



LAPORTE COUNTY PLAN COMMISSION

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ANNEMARIE POLAN
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES OCTOBER 23, 2012

MEMBERS PRESENT: RITA BEATY KELLY HAROLD PARKER
 JIM PRESSEL MATT BERNACCHI
 GLEN MINICH BARBARA HUSTON
 GENE JONAS

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

PLEDGE OF ALLEGIANCE

Barbara Huston asked for approval of the agenda and asked if there were any additions or deletions.

Jim Pressel made a motion to accept the agenda as presented. Rita Beaty Kelly seconded. All approved. Motion carried 7-0.

Barbara Huston asked for approval of the minutes of September 25, 2012.

Jim Pressel made a motion to accept the minutes as presented. Rita Beaty Kelly seconded. All approved. Motion carried 7-0.

Barbara Huston said first on the agenda under:

- a) Kankakee Valley Rural Electric Membership Corp., and Todd Anson, by counsel request a re-zone on three separate parcels of land in Clinton Twp., La Porte County from R1B to M1 to allow for commercial and light industrial use which is representative of the current use of the property. This property is located at 11201 S. 1025 W., Wanatah, Clinton Twp., zoned R1B.

Barbara Huston said that Mr. Anson is not here. Barbara Huston asked Mitch Bishop if he would like to take this one.

Mitch Bishop, County Planner said that it is not his petition.

Annemarie Polan, Building Commissioner said that Brad Adamsky was supposed to be here.

Barbara Huston said that we will table this petition and put it on our agenda for November 27, 2012 at 6:00 p.m.

Barbara Huston asked for a Motion to table.

Glen Minich made a Motion to table to November 27, 2012. Harold Parker seconded.

All approved. Motion carried 7-0.

Barbara Huston asked for old business.

Barbara Huston asked for new business.

Jim Pressel asked Barbara if we could go back to old business.

Jim Pressel said that in last month's meeting we were going to have a joint meeting with the Commissioners and he wanted to know if there was any progress with that.

Barbara Huston said that she wasn't in the office today and nothing was mentioned about this.

Attorney Biege said that there has been a public meeting set.

Barbara Huston said that she believes that is October 30th. Barbara said that she doesn't remember the time.

Barbara Huston asked attorney Biege if it is October 30th at 5:30 p.m. in this room.

Attorney Biege stated yes.

Barbara Huston asked attorney Biege if that is the public hearing.

Attorney Biege said that from the Plan Commission's aspect, that will be for the amendment to the zoning ordinance. Attorney Biege said for the County Commissioners it will be amendment to the zoning ordinance as well as the new licensing conduct order for adult entertainment businesses.

Barbara Huston asked if there as any business under new business.

New Business:

Michael Hollcraft said that he is a landowner in Hudson Twp and he is here to discuss public comments regarding the Enbridge Line 6B Phase 2 Pipeline Construction Project. Mr. Hollcraft said that what he would like to do tonight is basically go over this packet of information that they're presenting. Mr. Hoffcraft said that there will be several presenters; there are a few requests here that we're making of the board.

Mr. Hollcraft said that on October 2nd they did make a presentation to the La Porte County Commissioners and was directed by the attorney, Craig Braje and Ken Layton to direct our concerns here. Mr. Hollcraft said that he will just briefly read through ---- he's not going to read through all of this document tonight; this is mostly for your own review. Mr. Hollcraft said that he will highlight some of the key points in the memo and then we will have some presentations. Mr. Hollcraft said that if there are any questions feel free to ask.

Mr. Hollcraft said that basically what they're doing is coming before you to initiate a discussion about this project because it is a one hundred and nineteen million dollar project affecting La Porte County. Mr. Hollcraft said that they're asking that you consider the presentations, the public comments and the documents that are in this --- there are thirty nine pages here in this packet as part of your evaluation of the La Porte County section of this project. Mr. Hollcraft said to ensure that this particular project conforms to La Porte County Ordinance 2012.02, which is the new zoning ordinance as I'm sure you are all aware of. Mr. Hollcraft said that we are asking that you enforce this ordinance and that you include all the public comments and all these documents in your meeting minutes tonight; and you make these meeting minutes available on line as well.

