



# LAPORTE COUNTY PLAN COMMISSION

Government Complex, 5th Level  
809 State Street, Suite 503 A  
LaPorte, Indiana 46350-3391  
(219) 326-6808, Ext. 2591, 2563 & 2221  
Fax: (219) 362-5561

**Michael Polan**  
Building Commissioner

## LA PORTE COUNTY PLAN COMMISSION MINUTES August 23<sup>rd</sup>, 2022

MEMBERS PRESENT: Anthony Hendricks      Adam Koronka  
                                 Rich Mrozinski      Glen Minich  
                                 John Carr      Rita Beaty  
                                 Earl Cunningham      Harold Parker

OTHERS PRESENT: Doug Biege, Attorney; Mike Polan, Recording Secretary; Ashley Kazmucha, Administrative Coordinator; Mitch Bishop, LaPorte County Planner.

### PLEDGE OF ALLEGIANCE

Anthony Hendricks asked for approval of the agenda for the August 23<sup>rd</sup> meeting.

Rich Mrozinski made a motion to approve the agenda.

Adam Koronka seconded.

All approved. Motion carries 8-0.

Anthony Hendricks asked for approval of both meeting minutes for July 26<sup>th</sup>, 2022.

Rich Mrozinski made a motion to approve both minutes as presented.

Adam Koronka seconded.

All approved. Motion carries 8-0.

### Petitions:

- Petitioner Eric L. Derucki represented by Anthony Novak of Newby Lewis, Kaminski, and Jones, LLP** respectfully petitions the Plan Commission to vacate a public way located adjacent to 5383 E Saugana Trl., Rolling Prairie, IN. Galena Twp. Zoned R1B. (Parcel 46-03-25-136-026.000-048) Exhibits attached hereto.

Rich Mrozinski made a motion to remove the petition from the table.

Earl Cunningham seconded.

All approved. Motion carries 8-0.

Anthony Novak stated they were here last month on a petition to vacate. One (1) of the things that was brought up by Commissioner Mrozinski was the possibility if ever there would be some sewer that could go back there in Rolling Prairie. Mr. Cunningham proposed the question if there was, would his client be willing to grant an easement. His client wasn't there at the time. Mr. Derucki is present tonight in person. The answer is yes, absolutely. He is happy to go over what they are trying to do here, but they have a platted, but undeveloped alleyway that they are requesting to be vacated with the condition that they will grant an easement to the County if ever there comes a time sewer would run in that alley. He and Eric are there to answer any questions they may have.

Rich Mrozinski asked what if they wanted to run a road from Iroquois through.

Anthony Novak asked what if they wanted to run a road through that alleyway?

Rich Mrozinski stated what if they did. That's what it was originally designed for. There are two (2) houses at one (1) end and the other end comes out down close to the lake. There's a lot of undeveloped land there where somebody might want to put a house someday. Also, he thinks he asked last time, is the building still on the County property?

Anthony Novak stated yes and he answered that last time. There is a structure that is there and Eric can certainly speak to the history of it being there. He believes he bought it when it was there. He understands they don't take kindly to land being there, but he can't change the facts there and he doesn't believe the County has any plans to put a road in there so he couldn't answer that.

Rich Mrozinski stated they had this very same situation. It is very prevalent in Hudson and Saugany Lake both where people build structures on County property. They have made people move their building. There seems to be a lot of that out there. They know it's not right, but if they let it go for one (1) person it could spiral. People need to know that they can't build something on the County's property; it's not their property. They're not paying taxes on it.

Anthony Novak stated he understands that. Eric can answer some questions, but again factually, this isn't a situation where he knew this wasn't his property and he decided to build anyway. There was a long history here and Eric can give a little bit of background.

