

1. Rolling Prairie Memorial Post No. 9423, Veterans of Foreign Wars (Petitioner), by counsel **Andrew D. Voeltz of Howes & Howes, LLP**, respectfully petitions the La Porte County Plan Commission and the La Porte County Board of Commissioners to vacate the undeveloped plotted roadways and/or alleyways adjacent to and located on lots thirty-six (36), thirty-seven (37), forty-two (42), forty-three (43), forty-four (44) and forty-five (45), known as 4202 N. 400 E., Rolling Prairie, Kankakee Twp.

Attorney Biege said notice is adequate.

Andrew Voeltz said he's an attorney at Howes & Howes here in La Porte, Indiana 717 Indiana Avenue, La Porte 46350.

Attorney Voeltz said his client, the Rolling Prairie Memorial Post No 9423, Veterans of Foreign Wars is petitioning this Plan Commission to vacate the undeveloped, but plotted roadways and/or alleyways that are adjacent to or between his property, Kankakee Twp., County of La Porte, State of Indiana. Attorney Voeltz said that you will note with the petition there was an aerial map that was provided that was gotten off of Beacon. Further, you'll note the area that his client petitions to vacate is designated in red.

Attorney Voeltz said you will see that the building that is to the eastern most portion of the property actually extends over and onto one of the areas his client is requesting to be vacated. Further, between the pavilion and the back parking lot, there is another specific alleyway. Attorney Voeltz said that his client is seeking to vacate these alleyways and/or roadways pursuant to the statute, which is Indiana Code 36-7-3 et seq.

Attorney Voeltz said as a little aside here, this property was deeded to the Veterans of Foreign Wars or the VFW, is what he will call it, back in 1961. Attorney Voeltz said the representative of the VFW has approached him for this petition and indicated this was from his knowledge laid out as a subdivision well over seventy-five (75) years ago. Attorney Voeltz said that you'll note that there has been no development in this area; there has been no usage, either by easements, or any other type of municipal access for these areas specifically identified and indicated by red on this aerial map and they're seeking to vacate the area specifically that is indicated, they will obtain a survey if the Plan Commission so chooses to grant this petition to get an accurate survey so as to fully combine the properties into one (1) parcel, which he believes meets the standards of the JZO as for best use of the property.

Attorney Voeltz said once again, there has been no roadways that have been plotted or have been acted upon in any way, shape, or form for at least the past fifty-seven (57) years, if not even longer. Attorney Voeltz said furthermore he'll note as he indicated before, the building is located to the eastern most section of the parcel, just off of 400 East, North, and actually it extends over and across that first plotted roadway.

Attorney Voeltz said once again, his clients are seeking permission of this Board to grant the Petition pursuant to I.C. 36-7-3 to vacate these roadways and/or alleyways and to become fee simple owners thereof.

Anthony Hendricks asked if there are any questions from the board.

Rita Beaty Kelly asked if the red marks on the beacon that you have on here, is that the entire roadway there that you're vacating, or is it just half?

Attorney Voeltz asked Rita which specific area she's speaking of.

Rita Beaty Kelly said the north.

Attorney Voeltz said the north side and the statute only allows for vacation of half that area, with consideration of the fact that the petition is before this Plan Commission for the alleyway, or roadway running north and south on both portions – the larger ones, and the further most one to the east, which he believes would be properly considered the alleyway. Attorney Voeltz said that his client suggested, or he advised them that in fact we might as well include the entirety of any adjacent areas pursuant to the allowance under the statute, meaning a fifty (50%) percent portion of.

Connie Gramarossa asked attorney Voeltz if at a later date, are the other people able to vacate their half.

Attorney Voeltz said absolutely. Attorney Voeltz said that his understanding in his practice and before this Plan Commission and other boards have suggested that it almost becomes a domino effect, once one party does it, the next party will do it. Attorney Voeltz said that he thinks it serves a purpose because it provides them on a limited basis taxable property back to the county opposed to what is sitting as undeveloped areas, but that have been marked as roads that nothing has been done for nearly three quarters of a century, at this point, as far his client has provided.

Anthony Hendricks said the people to the west, it looks like a barn and an old house got torn down. Anthony asked what that is.

Attorney Voeltz said he has no idea.

Anthony Hendricks asked Mr. Voeltz if he knows where they access. Anthony said he tried to look on Beacon, but didn't see anything. Anthony said somebody gets back there somehow.

Attorney Voeltz said he can pull it up off his phone, but to be honest with you Tony, he doesn't know.

Attorney Voeltz said that if you note to the north of the property almost getting to the boundary of the map that he submitted, there is obviously what he believes is a railway easement that is there that he thinks runs contiguous to then the road on the south side of the property, all the way

back down over the specific designation of that road to the west, but he thinks it intersects that road.

Rita Beaty Kelly said it looks like she's getting off of 350.

Anthony Hendricks said yes. Anthony said that's a long ways and they have a driveway.