Attorney Biege said Madam President if I may, the public can comment, but if this is a remonstrance, there's currently no petition before the board number 1. Number 2, there is no request before La Porte County for Enbridge. Three, if this subject matter relates directly to Enbridge Pipeline, they have not received notice he assumes and they should have an opportunity to be heard.

Mr. Hollcraft said this isn't a remonstrance.

Attorney Biege told Mr. Hollcraft that he wasn't through. Attorney Biege said that the Plan Commission is still subject to due process requirements. Attorney Biege said the due process dictates that when subject matter or topics are orientated towards a particular person or petition, the other side has a right to know about it and to be present first. Attorney Biege said secondly, we're incorporating things in the minutes when there is no petition before the Plan Commission and he thinks this is a procedural issue; something he doesn't think it's necessarily appropriate for the Plan Commission to hear one side of something that has not happened yet.

Barbara Huston told Mr. Hollcraft that obviously you have gone through a lot work here and obviously we haven't had the opportunity to look this over as far as the Plan Commission is concerned. Barbara said that she does think it is only fair that Enbridge be present so they can comment, or hear what you have to say.

Barbara Huston asked Mr. Hollcraft if he contacted Annemarie to be put on the agenda for this evening.

Mr. Hollcraft stated no.

Kim Ferraro said that she thinks that she might be able to provide a little clarification that would relieve your concerns about procedural due process. Kim Ferraro said that she is a staff attorney with Hoosier Environmental Counsel, which is the State's largest environmental law and policy organization. Ms. Ferraro said that they have ten thousand members statewide, many of them here in La Porte County.

Ms. Ferraro said that they aren't here because there is no petition before you and your attorney's correct about that, what they're trying to present to you is that there should be and there won't be, and so if we're waiting for Enbridge to provide a petition for you, we're not ever going to get that opportunity to discuss this issue. Ms. Ferraro said that this is raising awareness about something they believe the Plan Commission should be concerned about and enforcing its own ordinance. Ms. Ferraro said that this isn't about a decision that you're making right now, it's pointing out to you that there is an ordinance in effect that you need to enforce and it's not being enforced because there is no petition before you and should be.

Ms. Ferraro said that she planned on making a presentation about the legal implications of all this if you believe that this is not something you want to consider at this point, they certainly respect that decision. Ms. Ferraro said that she just wanted to point out that if you are waiting for a petition you may not get one.

Attorney Biege said that he can't predict what Enbridge may or may not do, but he has met with Enbridge and its attorneys and they were crystal clear that they wanted to comply with all of La Porte County requirements and wanted an understanding as to what La Porte County may require. Attorney Biege said at the time however, there hasn't been sufficient information on which to make a decision. Attorney Biege said they had not yet located exactly where they wanted lines; they have not obtained easements from his understanding on all of the project. Attorney Biege said that he relayed to them that until we know where it is they intend to work, we cannot make a decision as to what action we may require. Attorney Biege said either way, this material, although I'm sure well taken, there is no petition. Attorney Biege said that we don't know what it is Enbridge may or may not be doing. Attorney Biege said that he can respect your views, however, he's not heard of anyone digging anywhere; he's not heard of a petition, nor has he heard of an application.

Attorney Biege said that he thinks until we get some action from Enbridge, we're guessing as to what it might be so any evidence presented tonight is essentially conjecture because it may or may not be relevant depending on where they put the pipeline. Attorney Biege said again, they have met with Enbridge in detail and he's waiting for more information from them because he has some preemption issues that he needs to research. Attorney Biege said that we have Army Corp of Engineers, Indiana Department of Environmental Management, and Department of Natural Resources; there is an interstate federal agency that monitors as well. Attorney Biege said that we may have some federal and state preemption issues that he needs to address.

Attorney Biege said that he believes that it is premature, although well taken, he thinks it's premature and any questions the board may address to him, his answer is going to be "I don't know", and we don't know what they're doing yet.

Rita Beaty Kelly said that she respects that they went through a lot of work to put this together for us, but if we sit here this evening and listen to everyone, which we appreciate everyone showing up, she is going to be at a loss anyway. Rita said that she personally would prefer to look over the documentation that they have received this evening and get some kind of an idea what you are going to be explaining to me and have a better idea of what she needs to be paying attention to. Rita apologized that they have done this, but it's not her fault and she thinks that we needed a little more preparation and she'd feel a little more comfortable about understanding what we're discussing.