Eric Derucki stated his address is 5383 E. Saugana Trl., Rolling Prairie, IN. In 2008, he came into the Building Department to do the garage in the back that is there now. They set it up with a ten-foot (10') setback based upon the property that was there and stakes that were there. It was never intended to go on the County property edge or into. That was 2008. 2014, he started working with Beacon Schneider and was able to see overhead views of properties for other projects. He went to check his property out and realized that the back of his garage is right on the line of the County Road. He came into the Building Department immediately. He wasn't caught with this; he caught it and brought it to the County. He explained the situation and they told him there's a road behind his property and he could petition to vacate the road in the fall of 2014. He hired a lawyer, they petitioned the County. The vacate, they did mailings to everybody that lived along that road and they were all sent out and when they came back the neighbors were calling him left and right

thinking they were going to lose their driveways. It was a mess so they just stopped it. Knowing that it was a County Road, he went through the County Highway and talked to them about if that road was ever going in and they said they were never putting a road in there. There's a wetland there and a ravine to the left of his property. It is owned by the Homeowners Association of Saugany Lake and it was designated to be a park. It became a dump and that's where it's at now; it's just nothing. All intentions were to be off that County Road. He didn't even know it was there when he bought the property. He bought it in foreclosure and there was no formal survey. There were some old tee posts and that's what he went off of when the original garage was built. The shed that they are calling into question is a temporary structure. It seemed like the road vacate wasn't going to be an issue and that was in pre-covid 2018 getting ready to come back in to get this going again. He came into the County for another project and they informed him that he didn't need to vacate the entire road, just the roadway behind his property. He was just trying to make his property legal and not put a bunch of structures all over it. He wants his stuff right and his affairs in order with his land. That's why he was here to get it straightened out with the County. The shed was rolled in from his neighbor's yard; he didn't build the shed. It is a temporary structure that is on some fence posts that was rolled into place. The neighbor behind him, Tim Shields, had talked about taking the shed from him. It is on the County land, there is no doubt. He built his property right up to the County Road in 2008; it was a mistake on his part, but he tried to rectify the mistake. That's why they went through all this.

Glen Minich stated he agrees with Commissioner Mrozinski. He doesn't think they necessarily have to vacate this just because he made a mistake on his property. He foresees that they could have services move in and they will need that right-of-way even if they don't put the road in. So, why do it?

Anthony Hendricks asked Attorney Biege if they need to open back up public comment.

Attorney Biege stated it would only be on the discuss they had tonight. They couldn't go back and reinvent the wheel.

Adam Koronka stated Beacon shows that the actual garage structure is over into the unimproved County property. Is there a surveyor's report to support that the building is actually on the original plot of land owned by Mr. Derucki?

Anthony Hendricks stated yes, he had a survey last month. The ravine he is talking about to the west, how big is that?

Eric Derucki stated it is quite deep. If his yard is zero (0) it is probably fifteen to seventeen feet (15' - 17') down.

Anthony Hendricks stated it looks like it runs north and in the other right-of-way.

Eric Derucki stated there is a wetland down in there. They get snapping turtles that come up from the swamp into their back yard. He doesn't know what they have ever done with it. He actually got with the Homeowners' Association in Saugany Lake to purchase that. It was voted on and was

voted favorably to have it surveyed, appraised, and sold. Then some neighbors had questions and the President of the Homeowners' Association said it wasn't worth going forward with.

Anthony Hendricks stated there is a right-of-way all the way around that piece.

Eric Derucki stated pretty much.

Anthony Hendricks stated there is a ravine in it.

Eric Derucki stated it is a ravine. It's unbuildable. If he would have purchased it he would've made an agreement to have it unbuildable. Technically, they are deeded access to that land because it's almost as having access to the lake when they live in Saugany Lake. His kids go back there and sled on the hills back there; it's right in their back yard.

Earl Cunningham stated they have the minute that they approved. Can somebody point out to him which page number is in reference to the road possibility they are talking about tonight? He thought they left the last meeting sending Mr. Novak back to get permission from his client to have an easement for sewer. He doesn't see anything about a potential road when the County has already told him they are not building the road. He is looking at the minutes; is he missing something here?

