

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7130

BILL NUMBER: HB 1362

NOTE PREPARED: Mar 23, 2006

BILL AMENDED: Mar 14, 2006

SUBJECT: Local Government Reorganization.

FIRST AUTHOR: Rep. Buck

FIRST SPONSOR: Sen. Delph

BILL STATUS: Enrolled

**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Reorganization of Political Subdivisions:* The bill establishes a uniform procedure for the reorganization of political subdivisions. It provides that "political subdivision" does not include a local hospital authority or corporation. The bill provides that the reorganization process may be initiated by the legislative bodies of the reorganizing political subdivisions or by a petition signed by 5% of the voters in the reorganizing political subdivisions (as determined by the vote cast in the political subdivision for Secretary of State at the most recent general election). It also provides that the proposed reorganization shall be submitted to the voters for approval if the plan is approved by the legislative bodies of the political subdivisions or, in some circumstances, if at least 10% of the voters in a political subdivision (as determined by the vote cast in the political subdivision for Secretary of State at the most recent general election) submit a petition approving the plan of reorganization and requesting the public question to be held. The bill provides that a reorganization may occur only if the voters of the reorganizing political subdivisions approve the reorganization in the public question.

Reorganization Committee and Plan: The bill requires the reorganizing political subdivisions to appoint individuals to a reorganization committee to develop a plan for reorganization. It specifies the elements that must be included in the plan. The bill provides that political subdivisions and reorganization committees acting under the reorganization statute are subject to the Open Door Law and the Public Records Law.

Reorganizations Between a County and a Municipality: The bill provides that in the case of a proposed reorganization between a county and a municipality, the legislative bodies of the reorganizing political subdivisions must agree on whether the public question on the proposed reorganization shall be: (1) conducted on a countywide basis, without a rejection threshold; or (2) conducted on a countywide basis, with a rejection

threshold. It also provides that in the case of a proposed reorganization between a county and a municipality, the reorganization committee shall include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote in favor of the proposed reorganization, on a countywide basis, for the public question to be approved (the "countywide vote approval percentage").

It provides that if the legislative bodies agree that the public question shall include a rejection threshold, the reorganization committee shall determine that rejection threshold percentage. The bill specifies that the rejection threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization. Further, it provides that in the case of a proposed reorganization between a county and a municipality, the reorganization is approved only if: (1) the percentage of voters voting on the public question who vote, on a countywide basis, in favor of the proposed reorganization is at least equal to the countywide vote approval percentage included in reorganization plan; and (2) if the legislative bodies have agreed to include a rejection threshold, the percentage of voters of the county (excluding the voters of the reorganizing municipalities) voting on the public question who vote against the reorganization is less than a rejection threshold specified in the final reorganization plan and the percentage of voters of each reorganizing municipality voting on the public question who vote against the reorganization is less than the rejection threshold specified in the final reorganization plan.

Department of Local Government Finance (DLGF): The bill requires the DLGF to adjust the maximum property tax levies, maximum property tax rates, and budgets of political subdivisions that reorganize.

Indebtedness and Pension Obligations: The bill provides that: (1) indebtedness that was incurred by a political subdivision before the reorganization may not be imposed on taxpayers that were not responsible for payment of the indebtedness before the reorganization and must be paid by the taxpayers that were responsible for payment of the indebtedness before the reorganization; and (2) pension obligations existing as of the effective date of the reorganization may not be imposed on taxpayers that were not responsible for payment of the pension obligations before the reorganization and must be paid by the taxpayers that were responsible for payment of the pension obligations before the reorganization.

Effect: The bill provides that when the reorganization is effective, all the participating political subdivisions except the remaining reorganized political subdivision cease to exist.

Conformance: It makes related changes.

Cooperative Agreements: The bill establishes a procedure for political subdivisions to enter into cooperative agreements and provide for the transfer of functions of an employee or department of the political subdivision (including an elected office) to another employee or department of any political subdivision that has entered into the cooperative agreement. It provides that the cooperative agreements must be initiated and approved in the same manner that is set forth in the bill for the reorganization of political subdivisions.

Effective Date: Upon passage.