Barbara Huston told Mr. Hollcraft that she does think he put together quite a package here for us and she said that she thinks we need time to actually read this before we can even listen to you.

Ms. Ferraro said two points. Ms. Ferraro said that they do know what Enbridge is proposing and she believes that the county is in possession of not only their MSF application, but also their application for storm water pollution prevention plan under the drainage requirements. Ms. Ferraro said that they certainly have seen their IDEM Application, which is publically available, which shows directly where that pipeline is going to be proposed.

Ms. Ferraro said that she doesn't think that it is a big mystery and if they're going to go ahead with what they're saying they're going to go ahead with, then it appears there would be a violation of the ordinance. Ms. Ferraro said that they were just simply going to lay that out for you and she certainly understands your need to review the material. Ms Ferraro said that they were hoping to make it a little bit easier for you and that you understood why this is a critical issue because Enbridge has been stating that they were planning start in August. Ms. Ferraro said that they do have information what they want to do because of the applications.

Barbara Huston asked if that information is in the packet they received.

Ms. Ferraro stated yes. Ms. Ferraro said that if we are waiting on a petition from them, we may not ever have the opportunity to discuss.

Attorney Biege said that he's sorry, but he has to pipe in here. Attorney Biege said that we are having representations as to what Enbridge is going to do and he specifically met with them and they showed him the proposed areas and specifically told him that not all the easements have been gotten and there are still going to be some adjustments.

Ms. Ferraro said that may be, but they have submitted their 401 Certification to IDEM and they also submitted a 404 Application to the Army Corp of Engineers with very specific proposals with what they plan to do.

Attorney Biege said fair enough, but part of our article requires that those documents from the Army Corp, IDEM and DNR vote to go for a review to the Building Commission. Attorney Biege said that until we receive those documents, we're guessing.

Ms. Ferraro said that she agrees and she thinks that we are on the same page. Ms. Ferraro said that they just wanted to make sure you guys were aware that this proposal was out there because there seems to be some confusion as to whether or not they had even approached you.

Attorney Biege said that they have approached us, but his thought is that when we do receive the proper permitting and it is all listed out in Article 22, with the ability of the county to retain an engineer review, then it's an appropriate time to present this to the Plan Commission if there is any question as to discretion. Attorney Biege said that he is not advocating either side, but what he does not want to do is set up a challenge on what occurs here tonight. Attorney Biege said that we do not have a petition in front of the Plan Commission and we do not have all the applications from the correct state entities.

Kim Ferraro said that she respects that.

Attorney Biege said that the other aspect of this he has specifically asked Enbridge for a memorandum with regard to federal preemption. Attorney Biege said that there are no federal requirements in our Article. Attorney Biege said that he is guessing there are.

Kim Ferraro said that she has researched that and there aren't and that was going to be a part of her presentation. Kim said that she thinks that we are on the same page, and it is fabulous that you guys are aware of this.

Attorney Biege said that he has been working on this and we have been watching this very carefully, but we have to make sure that things are done fairly. Attorney Biege said that if we pull the trigger too quick, your cause may be harmed frankly because they have the opportunity to respond and we don't have formal applications and we don't have things that are finalized.

Kim Ferraro said that she hopes that the Plan Commission will keep all of us informed and they will provide all our contact information.

Barbara Huston told Ms. Ferraro that she was going to ask if you could give me your name and what department you are represent again.

Kim said that she is with the Hoosier Environmental Counsel and her name is Kim Ferraro., staff attorney, Director of Water Policy, most easily reached by phone or e-mail. Ms. Ferraro said that her phone number is 219-464-0104 and her e-mail is kferraro@hecweb.org.

Attorney Biege said that he has to give you his opinions on interrupting our joint zoning ordinance as to whether a building permit is required. Attorney Biege said that is an issue. Attorney Biege said that he has to give an analysis from him and he's not going to make the decision; he's going to give his opinion and he's going to ask the Plan Commission to make a decision as to whether a permit will be required and order a variance required. Attorney Biege said although this is not the Board of Zoning Appeals, he believes that we're going to have some interpretation decisions to make because the way our joint zoning ordinance is written.