Anthony Hendricks stated that is his impression too.

Anthony Novak stated his understanding was that there was never a discussion last meeting that there could potentially be a road. It was brought up that there could potentially be sewer and would his client be willing to put in and allow sewer and the answer is yes. He didn't have any discussion about the potential of a County Road because that was never discussed last month and again never an understanding that it was going to be there or something that was planned.

Eric Derucki stated he is in favor of the easement. He wants sewers in Saugany. He sees the need for them. He knows that the homes built out there were never intended to be permanent residences, most of them. Most of them have failing systems.

Earl Cunningham stated there was nothing about a road.

Anthony Hendricks stated that was his question because he is looking at the overhead and it's a good concern. He thinks if the County were to build that road west to east and east to west to get to any lots that would be there, but there is another right-of-way that goes north that doesn't look like it would be fun at all to build a road on. Everyone is staying away from it; it looks wet.

Eric Derucki stated those roads were plotted a hundred (100) years ago.

Earl Cunningham made a motion to approve the Petitioner Eric L. Derucki represented by Anthony Novak of Newby Lewis, Kaminski, and Jones, LLP to vacate a public way located adjacent to 5383 E Saugana Trl., Rolling Prairie, IN. Galena Twp. Zoned R1B.

Rita Beaty seconded.



Ashley Kazmucha read the roll.

Anthony Hendricks stated aye.

Rita Beaty stated aye.

Adam Koronka stated aye.

Glen Minich stated nay.

John Carr stated aye.

Harold Parker stated aye.

Earl Cunningham state aye.

Rich Mrozinski stated aye

Approved. Motion carries 7-1.

- 2. Petitioners Rodney Allen RLC represented by Chris Willoughby of Braje, Nelson & Jones LLP** respectfully petitions the Plan Commission to rezone from R1B to B2 the property located at 2945 E. State Road, 2, LaPorte, IN. Kankakee Twp., zoned R1B. (Parcel 46-07-21-200-020.000-052) Exhibits attached hereto.

Attorney Biege stated notice is adequate.

Chris Willoughby stated on it's face this is a simple petition for rezoning from R1B to B2 designation. However, in saying that and recognizing that isn't by virtue of appearing at the audience tonight, there are some issues to discuss. His client owns a trucking company and this property, to those that aren't familiar, used to be part of Wilson's Landscaping. There are still landscaping materials on the property. For all intents and purposes, it has been used for business; business purposes, business use, trucking in and out of there. They will hear tonight, he is certain, issues with regards to some concerns about previous use of the property, potential future use, and potentially misunderstanding as to what the true intention is. Ultimately, his client does own a trucking company. His intention is to build a pole barn/garage that he would be able to park some of his vehicles in for light maintenance. That's the crux of it; not running a trucking company or conducting the trucking business from this location. He has two (2) main clients and they are two (2) miles each way. Ninety percent (90%) of his equipment are at the client sites. Before he gets to the legal requirements that they have to consider if they are inclined to grant this or deny it; that is what their decisions are based on. It is important to understand the lay of the land and that if they were inclined, they could impose some conditions on this and some restrictions that might be applicable to this. He has talked to one (1) neighbor, but he isn't present so he doesn't want to represent him so don't take what he says with a grain of salt, but he just didn't want a Flying J truck stop there. Nobody has that intention. There is a shed right now that has been delivered. It isn't set.

