



LAPORTE COUNTY PLAN COMMISSION

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ANNEMARIE POLAN
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES January 2012

MEMBERS PRESENT: TONY HENDRICKS BARBARA HUSTON
 GENE JONAS GLEN MINICH
 GENE MATZAT RITA BEATY KELLY
 MATT BERNACCHI HAROLD PARKER

OTHERS PRESENT: Ray Hamilton, Recording Secretary, Doug Biege, attorney, Darlene Pavey, Secretary and Mitch Bishop, County Planner.

PLEDGE OF ALLEGIANCE

Attorney Biege said that he is currently the Plan Commission attorney and he is going to run the meeting until such time that the President's Chair is elected.

Ray Hamilton, Building Commissioner gave the board John Mott's letter of resignation to the Plan Commission Board.

Attorney Biege asked if we have nominations for Chair President?

Matt Bernacchi nominated Barbara Huston as President. Tony Hendricks seconded.

Attorney Biege asked if there were any other nominations for President?

Rita Beaty Kelly nominated Tony Hendricks as President. Gene Jonas seconded.

Attorney Biege asked if there were any other nominations?

Attorney Biege asked the board to call a vote for Barbara Huston.

Voting Aye: Glen Minich, Harold Parker, Matt Bernacchi, Tony Hendricks and Barbara Huston.

Attorney Biege said he believes that carries. Attorney Biege congratulated Barbara Huston.

Barbara Huston, President entertained a Motion for Vice President.

Harold Parker made a Motion to nominate Matt Bernacchi. Tony Hendricks seconded.

Barbara Huston asked if there were any other nominations for Vice President?

Rita Beaty Kelly made a Motion for Tony Hendricks for Vice President. Gene Jonas seconded.

Barbara Huston asked the board to raise their hand for Matt Bernacchi for Vice President.

Voting Aye: Matt Bernacchi, Glen Minich, Harold Parker, Tony Hendricks and Barbara Huston.

Barbara Huston congratulated Matt Bernacchi as Vice President.

Barbara Huston said we now have Plan Commission appointments for attorney.

Matt Bernacchi made a Motion to reinstate our current legal counsel, Douglas Biege. Tony Hendricks seconded.

Hearing none Barbara Huston congratulated Attorney Biege and told him that he is our attorney for another year.

Barbara Huston asked for nomination for Building Commissioner.

Barbara Huston asked attorney Biege if he had a letter requesting to be Building Commissioner?

Attorney Biege said that he received a letter from Annemarie Polan requesting consideration for the position of Building Commissioner. Attorney Biege said that the letter is dated January 4, 2012. Attorney Biege said he believes all commission members have received a copy of that correspondence.

Barbara Huston, President asked if we have a nomination for Building Commissioner?

Tony Hendricks nominated Annemarie Polan as Building Commissioner. Matt Bernacchi seconded.

Barbara Huston asked if there were any other nominations for Building Commissioner?

Gene Matzat nominated Ray Hamilton as Building Commissioner. Gene Jonas seconded.

Barbara Huston, President said that they have two nominations for Building Commissioner. Barbara Huston asked if there were any more nominations for Building Commissioner?

Hearing none those in favor of Ray Hamilton for Building Commissioner signifying by saying aye.

Voting Aye: Rita Beaty Kelly, Gene Matzat and Gene Jonas.

Barbara Huston said that those in favor of Annemarie Polan for Building Commissioner.

Voting Aye: Glen Minich, Harold Parker, Matt Bernacchi, Barbara Huston and Tony Hendricks.

Barbara Huston congratulated Annemarie Polan.

Barbara Huston asked if there is anybody on this board who is interested in being on the Board of Zoning Appeals?

Tony Hendricks asked Glen Minich if he would accept being on the Board of Zoning Appeals?

Glen Minich asked how long the term was for?

Barbara Huston said that appointment would be for four years from this board.

Tony Hendricks nominated Glen Minich to be appointed to the Board of Zoning Appeals. Matt Bernacchi seconded.

Barbara Huston asked if there were any other nominations for appointment to the Board of Zoning Appeals from this board.

Hearing none Barbara Huston congratulated Glen Minich to the Board of Zoning Appeals.

