

March 6, 2014

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, March 6, 2014, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Terry Baker called the meeting to order at 6:00 p.m. Don Calvert led the Pledge of Allegiance.

Roll Call: Members present were: Terry Baker, President; Russ Ryle, Vice President; Don Calvert, Dan Swafford, Pat Wesolowski and Sandra Hash. David Drake came in after the meeting started. Connie Griffin, Director of Planning, Rick Coppock, Bynum and Fanyo and Associates, Town Engineer, and Darla Brown, Town Attorney, were also present.

Approval of the Minutes – February 6, 2014

Terry Baker entertained a motion for approval of the minutes for the regular meeting on February 6, 2014. Russ Ryle so moved. Dan Swafford seconded. Motion carried.

New Business

Chapter 96 Animal

Darla Brown, Town Attorney, explained the drafted ordinance incorporates what the Town Council expressed at a previous meeting. Sections 5, 6, 7, 8, 10 should be re-organized and put under Section C(2) which discussed the hens being kept in a coop, chicken run or outside yard. For discussion purposes, they need to decide who the enforcement officer will be for this provision. When an earlier version of the animal control ordinance was introduced last year there was language about incorporating by reference the Monroe County animal ordinance. The Town has a contract with the animal control officer so it makes sense to put that language back in the ordinance. The current version of the animal control ordinance for the Town prohibits the keeping of hogs, pigs or swine anywhere in the Town, even agricultural districts. This version does not include it. If that's still a prohibition they want to carry through then it should be added back into this ordinance.

Connie Griffin, Director of Planning, explained §152.190, pertaining to setbacks states, *"Detached accessory structures of not more than 200 square feet of building area may have a rear yard of six feet."* This is why she proposed a six feet set back. It further states, *"No attached accessory structures of any size may be constructed within the front yard."* §152.181 states, *"No structure or building whether temporary or permanent may be placed in an easement."* These codes fit this situation.

Don Calvert asked about *"No coop or run shall be located between the rear of the principal structure and the front lot line."* Does this mean it can't be seen? Ms. Griffin replied that's correct. From the back of the house to the front yard there could not be a coop because it would be visible from the front yard. Mr. Ryle noted chicken coops, by design, have a roof on them. Do chicken runs also need a top covering? Sandra Hash replied the code states, *"The hens shall be kept in a coop, chicken run or outside yard that is enclosed on all sides including the top."*

Connie Griffin, Director of Planning, noted rabbits have been added to the definition for domestic pet. Ms. Brown added by taking rabbits out of domestic livestock and putting it under domestic pet then it is a permitted pet. Ms. Hash commented pigs and swine need to be added as not allowed. Ms. Brown asked for their thoughts of stating the ordinance incorporates by reference Chapters 440 of the Monroe County Code and 441 regarding animal management and commercial animal establishments. The Monroe County Code talks about pets being a nuisance and things of that nature.

Pat Wesolowski asked if there is a minimal or maximum size for the run. If there is a 10' x 10' structure in the back yard, could the whole back yard be the run? Mr. Ryle thinks the Bloomington ordinance states the number of chickens to be kept on a property. Does this ordinance speak to the number of chickens? Ms. Brown replied five. Ms. Griffin explained she has a code that states a minimum of four square feet of

space per chicken shall be provided in both the coop and run. Mr. Wesolowski thinks there needs to be a maximum size or someone may want to use their whole yard. People who live in the country can move their chicken runs. When it is moved there's nothing but dirt. Is there a minimum time for the runs so the yard doesn't become dirt? Ms. Griffin replied it's similar to parking and they don't do anything about parking on the lawn until it's causing ruts, soil erosion or a fire hazard. She will not be able to see properties from the public right-of-ways without first contacting them. Normally, neighbors will call when there is runoff with soil erosion or waste. She will be the enforcement officer except for very bad situations.

