



# BOARD OF COMMISSIONERS LAPORTE COUNTY

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*Ken Layton*  
President  
*Barbara Huston*  
Vice President  
*Willie Milsap*  
Member

## LAPORTE COUNTY COMMISSIONERS

## LAPORTE COUNTY PLAN COMMISSION

## SPECIAL JOINT MEETING

Tuesday, October 30, 2012

The LaPorte County Board of Commissioners met in a Special Joint Meeting on Tuesday, October 30, 2012, at 5:30 p.m. with the LaPorte County Plan Commission in the LaPorte County Complex Meeting Room #3.

### CALL MEETING TO ORDER

Mr. Layton, President, called the meeting to order at 5:30 p.m.

### PLEDGE OF ALLEGIANCE

Mr. Doug Biege led the Pledge of Allegiance.

### ROLL CALL

All Commissioners present

All Plan Commission members present except Gene Matzat

### APPROVAL OF AGENDA

Mr. Layton, the purpose of our meeting this evening is for the Board of Commissioners of LaPorte County and the Plan Commission of LaPorte County to review two ordinances; one for the joint zoning ordinance of the county and one for the commissioners on regulations pertaining to that joint zoning ordinance. There was publication in the paper and I believe on the radio that we were going to talk specifics tonight. That is not true. The sole purpose of this meeting tonight is to talk about the two ordinances that I have referred to. Those ordinances will be read in their entirety later. The attorney for the Plan Commission has a witness here this evening that wants to make testimony.

### OLD BUSINESS

Mr. Biege, we have Eric Kelly here tonight who was hired by LaPorte County as a consultant to help the county and assist us in developing appropriate guidelines and appropriate ordinances. We have asked Mr. Kelly to testify and explain his role at this time.

Mr. Eric Kelly, I am here with my colleague, Connie Cooper. We spend much of our time dealing with the issue of Sexually Oriented Businesses around the country. Part of our job is to find ways that communities can do what they are constitutionally required to do but to have these businesses with minimal impact on the community. I am a lawyer as well as a city planner and a professor of urban planning at Ball State, Connie is a long time planner who has also been a planning director of a county. We are each past president of The American Institute of Certified Planners and we have been working together on Sex Businesses for 14 years. (Please see the attached power point presentation and the study of sexually oriented businesses, final report)

Mr. Kelly, we are giving you all this information and we have told you that to put the county in the best possible situation to defend its ordinances you have to be convinced what the effects of these businesses

are. What the courts have said is that you have to have in front of you evidence from which you, as public officials, could reasonably believe that these businesses could have this kind of negative secondary effects in LaPorte County.

Mr. Biege, I would like to set the record with regard to notice. There is a notice requirement for a hearing such as this. We also supplied a transcript of the record to the commission members. We did provide notices for over 600 residences by certified mail. Those were all adjacent to the county. In addition, notice was published in the LaPorte Herald Argus and the Michigan City News Dispatch. Notice was sent to WEFM and WCOE. In addition, notice was posted on the courthouse door, the county complex door, county offices door and the county meeting room door. You all have a summary of evidence for review and Mr. Kelly's report dated August 2012. Do you want me to read all of the items?

Mr. Layton, we will ask our IT department to scan it in and put it on the web site. We will also make hard copies available to the public at the library here and the library in Michigan City.

Mr. Beige, as far as the record is concerned there are 40 cases and studies which we are submitting for the board's consideration as we move forward. One point of clarification, this ordinance is a result of a committee that was appointed by the LaPorte County Plan Commission to study and develop these proposed ordinances.

Mr. Layton, there is quite a crowd here tonight and we want to exercise your right to speak. This meeting tonight is about specific issues. It is about a specific issue pertaining to the plan commission and amendments to Section 14.09 of the joint zoning ordinance and it is about a proposed ordinance that it is being brought before the LaPorte County Commission for the adoption on some guidelines or rulings. I invite any of you to come to the podium.

#### PUBLIC COMMENTS

Mr. Dave Ambers, Attorney, on behalf of John Burys. While Mr. Burys has a previous petition before the board of zoning appeals and a federal lawsuit concerning a sexually oriented business; we are not here to argue that. We are here simply to give Mr. Burys' input on the portion of this ordinance that he feels would affect the business that he proposes. We are not trying to argue the case outside of the federal court. I am going to allow Mr. Burys to speak; he is going to read a letter from our co-counsel Luke Lirot.