Explanation of State Expenditures: *Department of Local Government Finance:* The bill could increase administrative costs for the DLGF, which is required to establish a formula for adjusting maximum permissible property tax levies, maximum permissible property tax rates, and budgets. The adjustments could not exceed 50% of the savings or expense reductions realized in the first full year of operation. Further, a political subdivision may petition for judicial review of a final determination of the DLGF. Also, the DLGF will

prescribe forms for petitions, resolutions, certifications, and other writings.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary:* The bill would have indeterminate fiscal impact. To the extent that reorganized political subdivisions or political subdivisions working under cooperative agreements could work more efficiently or avoid duplication of services, costs could be reduced. However, the savings achieved will vary based on the reorganization undertaken. The actual cost of reorganization will also vary, but will likely require additional expenditures for elections, certifications and filings, and reorganization planning.

Background on Reorganization of Political Subdivisions: The bill would allow the reorganization of two or more counties, townships (located entirely within the same county), municipalities, school corporations, municipal corporations, special taxing districts, a township and a municipality, a county and one or more townships, a municipality and a county, a school corporation and a county or municipality, or a municipal corporation and a county or a municipality. A local hospital authority or corporation would not be included. The reorganizations would be limited by requirements that the subdivision be adjacent, that the majority of the population reside within the other subdivision, or other qualifications.

The consolidation could result in a single, new political subdivision, or one political subdivision may subsume another. A legislative body receiving a certified resolution from another political subdivision may adopt a resolution to decline to participate, adopt a substantially identical resolution, or adopt a resolution that differs from the resolution received.

Indebtedness incurred by a political subdivision before reorganization or a pension obligation existing before a reorganization must be paid by the taxpayers that were responsible for payment of the indebtedness or pension obligation before the reorganization. An individual employed as a firefighter, police officer, or sheriff by a reorganizing political subdivision remains a member of the retirement fund under which the individual was a member when the political subdivisions were separate.

The reorganization of political subdivisions may be terminated or restored by the legislative body or voters in the same manner that the reorganization was initiated. A reorganization among several political subdivisions may go forward even if the voters of one political subdivision reject a reorganization plan. In this case, a new plan of reorganization must be approved.

Reorganization Committee: Not later than 30 days after substantially identical resolutions of all parties to a reorganization has been certified, the reorganizing political subdivisions appoint the members of the reorganization committee. The members of the committee serve without pay, but may be reimbursed for expenses incurred in the performance of their duties. The committee may use the offices and staff of the reorganizing subdivisions and the reorganizing subdivisions may employ attorneys, accountants, consultants, and other professionals for the committee.

The reorganization plan proposed by the committee must include the name and description of the reorganized subdivision, its boundaries, the taxing areas, and the membership of the legislative, fiscal, and executive bodies. It must include the disposition of personnel, agreements, assets, and liabilities of the subdivisions, and other matters defined by the committee or legislative body. If a county and municipality are reorganizing and the legislative bodies have specified that the vote shall be conducted with a rejection threshold, then the reorganization plan must include the rejection threshold stated as a percentage. Also, the countywide vote approval percentage, which must be greater than 50%, shall be included in the plan for reorganization of a county and a municipality.

The plan is presented to the legislative body of each reorganizing political subdivision for adoption. The legislative body may adopt the plan, modify it, or reject the plan. The reorganization committee must submit a new reorganization plan within 30 days after a rejection. The final plan of reorganization must be adopted or rejected within one month after the final plan is presented to the legislative body. If a legislative body does not act on the final plan within the one month period, it is considered to be adopted. A rejected plan may be revived by a petition signed by 10% of the voters of the political subdivision.

The powers of the reorganization committee include adopting rules for the administration of the committee, conducting public hearings, reviewing books and records of any reorganizing subdivision, administering oaths, and issuing and enforcing subpoenas and discovery orders.

Cooperative Agreements: A cooperative agreement must provide the duration; purpose; manner of financing, staffing, and supplying any undertaking; methods of termination; manner of administration; and manner of acquiring, holding, and disposing of real and personal assets. It may include additional conditions or term as necessary. Cooperative agreements may be entered so that political subdivisions may transfer the functions of an employee or a department or to share the services of an employee. Political subdivisions may appropriate and pledge any legally available revenues to the payment of bonds, leases, or other obligations of a party to the cooperative agreement. The transfer of money from one fund of a political subdivision for a use authorized by the cooperative agreement is permitted. However, a cooperative agreement may not take any action that one of the parties to the agreement could not carry out on its own.