This is a terrible joke, but it's not intended to be one: they have put the brakes on any development because they are trying to swing for the fences here and ask for the rezoning first. That's what makes the playing field fair here. Everybody understands what can and can't be done. If they were inclined, this isn't spot zoning. There are other B2 properties and mixed uses up and down this area. It's no slight to anybody else, but what is being considered or complained about on this property, if they drive in and around some of that vicinity and they will see a lot bigger concerns. His client intends to do things the right way and comply with the code. There were some issues so they can get ahead of those and he ultimately wants to reserve some time to speak in response to what he anticipates will be some remonstrances against their petition. Contrary to popular belief, communications, there aren't issues with the Army Corps of Engineers. His client is in compliance. There aren't issues with MS4. There are no issues other than what they can do based on their decisions tonight. They had a meeting on pre-planning with Mr. Polan and his staff, MS4, and Army Corps and that's why they feel they are in a position to be before them tonight to ask for the granting of the petition. Without going through all of them in detail, Section 30.07 put forth their decision criteria. They have to pay reasonable regard to the County Land Development Plan, the current conditions, the desirable use, property values in and around the vicinity, responsible growth, environmental conditions, spot zoning, and neighborhood plans. His client is turning this somewhat dilapidated property into income producing and improving that property. It's only going to increase the property values around there. They have addressed spot zoning because there are similar mixed uses in and around. Whether this should have really been R1B when the code was redone is questionable. It was always an Agricultural business. The things that his client could do there now, certainly with some consideration of this Commission and any restrictions and discussion with neighbors, it could be used for Agricultural purposes. They can have livestock and horses there. They could have schools and group homes and much more traffic than might already be there. There won't be many hours of the day that the owner will have trucks in and out of there other than to do some occasional maintenance, fill up with fuel, and be on their way. That is a discussion for another day though. What they are here for today is to see if this project fits and does the contemplated use fit in this area and they believe that it does. Unless there are specific questions he would yield and like the opportunity to address any concerns or questions that come up as a result of those he anticipates want to speak.

Adam Koronka stated he is looking at the aerial photos from Beacon over the last couple years going back to 2020 and 2018. They also include this year. If he looks at 2022, there is a wetland that no longer exists. It is a designate wetland based on the overlay and in the previous photos that pond existed, but is no longer there. They said that there are not any issues with MS4 and the Army Corps of Engineers. How so?

Chris Willoughby stated they had a recent meeting and there is actually correspondence that has been submitted to Mr. Polan Office. There was discussion and review. Army Corps was out there from some initial work and moving dirt around for lack of a better description. Any questions that the Army Corps had were minor, but that letter indicates that there are no current issues and the property is in compliance and it is well delineated of what wetlands cannot be touched.

Anthony Hendricks stated Mike might want to weigh in, but that is an isolated pond dug for the nursery and there is no jurisdiction over that pond.

Michael Polan stated that pond was allowed to be reclaimed. He did call a special meeting with the landowner, legal counsels, MS4 and Army Corps to make sure that the other jurisdictional authorities were satisfied with whatever was going on there prior to them coming here tonight. At that meeting, the Army Corps personnel, Ryan Cassidy, stated that he met with the client on site and they removed some fill from one (1) of the wetlands and that Mr. Allen had satisfied their concerns.