Mr. Burys, secondary effects were mentioned repeatedly, however, I don't see any studies or affects done on those locations in Indiana. Often a city will claim that adult uses cause these adverse secondary affects, this assertion is not based upon any research as conducted in regard to the impact of adult businesses located within that specific municipality but rather upon studies prepared by the other cities. When the government attempts to enact laws directed at adult entertaining businesses using secondary effects information prepared by other municipalities, one of the questions becomes, can these reports be believed by city councils or state legislators to be relevant to the problems the governmental body is attempting to address. Many municipalities make no independent investigation of secondary effects at all. Some reports are nothing more than a summary of the previous studies that have been mischaracterized earlier. With respect to some of the studies, the St. Paul, MN study, the authors actually disclaim any notion that their conclusions can be applied to adult businesses. Many use such flawed methods that are now criticized even by experts who assist cities in running these types of laws coming to the conclusion that they cannot be relied upon to justify an enactment of laws directed at adult businesses. The studies that were conducted, do not find that adult businesses cause adverse secondary effects. Despite repeated invitations to the commissioners and to the committee to come and visit Atlantis, which is the club I represent, I cannot impress upon you, is a million miles away from every club that was represented in this presentation. I would encourage the committee and the commissioners, prior to a vote on such a substantial issue that will affect many things to come, that perhaps you table your vote, come and visit my establishment and sit down to discuss a lot of these issues that I wasn't even allowed to be part of the committee, to express my point of view with this committee who presented this report. I feel left out of this procedure being one of the individuals who wants to come and build a healthy business here in LaPorte County. I also would like to state, I know there was mention made that Mr. Biege had been attempting to study this for a very long time, however, I believe this investigation only began when I attempted to bring my business to LaPorte County. I feel my business and company, individually, is being targeted by the adoption of this

ordinance which taints any settlement negotiations. I feel the adoption of this ordinance really needs to be tabled and considered. I will read Luke's letter. (Please see attached)

Mrs. Huston, how long has Atlantis been running?

Mr. Burys, 5 ½ years with no adverse secondary effects.

Mrs. Huston, is Atlantis your only other club?

Mr. Burys, I started another club that I am no longer involved in called The Factory.

Mrs. Huston, do you own Atlantis?

Mr. Burys, I am the general manager of Atlantis and for the Phoenix club we are considering building, I would be the owner/operator.

Mrs. Huston, what attracted you to LaPorte County?

Mr. Burys, I have summered here, in New Buffalo, in Union Pier, Beverly Shores, and am very familiar with this area. From a business standpoint I saw a need that could be fulfilled because of a lack of adult entertainment. I saw a business opportunity.

Mr. Milsap, was this the only location that you considered?

Mr. Burys, I explored Lake County but there doesn't seem to be as large of a market that had been untouched as in LaPorte County. I had a business opportunity and I had an unconstitutional law that needed to be addressed.

Mr. Milsap, if you don't get LaPorte County, what is your Plan B?

Mr. Burys, I don't have a Plan B. LaPorte County has my full focus right now.

Mr. Jim Pressel, are you working under any restrictive ordinance or regulated ordinance with Atlantis right now?

Mr. Burys, quite the opposite. There is nudity available in the private dance rooms. We have full liquor until 4:00 a.m. on the weekdays and until 5:00 a.m. on Fridays and Saturdays.

Mr. Pressel, so there is a regulatory ordinance that you have to abide by currently. What do you find that is bad for your business in this proposed ordinance?

Mr. Burys, number 1, instead of choosing to have the liquor hours extended to 3:00 a.m. as in Indiana they have been compressed to 2:00 a.m. That puts me at a disadvantage because people will choose to stay at a club where they are allowed to drink longer. The dancers need to be six feet away from the customers. This is very impractical in so many senses.

Mr. Layton, one thing you didn't like about the ordinance was that it limited you to 2:00 a.m. rather than 3:00 a.m. and people would go to other businesses. By your own testimony, there are no other businesses here.

Mr. Burys, it is just not an adult entertainment business, there is the fine dining aspect, the drinking aspect. It is an entertainment facility that offers adult entertainment.