Attorney Biege told Barbara that the code requires we set the meetings for the year at the organizational meeting.

Attorney Biege said that historically we meet the fourth Tuesday and he suggests that we leave it at the fourth Tuesday of each month. Attorney Biege said the code also suggest that if there's no Petition on file, a meeting is not necessary.

Barbara Huston asked the board members if everyone is in agreement with what attorney Biege has said.

Barbara Husbon asked attorney Biege if we have anything as far as publications to the news papers to discuss?

Attorney Biege said he believes notice is published of the meetings and if there is a petition before the board, the petitioner is required to publish those ten (10) days prior to the meeting.

Barbara Huston said that on the agenda this evening we have the owner/developer of Prairie Vista Phase II.

- 1. The Owner/Developer Prairie Vista Phase 2** is requesting application for approval of a two lot Minor Subdivision. This proposed minor subdivision is located on the East side of County road 600 East, approximately five hundred sixty five feet South of U.S.

20. Mr. Cooreman desires approval of this minor subdivision to be allowed to construct two single family homes. Each of the lots as proposed would have two hundred feet of frontage along said County Road and 600 East with a lot depth of 217.80 feet. Each proposed lot would contain an area of 1.0 acre. The homes that would be built on each lot would be serviced by individual private septic system and an individual private well.

Tony Hendricks said that the two place acre tract that exists today has a buildable parcel and a tax id number. Is that correct?

Mr. Cooreman stated yes.

Tony Hendricks said that you're asking to split off one acre off this tract and with the remainder of the apparent parcel would be left with one acre.

Tony asked attorney Biege with taking one tract off of the apparent parcel is it a one split?

Attorney Biege said that he believes so.

Tony said that you're not asking for two lots. Tony said that they presently have one tract with two plus acres with a tax id number and they are asking to split off one acre off this tract. Tony said that his understanding is that it has to be two hundred foot road frontage and one acre and the apparent parcel has to remain two hundred foot frontage with one acre. Tony said that the strange thing about this parcel is if they grant per the statue thirty foot of right-of-way along the frontage is fee simple with the county when they split out the one tract. Tony said that his understanding of taking off this one acre would be subtracting from the apparent parcel and they would give us thirty feet wide frontage to the county highway for fee simple and leaving the apparent parcel as it is, which is presently a twenty foot frontage right-of way, that would leave them with one acre in apparent parcel and one acre in the tract that they are taking off.

Jeff Ballard said that he would like to clarify that he is not a surveyor. Mr. Ballard said that he is a landscape architect with Danch and Harner in South Bend.

Tony Hendricks said that he doesn't have those calculations in front of him, but if you only have twenty foot right-of way as a grant, which exist today in the county of La Porte, you are going to be over an acre on each and you wouldn't need any permission from this board or the BZA to split off that one acre off the apparent parcel. Tony said that if the attorney agrees there is really no action this board needs to take.

Mr. Ballard told Tony that he understands him, but it's obviously not the path they went down. Mr. Ballard said that if we could get this approved and move forward as they have two property owners wishing to build homes here almost immediately.

Tony Hendricks said that there is no need for a Motion.

Ray Hamilton, Building Commissioner asked Mr. Ballard who owns the property now?

Mr. Ballard said that Steve Cooreman from Cooreman Properties.

Ray Hamilton asked if Mr. Cooreman was the one that did the development in the whole area, which excluded these two lots?

Mr. Ballard said he believes so.

Ray Hamilton asked Mr. Cooreman if he is presenting this as an addition to Phase I of Prairie View Minor Subdivision?

Mr. Ballard said that they are presenting this as a premise to Phase II Minor Sub.

Tony Hendricks asked if this lot was included in the subdivision as a separate lot with frontage already granted?

Mr. Ballard apologized and he would have to let Stephanie speak to that.

Stephanie said that this land was there for a future roadway and they were going to develop that, which is located behind the subject properties, but that land was sold during the recession and they no longer own that.

Tony Hendricks asked if this piece is owned all the way to the center line of the road?

Stephanie stated that is correct.

Barbara Huston asked Mr. Hamilton if he had anything else?

Ray Hamilton is up at the Bench showing pictures to the Board members.

