



LAPORTE COUNTY PLAN COMMISSION

Government Complex 5th Level
809 State Street, Suite 503 A
LaPorte, Indiana 46350-3391
(219) 326-6808 Ext. 2591, 2563, & 2221
Fax: (219) 362-5561

ANNEMARIE POLAN
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES February 26, 2013

AMENDED

MEMBERS PRESENT: WILLIE MILSAP RON HAMILTON, SR.
 MATT BERNACCHI GENE MATZAT
 GLEN MINICH JAY WRIGHT
 TONY HENDRICKS RITA BEATY KELLY
 HAROLD PARKER

OTHERS PRESENT: Annemarie Polan, Recording Secretary, Doug Biege, attorney, Darlene Pavey, Secretary.

PLEDGE OF ALLEGIANCE

Attorney Biege said that there is a gentleman that passed away this afternoon named Greg Lutz, who was the Vice President of Veteran's Group. Attorney Biege said that Greg dedicated "all" his time to La Porte County Residents and La Porte County Veterans and made a huge contribution the Veteran's Community in our county. Attorney Biege said that he would ask for a moment of silence to honor Mr. Lutz.

Attorney Biege said thank you.

Tony Hendricks asked for roll call.

Tony Hendricks asked for approval of the Agenda.

Rita Beaty Kelly made a Motion to approve the Agenda. Matt Bernacchi and Harold Parker seconded.

All approved. Motion carried 9-0.

Tony Hendricks asked for approval of the minutes of January 22, 2013.

Rita Beaty Kelly made a Motion to approve the minutes from the meeting of January 22, 2013. Gene Matzat seconded.

All approved. Motion carried 9-0.

Tony Hendricks told Dar Pavey that the minutes are from January 22, 2013. Tony said that we had minutes that said 2012.

Tony Hendricks said that the first item this evening is to vacate all undeveloped portions of the Strawberry Fields Subdivision, Article 09 Section 09.02, Paragraphs 3 e & f.

Annemarie Polan, Building Commissioner, said that she has given everybody a couple pages to look at of that subdivision. Annemarie Polan, Building Commissioner, said attorney Adamsky decided today that the two houses that are on lots 6 & 7 he's going to leave as part of that subdivision, and the other five lots he's asking to be vacated. Annemarie said that they've never been built upon and they're being added to the acreage that the people already own.

Annemarie Polan, Building Commissioner, said that she has all of the consents from the landowners agreeing to this.

Tony Hendricks asked Annemarie if there was notification.

Annemarie Polan, Building Commissioner, said that it's not a typical petition that he had to be here for tonight due to the fact that there is consent from all of the landowners.

Attorney Biege said under Section 9.02 (e) when all the members of the subdivision agree, there's no requirement of a public hearing. Attorney Biege said that he thinks that this can be construed as an administrative act; Attorney Biege said that there is no public hearing required when we have consent of all the subdivision members.

Matt Bernacchi made a Motion to approve and vacate the lots requested in Strawberry Fields Subdivision. Rita Beaty Kelly seconded.

Tony Hendricks asked if there were any questions on the Motion.

Matt Bernacchi said that for clarification we need to list which lots.

Annemarie Polan, Building Commissioner said 1 through 5.

Tony Hendricks asked if the public streets that are platted would go to the Commissioners for vacation.

Attorney Biege said that he thinks if they're platted, they would be vacated along with the subdivision and the Commissioners approve the entire vacation.

Tony Hendricks said that this is a favorable recommendation to the Commissioners.

Attorney Biege said that the Commissioners would have the last say on whether it's going to be done.

Tony Hendricks if there are any other questions.

Tony Hendricks said that he will call for a vote.

All approved. Motion carried 9-0.

Tony Hendricks said that Item (b) is appointment of Map Committee.

Tony Hendricks said that he will leave this open to the Board, but his impression is if we're to have a Map Committee, it would be a member of this Plan Commission, a member of the council, a member of the Commissioners, Mitch Bishop and probably a public member hopefully in real estate, a farmer, or a builder, someone of that nature. Tony said that would put us at five and that would give them an odd number and it's not too big. Tony said that if we've these workshops and committees, they will be open to the public. Tony said that is his initial thoughts to have a five member committee and try to work on the maps.

Tony Hendricks said that the map committee is only going to look at the zoning maps that we have in place and look at any additions, changes, deletions, and accept any public input on the maps that are in place now and discuss any changes that we might like to have, if any.

Glen Minich said that he thinks that it is important that we put someone in there that really has an expertise in development in the community, because what we're looking at here is when that map was put forth and put through there was some clean sweeps that were made and a lot of small areas were taken away; like highway frontage areas that were at one time developed for industrial and business, and those are kind of wiped out and somehow we have to make it clear to anybody that comes to this county that we're open to development in many areas, and at the same point, we have to make sure that we're not going to infringe on the people that are in those areas also.