Mr. Dave Ambers, what Mr. Burys was trying to get to with the places of public assembly are any other taverns. He is trying to get his hours to match those because he would operate under the same liquor license as any other tavern in LaPorte County but because he has this entertainment available, we are somehow punishing him. I ask you to do what you have done with other controversial ordinances that have been presented to you by the plan commission. They have done a lot of work, the committee has done a lot of work, Mr. Biege was kind enough to allow us to appoint one member out of eight to that committee. I think the logical thing for the county to do is, you have a good start, you've heard Mr. Burys, an operator of the kind of business you are trying to restrict say these are some things I have problems with. I think you need to do that committee just like you did for the two acre

lots, let's get a good representation of those being affected by this ordinance to give their input on the ordinance before you vote on it. I provided with Mr. Biege with the two studies and a letter, exhibits L through N that are part of the record. These businesses already exist in LaPorte County in some form or another. Mr. Kelly mentioned that they went to adjacent counties, Lake County is not an adjacent county. I simply ask that you step back and appoint a representative committee, let's work through an ordinance that can work for everybody not just exclude everybody.

Remonstrators that spoke were:

Robert Thompson, Ed Wedo, Judy Dean, Patrick Mangan, Jeff Wright, Tom Uebbing, Farther Jim Rosselli, Michelle Bonick, Bill Dueso, Pam Bailey, Laura Odet, Jackie Jones Orlock, John Tanger, Ron Knickrehm, Cary Kirkham, Martin Chidalek, Sheila Thompson, Tamra Randon, Laura Ostergren, Rhonda Richards, Dave DeLau, and Paul LaBerge.

Mr. Biege, at this point the board could choose to vote; the county commissioners would be voting on the conduct ordinance, the plan commission would be voting on the amendments to the zoning ordinance. However, written evidence has been submitted tonight. I think the board members should have an opportunity to review that evidence. I would suggest that both commissions take this matter under advisement and take this up at a regular scheduled meeting later this month. That will give all parties an opportunity to review all written material submitted.

Mr. Layton, the commissioners have a meeting on November 20<sup>th</sup> at 10:00 a.m., if that will be a burden for many folks because of the time, we can change that to a 6:00 p.m. meeting if that would benefit the public. On the 20<sup>th</sup>, the meeting will be moved from 10:00 a.m. to 6:00 p.m.

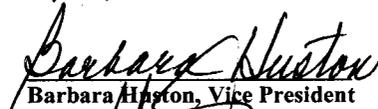
Mrs. Huston, the plan commission can discuss this at their regular meeting on the 27<sup>th</sup> at 6:00 p.m.

**ADJOURN**

Mr. Layton, President, adjourned the meeting at 8:30 p.m.

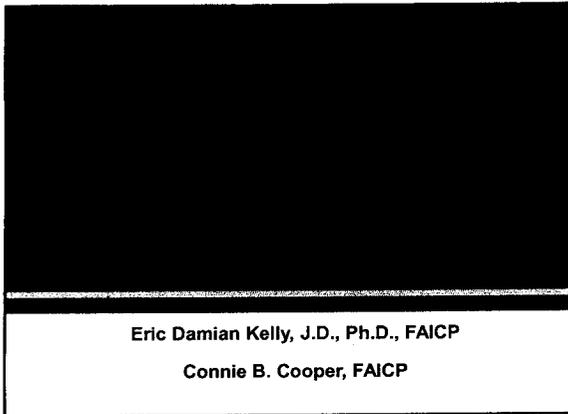
LAPORTE COUNTY BOARD OF COMMISSIONERS

  
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Willie Miilsap, Member

ATTEST:   
Reathel Noveroske, Executive  
Secretary for Board of Comm.