Russ Ryle wants to see a maximum square footage per chicken for the runs. Ms. Brown searched online and the City of Lafayette has a maximum chicken coop size of 100 square feet with a minimum of four square feet per chicken for the coop and the run. The City of Bloomington says the owner shall provide both a chicken coop and an attached chicken run that afford a combined twelve square feet per chicken. Ms. Hash suggested the type of fencing should be stated. Mr. Ryle asked what square footage the City of Bloomington allows per chicken. Ms. Brown replied it is twelve square feet with the coop and run as one structure. The City of Bloomington states the chicken run and coop shall provide a site fence or shrub screening of at least four feet in height around both coop and run visible to occupants of neighboring lots. Ms. Hash noted if the coops can be moved then the yards will be destroyed. Mr. Swafford likes the buffer zone with a permanent structure. If not seen by another neighbor there doesn't have to be a buffer zone. Everyone concurred. Mr. Wesolowski asked if the fencing or buffer could be specified in the ordinance. Ms. Brown replied it can be stated but they have to be prepared to enforce it. Ms. Hash suggested a permanent wire fencing and not plastic fencing.

Gus Matthias has a 3' x 6' chain link fence he purchased at Orscheln. He puts a wire stock fence on top of the run and his coop is a solid structure which is 6' x 12'. The square footage is ten square feet per chicken. Where the chickens have been he puts straw down. He cleans the chicken coop out weekly. Mr. Wesolowski goes by his place several times a week and you don't notice there are chickens. There needs to be a type of standard run. After a discussion it was decided the fencing should be chain link or woven wire. Mr. Matthias noted there is a stock fence that is 2" x 4" square and is durable. Ms. Hash asked if the fence Mr. Matthias purchased comes with a frame around it and hooks together so posts don't have to be driven into the ground. Mr. Matthias replied it has metal brackets to go around and snap to the next section so there is no movement. Rick Coppock added it's the same as a dog pen. Terry Baker commented the people who really care about chickens take care of them. This ordinance is for those who don't really care and buy them for fun.

Darla Brown read §96.02(c)(2), *"The hens shall be kept in a coop, chicken run or outside yard that is enclosed on all sides, including the top, with chain link fencing or woven wire fencing."* After a discussion it was decided to specify the gauge of the wire. Mr. Wesolowski asked if they're just putting a band-aid on a situation. Is there to be something for ducks and rabbits? Ms. Hash replied rabbits have to be contained and are kept in hutches off the ground. The ordinance needs to state that rabbits can't run free. Mr. Wesolowski asked about ducks. Mr. Matthias replied Town Council said there would not be ducks. Ms. Brown added domestic livestock is defined as "fowl" and fowl means chicken, duck, goose, guinea, turkey, peacock or water fowl. The only fowl that will be allowed in the Town corporate limits are chickens so long as they meet the code requirements. Ms. Hash asked if a rabbit is a domestic pet then are they expected to be inside? Mr. Matthias replied that is what was said at Town Council. Ms. Brown explained the reason they were focusing on chickens is because they have garnered the most interest. Either people are really for or against them. She assumes and hopes that people treat their rabbits like they do their dogs and cats and try to keep track of them. If there are problems in the future with people having their rabbits run free then they can re-visit the ordinance. This needs to be kept as simple as possible. Mr. Swafford advised 12½ gauge is the stronger wire. If they specify 12 gauge it should keep out the chicken wire. Ms. Brown further explained in §96.02(b) it states domestic livestock is permitted in agricultural districts.

Gus Matthias has ten chickens. How long will he have to reduce to five chickens? Nobody knows he has chickens and most of his are two years old and they only live about four years.

Mr. Ryle asked if the minimum square footage is for the chicken coop or the run. Mr. Matthias answered his is ten square feet per chicken combined. His run is 12' x 12'. Mr. Wesolowski asked if he has a problem with rodents. Mr. Matthias replied no because he keeps track of it and watches for it. All of his feed is kept in buckets inside his shed. Mr. Swafford reiterated if they go with a welded or woven wire it should be 12½ gauge or above. Ms. Hash asked if a buffer should be added. Mr. Wesolowski asked if there is a code on how far buffers should be from the property line. Ms. Griffin replied there is nothing in the code. Mr. Swafford agrees there needs to be a buffer of at least four feet. Mr. Matthias asked if a buffer would include a security fence. Mr. Swafford answered yes. Ms. Brown asked if the maximum chicken coop size combined the chicken coop and chicken run square footage or is it a minimum square footage per chicken. After a discussion, it was decided it will be a minimum of 12 and a maximum of 20 square feet for both the run and the chicken coop per chicken. Ms. Brown summarized buffers, type of fencing people should use, stationary chicken coop and the minimum of 12 square feet and a maximum of 20 square feet, combined chicken run and chicken coop, per chicken have been added.