### **Remonstrators:**

Doug Newland stated his address is 2992 N. 300 E., Rolling Prairie, IN. He has documented information for the Board that he has supplied. He is not going to pretend that he knows what the code means better than them, but he just wants to point out a few things similar to decision criteria that he has listed there. He would like to point out the Kankakee Township zoning map. The second (2<sup>nd</sup>) page has an up-close view with an arrow indicating the property in question. It is about ten (10) acres and there is a house on the property. The north of that property is also wetlands. Rodney has a person living in that house, but as of right now it is still apart of this property. He understands he may try to sell the house at a later date, but he doesn't feel like that person has any say in this because it is still part of the property in question. The next property down is Donnie Newland and he is here. One (1) thing he would like to show them about the map though is that the business district that is on that side of the road, doesn't really show all of it, but the Little Kankakee runs through there and there are three (3) more houses on that road before that business. That business is one-point-eight (1.8) of a mile away. That's a pretty good distance with houses all through that area. Across the street is all really surrounded by wetlands; there is a house there. It was designed that Mr. Heaphy originally put a business in there for his son. It's barely a three (3) car garage that he ran an auto body out of for a long time. If they look at the green property going to the north of 300, once they get passed the wetland there, that is all residential. There are houses on both sides of the road all the way up to Highway 20. This clearly, to him, is a lot of residential properties there and if they drop in a business right there, he feels it is spot zoning. He had a conversation with Rodney two (2) years ago on his fence line as he was starting to make that road a little bigger and his exact conversation to him was that he planned on filling in the waterway, run a trucking business there, put a big barn up, and even made a comment that there would be semis lined up down two (2) properties fences and he actually said that it would probably decrease house value. He told that directly to him. What he would like to show them is that 300 is directly north and south and the primary winds of this region of the County come from the northwest, the west, and the southwest pretty much well most of the year. He is the property directly east on County Road 300; at the north of those two (2) squares, he is the north property. Mr. Collins is the south property. If they look at the primary winds of the area it will affect them greatly. Section B current conditions compatible with the conditions and character of the current structures. If he puts a big building up there as he is going to service semis out of, it will be a huge facility and there is nothing else in that area that even remotely comes close to that building. It will stand out. Nobody else has any type of buildings like that in that entire area. Desirable Use states the land will not have an adverse effect on the surrounding land. Mr. Collins will talk about the surrounding land, but he would like to ask what will it do to the surrounding properties? Especially his. The first picture he provided shows his brand new black Camaro that he bought in March of last year that is covered in dust and debris. The picture after that shows his northern most fence line that shows dust. The road that is put in there is butting up to his fence and that is what they see. Whatever direction the wind is coming from one of the neighbors will get it. This is clearly going to disturb these properties. The next page is a blank

page that is a statement. He had somebody stop by his house earlier this year coming out of winter; Rodney was back there burning some stuff and the winds were so strong out of the west that the smoke traveled between both of their houses and while he was outside in his driveway talking to somebody in a truck, they could barely stand there with the smoke, ash and soot. All this means is that everything that he does is affecting three (3) properties continuously because of their winds. Even if they get a strong north wind, it will affect the property to the south. Another thing that he would like to show is the road. The next set of side-by-side pictures is the road. The right picture is 300 East going directly north that shows the entrance and exit to the left of his property. There is debris on the road that are sizable rocks. The left picture is when he pulls out onto Highway 2 and there are rocks there too. They are at the edge of his driveway. Does he have to go clean that up? This is serious. He'll be honest, he hasn't opened his windows in two (2) years because of the construction and dust going on back there. He has to live in a shell basically. The last two (2) pictures are of the Beacon views. The first two (2) are from 2020 and show his property with the property to the north, the wetlands, and the pond in the back. There was nothing there. There were tree lines everywhere. The property was owned by Darrell Wilson and from the time that he moved in there in 1995, his mother-in-law lived there. There was no activity on that property until she died. Then Eric Wilson moved in and tried to run a little bit of a nursery out of the house, but he didn't change any zoning. The last page shows the activity over the last two (2) years. There's building in there and trucks in there. His concern is that this meeting should have happened two (2) years ago. Should it have not? Shouldn't somebody buy a property and check the zoning and change it, but this gentleman was going to open this business without their permission. He was going to do it anyway. As far as Army Corps goes, he started filling in the water way from day one (1). The first time he met the guy he backed a dump truck up in 2019 right to the edge of 300 and dumped a load of stuff in that waterway. He went up to the truck, his brother Donnie was there, and he told Mr. Allen that he can't dump there because it is protected. Mr. Allen said he knew what he was doing and he's planning on buying the property. Day one (1) 2019 he was starting to fill in the wetland. He called Army Corps of Engineers on him back in 2020 because he just kept filling. It took two (2) years for Army Corps to tell him to stop and to bring it back out. He's been speaking to Mr. Polan for a year and a half too to try to get this activity rectified to where he has to follow the ordinance of the area. He does. If he has to follow the ordinance so should he. That's what they are supposed to do as they live out in the County. If he wants to build a pole barn he has to go down and get a permit before he builds it. He wants to leave them with that. He knows what the gentlemen are saying at this particular point, but there is a lot more to the story than what has been presented so far. Thank you for your time.