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**Purpose of Tonight's Presentation**

- Brief County Commissioners and Plan Commission on ...
  - Legal aspects of regulating sexually oriented businesses
  - Examples of existing sexually oriented businesses in "the region" (including one in Michigan City)
  - Introduction to "negative secondary effects" doctrine
  - Studies confirming secondary effects of sexually oriented businesses
- Provide an opportunity for questions or comments

LaPorte County, IN      Regulating Sexually Oriented Businesses      2

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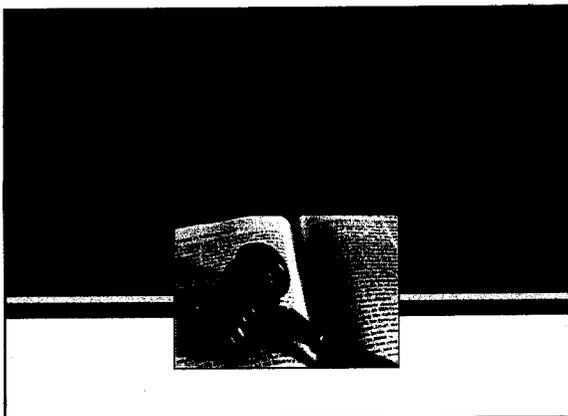
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### First Amendment Protection



- Some sexually oriented business regulations involve activities or goods that have First Amendment protection
- Freedom of expression ...
  - Written expression: books, magazines,
  - Visual expression: videos, movies, erotic performance
- Basic rule
  - Content-based restrictions are subject to "strict scrutiny", which turns the "presumption of validity" on its head
  - Difficult to define "sex businesses" without reference to content

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### Exception



- BUT, Supreme Court has held that if the "purpose" of local regulations is to reduce "negative secondary effects" of such businesses (rather than to restrict content), regulations will be subject to "intermediate scrutiny" – which puts local government and challenger the same footing
- *Playtime Theatres, Inc. v. City of Renton*, 475 U.S. 41, 106 S. Ct. 925, 89 L. Ed 2d 29 (1986)

LaPorte County, IN

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### Expanded Rule



- Courts review SOB regulations under increased scrutiny
  - Content-based regulation: strict judicial scrutiny – most regulations fail
  - Secondary effects regulation: substantial scrutiny, but local governments may reasonably restrict time, place and manner of sexually oriented expression – IF regulation ...
    - Implements a substantial governmental interest
    - Is content-neutral
    - Does not unduly limit "alternative avenues of expression"

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**First Amendment Protection**



<p><b>Protected</b></p> <ul style="list-style-type: none"> <li>▪ Books, magazines</li> <li>▪ Videos, DVDs</li> <li>▪ Movie theaters</li> <li>▪ Dance performances, including erotic</li> </ul>	<p><b>NOT Protected</b></p> <ul style="list-style-type: none"> <li>▪ Obscene works (defined by state)</li> <li>▪ Prostitution</li> <li>▪ Massage except as licensed or allowed by state</li> <li>▪ Body painting, lingerie modeling</li> </ul>
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- Legal Risk Analysis -

**Other Critical Legal Issues**

- "Adequate alternative avenues" doctrine means that there must be available sites in the community
  - Cannot zone protected businesses out
  - Cannot use excessive separation or buffer requirements to eliminate all sites
- *Schad v. Borough of Mt. Ephraim*, 452 U.S. 61, 67, 101 S. Ct. 2176, 68 L. Ed. 2d 671 (1981).
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**Other Critical Legal Issues**

- Must have clear and reasonably objective standards for granting licenses or other approvals for businesses protected by First Amendment
  - Process must have time limits and easy access to judicial appeal
- *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 108 S. Ct. 2138, 100 L. Ed. 2d 771 (1988).
- *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 110 S. Ct. 596, 107 L. Ed. 2d 603 (1990)

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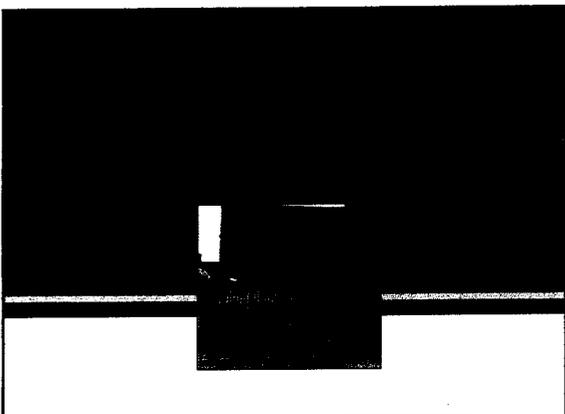
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### Overview of Sex Businesses



- Retail Sex Businesses
  - Business with a small amount of "adult" material
  - Businesses with "backrooms"
  - Sex shops
  - XXX media stores
- On-Site Entertainment
  - Video viewing booths
  - Adult theaters
  - Adult cabarets
  - Dancers in a box
  - Lap dancing
  - Massage parlors
  - Lingerie modeling
  - Nude photography