Attorney Biege said that it is not clear whether or not the building permit may or may not be issued depending on the area. Attorney Biege said that he thinks that Article 22 would be triggered in the event there are any natural resources or wetlands involved. Attorney Biege said that we have lines on maps that are not finalized that have been represented to him. Attorney Biege said that outside of wetlands and natural resources, the code is not real clear; pipelines aren't mentioned when we talk about improvement location permits.

Matt Bernacchi asked attorney Biege if we have been in contact with other counties that they're going through to see what they are requiring.

Attorney Biege said that the other counties are requiring nothing; that's what Enbridge is representing to him and he's heard nothing different. Attorney Biege said that he doesn't know if Mitch has talked to the planners, but apparently there is no requirement of the others, they are defaulting to --- that's what he's been told, to the State review and Army Corp of Engineers.

Harold Parker said that they're having a hard time in Porter County.

Attorney Biege said that he can certainly contact the La Porte County Zoning Attorney and find out what's going on. Attorney Biege said that he was told that they are asking for a variance and some kind of transfer station or lift station. Attorney Biege said that it is some kind of structure that they are building.

Jim Pressel asked if it is a possibility that Enbridge could continue on and not ever appear before us and these folks would never be able to present this whatsoever.

Attorney Biege said that is what we have a Building Commissioner for; that is why we have zoning codes. Attorney Biege said that we can stop them. Attorney Biege said that if Enbridge were going to come in and begin construction, and the Building Commissioner was of the opinion that their work is improper and they're in violation of Article 22, which has a bunch of requirements, and permit requirements, or Enbridge started construction and the Building Commissioner was of the opinion that they needed a permit, or something of that nature, we have injunctive action available to us to stop them. Attorney Biege said that we're not helpless and our hands are not tied.

Attorney Biege said the thought that they would come and start digging and not speak to us after he has met with them and conversed with them on several occasions would surprise him. Attorney Biege said that he can't represent that they wouldn't, but why would they spend so much time making sure that they understand what it is they have to do. Attorney Biege said that there are no shovels in the ground; there's no action to take.

Jim Pressel said that his only concern is if they put shovels in the ground and start to proceed, do these people ever have a chance to represent what they want to present.

Attorney Biege said absolutely. Attorney Biege said that they will be subject to the Building Commissioner's discretion. Attorney Biege said that if the Building Commissioner believes that

project and they don't have an opportunity to be here. Attorney Biege told Mr. Hollcraft that he's concerned about the record, not his opinion. Attorney Biege said that he wants to make sure that the Plan Commission is following the zoning code and the law, and it's that simple.

Mr. Hollcraft told attorney Biege that he understands his perspective, but he doesn't feel like he's being given an opportunity to present on an issue that he has already done due diligence on himself personally. Mr. Hollcraft said that Craig Braje and Kenneth Layton directed them to the Planning Commission. Mr. Hollcraft said that they're just following up on their recommendation that they presented to them first.

Barbara Huston told Mr. Hollcraft that he can make a public comment on this, but we don't have a petition, as our attorney said, from Enbridge. Barbara told Mr. Hollcraft that he can voice his opinion on this.

Mr. Hollcraft told Barbara that they're just asking to be listened to and most of the documents here are either from Enbridge, or from your own staff.

Annemarie Polan, Building Commissioner said that Mr. Hollcraft was contacted by Doug because we didn't have the answers that we need to proceed at this point, and that is what we're trying to say. Annemarie told Mr. Hollcraft that she understands what his concerns are, but you want answers right now.

Mr. Hollcraft said that it is a catch twenty-two situation and they began discussion with Mitch Bishop in July of this year. Mr. Hollcraft said that we're not four months into the discussion and the discussion has fallen on deaf ears. Mr. Hollcraft said that they were not asking to remonstrate, they're asking to be listened too.

Attorney Biege said that is an absolute misrepresentation. Attorney Biege told Mr. Hollcraft that he wrote to him and told him that we're monitoring the situation closely; however, we do not yet have enough information on which to base a decision. Attorney Biege told Mr. Hollcraft that he needs to understand the Plan Commissions authority, as both through the zoning code and a statutory code, he does not yet know if this is going to be an issue that's appropriate for the Plan Commission to hear because we do not yet have all of the information. Attorney Biege told Mr. Hollcraft that he could have been talking about this for two years, attorney Biege said he doesn't care until the petition and this issue is ripe for decision for the Plan Commission, BZA, Building Commission, or any La Porte County entity; it's not ripe for discussion.