Tony Hendricks said that they left that piece out and the back got sold out. Tony said that created a tax parcel of two point two acres. Tony said that the way it sits today, it is a parcel by itself on two point two acres all the way to the center line of the road. Tony said that if they would split off one acre, it is grandfathered in as two point two acres with four hundred foot of frontage. Tony said that if they want to split off one tract (one acre), they would have to grant the county thirty foot wide the fee simple right-of-way that they would leave the remainder as apparent, tax id number and the fee grant, which is twenty feet as it is today. Tony said that they have enough to be one acre on each tract, with one new tax id number and in the new tract they will grant the county thirty feet wide right-of-way. Tony said that the other leftover they will leave as it sits today, twenty foot wide driveway by grant to the county. Tony said that if they are going to come before any board, it probably would be the Board of Zoning Appeals if they didn't have an acre.

Mr. Ballard said that what they need to know for sure is that everyone is in agreement with this and they can move forward and all the departments agree. Mr. Ballard said that obviously they want to follow all of the rules La Porte County puts before them.

Tony Hendricks said that the county attorney would tell us that.

Attorney Biege said that he thinks it is presumed that the Building Commissioner will issue a building permit so long as you are complying with the rules and requirements. Attorney Biege said that as the Plan Commission has just represented to you, it is not necessary to gain subdivision approval and so long as you are over an acre, you do not need to go before the Board of Zoning Appeals and should be able to proceed.

Stephanie asked if there was a provision that would say we could not record covenants on these two parcels? Stephanie said that they would like to keep the appearance of the property.

Ray Hamilton said that was the intent of what he thought the application was for that you wanted to take these two lots and create them as Phase II of Prairie Vista Subdivision. Mr. Hamilton said that obviously these will not be a part of anything that has covenants and addressed by the Prairie Vista Subdivision.

Mr. Ballard said so these are stand alone two pieces of property?

Rita Beaty Kelly stated correct. Rita said that you can put deed restrictions on that.

Gene Jonas said that he has a concern. Mr. Jonas said that there is a water issue out there and these two lots are the low lots between the two hills on the county highway. Mr. Jonas said that there are two homes built out there already and the dirt has been graded right to the asphalt on the street. The little bit of the ditch that was there is gone. Mr. Jonas said that he hasn't seen the primary plan for the original subdivision and how they intended on taking care of drainage through that area. Mr. Jonas said that his concern is that once those houses are built in these lower two lots and the county highway has no other place for water drainage except those two lots. Mr. Jonas said that the other two homes that are built are already trapping water and there is no place for the water to go except on the county highway on the asphalt. Mr. Jonas said that he hates to see the county tax payer be the one flipping the bill to solve this later on down the road. This is a serious problem. Mr. Jonas said that down along the county road most subdivision requirements are to have speed limit signs.

Mr. Jonas said that the section between Highway 2 and Highway 20 there is no speed limit signs. Mr. Jonas said that either the county should post these signs, or if it is under subdivision regulations, he thinks that it is up to the developer to post. Mr. Jonas said that he would have to go back and see if it addresses that issue. Mr. Jonas said that there is a very large potential of a future water problem on these lots if things aren't taken care of during this point of construction once those lots are built on.

Tony Hendricks said that there are provisions in the new master plan that you are required to take care of with the county highway in the storm water portion of our ordinance.

Barbara Huston said that she passed up the approval of the minutes of November 22, 2011. Barbara entertained a Motion.

Rita Beaty Kelly made a Motion to approve the minutes of November 22, 2011. Gene Jonas seconded. All approved. Motion carried 8-0.

Barbara Huston asked if there was any other business to come before the board?

Tony Hendricks said that the law allows you to establish a study committee and he knows there's issues that a lot of people will have with this new joint ordinance going forward and the members have with this ordinance. Mr. Hendricks said that the county planner can help us along in forming a study committee to address these as the years go by and bring forward with what the Commissioners want. Mr. Hendricks said that maybe we could do this next month.

Barbara Huston told Mr. Hendricks that we can form the committee at next month's meeting.