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### Surveyed Businesses - Cabarets

Déjà Vu Showgirls	Lake Station, Lake County
DreamGirls	Lake Station, Lake County
Honey's	Gary, Lake County
Pandora's Show Club	Gary, Lake County
Polekatz Gentleman's Club	Gary, Lake County
Temptations Gentleman's Club	Gary, Lake County
Beer Barrel Tavern	Hobart, Lake County
Centerfolds	South Bend, St. Joseph County
Peches Show Bar	South Bend, St. Joseph County
The Torch	South Bend, St. Joseph County

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### Cabaret Polekatz (Gary)

- Operating hours usually 11 am – 3 am
- Dancers sit and chat with customers sometimes sitting on their laps, some without cover ups
- On stage dancers have FULL contact with customers
- Lap dances advertised as \$10 but probably higher
- Only club where we were asked to show driver's license before entering



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### Cabaret Déjà Vu (Lake Station)

- "Upstairs" - Déjà Vu
  - Full alcohol
  - Dancers keep bottoms on
- "Downstairs" - DreamGirls
  - No alcohol
  - Free drinks
  - Full nudity – some dancers reportedly bottomless
- Lap dances - \$15 to \$20



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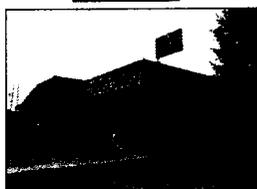
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### Cabaret The Torch (South Bend)

- On major north-south street near downtown
- Full liquor
- Casual atmosphere when we were there
- Apparently co-owned with Peaches, 2 doors away and only open during football season



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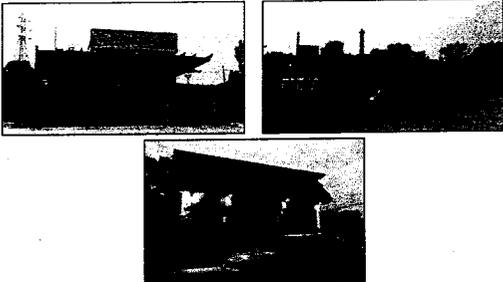
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**Cabarets**  
Some we chose not to visit ...



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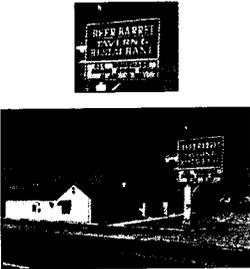
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**“Lingerie Modeling”  
Beer Barrel (Hobart)**

- “Modeling” Hours – Tues., Wed. Thurs. 8 pm until ???
- Building has two parts, restaurant and a bar with pool table and “lingerie modeling”
- “Modeling” is really private lap dances behind two alcoves with swinging half doors and a mirror for other customers to view
- Essentially a neighborhood bar that is offering adult entertainment



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**Retail Stores with On-premises Video Entertainment**

Déjà Vu Love Boutique	Michigan City, LaPorte County
Little Denmark	South Bend, St. Joseph County
Romantix Adult Superstore	South Bend, St. Joseph County
Romantix Adult Superstore	Gary, Lake County

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### Retail with Video Booths – Romantix (South Bend)

- Hours – 24/7
- Very nice large retail area with sex toys, novelties & media
- People hanging out in arcade area and in vehicles outside
- Arcade had about 12 very large booths (probably 80 sf)
- Each booth had a bench-couch for two but no glory holes
- Multiple indications of attempted sexual contact



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### Video Booths (taken elsewhere)

- "Masturbation booths" facilitating anonymous sex



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### Retail with Video Booths Romantix (Gary)

- Hours – 24/7
- Very small and dingy retail area
- Dark arcade with 12 booths (20 sf) with locks
- Many booths had glory holes
- People hanging out in arcade area
- Separate "theater"



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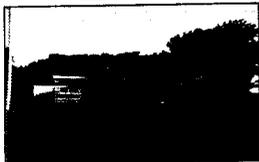
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### Retail with Video Booths Déjà Vu Boutique (Michigan City)