Anthony Hendricks said that this is a petition for a recommendation to the Commissioners to vacate the roads as shown and he guesses it's not to germane to the **(unintelligible)**, but if we recommend approval and the Commissioners vacate these roads, Anthony asked if the whole roadway gets vacated, or just half, and then they only get half.

Attorney Biege said that he should disclose that he is a member of the VFW Post. Attorney Biege said that the whole roadway should be vacated and then they get their half.

Anthony Hendricks said then the other petitioners wouldn't come to us, they just vacate and wait for them to proceed to the Commissioners to ask for their half.

Attorney Biege said the aspect here is you're looking at it from the subdivision standpoint, whether or not that's a liable subdivision and the road should be limited within the subdivision. Attorney Biege said that the Commissioners kind of look at it from the aspect of the tax rules and fairness of the surrounding properties.

Anthony Hendricks said we're looking at it as the whole roadway, whether they come forward to the Commissioners and ask for their half is a different question.

Attorney Voeltz said meaning the adjacent landowners that they could petition for their portion what would wind up being the vacated roadway.

Anthony Hendricks said like the half of the road, you're asking with an extension, he doesn't see the platted names, that's the half and we would be recommending to vacate that whole roadway, and you would get your half through the Commissioners.

Attorney Voeltz said that's his understanding.

Anthony Hendricks asked if there are any other questions.

Anthony Hendricks opened up the floor for any remonstrators, for, or against this petition.

Remonstrator:

Carol Grott, 4304 N. 400 E. Rolling Prairie. Ms. Grott said that she is three (3) houses north of the VFW and she's lived there for fifty-one (51) years. Ms. Grott said in all those fifty-one (51) years, they've had all the houses from Highway 20, except two (2). Ms. Grott said that the railroad switched owners and they've never heard anything about vacating roads or alleyways.

Ms. Grott said that she's talked to most of the neighbors listed in the paperwork, and the first question to her was why are they doing this, what is the VFW planning to do, which is what they would all like to know. Ms. Grott said that they don't use the land they have now. Mr. Grott said that she spoke to an attorney and he also asked what they're planning on doing with it. Ms. Grott said that if this is okayed by the Plan Commission the attorney told her to make sure that they survey it. Ms. Grott said that she's opposed to this until she finds out why the VFW is doing this and what they are planning. Ms. Grott thanked the board.

Attorney Voeltz said pursuant to Indiana Code 36-7-3-13, a remonstrator is permitted to object under Section 12 of this Chapter, but only on one or the more following grounds.

1. The vacation would hinder the growth, or orderly development, or the unit, or neighborhood in which it is located, or to which is contiguous.
2. The vacation would make access to the lands of the aggrieved person by means of public way, difficult, or inconvenient.
3. The vacation would hinder the public's access to a church, school, or other public building, or place.
4. The vacation would hinder the use of a public way by the neighborhood in which it is located, or to which, it is contiguous.

Attorney Voeltz said while he respects the remonstrator's position to want to know why the VFW is doing this, he's not privy to that information. Attorney Voeltz said that he's only privy to the information that the VFW would like to vacate these roadways. Attorney Voeltz said quite frankly, none of the identified statutory grounds for remonstrance has been presented by the remonstrators.

Anthony Hendricks asked if anyone has any questions.

Earl Cunningham said we're talking about returning this to the tax rules. Earl asked if the VFW is exempt from property taxes.

Attorney Biege said yes.

Earl Cunningham said that this half of the road is not going to be added back to the tax rules anyway as long as the VFW owns the property.

Attorney Biege stated correct.

Anthony Hendricks asked if there are any more questions.

Connie Gramarossa said that we're not collecting anything on the paper road right now, so once we divide it in half, they're going to get fifteen (15') feet, they still not going to pay on that first fifteen (15') feet, but that would allow all the homeowners around it if they wanted to contact the

Commissioner's Office and request their half of the road, is that where the income would come from?

Anthony Hendricks said he guesses for a point of clarification and Andrew talked about it, we have a building sitting on a public right of way.

Attorney Voeltz said if he could go further on, if you'll note the property to the northeast of the VFW running up 400 East, you'll see that property is completely going across that alleyway as well. Attorney Voeltz said that this is not something specific or germane to the VFW's property. Attorney Voeltz said that it seems like over the course of seventy-five (75) years nobody has really paid attention to any of the areas that have been designated as alleyways and/or roadways under the Master Plan.

Anthony Hendricks said the VFW has a liability of a building on a public roadway and the county has a liability of potentially - we see this a lot with Nipsco and utilities, you see people coming through driveways and tearing them up, or just driving through them. Anthony said that there's a public right away they share. Anthony said if somebody wanted to walk through these and drive through these, they could do it any day of the week and there's nothing that would stop them. Anthony said if we vacate this, this is good for the owners to limit their liability and potentially some problems with people who have access - they have public access down these roads right now whether we like it or not.