Gene Matzat said that he wanted to note that tomorrow evening they will be hosting an up-date session through Purdue Extension. Mr. Matzat said that the focus of this session will be on basic training for Plan Commission members and Board of Zoning Appeal members. Mr. Matzat said that everybody is welcome to attend. Mr. Matzat said that the focus will be on new appointments to the Plan Commission and Board of Zoning Appeals. Mr. Matzat said that this is a quarterly up-date session that's done by Adobe Connect, which is using the internet. Mr. Matzat said that he has a few flyers if anyone is interested in that.

Barbara Huston said that we also have an open house Thursday from 2:00 p.m. to 6:00 p.m. at the new Purdue Extension Building on Highway 2 and invite anyone and the public to come. Barbara said that it houses Purdue Extension, Solid Waste and Soil and Water. Barbara said that it is a very nice building and we would like to invite anybody that would like to come just to take a look at our new building on Highway 2 next to the Animal Shelter.

Barbara Huston asked if there is any other business to come before the board?

Barbara Huston asked Mr. Hamilton about Holiday Properties. Barbara said that they were to present a letter to us this month.

Ray Hamilton told Mrs. Houston that he hasn't seen or heard from Holiday Properties.

Ray Hamilton said that he would like to thank the board. Mr. Hamilton said that he has been around for seventeen years and he thinks there have been a lot of accomplishments in the county. Ray Hamilton also thanked the Plan Commission for the work that they have put into the new master plan and the comprehensive plan. Mr. Hamilton said that this has been needed for the last forty-five years and he thinks that we're able to step forward. Mr. Hamilton thanked all the members for the time and effort that has been put into this.

Ray Hamilton thanked Gene, Barb, Tony, Rita and Gene. Ray said that Gene Jonas has been very faithful to coming to all the meetings that we've had. Mr. Hamilton said that Gene especially is able to retire down to Florida for a few months in the winter and there have been a number of times at his own expense that he flew back to attend these meetings.

Ray Hamilton said that there are some things that he has on the agenda and will take a few weeks to get completed. Mr. Hamilton asked if he could stay until the first of March to be able to complete some of the things that we presently have going on. Mr. Hamilton said that Holiday Properties is one, along with the Gentlemen's Club which is a major task that needs to be addressed. Mr. Hamilton said that he would leave it up to the board.

Barbara Huston asked the board's pleasure on that?

Rita Beaty Kelly asked Barbara if they need to make a motion on that?

Barbara Huston said please.

Rita Beaty Kelly made a Motion that Ray Hamilton stay on until March 1, 2012 to complete the few things he needs to finish up. Gene Jonas seconded. All approved. Motion carried 8-0.

Barbara Huston said that when we went through this master plan (the book that they made changes in), it escaped them that there was a part in there as far as "Peat Harvesting" is concerned and it is under Mining and obviously it is a vegetation and it is not under mining. Barbara said that she talked to Mitch this morning and afternoon and that needs to be amended to say "**excluding Peat**" in that one section.

Attorney Biege said that Mitch has been diligent at meeting with the city planners for both the city of Michigan City as well as the city of La Porte. Attorney Biege said that Mitch gave him a combination of items where the county version, Michigan City version and La Porte City version do not match. Attorney Biege said that he is arranging for a meeting with the attorneys for both entities (both Plan Commissions) to see if these items can be reconciled. In addition to these items, they have the Pete Moss issue and he thinks by an affirmative motion we need to remove Article 21, which is the flood plain ordinance. Attorney Biege said that the flood plain ordinance in this version that was just passed is not in compliance with the State. Attorney Biege said that the county already has a flood plain ordinance in place that is approved. Attorney Biege said that we just simply withdraw and replace it. Attorney Biege said that there are some items in addition to these discrepancies that they intend to bring to the Plan Commission.

Barbara Huston asked if there are any other discrepancies that any one on the board that has looked at the book has come up with, other than the Pete Mining.

Barbara Huston asked attorney Biege if he would have that ready at the next meeting?

Attorney Biege said assuming that all the attorneys can meet.

Barbara Huston told attorney Biege that she thought they had discussed the flood plain at the last meeting.

Attorney Biege said we did. Attorney Biege said that if it was a full removal they would have had to go all the way around again with another procedure. Attorney Biege said that he made a judgment call. Attorney Biege said that we knew we would do amendments. Attorney Biege said that he's not sure that the Plan Commission had the authority to recommend a change at that meeting the way the statutes read. Attorney Biege said that the easiest way to handle this he thought was to just simply include that with the amendments. Attorney Biege said that there is no harm in passing it because we already have an ordinance in place and he believes that would supersede any chapter within the joint ordinance.

