



LAPORTE COUNTY PLAN COMMISSION

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ANNEMARIE POLAN
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES SEPTEMBER 25, 2012

MEMBERS PRESENT: RITA BEATY KELLY HAROLD PARKER
JIM PRESSEL MATT BERNACCHI
GLEN MINICH

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

PLEDGE OF ALLEGIANCE

Matt Bernacchi asked if there were any amendments to the Agenda this evening.

Rita Beaty Kelly made a motion to approve the Agenda. Jim Pressel seconded. All approved. Motion carried 5-0.

Matt Bernacchi asked for a motion for the meeting minutes of August 28, 2012.

Jim Pressel made a motion to accept the minutes as presented. Rita Beaty Kelly Seconded. All approved. Motion carried. 5-0.

Joint Zoning Ordinance and Zoning Maps.

- a) Initiation of a Proposal to Amend Article 14, Section 14.09 (a) Adult Entertainment Business of the Joint Zoning Ordinance of La Porte County.

Attorney Biege said tonight we're asking the Plan Commission to initiate a proposal and direct a public hearing on an amendment to Section 14.09 (a) of the Adult Entertainment Ordinance. Attorney Biege said that this is a result of a committee that was formed by the Plan Commission several months ago. Attorney Biege said that the committee met and made recommendations for a re-draft of our Article 14.09 (a) to bring in compliance with constitutional requirements. Attorney Biege said that is the part that the Plan Commission decides that tonight is not a public hearing; it's just direction to set a joint public meeting.

Attorney Biege said that he recommends a joint public meeting with the County Commissioners. In addition to the Plan Commission's decision as to whether or not it will adopt an amendment to 14-09, there has also been suggestion in a proposed ordinance having to do with licensing of

adult entertainment businesses. Attorney Biege said that licensing ordinance has nothing to do with the Plan Commission that goes to the Commissioners directly. Attorney Biege said that when a Plan Commission and/or the County Commissioners look at any adult entertainment ordinances, any restrictions have to be reasonably related to negative secondary affects that could have bearing on a community as a result of the activity. Attorney Biege said the county's routine and expert witness who has examined not only the ordinances, restrictions, crime rates and those types of things, that testimony is necessary and required if the Plan Commission and the Commissioners choose to pass these ordinances.

Attorney Biege said that tonight he's asking the Plan Commission to give them a go ahead to accept this for a public hearing so it can move forward and do our joint session. Attorney Biege said that he would like to thank our committee members on the Sexual Orientated Business Committee. Attorney Biege said that there were a lot of hours and a lot of days, namely, Jim Pressel, Jason Schadt, Dwayne Hogan, Sue Thompson, Melissa Mullins Mischke, Rita Beaty Kelly and Don Briggs.

Matt Bernacchi said for the public's knowledge, there are no decisions being made here other than passing it on to making a joint ordinance, or decision with the Commissioners. Matt said we're just deciding on having a public hearing.

Harold Parker made a Motion to have a Public Hearing. Rita Beaty Kelly seconded.

Matt Bernacchi asked if there were any questions on that Motion.

Jim Pressel asked if that joint meeting is with the Plan Commission and the Commissioners.

Attorney Biege stated that is correct. Attorney Biege said that it will be advertised in the news paper and they're going to give notice to the radio. Attorney Biege said that's the time the public will have an opportunity to comment. Attorney Biege said that there will be a draft not only of the Article 14.09 the zoning aspect of it, there will also be a copy of the licensing ordinance available with the Building Commissioner's Office as well as the County Commissioner's Office.

Matt Bernacchi asked if there were any questions.

Attorney Biege said that when we passed the joint zoning ordinance a year or a year and a half ago, Indiana Law requires that notice be given to any abutting property owners who are interested. If we pass a County Wide Ordinance that essentially means under the code, any property owners that abuts La Porte County all the way around the county. Attorney Biege said that when we pass a joint zoning ordinance the Plan Commission decided that rather than give the individual property owners individual notices, they publish in the adjacent news papers.

Attorney Biege said arguably the Plan Commission has some discretion here. Attorney Biege said since our adult entertainment ordinance is currently being challenged and is likely to be challenged again he would suggest that we do more work this time with the passage of this ordinance and notify adjacent property owners. Attorney Biege said that he brings that up to the

Commission's attention and with its blessing because we're looking at over nine (900) hundred notices to send out. Attorney Biege said that his office can handle this, but it's going to be a lot of work. Attorney Biege said that he'd rather be safe than sorry and he certainly does not want this challenged because we short cut part of the process. Attorney Biege said that the Code Section he is referencing is I.C. 36-7-4-604 and it tells us that we have to notify the abutting property owners.

Jim Pressel asked Attorney Biege if that is everybody in the County, or is that only where a potential sexual orientated business could take place according to our zoning because there are only so many places that it actually could take place with the zoning we have in place.