- Only apparent adult use in LaPorte County
- Operating hours: 9 am – 1 am
- Retail area in two front rooms
- Arcade area in rear with 20 viewing booths (10 sf) with no glory holes
- "Theater" – small room with large television and 8 plastic chairs
- 3 glass-faced booths for individualized dancing with signs "permanently closed"



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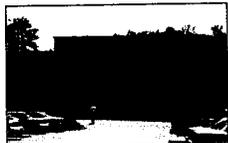
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### Retail – with Some Explicit Material

- Many book and video stores have at least some material that meets definition of "adult" material
- Pose no adult-use problems



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### Retail with Backrooms

- Media has strong 1st Amendment protection
- Mainstream stores with large backrooms and significant quantities of hard-core material
- If backroom access limited, these stores also pose no adult-use issues



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### Adult Theaters

- Structure is the "medium"
- Often operated with viewing booths, retail store or live entertainment
- Shrinking part of adult market
- Must allow because of two Supreme Court decisions – but unlikely to see any real cinemas



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### Non-licensed Massage

- "Massage" Parlor
  - Allows direct contact between customer and performer, usually in private room
  - Massage providers NOT certified massage therapists



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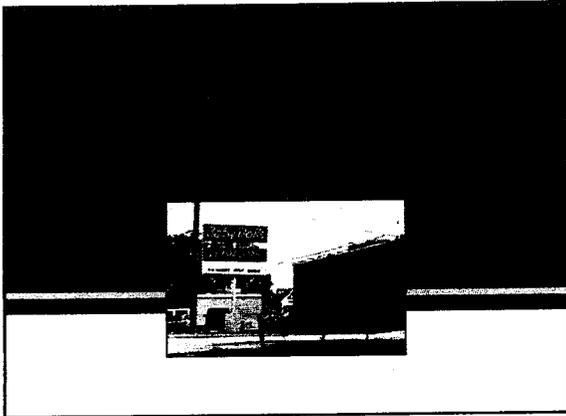
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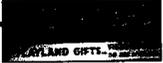
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### What are "Secondary Effects?"

- Definition:
  - The external impacts of sexually oriented businesses on adjacent or nearby properties
- Secondary effects vary by type of SOB and regulations must differentiate between types:
  - Off-premise retail stores - have adult merchandise such as videos, magazines, lingerie, and sexual novelties – less regulation needed!
  - On-premise entertainment - topless or nude cabarets, video viewing booths, and nude modeling – more regulation needed!



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### Types of Negative Secondary Effects

- Reduction in residential and commercial values
- Difficulty in selling or renting homes and businesses
- Perceived impact that neighborhood is unsafe
- Increased vice-related activities and other crimes
- Negative impacts of noise, lighting and traffic
- Risk for minors from exposure or contact
- Overall community blight



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### Findings from Studies



- Sex crimes rate 2 - 5 times greater in areas with sex businesses. (Austin & Phoenix)
- Concentrations of sexually oriented businesses increased crime. (Austin, Phoenix, Denver, Indianapolis, Whittier, & St. Paul)
- Significant correlation between sex businesses and neighborhood deterioration. (Minnesota)
- Higher turnover rates in commercial and residential areas adjacent to sex businesses. (Whittier, CA)

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### Findings from Studies (2)



- On-premise live entertainment with interaction between customers and entertainers has greatest negative effects. (Newport News, St. Paul, & Whittier, CA)
- Sperm samples on floors/walls of most video-viewing booths inspected. (Tucson & Alachua)
- Retail businesses such as adult book/video stores have lower impacts but do have impacts. (Denver)
- Greater negative impact on residential values than on commercial. (Rochester, Indianapolis, Garden Grove)

LaPorte County, IN

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### Findings from Studies (3)



- Negative impact increases with proximity to sex businesses - minimal impact beyond 1500 feet. (Rochester, Indianapolis, Garden Grove)
- Appraisal studies find negative impact on values extend beyond 1500 feet. (Texas & Florida)
- Prostitution flourishes in some sex businesses. (Denver & Whittier)
- Take-home only businesses draw large number of potential victims that attract predatory criminals. (Sioux City, IA)

LaPorte County, IN

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### Secondary Effects – Property Values

- Survey of Appraisers
  - Kelly and Cooper have conducted surveys of appraisers
  - Appraisers' opinions are self-fulfilling prophecies – because most real estate sales involve mortgages, and the mortgage depends on the appraisal
  - Appraisers accustomed to determining "market value," which is the issue here