Explanation of Local Revenues:

State Agencies Affected: Department of Local Government Finance.

Local Agencies Affected: All.

Information Sources:

Fiscal Analyst: Karen Firestone, 317-234-2106.

GOVERNMENT REORGANIZATION

BY: *Steve Buschmann*

The Indiana Township Association (ITA) supports effective and efficient government. The ITA recognizes that sometimes effectiveness in democracy does not result in efficiency (i.e. open door laws, public records laws), so that a balancing is required.

The ITA believes strongly that some aspects of government can only be accomplished on a large scale (such as national defense; regulation of international monopolies, etc.) Other aspects of government, however, are better provided by local elected officials who are more responsive to the needs of their constituents. While some large bureaucracies may be necessary, they can often be very inefficient and ineffective. (FSSA, BMV etc.) Additionally, while local elected officials can be replaced by disenchanted voters, bureaucrats are forever. Further, officials elected to smaller units of government are more likely to be elected based on the community's knowledge of their character and skills rather than by political party alignment.

The ITA believes that government, like all other aspects of life, can be made more efficient and effective. However, the keys to creating efficiency and effectiveness are: (1) the inclusion of all impacted units of government on an equal basis, in the reorganization process; (2) the ability of one unit of government to prevent another unit from arbitrarily usurping its functions; and (3) the participation of the citizens who are affected (including the ability of the citizens in one unit to prevent the citizens of another unit from taking control of their government.).

The ITA believes that IC 36-1.5 (as enacted by the 2006 General Assembly in HEA 1362) provides an ideal balancing of interests to make government more effective and efficient at the local level. IC 36-1.5 allows government reorganization and/or cooperation but provides protections for all impacted citizens. Key elements of IC 36-1.5 include:

1. There are essentially no limits on the imagination that local entities can employ to reshape, reconfigure, or coordinate government services for the local citizens.
2. All units involved in the reorganization or cooperation must agree to participate and have equal voices in the participation to ensure that the functions and responsibilities of one unit do not become subservient to or lost in the economics of a larger unit.
3. The process for creating a reorganization and/or cooperative agreement is designed to take enough time to consider all aspects of the plan.
4. The plan must be specific. There is no "I'm from the government, trust me" involved in a reorganization plan or cooperative agreement.
5. The legislative bodies of each participating unit have the opportunity to review the plan; to suggest amendments; and to ultimately accept or reject the plan.
6. The citizens have the right to vote on the plan.
7. The citizens right to vote is by unit, so that the right of self determination of the citizens in a smaller unit of government is not drowned out by the votes from a larger unit.

Steve Buschmann practices with Thrasher, Buschmann, Griffith & Voelkel in Indianapolis. Steve graduated from Purdue University and Indiana University Indianapolis School of Law and was admitted to practice in 1974. Steve served in the Indiana Attorney General's Office and the Legislative Services Agency before entering private practice. Steve has represented the Indiana Township Association as legal counsel since 1989. His legal practice includes the representation of the ITA and a number of townships. He is considered to be an expert in all areas of township law.

HB 1362 Put to use in Allen County

In March, eastern Allen County local government officials unveiled plans to form a new government entity, East Allen County Communities.

This plan for reorganization is made pursuant to House Enrolled Act No. 1362 (I.C. 36-1.5-1 et seq.) to promote modernization of government and to promote cooperation, efficiency, and better government.

The East Allen Communities (EAC) entity participating in this plan for reorganization desires to: a) maintain and enhance their rural, agrarian, and animal husbandry lifestyle; b) maintain and enhance their small-town and small-city heritage; c) maintain and enhance their strong religious and moral heritage and principles; d) enable the Old Order Amish Community to maintain its religious freedoms and lifestyles; and e) maintain and enhance their self-destiny as to all matters important to them.

The entities associating themselves under this plan of reorganization are as follows: a) townships: Adams, Madison, Monroe, Cedar Creek, Marion, Scipio, Jackson, Maumee, Springfield, Jefferson, Milan; b) towns: Grabill, Hoagland, Monroeville, Harlan, Leo-Cedarville, Poe; c) cities: New Haven, Woodburn.