Darla Brown asked who will do the enforcing of this ordinance. After a discussion, it was decided the Director of Planning or their designee will enforce the ordinance and Monroe County will be called when necessary. Ms. Griffin will not go any less than a \$100 fine. Ms. Hash asked if someone who has an existing coop is grandfathered or do they have to come into compliance. Mr. Ryle replied if they had a coop they're not in compliance. If they have a coop do they make them get rid of it and re-establish? Or, do they let them keep it if they're in compliance with the new rules. After a discussion, it was decided it will be complaint driven, to give them 60 days from the passage of the ordinance to come into compliance with the coop and chicken run and one year to come into compliance with five chickens. Mr. Ryle commented with no inspection or permits there is not a knowledge base and they don't know what is out there on April 1st. Ms. Brown replied it doesn't matter. If on April 1st of next year somebody has ten chickens they are not in compliance.

Evelyn Ryle recommended there be something to indicate the preferred method of using straw to fight erosion so it will not add to the problems of soil deterioration and water runoff.

The meeting was adjourned for a recess.

The meeting was called back to order.

Darla Brown presented definitions for accessory structure, domestic livestock, domestic pet, exotic animal, fowl, harboring hen and rooster. §96.02(A) has been changed to:

"The Town of Ellettsville consents that the County may administer and enforce the Monroe County animal management laws within the corporate limits of the Town of Ellettsville. The following rules, regulations and codes are hereby adopted by reference as the rules governing animal management and commercial animal establishments in Town and the rules regulations and codes shall include the most current additions thereof as the same or published by the Animal Management Commission of Monroe County and by this ordinance the Town is incorporating by reference into this ordinance Chapter 440 of the Monroe County Code Animal Management and Chapter 441 Commercial Animal Establishment. (B) The following regulations apply to all residents within the corporate limits of the Town of Ellettsville in addition to the regulations set forth in the Monroe County animal management laws. (1) It shall be unlawful for any person to keep, harbor or allow about the premises of any such person, any exotic animals within the corporate limits of the Town. (2) It shall be unlawful for any person to keep, harbor or allow about the premises of any such person, any domestic livestock except within those areas designated as AG 1 or AG 2 and as permitted by §152 or set forth below in subsection (d). (3) It shall be unlawful for any person to keep, harbor, allow or have on the premises of any such person, any hog, pig or swine within the corporate limits of the Town. (C) A person may keep chickens within the corporate limits of the Town under the following conditions: (1) Hens only shall be allowed. No roosters shall be allowed. No other fowl shall be allowed. (2) The hens shall be kept in a stationary coop, chicken run or outside yard that is enclosed on all sides,

including the top, with chain link fencing or woven wire fencing with a minimum gauge of 12½. The coop shall meet the following requirements: Neither the coop nor the run shall be located between the rear of the principal structure and the front line. No chicken coop shall be closer than six feet from any property line. One coop shall be allowed on each non-agriculturally zoned property. Chicken coops and runs shall be maintained and shall be regularly cleaned to control dust, odor and waste and not constitute a safety hazard or a health problem to surrounding properties . . . (5) The minimum combined chicken coop and run shall be twelve square feet per chicken. The maximum combined chicken coop and run shall not exceed twenty square feet per chicken. (6) The coop and run shall provide a site fence or shrub screening of at least four feet in height around both the coop and run. Each person shall be limited to keeping, harboring or allowing five hens about the premises. No person shall permit hens to run at large. No on site slaughtering is allowed. The keeping of chickens should not otherwise be prohibited by §152 of the Planning and Zoning Code. Whenever a private covenant, contract, commitment or agreement or other similar private land use and restriction imposes a greater restriction or a higher standard than is required by a provision of this code the more restrictive provision shall apply.”