Barbara Huston asked the board members if everyone was good with that?

Matt Bernacchi asked attorney Biege if he made extra copies of the master plan for the new members on the board?

Attorney Biege said that they are in the process of trying to make cd's so all the members can have a cd to review. Attorney Biege said that the delay is his lack of technical expertise as how to convert this.

Tony Hendricks said that on the FDP La Porte County site they amalgamate the book into one PDL. Tony said that you can download that at your leisure. Tony said that this has all the updates this commission passed.

Ray Hamilton said that they are looking to get that disc and they will take that to a printer and have copies made.

Barbara Huston asked Mr. Hamilton if in-house printing could do that? Barbara said that it's not like you have to have a hundred copies.

Ray Hamilton said that he thinks that we will need probably a dozen and it is a pretty good size book.

Barbara Huston asked Mr. Hamilton to check with Casey to see if she can run off a dozen copies for us.

Attorney Biege said to keep in mind that we do have copies coming from the consultant on their agreement. Attorney Biege said that we held that off because we kind of expected that we're going to have a round of amendments.

Mitch Bishop, County Planner said that after the reconciliation process, we will send the final copies to the consultant and he believes that they are responsible for ninety. Mitch said that he will have to check the contract, but he believes that it is thirty to each entity.

Barbara Huston asked attorney Biege if he has met with the attorneys of the cities to go over this?

Attorney Biege said that he has not. Attorney Biege said that he received this from Mitch two weeks ago and he sent letters out to the other attorneys. Attorney Biege said that they should be able to get done by the next hearing.

Barbara Huston asked if there is any other business?

Ray Hamilton told the two new board members congratulations and good luck. Mr. Hamilton told them that they will be able to sit at the other side of the table and see how it feels now.

Glen Minich said that he doesn't need a copy of the whole master plan. Mr. Minich said that he was pretty much up to date with the master, but just the recommended changes that came from the Commissioner's Office would give them a better idea what was changed and what is going on.

Attorney Biege said that he has a summary of this and he can email the changes to you.

Barbara Huston asked Mr. Minich if we have all the information as far as everyone's email address. Barb said if not, please see that Dar and our attorney get that information.

Barbara Huston asked the board members if there was any other business?

Matt Bernacchi said that he could give a little bit of an up-date on the 450 project or 900 project out there with Holiday Properties. Matt said that they pretty much came to an agreement on the price. Matt said that they are going out there right now and getting a commercial assessment done on the property. Matt said that pretty soon they should have some type of negotiation and price to come forward to the Commissioners and if everything goes well, he believes that we will be able to move forward on that project as far as he knows that we have the one point two, three or four million dollar grant for utilities and some money for some roads. Matt said that it looks like in the near future we might get some development as far as with Tonn & Blank and Holiday Properties.

Barbara Huston thanked Mr. Bernacchi.

Attorney Biege said that there is an issue surrounding the county surveyor being paid for his participation on the board. Attorney Biege said that Indiana Code is clear that the surveyor is entitled to compensation for his appearance at the board meetings. Attorney Biege said traditionally the county surveyor is not being paid. Attorney Biege said that this would be a change from what we've done in the past. Attorney Biege said that would leave Mr. Matzat being the only non-reimbursed member on the board. Attorney Biege said that he doesn't know what the board's pleasure would be there, but he said that he did check into the issue and Mr. Hendricks being entitled ("the statute uses the word entitled"). Attorney Biege said that taking a look at the budget from last year since we didn't conduct all the meetings thinks that we are okay to pay Mr. Hendricks off.

Attorney Biege said that he and Ray discussed this and we are going to ask for a budget increase for per diem for 2012.

Barbara Huston asked attorney Biege if the budget increase is just for Mr. Hendricks, or for Mr. Matzat also?

Attorney Biege said that it would be the board's pleasure if Mr. Matzat wants to be re-compensated. Attorney Biege said that he believes that Mr. Matzat is the only board member not compensated.

Gene Jonas asked attorney Biege if it is the council's decision, or ours?