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### TX Appraisers Survey



- Impact on Single Family
  - 91% of appraisers believe adult businesses have a negative effect on market value of a single-family home if within 500 feet
  - 71% believe negative effects do not disappear until ... at least 1/2 mile +
  - 80% believe a concentration of sexually oriented businesses increases negative effect

LaPorte County, IN

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### TX Appraisers Survey



- Impact on Community Shopping Center
  - 64% of appraisers believe adult businesses have negative effect on market value of community shopping center if within 500 feet
  - 63% believe negative effects do not disappear until ... at least a 1/4 mile + (impact of video peep booths did not disappear until 1/2 mile +)
  - 61% believe a concentration of sexually oriented businesses increases negative effect

LaPorte County, IN

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### Secondary Effects – Crime



- Prof. Richard McCleary, a University of California Professor of Criminology, has consistently found
  - Increased crime around sex businesses with on-premise entertainment
  - Around those that are retail only businesses
- Interestingly, industry "experts" (not criminologists – one not even a Ph.D.) claim to have found no correlation between sex businesses and crime

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### Secondary Effects – Crime

- Marcus Felson, professor at Rutgers University, has set out the "routine activity theory"
  - A concept that crime rates are likely to increase in areas with "soft targets," "valuable targets" and low "guardianship"
  - Criminals recognize such circumstances and are attracted to them



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### Secondary Effects – Crime



- "Soft targets"
  - People who are vulnerable
    - People who have been drinking
    - Young males more present and at risk
    - People with something to hide
    - People out during late hours
- "Valuable Targets"
  - People visiting businesses that deal primarily in cash – strip club or video viewing booths

LaPorte County, IN

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### Secondary Effects – Crime

- Areas of "low guardianship"
  - Anonymous environment
  - Concentration of bars or adult establishments
  - In contrast, consider a shopping mall, where other merchants are likely to call the police if they see wrongdoing – anywhere



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### Secondary Effects – Crime



- Adult entertainment establishments ...
  - Attract "soft targets" (unlikely to call police, often intoxicated)
  - Attract "valuable targets" (most carry CASH not PLASTIC)
  - Located in areas with "low guardianship"
- Ergo ...
  - Unlawful activity likely to increase
  - But sometimes data does not show an increase in "crime"
- Why ?

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### Audience Participation

- If you lost or had your cell phone stolen at Target, would you report it?
- If somehow you happened to be in Polekatz or Dream Girls and lost or had your cell phone stolen, would you report it?

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### Secondary Effects – Crime



- Some unlawful activity may not be considered a "crime" for reporting purposes
  - Less serious crimes are misdemeanors
  - Some activities are "petty offenses"
  - Some are only "municipal infractions"
  - Citations often paid without trial and then typically do not show up in crime reports
- Some crimes simply not reported because person would have to admit they were in or near a sex business

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### Secondary Effects – Crime



- Unlawful activity observed in or around sex businesses
  - Indecent exposure outside business (often male urinating)
  - Public sex acts (often in cars parked nearby)
  - Drunk and disorderly conduct
  - Solicitation for prostitution
  - Extensive sexual contact between performers and customers
  - Littering with used condoms, wrappers from sex products in area around neighborhoods

LaPorte County, IN

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### Studies of Negative Effects of SOBs

- "Effects of Concentration of Adult Establishments, Los Angeles, CA, 1977.
- "Regulating Adult Entertainment," Amarillo, TX, 1977.
- "Effects of Adult Businesses," St. Paul, MN, 1978.
- "Adult Business Study," Phoenix, AZ, 1979.
- "Adult Entertainment, Crime, and Housing Values," Minneapolis, MN, 1980.
- "Regulation of Adult Uses," Beaumont, TX, 1982.
- "Analysis of Adult Entertainment Businesses," Indianapolis, IN, 1984.
- "Adult Entertainment Businesses: Survey of Appraisers," Oklahoma City, OK, 1986.
- "Supplement to the 1978 St. Paul Study," St. Paul, MN, 1988.
- "Text Amendment-Adult Cabarets," Seattle, WA, 1989.