§96.03 is added as follows: *“The code provisions may be enforced by the Planning Director or Code Enforcement Officer or the Monroe County Animal Control Officers and the Animal Control Commission. (b) Town residents who currently have chickens shall have 60 days from the passage of this ordinance to bring coops and runs into compliance and one year from the passage of this ordinance to bring flock numbers into compliance. (c) Any person violating the provisions of this section commits a Class D ordinance violation. Each day that person violates constitutes a separate contained violation.”*

Terry Baker entertained a motion to make a positive recommendation to Town Council on Ordinance 2013-18 as amended. Dan Swafford made a motion to make a positive recommendation to Town Council on Ordinance 2013-18 as amended. Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – yes; David Drake – yes; Dan Swafford – yes; Pat Wesolowski – yes and Sandra Hash - yes. Motion carried 7-0.

Jerry & Norma Abbitt Annexation, 6706 N. Starnes Road and 6610 N. Starnes Road, Gosport – 100% Voluntary Annexation, 87.49 7 Acres

Connie Griffin, Director of Planning, explained this is the annexation of additional property owned by the Abbitts. In 2010, Ordinance 10-08 was passed for an annexation of 20.21 acres. The property is a few miles out of Ellettsville near Flatwoods. The surveying has been brought up-to-date. This annexation is for the family farm and a single family residential property. Combining the 2010 and 2014 annexations brings the total acreage to over 115 acres to Ellettsville. The single family residential property is 1.93 acres and the farm is 86.304 acres. All requirements for annexation have been completed. There is 50% contiguity. The property owners are requesting single family residential zoning for 6706 N. Starnes Road and Agricultural 1 zoning for 6610 N. Starnes Road.

David Drake looked at the county’s GIS system and the 6610 property only showed 73.813 acres. Where did the 12.491 acres come from? Ms. Griffin replied Mr. Abbitt did not annex the whole property in 2010 because of a property line dispute. Mr. Drake noted it is not on the GIS. Ms. Griffin stated it has been surveyed and recorded. Mr. Drake further noted according to the county’s GIS the property address on the house is listed as 6506 and the property already annexed was listed as 6706. Ms. Griffin advised there was an error in the GIS and she has contacted them to have it corrected.

Pat Wesolowski asked how Ms. Griffin came up with the estimated expenses. Ms. Griffin replied she contacted supervisors and they report their expenses back to her. Mr. Wesolowski asked if it is for a one year or three year period. Ms. Griffin answered a three year period. Mr. Wesolowski asked if the 80 acres is subdivided and the streets are dedicated to the Town, is there an expense. Ms. Griffin replied the developers have to pay for it. Mr. Wesolowski asked about the added expense of maintaining the streets. Ms. Griffin answered there isn’t any right now because it isn’t developed. They can’t really project without any knowledge of a future development. Ms. Brown further explained the fiscal plan is intended to cover the expenses that are going to be immediately necessary and obvious such as extra fire and police. The zoning proposed for 6706 N. Starnes is Residential 1 and 6610 N. Starnes is Agricultural 1 and it

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came with a different designation from the county. Ms. Griffin added the county is Rural Residential and Agriculture.

Darla Brown advised the hearing for this ordinance will be on March 24, 2014. The hearing at this meeting is the first reading of the proposed ordinance.

Terry Baker entertained a motion to make a positive recommendation to Town Council on Ordinance 2013-18 as amended. David Drake made a motion to forward a positive recommendation for the Abbitt annexation. Pat Wesolowski seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – yes; David Drake – yes; Dan Swafford – yes; Pat Wesolowski – yes and Sandra Hash - yes. Motion carried 7-0

Planning Department Updates

Connie Griffin, Director of Planning, advised there is flooding information and a video of the 1913 flood on the Planning Department website. The announcement page has information on the permitting process for flooded properties. The Street Department has sandbags available. The Town has applied for a construction in a floodway permit to do dredging and removal of sediment and debris.

Plan Commission Comments

Terry Baker doesn't think people have been shoveling their sidewalks. A reminder needs to be put in the Journal.

Adjournment

Terry Baker entertained a motion to adjourn. Dan Swafford made a motion to adjourn. Russ Ryle seconded. Motion carried. Terry Baker adjourned the meeting at 7:47 p.m.

Terry Baker, President

Russ Ryle, Vice President

Sandra Hash, Secretary

Don Calvert

Pat Wesolowski

David Drake

Dan Swafford