advertising and that is where the businesses are located. We have dates on the calendar for enforcement, so we are going to be out and about working on getting businesses and land owners in compliance with parking issues, signs, and high grass and so on.

**Sandra Hash-** Are there any other questions concerning signs?

**Gary Martin, Curry GMC-** You can see how we are up on the hill, we also have a black sign, and it was the cheapest form of attention getting advertising we could afford. The Curry's hired me from Indy to try to keep their business going. My question is, are the black signs negotiable? If they aren't then there is no use to go on any further.

**Frank Nierzwicki-** I have a code to enforce, and that is how I read the code, we can work with businesses trying to make alternatives to make signs legal. We are open to work with businesses; I have to work with the current codes.

**Gary Martin-** How do we go about changing codes?

**Frank Nierzwicki-** You would have to work with the Plan Commission and that would be up to them.

**Sandra Hash-** The black sign owner has been to our meetings twice, so we have been discussing this. We don't want to hurt a business; we would prefer that you put up a permanent sign that you can change the message that works with our code.

**Gary Martin-** Since we've had the sign, we've done new business. We appreciated the town letting us keep the sign up for the remainder of our contract.

**Frank Nierzwicki-** I'll make some contacts and we will see what we can do.

**Gary Martin-** Our contract ends the first of May with black signs.

**Dan Swafford-** Don't you have the permanent sign up on the hill? Can you switch those?

**Sandra Hash-** You need to review code, because there are options for many different signs.

**Gary Martin-** They hired me as a last ditch effort to keep their business going.

**Sandra Hash-** If a sign face changes, it requires a new permit.

**Frank Nierzwicki-** We are concerned with offsite signage, it is \$50.00 to change the sign.

**Dan Swafford-** Once he pays the permit, he can change the face and the message on his read board.

**Gary Martin-** I'll look into that and changing the sign. Thank you for working with me.

**Gary Wohlaugha, Trinity Lutheran Church-** I appreciate the guidance that Frank has given us during our construction. We are considering some signage, we have one grandfathered billboard on the property, it will have our church advertising on it, and we will review and research the code and ask questions. We plan to do something with the board, changing it seasonally and a general sign. We are going after grants to help with this cost. We may add our name to the building, and we would like to have a sign near the road. We have some concern with the small bit of property Peoples Bank purchased; they are going to put an ATM machine in at that location. The driveways entrances are confusing, so we want to get some signage in that area. We are glad to be here.

**Frank Nierzwicki-** We are working with the Town engineer on this issue.

## **Planning Staff Comments**

**Frank Nierzwicki-** You have job descriptions in your packet: Administrative Assistant, you can see the required items of this position, this position is also the recording secretary for BZA and Redevelopment. My request to Town Council is to bring the Administrative Assistant full-time, and the second position, which is the Community Development Planner. We have an INDOT grant for \$50,000 to provide services over the next 18 months. The Community Development Planner will work with the school corporation projects, science laboratories and the Wells Park Area.

**Connie Griffin-** I met with the DNR and the Sycamore Land Trust. We are waiting on a letter from the DNR that will state how important it is to keep and protect because of the wet land environment that it represents, and especially since it is so close to the school. I think it is in the best interest of the town to keep and maintain the property, and incorporate other groups that have a great interest to keep it protected.

**Sandra Hash-** The park department tried to put mulch down, but the land is so marshy that it absorbs the mulch. The Wells Park area was distinguished as a park, so I feel that it is protected with that classification.

**Frank Nierzwicki-** Discussed the number of meetings that we attend and the number of various projects that keep us busy. We can make the grant contingent for hiring staff; we can continue these positions with this grant. Do you have any questions?

**Sandra Hash-** We appreciate you sharing the information with us, but this would be decided in the Town Council.

**Terry Baker-** As the Planning Department grows the extra help will be needed. If we want to continue what we are suppose to do.

**Dan Swafford-** Connie how many hours do you currently work, did you say 36?

**Connie Griffin-** I work 36 hours a week.

**Dan Swafford-** So we would be increasing you to 40 hours a week or 8 hours in a two week period.

**Sandra Hash-** With Connie, we should look at this as a permanent position, and not contingent on the grants. We need to work that into our regular budget.