Attorney Biege said if he may, he wants to step down as Plan Commission's attorney because he's a member of the post. Attorney Biege said in addition to that back area, they use it for parking and family picnics. Attorney Biege said that there is a structure back there, so the area behind the post building is used for family activities too.

Anthony Hendricks said that you have a building in public right of way and there is another little building hiding there on a public right of way. Anthony said you have two (2) buildings in a public right of way.

Anthony Hendricks asked if there are any other questions.

Gene Matzat asked if all of the roadway and alleyways in that subdivision would be vacated.

Anthony Hendricks stated no.

Gene Matzat said just the ones that are requested.

Anthony Hendricks said that this petition just gives us the one in red.

Anthony Hendricks said two (2) full roads and the west part of the right of way.

Connie Gramarossa said the ones we're doing the half on whoever the owner is on the other half can automatically come into the Commissioner's Office.

Attorney Biege said he wants to look that up the statute, attorney Biege said he thought it was automatically.

Attorney Voeltz said that he's a little bit off on this because typically he's done this where it has to do with railroad right of ways, and he would assume it's based upon the same standard, that's why he's hesitant to say, yes that's correct, because he doesn't have specifics as related to a roadway or alleyways versus a railroad right of way, which can be vacated by a statute and by the court case from down south in 2011, but his understanding would be if it ducktails with the same, or if they've used that same method to determine the way in which a roadway is vacated, it would be that the original petitioner would be entitled to fifty (50%) percent and then that other fifty (50%) percent remains in limbo up to and until the point and time that the adjacent landowner would come in and petition to take that by a vacation.

Attorney Biege said that is the administrative end of it. Attorney Biege said he's hasn't looked at this for a while, but he thinks your action tonight recommends a vacation of the entire roadway. Attorney Biege said when the other half transfers, that's up to when they apply to the county, but he thinks you should look at this in vacating the whole road.

Anthony Hendricks said that they're vacating two (2) full streets north and south and we're vacating west of that road and east and west together, the full vacation.

Attorney Voeltz said and the whole alleyway.

Anthony Hendricks asked if there are any other questions.

Anthony Hendricks said that he would presume the motion would make this document part of the vacations that we know what we're vacating.

Earl Cunningham said we're not vacating, we're recommending to the Commissioners.

Anthony Hendricks asked if there are any other questions.

Anthony Hendricks said that he will entertain a motion, or action.

Rita Beaty Kelly made a motion to make a favorable recommendation to the Commissioners for the vacation of the undeveloped plotted roadways and/or alleyways adjacent to, and in between its property in Kankakee Twp., specifically located on lots thirty-six (36), thirty-seven (37), forty-two (42), forty-three (43), forty-four (44) and forty-five (45), known as 4202 N. 400 E., Rolling Prairie, and attach the aerial map that's marked in red according to the beacon that was submitted.

Earl Cunningham seconded.

Anthony Hendricks asked if there are any questions on the motion.

All approved. Motion carries 8-0.

Anthony Hendricks asked if there is any old business.

Attorney Biege said that Mitch Bishop is talking to a group.

Anthony Hendricks said the south county group.

Attorney Biege said that he thinks that they're going to try to tag team and double team the community. Attorney Biege said that they need to revise the Master Plan that's coming due and needs to be done every ten (10) years. Attorney Biege said in doing so, we have to have community based meetings in order to find out what the priorities for those individuals communities are. Attorney Biege said that they've had a grass roots effort in the county and he apologizes because he can't remember the name of the group, where they're going to hire a consulting firm not to do the same thing, but more from a community base growth aspect. Attorney Biege said in doing so, they're going to have community base meetings anyway.

Attorney Biege said the plan is to have both of them together and it's not due for well over a year. Attorney Biege said it's in its initial works.

Earl Cunningham asked if that's the south county group.

Attorney Biege said that this is the Unity Foundation, La Porte County Business Bureau and they're receiving donations to raise the funds to the hire this consulting company that dealt with it in Valparaiso and Elkhart. Attorney Biege said that the county is going to put some money in too.

Anthony Hendricks said that he just watched that Michigan City is about halfway through their Comprehensive Plan and La Porte is just starting their review of the Comprehensive Plan, so we might really come out ahead in this letting them two go first.

Attorney Biege stated yes.

Anthony Hendricks asked if there is any new business.

Anthony Hendricks asked if there is a motion to adjourn.

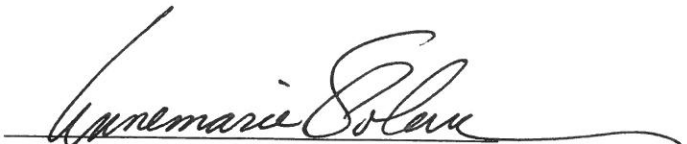
John Carr so moved.

Rita Beaty Kelly seconded.

All approved. Motion carries 8-0.

There being no further business before the Plan Commission this evening, meeting adjourned at 6:24 p.m.


ANTHONY HENDRICKS, President


ANNEMARIE POLAN, Rec. Secretary