Mr. Hollcraft asked the board when they would have an opportunity to be heard. Mr. Hollcraft asked if the next meeting would be appropriate; could they petition for that.

Attorney Biege said that he feels like a broken record. Attorney Biege told Mr. Hollcraft that he is going to have an opportunity to be heard when there is a petition in front of the Commission.

Mr. Hollcraft said so the procedure would be we make a petition to you.

they're in violation of the zoning code, they haven't obtained the proper permits, or submitted the proper rules, they would be subject to some type of improvement location permit and injunction is available. Attorney Biege said that the Building Commissioner would call me and tell me to get to work, and we would put a stop to it.

Jim Pressel asked attorney Biege if that would be their only opportunity.

Attorney Biege said that he doesn't know that, but again, we're guessing what might happen; it's likely that we would end up here too. Attorney Biege said that it depends on what it is they would do; what zoning code provisions would be triggered as a result of their conduct and what state statutes would be triggered. Attorney Biege said that there are several possibilities as to what could happen. Attorney Biege said that what he does know is if they start digging without permission and Annemarie doesn't think it is kosher, we can stop them. Attorney Biege said that we're hearing representations that they are going to do this and they're going to do that, and they're not here to defend themselves and that is his point of due process.

Attorney Biege said that we have allegations for a lack of a better term, with no action. Attorney Biege said that if the Plan Commission is going to make a decision ultimately --- if Enbridge is here with either an agreed issue, or want to dispute, it's not fair and in violation of presence of due process with them not being able to present their side of the case. Annemarie knows her job; Article 22 sets out what has to be done in wetlands and some of the natural preservation issues and there are permits that are required. Attorney Biege said that he thinks it is a little presumptuous to think that are Building Commissioner isn't going to do her job. Attorney Biege said that is why we have a zoning code and that's why these things are in place.

Attorney Biege said that if they take action without permission, the county has multiple avenues to stop them and if there are any remonstrators or persons that are interested can certainly intervene in the case if the Judge gives them permission.

Mr. Hollcraft said that this is not the Board of Zoning Appeals; we're not remonstrating. Mr. Hollcraft said that he was under the impression that we had an opportunity to make public comments. Mr. Hollcraft said that he had a meeting with Annemarie Polan on September 18th and this issue was researched with Mitch Bishop in July; legal documents are there. Mr. Hollcraft told attorney Biege that he believes he was involved in that at some point, because that is what he was told. Mr. Hollcraft said that this is not new. Mr. Hollcraft said that the federal preemption issue is done and covered.

Mr. Hollcraft said that Mitch Bishop already answered that question. Mr. Hollcraft said that he spoke with (inaudible) directly. Mr. Hollcraft said that all he is saying is that they're not remonstrating; we're not setting up a legal case here. Mr. Hollcraft said that they wanted to present information because they were under the impression that under public comments that was allowed. Mr. Hollcraft said that it seems that the opportunity is not here for that.

Attorney Biege said that there is a distinction between public comments and remonstrating, specific entity and specific issues. Attorney Biege said that public comments can be general. Attorney Biege told Mr. Hollcraft that he is here advocating against an entity and against a

Attorney Biege stated no. Attorney Biege said that when somebody wants to build something, they either apply for a building permit, or they may go to the BZA or Plan Commission, depending what it is they want to do. Attorney Biege said that when that petition is filed, notice is given to the public and at that time the public has an opportunity to remonstrate. Attorney Biege said that the part he's trying to get across to you, if you argue, let's say hypothetically, Enbridge comes in and says that they want to put this pipeline through wetland, or DNR, now we know what it is we're looking at. Attorney Biege said that now the Plan Commission has some basis on which to make a decision or some way to relate what you have to say.

Mr. Hollcraft said that they told him that directly. Mr. Hollcraft said that he is an affected landowner and they told me that they're coming straight through his wetland; they have given him legal documents to that effect. Mr. Hollcraft said that he knows for a fact that is happening.

Attorney Biege said when and if they file a petition, either the Plan Commission, BZA, or Building Commissioner, depending on what's applicable, there are different sets of rules that apply depending on what it is they do and what it is they ask for.

Mr. Hoffcraft said indulge him please, when will we be given an opportunity to present our information. Mr. Hollcraft said that they don't have any issue with Enbridge being here.