**Frank Nierzwicki-** The problem is we aren't in the budget cycle, I'll go for that next year, we've shown that we need the help it is easy to burn out in this type of position. We need some assistance to spread this out. I feel we have money

to cover this other position, at least for a couple of years, especially with more grants. It is an opportunity we have, and with grants we need to sustain our planning effort long term. It takes awhile to get a new person hired, with the process of going to Town Council and voting. We have a lot going on, and Jamie with INDOT will try to get the letter as soon as possible.

### **New Office Space**

**Frank Nierzwicki-** Discussed new office and showed slides of the work in progress. We will be sharing the conference area with the Street Department. We will share the copier machine.

**Sandra Hash-** the Street Department did all of the work keeping the project price down.

**Micah Austin-** Discussed the current expense of the project.

**Sandra Hash-** Will you have enough room for the new person?

**Frank Nierzwicki-** Yes, we have room for Micah and the new person.

**Sandra Hash-** We've made a lot of progress for a small town that is growing. It will be nice for Frank and Connie to work together; it is a step in the right direction.

**Frank Nierzwicki-** I want to thank the Street Department for all of their help, they have been great.

### **Rental Ordinance**

**Frank Nierzwicki-** We don't have an ordinance on rental properties, and it is something we need to address. We are also looking at land usage. We need to be more active in the rental ordinance.

**Sandra Hash-** I live in Kelli Heights, now there are several rental homes, and I think they are possibly Section 8, the land lord is guaranteed their rent, so I don't think they actually go out and inspect the property.

**Frank Nierzwicki-** We would like approval to go forward with establishing an advisory group to review rental ordinances of other towns. We would like to have representation from apartment owners, renters, and concerned citizens to be involved with this process.

**Sandra Hash-** I think this is a good idea and it's more work for you, but it is important and needed. Does anyone else have any comments?

**Terry Baker-** I agree. It will be the owners and renters we will be dealing with, because we are affecting these people.

**Connie Griffin-** I have been currently reviewing 9 cities, I think that the most important issue is that people are safe and have the essential services. We can actually generate fees with applications, we can have contact information on all of the landlords, require someone to have 24 hour contact that is in state, since many land owners are out of state. We can conduct inspections and require other fees to help fund this effort.

**Frank Nierzwicki-** We are very contentious of covering our costs through fee generation.

**Connie Griffin-** With your approval; I would like to place an ad in the paper requesting people to serve on a rental advisory committee?

**Sandra Hash-** Would you like to put that in a motion for a formal vote?

**Frank Buczolic-** I recommend that the Planning Department advertise for a rental advisory committee. Terry Baker seconded. Motion carried.

**Micah Austin-** Has it ever been brought up about making subdivisions, like Kelli Heights, zoned for just residential and no rental properties?

**Sandra Hash-** When it all started going downhill, we looked into the covenants and restrictions to see if that gave us an out, and it did not. We've tried to form a neighborhood association, and then problems started occurring. The President started getting dead birds in her mail box. People feel they have property rights, and we don't all agree on standards.

**Frank Nierzwicki-** We are working toward educating before we actually enforce. We will try to get out and talk to people on this; we will have people that won't agree. This isn't personal or we aren't picking on anyone, we are looking for fairness. Most people follow the rules.

**Sandra Hash-** Consistent enforcement takes a lot of personnel. In mailing letters from Town Hall I found people wanted to know who complained about them. In turn they wanted to point out other problems they felt were worse. So the consistency is important and hard to obtain. Terry Baker agreed.

**Frank Nierzwicki-** Connie will be looking into GIS and mapping to assist with enforcement. The police station is also interested in the GIS system. Connie will be working on this, and we are lucky to have Micah as well to help us with the web page.

**Sandra Hash-** Any other comments from the floor.

**Don Calvert-** I would like to replace the other empty seat on the commission, and I appreciate the handouts and thirdly, I have something personal to address the commission with, do I need to step down.