Attorney Biege said that ultimately he thinks that it is the council, but he thinks it would good to have a recommendation from the Plan Commission as to what we wish to do with Mr. Matzat's compensation.

Gene Jonas said that he would have a problem with the recommendation in favor of this. Mr. Jonas said that there are a lot of things in government if your compensated when your elected into the job, there are a certain amount of meetings that you are expected to go to. Mr. Jonas said that if you're not receiving a salary, pensions, and healthcare, then maybe it should be paid for per meeting and mileage. Mr. Jonas said that he thinks that this should be decided by La Porte County Council. Mr. Jonas said that he's in favor of when it comes to elected officials not being compensated.

Attorney Biege said that this statute doesn't give any discretion for Mr. Hendricks. Attorney Biege said that for Mr. Matzat it would be a change; it would be an increase in the budget from board member per diem compensation. Attorney Biege said that he would suggest that the commission make a recommendation for Ray for guidance as to whether he's going to ask for increase for per diem compensation for one member, or two.

Barbara Huston asked if there was anything left in the budget for Mr. Hendricks?

Attorney Biege said that there was in 2011. Attorney Biege said that we are going to have to ask for an increase for 2012. Attorney Biege said the question is do we ask for an increase for one member or two members.

Barbara Huston asked the board's pleasure.

Gene Matzat said that he knows that the Ag. Natural Resources Extension Educator is written in the law that it is suppose to be represented on Plan Commission. Mr. Matzat said that tax payers are already taken care of his salary and that is expected. Mr. Matzat said that he would not recommend this.

Barbara Huston asked the board's pleasure for Mr. Hendricks to increase the budget for 2012.

Attorney Biege said that he is going to authorize Mr. Hamilton to approach the County Council to ask for an increase.

Matt Bernacchi made a Motion to approve. Harold Parker seconded.

Voting Aye: Tony Hendricks, Gene Matzat, Rita Beaty Kelly, Barbara Huston, Glen Minich and Harold Parker and Matt Bernacchi.

Voting Nye: Gene Jonas

Barbara Huston said that if it is says in the law that you found that Mr. Hendricks can be paid and he was not paid for last year and there is money in the budget, are you suggesting or is it a suggestion of our attorney that he is compensated for last year?

Attorney Biege said that it has been requested and the law says that he is "entitled" to it. Attorney Biege said that there are funds remaining in that line item. Attorney Biege said that he doesn't think that there is a lot of discretion that says he's entitled.

Barbara Huston asked attorney Biege if we need a motion on that, or can we just address Mr. Hamilton to pay Mr. Hendricks for last year.

Attorney Biege said that he thinks you just direct him to do so and he thinks that it is a given.

Barbara Huston asked if this was okay with the board?

Barbara Huston asked Mr. Hamilton if he would please see that Mr. Hendricks is issued a check for last year's meetings.

Ray Hamilton asked Barbara if there is a time frame for that? Mr. Hamilton said that he is on the agenda for the County Council to let them know where this money is going. Mr. Hamilton said that he knows that there was another office holder that got into trouble by spending county money without the council's knowledge of it.

Mr. Hamilton said that he is on the agenda to go to the council next week. Mr. Hamilton said that he would like to do that with the County Council's knowledge.

Barbara Huston asked Mr. Hamilton if he's on the agenda for next month?

Mr. Hamilton said that he's on the agenda for January 30th.

Barbara Huston asked Mr. Hamilton if that's the way he wants to proceed to pay Mr. Hendricks?

Ray Hamilton said that he would rather they know what's happening. Mr. Hamilton said that there is no budget item for this right now. Mr. Hamilton said that he's going to tell them what the statute is, but he doesn't feel comfortable on just paying him.

Barbara Huston asked attorney Biege if he would give Mr. Hamilton the statute that he found so that he can present it to the council and then Mr. Hendricks can be paid for last year and in the coming years for sitting on the board.

Attorney Biege said that he would.

Barbara Huston asked if there was any other business to come before the board?

Matt Bernacchi made a motion to adjourn. Rita Beaty Kelly seconded. All approved. Meeting adjourned at 6:45 p.m.

BARBARA HUSTON, President


RAY HAMILTON, Rec. Secretary