Barbara Huston told Mr. Hollcraft that they have presented their information which they haven't had a chance to read yet. Barbara told Mr. Hollcraft that he just gave them all the information this evening.

Mr. Hollcraft said that there is more, quite a bit more specific to these issues.

Barbara Houston told Mr. Hollcraft that they gave us the information this evening. Barbara asked Mr. Hollcraft if he could get in touch with Enbridge.

Attorney Biege said that they certainly can. Attorney Biege said that they met three weeks ago or so and they're going to give additional information. Attorney Biege said that they told him that the permit applications were in process and they don't have them all yet. Attorney Biege said that they aren't coming in front of this Plan Commission if they're going to work in wetlands and natural protected areas until Article 22 has been complied with. Attorney Biege said that means that they have to have permits and in Annemarie's hands first. Attorney Biege said that they're still in process. Attorney Biege said that we cannot do anything. Attorney Biege said that those permits are prerequisite for our zoning code to kick in. Attorney Biege said that is what he has been trying to explain. Attorney Biege said even if, let's assume just hypothetically, that you give your presentation tonight and it's the most impressive presentation that ever occurred and we're all absolutely convinced that it's wonderful, whatever they decide is now tainted for two reasons:

1. It's not ripe for decision because we've not complied with zoning code requiring all these permits that have to be submitted before they can even walk through the door.
2. If we're going to go that far with the presentation, now we have due process issues.

Attorney Biege said that you are going to give a presentation on something that is not ready yet. Attorney Biege told Mr. Hollcraft that his concerns are well taken and they have not fallen on deaf ears. However, we can't hear it yet.

Mr. Hollcraft said that encourages everyone seriously read all the information that they presented because the documents are crystal clear. Mr. Hollcraft said that a lot of them are Enbridge documents and they will address the questions that you've brought up --- that you've read. Mr. Hollcraft said that Enbridge began a construction project in Brandon Michigan without permits and the Polar lawsuit is there. Mr. Hollcraft said that they don't want that here and that is the point of coming before you in a proactive way to present important information that is highly relevant to the issues that we have. Mr. Hollcraft said that they would love to have the opportunity to come on November 27th, which he understands is the next Plan Commission meeting.

Barbara Huston asked Annemarie Polan if that is correct.

Annemarie Polan stated yes.

Mr. Hollcraft said that he would love the opportunity to come and present then because he's sure that you will have more people here at that point that will be interested in speaking too.

Barbara Huston asked Mr. Hollcraft if he said he had more information, and asked if he had that information with him this evening. .

Mr. Hollcraft said that he certainly does.

Glen Minich said that he understands that they can't specifically attack Enbridge, but the same point, public comment just to be heard if they have a question on the code that suggests a change in our code that we could certainly listen to.

Attorney Biege said absolutely. Attorney Biege said that he thinks the distinction is when we're talking about a specific project, person or legal entity, his concern is we're reviewing and hearing evidence and information without a petition before the Plan Commission. Attorney Biege said that when a Court reviews a Plan decision and the Commission decision, one of those areas is "**arbitrary and capricious**". Attorney Biege said that we're reviewing evidence when there is no request before Plan Commission. Attorney Biege said that when a request comes, how do we know whether or not this evidence is relevant, or you would otherwise hear it. Attorney Biege said don't you need to know what they're asking for in order to determine what it is you're going to hear.

Gene Jonas asked Mr. Hollcraft if these are his concerns.

Mr. Hollcraft said that the requests are very specific.

Gene Jonas asked if Enbridge has been given a copy of all this information.

Mr. Hollcraft stated no.

Gene Jonas said that he was hoping that they might be able to address the concerns.

Mr. Hollcraft said that they would love to have the opportunity to speak to them on November 27, 2012 here if they want to come. Mr. Hollcraft said that they would be happy to address them directly.

Remonstrator:

1. John Vanick said that he is one of the affected landowners. John said that his question is after hearing all of this, what happens when they start digging on his farm without a permit. John said that if he would go out there and stop them is he within his rights because they didn't go through you, because they certainly don't have an agreement with him. John said that he was told that they have one with his neighbors on either side and if he doesn't sign, they can come in anyway. John said that they told him that they need a variance and if he would help them get that variance they might work something out.