Tony Hendricks asked if there are any other thoughts.

Attorney Biege said that he had a thought to perhaps appointment of a member of the BZA. Attorney Biege said that the Board of Zoning Appeals members hear these matters on a continual basis and he thinks that it would be helpful.

Rita Beaty Kelly said that maybe we should go for seven if we would have a conflict that people couldn't attend, we would still have at least five there.

Tony Hendricks said that is a good idea. Tony asked if we're thinking Plan Commission, Council, Commissioners, Mitch Bishop, a public member, Board of Zoning Appeals and maybe two public members.

Rita Beaty Kelly said maybe the surveyor.

Tony Hendricks said that he will help out in anyway either as a committee member or not, he always shows up at the work shops anyway.

Annemarie Polan, Building Commissioner, said that we've a builder in the audience.

Tony Hendricks said that we do have a builder in the audience who is pretty well known and he's not expecting a nomination for those public members; he thinks that it would be best served to bring those back to this Board at the next meeting and have some people that might be interested. Tony said that we don't want to exclude anyone that might be interested. Tony said that we will have this published and open it up to a committee and give them at least a month to think about it and submit their names to the Plan Commission.

Ron Hamilton, Sr. said that he thinks that would be a great idea.

Tony Hendricks said that next month we'll find out who would want to be on it from those Boards. Tony asked if that is okay with everybody.

Tony Hendricks said that Item © is election of attorney.

Tony Hendricks said that last month we delayed our appointment for attorney until this month. Tony Hendricks said that he believes in the packets you received a letter from Mr. Ambers and Mr. Biege.

Tony Hendricks said that we will open the floor up to each of the candidates so they can present their resume to the Board.

Good evening Members. As many of you know I'm Dave Ambers and I'm an attorney here in La Porte. Attorney Ambers said that you have my resume and we will go over that. Attorney Ambers said that basically since he was admitted to the Bar in 1989 his practice has focused on real estate construction law primarily; attorney Ambers said that he practiced before this Board, BZA and similar Boards throughout the county. Attorney Ambers said that he feels like he's qualified; he's presented seminars in Indiana continuing legal education forum on zoning and practicing before the Board of Zoning.

Attorney Ambers said he knows that there was one concern about his representation of Phoenix Ventures. Attorney Ambers said that Mr. Burys has been gracious enough to agree to allow him to withdraw from that representation if he obtains this position.

Attorney Ambers told the Board that they have his qualifications and he will open it up if anyone has any questions.

Tony Hendricks asked if there were any questions.

Willie Milsap thanked attorney Ambers for applying. Willie asked Mr. Ambers if he's familiar with the fee structure. Willie asked Mr. Ambers what would be the difference in his fee structure.

Attorney Ambers said that he was advised that there was not going to be a change in the fee structure. Attorney Ambers said that it would be the retainer for attending the monthly meetings

and \$150.00 per hour worked afterwards. Attorney Ambers said that he keeps very detailed billing and would submit that on a monthly basis. Attorney Ambers said that if that is not appropriate, we could certainly sit down and come to a conclusion. Attorney Ambers said that he was advised that there wasn't going to be a bidding procedure like it had been discussed at the last meeting, but it was simply going to be a structure which you're presently paying.

Willie Milsap asked Mr. Ambers what his fee charge would be for scoping the job..

Attorney Ambers said that the retainer that you're presently paying for the Plan Commission and BZA meetings and \$150.00 per hour for additional work outside the actual attendance of the meeting.

Willie Milsap asked Mr. Ambers if \$150.00 is average.

Attorney Ambers stated yes.

Attorney Biege said that you have my materials and that he has worked with the members of the commission for a couple of years now. Attorney Biege said that he would like to highlight what we've been working on that last couple of years together.

Attorney Biege said that we've had some major events that happened in La Porte County Zoning. Attorney Biege said primarily we re-passed the joint zoning ordinance; when he was appointed initially he discovered that we had some flaws in the process so we re-did it; shortly after that, we had a challenge to our existing zoning codes as far as Sexual Oriented Business are concerned; we've been successfully defending that case with two appeals based upon how the language is written. Attorney Biege said that in the mean time, we drafted a licensing ordinance which we believe is constitutional, but it's gone beyond that; we've discussed that in our Plan Commission; we set up a committee and retained experts to make sure that if we have a challenge it's going to hold up.

Attorney Biege said next week in front of the Commissioners we're up for a second vote for the amendment to the Joint Zoning Ordinance to correct the Sexually Oriented Business there. Attorney Biege said we're in the midst of tweaking changing the rules in the Joint Zoning Ordinance and making corrections, in which he believes, will avoid future problems. Attorney Biege said that in the BZA we've never drafted Findings of Fact to his knowledge as a Board and the Board decided to begin doing that. Attorney Biege said that the first couple of years we had a couple of appeals, one of which went in front of the Court of Appeals, which was successfully defended and since then no one's challenged any decision of the Board of Zoning Appeals in the last couple of years; that's not to say we won't have any in the future, but with written Findings of Fact and careful consideration and decisions by the Board, he thinks in the long run it will save a significant amount of attorney's fees and allow us to work on more "positive" things towards the future.