**Frank Nierzicki-** Yes, if it is a personal issue, you step down from the table.

**Don Calvert-** We are talking about personal issues, we are concerned about. I have a flooding problem, which was imposed on me, when a swale was closed from a builder that was developing property up above my property. I have mud up to my ankles as a result of the last rains, it freezes, I have ruts and I have problems when I mow. I would like to have something done about this. My concern is a statue of limitation, this has been going on for three years now, and as a citizen I would really like to have this taken care of. I've waited patiently long enough, and I'm dealing with a health or injury situation that I would like to eliminate. Any there any questions for me, from anyone?

**Sandra Hash-** I would like to say, you have brought this to our attention several times. I agree it needs to be fixed. That is why we put a storm water utility in place. We received a request from Rick Coppock to repair a drainage problem in another location, so I would request that we have this reviewed and maybe we could have our crews fix the problem.

**Dan Swafford-** Don where is the problem at, I want to bring it up on Google.

**Don Calvert-** It is in Springs Valley. I live in phase one and they live in phase three. The swale wasn't planned, but it kept all of the water off of me, then a new contractor came in and built a house right up above me and filled the swale in. I stopped and spoke to them personally, while the blocks were still sitting on the building site, and they said they would see about that. I talked to the builder and they did come out and put in an 18" berm, but they only put it in the property that was in question, which still did not fill in the swale. The water runs off in a heavy rain and seeps for several days to a week.

**Frank Nierzwicki-** The Town sent a letter to the Town's attorney in February of last year, requesting some form of action.

**Sandra Hash-** And it died.

**Frank Nierzwicki-** Yes.

**Don Calvert-** Helped Dan Swafford locate his home on Google Earth.

**Sandra Hash-** Show them the new road that was put in.

**Don Calvert-** Showed the road and the creek.

**Frank Nierzwicki-** Showed how Google Earth will show elevation readings.

**Don Calvert-** This is a hill, and they put a road in here and ran a swale behind me to empty and drain the water away, and that worked fine, until the builder came in and built up on the hill, which the water came down on me. They didn't reintroduce the swale, so it floods every time it rains. I need to find out if a statute of limitations exists, so I can take care of this before it is too late.

**Sandra Hash-** Isn't there a code that new construction can't put water on another property.

**Terry Baker-** But it died on his desk.

**Sandra Hash-** We need it inspected when the project is finished, when they requested the final plat.

**Frank Nierzwicki-** Discussed the history of the problem. The developer met with Jeff York, the past town planner, then I came on, and I heard about it. We contacted the engineer, we looked at it and yes it does appear to be wrong. The town engineer tried to approach the developer to have it fixed and the comment was we are working on it and we will get to it.

**Don Calvert-** When I spoke with you I didn't say anything else to him. I felt the commission should deal with him. He has obviously ignored me.

**Frank Nierzwicki-** It came to the point that we didn't get any action either. When that happens, we turn it over to Mike Spencer, and he has to be directed by Town Council to follow through on a legal issue.

**Don Calvert-** Let me suggest something else, which I suggested two or three years on record. We have the inspections reversed. In my opinion the inspection should come before the builder is allowed to sell it, not after it has been sold for occupancy. I stated that the builder was going to grab the money and run, and that is what he did.

**Sandra Hash-** The occupancy report doesn't really reflect on the lay of the land, it is just the structure.

**Don Calvert-** We need to include that.

**Frank Nierzwicki-** We've talked with Rick to follow through with this. We didn't have Rule 13 before this.

**Russ Ryle-** What is Rule 13?

**Sandra Hash-** It is storm water control. The biggest example of a Rule 13 project is Shower's Park. You want to have the right vegetation in the right density to filter the water that runs off into our streams.

**Frank Nierzwicki-** We are part of the responsible party for Rule 13 with the Plan Commission.

**Sandra Hash-** How much authority do we have?

**Frank Nierzwicki-** We have complaints, we can be involved on the monitoring, building issues in the future. It is another thing we need to be doing.