Barbara Huston asked John who told him that.

Mr. Vanick said it was Jim Archabault, he's the right of way agent for Enbridge Pipeline. John said that he has also spoke with his boss, Mika Harris in Superior Wisconsin. John said that they told him if they get up to eighty (80%) percent of the signatures on the right-of way they can just steam roll through his place.

Matt Bernacchi said seeing that we don't have Enbridge here we can't argue this and this is hearsay. Matt said that he thinks that we need both parties here and discuss this.

Barbara Huston told Mr. Vanick that we will do what we can to rectify this situation and we will have them here to answer your questions and concerns.

Barbara Huston asked Mr. Vanick if they have started digging.

Mr. Vanick said that they came out marked on his property where they're putting it and they just show up whenever they want. Mr. Vanick said that Rick Brown came out and saw where the pipeline supposedly is and where the new one is going. Mr. Vanick said that they're tearing out one of the homes on his property.

Barbara Huston asked Mr. Vanick if they're tearing up a home on his property.

Mr. Vanick said that they're tearing up a home and a barn; they're tearing out buildings and telling him where and where he cannot put up buildings on land they don't even have a right-of-way on.

Annemarie Polan asked Mr. Vanick if they have already started this.

Mr. Vanick said that there are markers all over the property.

Annemarie Polan asked Mr. Vanick if they have dug.

Mr. Vanick said that they haven't turned dirt yet. Mr. Vanick said that they came out last fall and tore up his property.

Annemarie Polan asked if that is maintenance on the existing pipeline.

Mr. Vanick stated yes. Mr. Vanick said off the right-of-way as well.

Annemarie Polan told Mr. Vanick that is a separate matter.

Annemarie Polan said that maintenance on an existing pipe is different than new construction.

Attorney Biege told Mr. Vanick that he sees a shovel hit the dirt; if you see any construction begin, call Annemarie Polan immediately. Attorney Biege said that until that happens, we're guessing and the Plan Commission cannot act on guesses, they haven't done anything yet.

Barbara Huston asked attorney Biege if they can actually go on these people's property and mark the lines without permission, especially from the homeowners.

Attorney Biege said that he can't speak to your specific property. Attorney Biege said that he does know that there are easements for existing pipelines, which allow for maintenance. Attorney Biege said that it not just where the pipeline is and he's been told that the old pipeline is not necessarily where they thought it was. Attorney Biege said that it was installed in 1960 ("69"), something like that. Attorney Biege said that the drawings that he saw there are in fact structures built over the existing pipeline over the years; barns and those types of things. Attorney Biege said that they have a right to maintain the existing pipeline.

Attorney Biege said that what he was told the existing pipeline is newer material or better material and it was a result of a spill that they had in Michigan that promoted this new line and the representation is that it is going to be safer in the long run. Attorney Biege said either way, the Federal Authorities, at least that was represented to him believe the best way to do it rather than remove, is to fill it with inert gas and leave it in place. Attorney Biege said that these easements that exist are essentially going to be moved a little bit or widened for the most part. Attorney Biege said that it's not going to run parallel, but close to parallel to the existing line.

Barbara Huston said that maybe we can get Enbridge her on the 27th too, would that be possible.

Attorney Biege said that if the Plan Commission is so inclined he would suggest a work shop With Enbridge present so they can present the information to the public, answer any questions or concerns outside of a formal presentation from either side without a petition before the Plan Commission.

Barbara Huston asked attorney Biege if he could see if we could set up a work shop and see if we could set up some kind of a work shop with Enbridge and the remonstrators.

Attorney Biege said absolutely.

Barbara Huston asked if there is any new business.

Matt Bernacchi said that Brad Adamsky is here so he wants to make a motion to take it off the table.

Jim Pressel seconded.

All approved. Motion carried 7-0.

Attorney Brad Adamsky is here for the Petitioner's Kankakee Valley REMC rezone. Attorney Adamsky said that he noticed their notice of publication as well as the mailings all announced the meeting time 7:00 p.m. Attorney Adamsky said that in fairness to any remonstrators that are going to be here and in all honestly, we're going to ask to table this to the next meeting anyhow so they have a chance to meet with the neighbors and there is a lot of concern about misinformation as far as what the actual intention is with the property. Attorney Adamsky asked this to be tabled to the November 27th meeting.