Attorney Biege said that he's enjoyed the work. Attorney Biege said that we have one piece of litigation now and in that case it's the Gentlemen's Club and we currently have a Motion to

Dismiss pending. Attorney Biege said that he's proud of the work that he has done so far and enjoyed it very much and would like to continue to do so.

Tony Hendricks thanked attorney Biege. Tony asked if there are any questions from the Board.

Matt Bernacchi said that he would like to nominate Mr. Biege as attorney.

Ron Hamilton, Sr. seconded.

Tony Hendricks asked if there are any other nominations from the Board for the Plan Commission attorney.

Tony Hendricks said having no other nominations from the Board he'll call for a vote for Mr. Biege as Plan Commission attorney.

All approved. Motion carried 9-0.

Attorney Biege thanked the Board.

Tony Hendricks asked if there is any old business under Item #6.

Attorney Biege said that he just wants to remind the Commission again that the second vote for the amendment of the Joint Zoning Ordinance on Sexually Oriented Business will go before the Commissioners and hopefully that will pass and be concluded. Attorney Biege said that we continue to work with the attorneys for the City of Michigan City and the City of La Porte and he expects that we should be complete in three or four months; it is hard to predict when you put four lawyers in a room it takes a little while.

Mitch Bishop, County Planner, said that on his end he had a meeting with the City Planners to discuss the changes in the Joint Zoning Ordinance. Mitch said that he compiled about thirty-four items now and actually he's going to have that in the middle of March for everyone to look at.

Tony Hendricks asked if there is any new business.

Tony Hendricks asked if there is anything from the Board.

Tony Hendricks said that it's not on the agenda, but is there any public comment.

Tony Hendricks told Jim Pressel that he doesn't want to put him on the spot, but if this committee would like to nominate you for the map committee would that be something that you would entertain.

Jim Pressel said definitely.

Attorney Biege said that if members of the public are interested in applying to be appointed on the map committee, where should they submit their letter of interest.

Tony Hendricks said Annemarie Polan.

Attorney Biege asked Annemarie what her address is.

Annemarie Polan, Building Commissioner, said that e-mail would probably be easiest.

Tony Hendricks asked Annemarie her e-mail address.

Annemarie stated that it's apolan@laportecounty.org.

Mitch Bishop, County Planner, said that one suggestion he would have is when the Board would commence, it would be to really look at the Comprehensive Plan if we're going to have any changes because that is their future plan for La Porte County and you are actually suppose to review the Comp plan if you're going to do any major zoning changes. Mitch said that he thinks a good first step would be to get everyone on board with that and see exactly what the Comprehensive Plan says.

Tony Hendricks asked Mitch if the committee would ask you to run the first committee work shop to get us all up to speed on the Comprehensive Plan; some members will need a good refresher on all those documents before we move to make any changes, we need to understand that document.

Mitch Bishop stated yes.

Tony Hendricks asked if there is any other business.

Gene Matzat said that tomorrow from 10:00 a.m. to noon central time, there will be a review of the 2013 State Budget with Professor Larry DeBoer from the Purdue Agricultural Economist Department. Mr. Matzat said that will be watched by video at their Extension Office, at 2857 W. State Road 2 and there is no cost to it, but it should get pretty good review from him in understandable terms and sometimes humorous as to what's going on with the New Budget, new Governor and the State House.

Tony Hendricks asked if there is any other business before this Board.

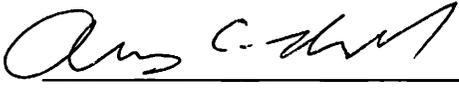
Mitch Bishop told Gene that it says that we have to register by yesterday.

Mr. Matzat said that they've room now.

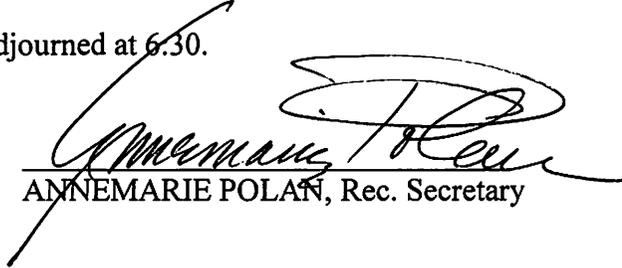
Tony Hendricks said that he will entertain a Motion to adjourn.

Ron Hamilton, Sr. made a Motion to adjourn. Matt Bernacchi seconded. All approved. Motion carried 9-0.

There being no further business, meeting adjourned at 6.30.



-TONY HENDRICKS, President
Anthony



ANNEMARIE POLAN, Rec. Secretary