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### Studies of Negative Effects of SOBs (2)

- "Police Report and Citizens Report regarding Adult Entertainment Ord.," Tucson, AZ, 1990.
- "Relationship between Crime and Adult Businesses on Garden Grove Boulevard," Garden Grove, CA, 1991.
- "Effects of SOBs which Advertise Live, Semi-Nude Entertainment on Surrounding Properties," Dallas, TX, 1994/1997.
- "Staff Report: Adult Business Regulations," Whittier, CA, 1994.
- "Adult Entertainment Study," New York City, NY, 1994.
- "Adult Use Study," Newport News, VA, 1996.
- "A Report on Adult Oriented Businesses," Austin, TX, 1996.
- "Adult Businesses Studies," Houston, TX, 1983 - 1997.

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### Studies of Negative Effects of SOBs (3)

- "Adult Entertainment - Supplement to 1987 Study," St. Paul, MN, 1998.
- "Secondary Impact of Adult Use Businesses," Denver, CO, 1998.
- *Everything You Always Wanted to Know about Regulating Sex Businesses*, Kelly / Cooper, Am. Planning Assn., PAS Report, 2000.
- "Survey of Appraisers," Rochester-Monroe County, New York, 2000.
- "Survey of DFW Appraisers: Land Use Effects on Property Values," 2004.
- "Summaries of SOB Land Use Studies," National Law Center for Children and Families, 2005.
- "Do Peep Shows 'Cause' Crime?" McCleary/Meeke. *Journal of Sex Research*, 43:194-196, 2006.
- "Rural Hotspots: The Case of Adult Businesses," McCleary, *Criminal Justice Policy Review*, 19:153-163; 2008.

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### Studies of Negative Effects of SOBs (4)

- "Survey of Florida Appraisers: Effects of Land Uses on Market Values," Kelly and Cooper, 2008.
- "Survey of Texas Appraisers: Secondary Effects of Sexually-Oriented Businesses on Market Values," Kelly and Cooper, 2008.
- "Crime-Related Secondary Effects of 'Off-Site' Sexually-Oriented Businesses," McCleary, 2008.
- "Do 'off-Site' Adult Businesses Have Secondary Effects?" McCleary/Weinstein. *Law and Policy*, 31:217-235; 2009.
- "Female Patrons of Porn." McCleary and Tewksbury. *Deviant Behavior*, 31:208-223, 2010.

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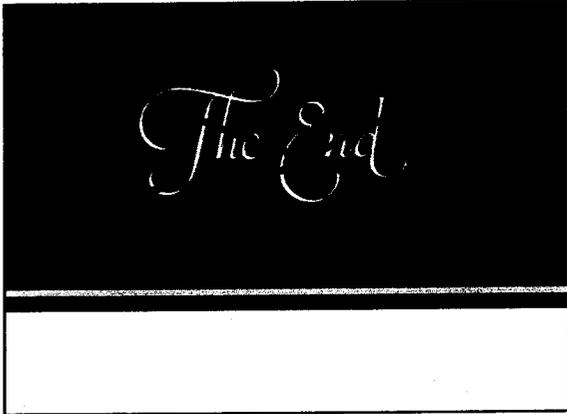
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**Summary – General Land Use Impacts**

- SOBs have negative effects on surrounding properties.
- SOBs have the highest negative effect on residential and family-oriented land uses.
- SOBs have a negative effect on value of non-residential land uses but not as much as on residential land uses.
- Separation between incompatible land uses reduces negative effects.
- Higher concentrations of SOBs increase negative effects

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**Strategy – Restrict Time, Place & Manner**

- Techniques for regulating time, manner or place regulation
  - Location (by zoning district)
  - Separation requirements from sensitive uses
  - Prohibit performances or videos in small rooms
  - Require clear visibility of all areas open to customers
  - Keep performers on stage, customers down below



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### More Strategies



- Prohibit or substantially limit unlicensed massage parlors and other sexually oriented businesses with no First Amendment protection
- Limit locations of other sexually oriented businesses through zoning to reduce "negative secondary effects" ("time, place and manner" regulations)
- Use "behavior [licensing] ordinance – on agenda tonight – to control activities in lawful businesses, also to reduce negative secondary effects (also "time, place and manner")

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### Finally, Remember ...



- If you've only seen one sex business you have NOT seen them all ...
- And you should not regulate them as though you have

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