Matt Bernacchi made a motion to table this to the November 27, 2012 meeting.

Jim Pressel and Rita Beaty Kelly seconded.

All approved. Motion carried 7-0.

Barbara Huston asked if there was any other business coming before the board this evening.

Jim Pressel said that he was at a BZA meeting last Tuesday and it seems that in our effort to do our rezoning maps, a lot of areas the zoning has changed where it really shouldn't have changed. Jim asked if there is any way that we could kind of look into some of the zoning maps station by station, township by township just to kind of review it. Jim Pressel said that one of the meetings he was at the property was zoned Industrial prior to our new maps coming out and somehow it got changed back to AG and this is a building/business that has been there for thirty to forty years.

Jim Pressel said that there are a lot of instances like that and he has to go to the BZA to get that clarified and get a variance on grounds that was already existing that he owned and practiced with Light Industrial. Jim said that he thinks there are some errors out there and he doesn't know if that is something that we could address.

Attorney Biege said that he thinks that would be completely appropriate; just like himself, Mr. McCain and Mr. Hale are addressing the inadequacy in the draft of this joint zoning ordinance. Attorney Biege said that they've noticed several areas that are going to need to be changed.

Attorney Biege said that if we do a revision on the maps at the same time he thinks that it is a great idea. Attorney Biege said that we have this Indiana Code which requires notice to all abutting property owners to the county; we discussed this in the Adult Entertainment Ordinance and he thinks that they sent eight hundred and some certified mailings out. Attorney Biege said that it is very expensive; attorney Biege said that if we could combine them; attorney Biege said right now we have to follow it so we could kill two birds with one stone and make corrections to the zoning maps at the same time we make the proposed amendments to the zoning code ordinance itself.

Barbara Huston asked Dar Pavey to contact Melissa and tell her our concerns and what we would like to do.

Attorney Adamsky said that was his plan at the BZA. Attorney Adamsky said that this specific instance he was probably finding that it is a preexisting nonconforming use with the changes of the maps. Attorney Adamsky said that he was buying property adjacent to him, which under the previous zoning ordinance would have been fine. Attorney Adamsky said that they have actually identified township by township and he can provide that to Doug as far as what's been changed on the old maps and the new maps. Attorney Adamsky said that he's not saying that's going to be every instance; there were probably some changes that were appropriate.

Attorney Biege said that he would suggest that the Plan Commission form a committee because the Commissioners made changes to the maps after reviewing some of these suggestions. Attorney Biege said that the Commissioners are ultimately going to make the decision.

Barbara Huston asked if there was any other business.

Annemarie Polan asked if this is going to be a work shop or a committee, we need to pick a date if we're going to contact Melissa.

Jim Pressel said that he thinks the work shop and Melissa are two different items.

Glen Minich said that he thinks what you're saying is we need to form a committee to look at those sites so we can make a recommendation for that next meeting.

Attorney Biege said that he will handle the work shop. Attorney Biege said that he thinks it should be a work shop with the County Commissioners, BZA and the Plan Commission because it may go in front of any of those entities. Attorney Biege said that he's not sure if they all have to be present, but whatever members are interested could appear.

Barbara Huston said that she thinks that this will have to be in the news paper.

Attorney Biege said that he will handle setting up the work shop.

Glen Minich said that is for a committee to look at these rezones and he thinks that's important that we do that because that needs to be done before this next big meeting we have with public notice.

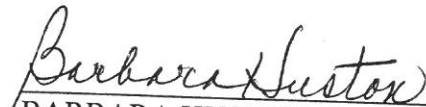
Attorney Biege said that the attorneys still have a few chapters to go through and he's not sure that we're going to be done by November anyway. Attorney Biege said that he thinks that we would want a public comment hearing and a workshop so there can be interaction rather than just straight up remonstrance. Attorney Beige said that he thinks that might be the most productive way to do it. Attorney Biege said that if the Plan Commission set a committee and the committee would then form some recommendations and the public would have an opportunity to review it.

Barbara Huston asked for a Motion to adjourn.

Harold Parker made a motion to adjourn. Rita Beaty Kelly seconded.

All approved. Motion carried 7-0.

There being no further business this evening, meeting adjourned at 6:50 p.m.


BARBARA HUSTON, President


ANNEMARIE POLAN, Rec. Secretary