Dennis Collins stated his address is 3002 N. 300 E., Rolling Prairie, IN. *He has supplied the Commission with a handout.* He is going to read some things that he has down. He wants to say that he is completely against this zoning change to B2. He got front row seats to the transition of this property. He can see everything that has went on and the changes. He can see no benefit to the residents here, the habitat, or the community. The desirable use according to Section C of the decision criteria the current shifts an inclusion of rock, gravel, and rock have had a detrimental impact on the land. For example, air quality; from the constant dust, toxic fumes from running semi tractors and earth moving vehicles, and the possible toxic fluid leak contamination to the land and water from said vehicles. This is not taking into consideration the impact on the wildlife and the habitat in this area of LaPorte County. If the land was considered desirable for this business adventure then why all the gravel and why fill up a pond and the wetland. LaPorte County has an



ordinance that says he needs to be fifty feet (50') back from the wetland which he knows he has already slowly moved the dirt back, but he encourages that the extra fifty feet (50') be put in to place too. Also, the wetland be put to its previous state and the former sanctity of the area for the wildlife. It will take years for this to recover from the fill. The property values are Section D. When they talk about property values, it will not increase their property values. According to Section D, this business should not be injurious or detrimental to the surrounding property values. In this case it is detrimental. The constant moving at this beginning stage of planning of semi tractors and earth moving vehicles has resulted in piles of dirt. There are rocks, clouds of dust, noise of engines running, and the beeping's of back and forth required for the staging of gravel of rock and dirt. There is rock and dirt staged there. It is an unnecessary nuisance that would deter potential buyers. This does not include the current building that is illegally placed on the property and the fleet of equipment parked all over, which as shown in the pictures shows the whole fleet. In regards to the property value, he has an all-seasons room. Before the stripping of the trees, natural noise barriers on the property, he would have the windows open to enjoy the breeze and the calm view of the area surrounding the property. Now, he is unable to enjoy that space. In the event that he ever chooses to sell, that room would be a selling point to potential buyers, but that is no longer the case due to the trucks, trailer, gravel, and barren land that surround his home. While steps can be taken to mitigate the dust and noise, barriers, there is still a factor of constant noise of and displeasing outdoor aesthetics that Mr. Allen has created. Man made noise barriers cannot replace the mature trees that were removed. Those trees were a natural barrier and played a valuable role in air quality of the land. He cannot see how this would help the property values of this area. There would be more equipment, more dust, more noise, and constant movement of vehicles on that property. The pictures provided show the dust and the back side of his house with all the dirt on it. According to Section E the addition of this business should promote orderly and responsible community growth and development. Residents in an R1B zone expect an established residential area and suitable environment for family life. He cannot see that being able to happen if Mr. Allen is granted permission to change the zoning. This is an established residential area that spans generations. His family has been in that house since 1975; there has been a Collins in there. The Newlands have been there for a long time too. The dust from all the gravel put on this property is overwhelming. The current status and unimproved changed made to the property have already had an adverse effect on the community. They wake up to the beeping of moving machines. As Mr. Newland said, from the southwest and northwest carry diesel fumes into the house and the back of the house is filthy from dirt. This is an addition to the increased asthma problems his wife is having from the last year and a half to two (2) years. She definitely is using her inhaler a lot more. The woman across the room was talking about that too of her asthma problems. Section F the environmental conditions should be suitable for the proposed use. The environment condition of this area is suitable for residential homes and living. His family conserves energy and their carbon output by hanging out laundry during warmer months. This benefits the community because of a reduced energy from the dryer and the reduced need for the air conditioner to run, but they have to run it most of the time now for the dirt. When he does laundry now, he is going in and out trying to fight when a truck is going to come through. Mr. Allen's actions send clouds of dust passed their home; the air quality is severely impacted. If the air quality is impacting them, then it is also impacting the surrounding natural habitat. The next point is regarding environmental condition which is the potential of spills and fluids from running and parked trucks and trailers. The toxic fluids will wash through the gravel into the water supply because there is not proper drainage placed to mitigate such fluid. In that area, they all have wells and he has a garden. One (1) good spill and they are in trouble. His last point