**Sandra Hash-** Will you forward that request to the Town Council to see if we can proceed with some remedy?

**Frank Nierzwicki-** Yes.

**Russ Ryle-** Discussed Mustang Drive and the water drainage issues. Micah brought up Google Earth so the Commissioners could view the area of discussion. The entire area gets flooded during rains, the problem is the street level and the slope of the land when this area was all developed. The path is the natural drainage, which drains about a one square mile. Everything backs up in the ditches and it is at road level. It is a mud pit, and when the ground was frozen it is a real issue. We have had issues and I know Frank is aware of it. This goes back to December of 2006. The Plan Commission voted on this to take action and it was to go to Town Council, and Town Council wouldn't even bring it up and put it on the agenda. Now, I don't mean to rub salt in wounds, if you are going to have zoning, and have plans and enforcement letters and notification. If you don't do the enforcement it negates all of your good efforts.

Enforcement is the problem. You have to be ready to spend the money as a town to do something about this and enforce when we have to. People will get the idea if you take one or two of them to court.

**Sandra Hash-** On behalf of the town, we did go in. Our Street Department dug ditches on the south side of Reeves Road, and they put a black top ditch into the Fishers yard.. We have made some effort in this area, it may not have solved your problem, but some effort has been made in the area.

**Frank Nierzwicki-** We have addressed some of this, and we are trying to work with grading permits. Jeff Fish was discussed and he has tried to help with this area as well. With areas that drain like this, when this area is developed we need to have retention areas in here (shows on Google Earth view). This is the same thing we have over in the Meadowlands. Retention areas can slow down the water when we have high volume problems, so \$3.00 per person is to go to these types of problems. We want to work with the Street Department and plan the types of projects we want to work on. We need to look at the overall drainage situation in town, and that is what we need to address.

**Russ Ryle-** Since the town is getting ready to put in new sidewalks, putting sidewalks in on the south side of Reeves Road without solving the water issues, would be impractical and not safe, and if you put them on the north side of Reeves Road, you will have kids jaywalking to get to the sidewalks. It is a whole area drainage issue. This will be the 16 construction season for this project. We are two years after Mr. Fish. We know there are problems in this area with the original developer, it stops with enforcement. We need a working agreement between Town Council and Planning, and what you are going to enforce. There is no use in getting people upset, if you aren't going to enforce it.

**Sandra Hash-** Mr. Calvert's is a small request, and this is a large request with drainage that involves two blocks.

**Russ Ryle-** This is a result of a lot of small requests that were not enforced. Don thankfully has one request, which is remedial at this point. We have to have enforcement when Planning has done all they can and it goes to Town Council. It can't die for a year or two waiting for Town Council to bite the bullet and let the attorney work with planning to solve the small issues, while they are small issues.

**Frank Nierzwicki-** We are looking at a capital improvement program on that street. We have the money for the sidewalk; look at how much it will cost to fix Reeves Road.

**Stewart York-** I wanted to respond to one of Mr. Calvert's comments. I didn't want to let this meeting end with that in the air. I appreciate your desire for diversity on the board, but when you said you wanted to replace the empty seat with a female, we need more women on the board. It's hard to fill a seat on the board, but I would submit to it this is a sexist comment. I ask you respectfully to withdraw or retract that comment. **Don Calvert-** How would you prefer I state that so we can be a little more diverse by gender? **Stewart York-** Diversity in any form is fine. **Don Calvert-** That is fine. I'll do that.

**Sandra Hash-** Are there any other comments? I do hope Russ; you will see some progress, especially since we have a Planner and hopefully a full-time Administrative Assistant in the near future, and maybe some extra help through the grant.

**Russ Ryle-** For the record I sincerely appreciate all of the changes and improvements I've seen, it has been almost three years that I've been coming, you are on the right track and we appreciate it. Reviewing codes, and having study groups is fine, but we need parameters that Planning works in. The Town needs to get on the same page as Planning.

**Sandra Hash-** You can make all of the rules and regulations, and if we can't enforce them they are ineffective in many different levels of government. I thank you all for your comments.

**Adjournment**

Sandra Hash entertained a motion to adjourn. Terry Baker made a motion to adjourn, seconded by Dan Swafford. All in favor motioned carried. Meeting adjourned at 8:45 p.m. Next meeting will be May 1, 2008.