Attorney Biege said that right now the way the code and the maps are comprised that these types of businesses would be allowed as a special exception in B2 he believes. Attorney Biege said that is a relatively limited area, however there's been discussion about changing the zoning maps and reconfiguring where these businesses may or may not be allowed. Attorney Biege said that it is possible we could just notify the abutting property owners for the districts in which this is to be. Attorney Biege said that he's not sure that it is going to be that few people because they're in different areas of the county and if we change the maps, we do have to notify all of the abutting property owners around the entire county. Attorney Biege said that we could save a step, but he's predicting that we would end up redoing it and we may do more work. Attorney Biege said that it is up to the Plan Commission's discretion.

Attorney Biege said that this is an Article where we're amending the ordinance and an argument could be made if you are amending the entire ordinance which affects the whole county. Attorney Biege said that they're not suggesting a change to the maps here. Attorney Biege said that he thinks to be safe the best way to handle this would be to notify the abutting property owners even though there is going to be expense and time, it may very well save us trouble later and perhaps avoid litigation later.

Matt Bernacchi asked if we needed to amend that Motion. Matt asked if this is a later date when that decision will be made.

Attorney Biege said that the notices will go out when they get a public hearing set. Attorney Biege asked the Building Commission to give him guidance if they want to give notice in the news paper or physical notices given out.

Matt Bernacchi said that there has been a second. Matt asked if there were any other questions.

All approved. Motion Carried 5-0.

Matt Bernacchi said that next is the Initiation of a Proposal to Create the Kingsbury Industrial Park Overlay District in the Joint Zoning Ordinance of La Porte County.

Mitch Bishop, County Planner said as you know by his previous correspondence with the board, we've been working with CSX Austin Consultants out of Ohio basically trying to get CSX select site status for the KIP Industrial Park. Mitch said that the last two months he has been meeting

with an individual named Jonathan Gemmen who CSX hired from Austin Consultants and one of the things he looks at is the zoning ordinance. Mitch said that as he went through our current zoning ordinance, one of the two things he found related to overhead doors in the front yards of commercial and industrial properties within the KIP and also building breaks that we have currently in our zoning. Mitch said for Mr. Gemmen to certify this as a CSX select site and actively market it, we need to make some changes. Mitch said that those changes came in the form of the Kingsbury Industrial Park Overlay District and what you saw from the map is that basically super imposed over the underlying M2 Heavy Industrial District.

Mitch Bishop said that it is basically from 600 East almost all the way to Highway 35 and 500 North and Tracy Road. Mitch said that it is their hopes that by securing the CSX select sites status, it will be actually marketed and the project will be a success and the Intermodal will be developed and develop out of the ground field sites located in KIP.

Matt Bernacchi asked Mitch if the people that are there now (businesses) are going to be exempt, or are they going to have to change the overhead.

Mitch Bishop stated no. Mitch said that only happens during new development.

Mitch Bishop said that they also added protection on the Westside of the Road (there is a subdivision and he forgot the name of it), but those are considered conflicting land uses so they have protection as far as landscape if it would ever develop that far. Mitch said that the CSX is kind of an exclusive marketing because there are only five CSX Select Sites in the United States right now and La Porte County would be number six.

Glen Minich asked Mitch the nearest CSX Select Site.

Mitch Bishop said that they have one in Greenville, Illinois, Bowling Green, Kentucky, Lemoyne, Ohio, Florence, South Carolina and Wapakoneta, Ohio.

Matt Bernacchi asked if there were any remonstrators here this evening on this.

Attorney Biege said that his office handled the notice this time and publication made in the La Porte Herald Argus and Certified Mail was sent to approximately seventy-six adjoining residences. Attorney Biege said that out of those seventy six, they did not receive certified mail cards from thirteen, although the receipts are of record where the certified mail was sent.

Matt Bernacchi asked Attorney Biege if we could put B and C together considering they're pretty much passing the zoning ordinance and the zoning map.

Attorney Biege stated yes.

Matt Bernacchi asked if anyone had a problem with that.

Rita Beaty Kelly made a Motion to combine the Industrial Park Overlay District and the Joint Zoning Ordinance, along with the Kingsbury Industrial Park Overlays District Map in zoning Maps. Jim Pressel seconded.

Matt Bernacchi asked if there were any questions on the Motion.

All approved. Motion carried 5-0.

Matt Bernacchi asked if there is any old business.

Matt Bernacchi asked if there is any new business.

Jim Pressel said that attorney Biege was looking for direction on what to do with notice for this joint meeting that is scheduled to move forward. Jim asked if we needed a Motion on that.

Attorney Biege said that he doesn't think we need a Motion on that and he assumed he had the go ahead as he had no objections.

Attorney Biege said that he should report on the progress on the amendments on the joint ordinance with La Porte City and Michigan City. Attorney Biege said that they are still continuing to work on this and he expects in a month or two they will have those proposed changes for the Plan Commission.

Matt Bernacchi asked if there is a Motion to adjourn.

Jim Pressel made a Motion to adjourn. Rita Beaty Kelly seconded. All approved. Motion carried 5-0.

There being no further business this evening, meeting adjourned at 6:20 p.m.


BARBARA HUSTON, President


ANNEMARIE POLAN, Rec. Secretary