And further, by associating themselves together under the plan of reorganization, they seek to maintain and enhance cooperation and efficiency between the associated units of government for services and functions including, but not limited to, the following: police protection; fire protection; emergency medical service; roads, streets, and bridges; sanitary sewers; storm sewers and rural drainage; planning, zoning, land use, and building standards; parks and recreation; health protection and pollution control; utility services; such other services and functions that may presently, or hereafter, be deemed desirable or necessary by the associated governmental units.

There shall be a nine member Common Council, which is the legislative and fiscal body, and there shall be a three member executive branch called Steering Committee Branch. In addition, the existing Township Trustees and Advisory Boards for the Trustees and the Cities and Towns and their boards or councils shall remain and function under the Steering Committee Branch and Legislative-Fiscal bodies of EAC.

The nine members of the EAC Common Council are elected by the residents of the respective areas as follows: one each from Adams Township, Cedar Creek Township, Monroe and Jackson Townships, Jefferson Township, Madison Township, Marion Township, Scipio and Maumee Townships, Milan Township, and Springfield Township.

EAC is authorized and empowered to provide services for the following: roads, streets, and bridges; planning and zoning and land use, including agricultural and rural land preservation efforts; fire protection services; emergency medical services and safety services; building department and building standards; health protection, health department, and pollution control; police protection; sanitary sewers; storm sewers and rural drainage; parks and recreation; utility services; historical and community heritage preservation; such other services and functions that may be deemed desirable or necessary by EAC to promote the goals and objectives of EAC.



In 2006 the Indiana State Legislature passed House Enrolled Act 1362 allowing government reorganization. The citizens and governmental units of the eastern half of Allen County, Indiana immediately took notice of this law and organized to study the form and potential efficiency of their governments. In what is believed to be an unprecedented sign of government cooperation, eleven townships, three towns and two cities met in joint session on April 17, 2006 at the Grabill Volunteer Fire Department and agreed to mutually cooperate in the study commission outlined in HEA 1362. The study commission was named East Allen Communities for Better Government.

WHO WE ARE AS CITIZENS OF EAST ALLEN

Before studying government reorganization, it was important that the commission first identify who we are. It is well understood that government serves its people and its services should be specific to the people's needs.

East Allen is a much diversified area deeply rooted by a rural based society. The communities of Leo/Cedarville, Grabill, Harlan, New Haven, Woodburn, Monroeville, Hoagland and Poe represent the highest concentrations of the total population. The Amish community is a strong component of the base population in East Allen and contributes significantly to the economic vitality of our region.

Each community is very unique. The needs and desires of each community differ from one another. Individual identity, freedom of choice and desire to maintain control of local decisions was clearly conveyed by each community.

The Amish lifestyle, being very distinctive, necessitates government representation that can properly legislate and serve this community.

The needs of the Amish required their participation in the study and they responded by appointing representatives to the committee.

Preserving Amish Heritage



Where East Allen Communities meet to share common goals, with Indiana State Law-makers in New Haven, IN.



Featuring Senator Kruse, Senator Delph and Rep. Jim Buck to discuss house enrolled act HB-1362 with concerned people of East Allen Communities.

Nelson Peters County Commissioner of Allen County, Indiana. Nelson attends the meeting at New Haven, Indiana and applauds the group for all their hard work. He is amazed at the large support of people from East Allen Communities.



PREAMBLE
EAST ALLEN COMMUNITIES

WE THE PEOPLE OF EAST ALLEN COUNTY, INDIANA, grateful to ALMIGHTY GOD for the free exercise of the right to choose our own form of government, hereby ordain:

1. *THAT THE PEOPLE OF EAST ALLEN COUNTY, INDIANA associate themselves into an entity known as EAST ALLEN COMMUNITIES comprised of the following governmental units:*
 - a. *Townships:*
 - *Adams;*
 - *Cedar Creek;*
 - *Jackson;*
 - *Jefferson;*
 - *Madison;*
 - *Marion;*
 - *Maumee;*
 - *Milan;*
 - *Monroe;*
 - *Scipio; and*
 - *Springfield.*
 - b. *Towns:*
 - *Grabill;*
 - *Harlan;*
 - *Hoagland;*
 - *Leo-Cedarville;*
 - *Monroeville; and*
 - *Poe.*
 - c. *Cities:*
 - *New Haven; and*
 - *Woodburn.*
2. *THAT THE PEOPLE OF EAST ALLEN COUNTY, INDIANA, desire and intend to:*
 - *Maintain and enhance their rural, agrarian, and animal husbandry lifestyle;*
 - *Maintain and enhance their small-town and small-city heritage;*
 - *Maintain and enhance their strong religious and moral heritage and principles;*
 - *Enable the Old Order Amish Community to maintain its religious freedoms and lifestyles;*
 - *Maintain and enhance their self-destiny as to all matters important to them.*
3. *THAT THE PEOPLE OF EAST ALLEN COUNTY, INDIANA, associate themselves into EAST ALLEN COMMUNITIES to maintain and enhance cooperation and efficiency between the associated governmental units as to any or all of the following services and functions:*
 - *Police protection;*
 - *Fire protection;*
 - *Emergency medical service;*
 - *Roads, streets, and bridges;*
 - *Sanitary sewers;*
 - *Storm sewers and rural drainage;*
 - *Planning, zoning, land use, and building standards*
 - *Parks and recreation;*
 - *Health protection and pollution control;*
 - *Utility services; and*
 - *Such other services and functions that may presently or hereafter be deemed desirable or necessary by the associated governmental units.*

East Allen Communities For Better Government

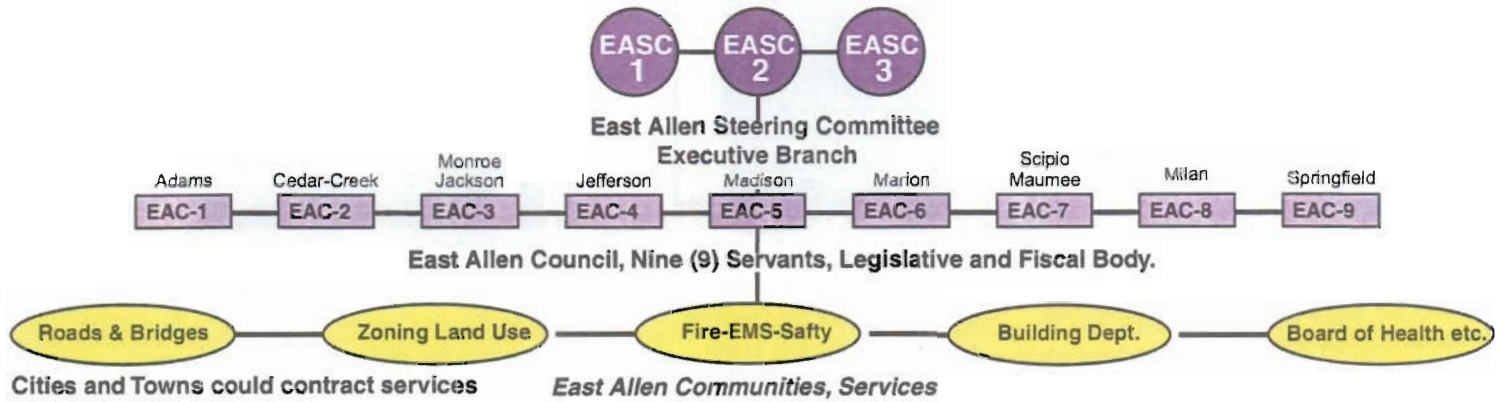
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established

East Allen Communities Government Flow Chart

April 17th, 2006



EFFICIENCY IN ACTION

At the first meeting of the commission established a need for financial resources to cover the expenses associated with the study. It was suggested that each participating governmental unit provide funding based on their total assessed valuation as a percentage of the overall assessed value of the combined units. While this suggestion made reasonable sense to the members, the obvious question was raised. The commission realized that they were charged with studying efficiencies and that it would be contrary to efficiency to place the cost of the study on the tax payers.

This conclusion resulted in multiple East Allen Communities for Better Government fund-raising events. The fund-raising has proven to be very successful and has provided 100% of the support of the study.

Townships

- Public assistance to neighbors, who find themselves in a financial crisis
- Burial services to the impoverished
- Maintenance of township cemeteries
- Fire and Emergency Medical Services
- Parks

Cities and Towns

- Police Protection
- Street and Road Maintenance
- Fire and Emergency Medical Services
- Park and Recreation
- Storm Water Utilities
- Public Water and Sanitary Sewer Services
- Land Use Planning

County

- Police Protection
- Street and Road Maintenance
- Land Use Planning
- Building Inspection
- Other statutory and constitutional offices

Map of East Allen Communities



Aerial Photo of Schwartz Road Fund-Raiser September 1st, 2006

The airplane ride was donated by Chad MacDowell the Milan township trustee/assessor. Aerial photos were taken by Stan Whittern of Grabill.



The People of East Allen Communities Decide Their Choice at New Haven, IN Meeting

As seen below people from East Allen Communities voice their opinion on the four (4) options available as presented at this meeting. Option three (3) was chosen, where we must keep hard borders against future annexation. When the entire group of which many were elected officials was asked, is there any opposition to option three (3)?, no one answered. Option three (3) became official.



Local citizens plainly voice their opinions on which option we need to choose. We can not have soft borders that would allow for future annexations. We need to preserve our entire community the way we see and feel according to our needs of rural government.

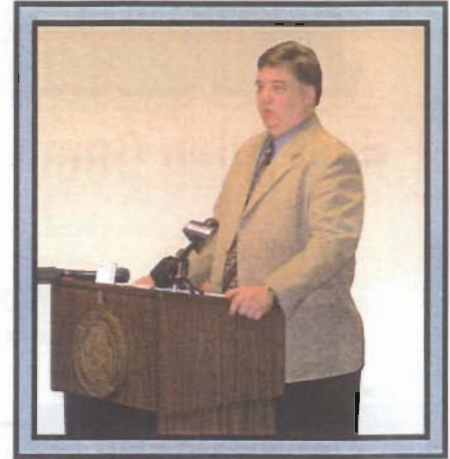
Study Accomplishment

Throughout the study, the committee attempted to identify duplication of services. While there was the appearance of duplication between county services and some city and town services, the reality was, no duplication existed. Localized services in East Allen were developed and specialized for the specific needs of those communities. Specialized services are typically smaller in organizational structure and hold a higher degree of responsiveness to the citizens. Moreover, localized services can be expanded and contracted easier than larger or consolidated units.

The committee also found several examples of services being provided to the public at the most efficient rate possible. Many of the communities operate volunteer fire and emergency medical services. Capital needs are often times strongly supplemented through donations and community fund-raisers. In all cases these services operate at a fraction of the cost of the same services found in heavily urbanized areas. Most of the community parks in East Allen operate independent of the tax roles. In conclusion, the commission recognizes the inherent efficiencies of volunteerism and private financial support. The committee found that public services could be provided more effectively and efficiently through a governing board administering common services specific to the needs of the communities in East Allen. The Individual communities may retain the right and ability to provide specific services within their respective taxing unit should its citizens desire a level of service unique to their needs.



Mike Cunegin
Former First District County Councilman. Mike drops in during New Haven meeting wishing his regards to the community.



Mayor Terry McDonald of New Haven, IN

Mayor McDonald has been a leader in East Allen Communities for Better Government.

Alan Verplanck (Attorney)



Alan (upper left) is the lead attorney for East Allen Communities project, HB-1362. He displays a power point presentation, looking at three (3) options for East Alle Communities to unit into one, thus avoiding future annexation.

Community Cooperation, and Efficiencies at Work... during the East Allen Fund-Raiser



Fund Raiser - Buggy Parking

Fund-Raiser: Farm Location was Donated by T & M Schmucker (Cedar Creek Township-Grabill... an Enormous Undertaking)

The Schwartz Road Fund-Raiser held on September 1st, 2006 was a great success, serving thousands of people, through cooperation of the folks from East Allen Communities. A true efficiency is where the people become actively involved in raising funds prior to needing them for legal fees, etc. in preparation of East Allen Communities "For Better Government". We believe in paying as you go along, not wait until you have a large deficit beyond control.

Crowds came by the thousands to support East Allen Communities and purchased their home-made meals and made a donation that will benefit all eleven townships, two cities, and six towns.

This generation of children will greatly benefit from all of the hard work and efforts we are providing for them today for many generations to come.

HB-1362 Provides Enlightenment!

A special thanks goes out to Representative Jim Buck author of enrolled act house bill 1362. This bill provides many tools which may be used to protect East Allen Communities provided they are used. Through cooperative efforts East Allen Communities does realize these values and are applying them into practical use. East Allen Communities made up from mostly rural area along with several cities and multiple towns feel they can provide services and land use control at a much higher degree of efficiency, through the people of East Allen Communities "For Better Government".