relates to the natural gas line; there is a natural gas line that runs through that property and over there on the side through the ditch, the natural gas line runs across that side of the property to that ditch and there is also the sewer line from Rolling Prairie through that ditch. Both are not suitable, he would think, for constant traffic. Lastly, he implores them not to change the zoning of this property. Mr. Allen, through his actions, has not proven to have the best interest of the land, the habitat, or the community. He is not a resident of the property and thus has less investment in the preservation of the area they call home and the area his family has called home for generations. Thank you for your time and listening to him speak.

Robert Scott stated his address is 3201 N. 300 E., Rolling Prairie. He is about two (2) or three (3) houses away. It has been terrible there and he always worries about the head waters of the Little Kankakee River. They go right through there across his property, into the wetlands which border his property, and then goes into a ditch and meets up with the other part of the Little Kankakee River and goes right in there. That has always been beautiful with wildlife like geese, ducks, turtles, and everything in there. He has noticed a lot less activity out that way. There are less deer and less turkeys. It has not been a very good experience for him dealing with this. He asks that they don't approve it.

Adam Koronka stated he wanted to make mention that were provided by the Building Department just moments before the meeting. They are common letters between two (2) notified neighbors. He asked Attorney Biege if he needs to read these into the record.

Attorney Biege stated he can just provide the context because they are on record.

Adam Koronka stated both of them are remonstrance against nothing things of constant noise, increased traffic, dust flying around, and other similar conditions as reported by the remonstrance in person.

Don Newland stated his address is 2927 E. State Road 2, Rolling Prairie, IN. The dust and everything that is coming up through the properties and the stop and desist orders that the County has put against him; instead of going out through his brother's property, he is going through his property and messing up his black top and yard. He doesn't even own the property yet. That's all he has to say.

Chris Willoughby stated for clarification and as indicated; those aren't any light considerations. In fact, this zoning probably gives the ability to control some of those things because a lot of the things that were discussed and the concerns such as dust and gravel can happen regardless of whether they grant the petition. They can do Agricultural uses. They can have farm machinery there. They are assuming the worst and he understands that. They understand that. Again, that's why they don't take it lightly and he knows they won't take lightly the concerns, but by granting the petition and the ability to discuss with neighbors, to no avail thus far, about what might help the process and might be palatable. His client has tried to do that, but some of the concerns are not as they portrayed them because there are going to be concerns regardless because the way that the property is used and the way that it has been. The issue is, by granting this, do they have some control over this and does everybody have the ability to control this including the neighbors with some conditions, but for them granting that and putting some conditions out there for instance they couldn't control most

of the concerns they talked about tonight. He does think there is a misrepresentation, not intentionally, about the flow of the water. That water flows east there. It is not flowing towards the property as it was represented to them. His client was represented that he doesn't own it. His client is a contract owner of that property. It is privately financed by a contract. That is an equitable interest, but that's his job and he gets to legally interpret. If somebody is saying that the property isn't owned by him, he does own it; it is just subject to a private financier. They call it a land contract. Concerns about the access; his client is still subject to a lot of process here even assuming that they would be inclined, they would have to get by some Commissioners too. His client has to comply with the Building Code and the Zoning requirements in general. If there is anything that would stray from what is being asked of them or inside a code, then there is more process because they would have to seek variances. There are compliance issues, but there is nothing before them that shows that his client, other than a building which they have discussed and the brakes were put on that and addressed it with the Building Department. They tried as a group to plan what the best approach is. How do they get control of this and how to get some orderliness between neighbors and maybe that's not going to be the case. His client has been open to discussion. Over the last three (3) years, there has been discussion about how much work is there. Well, there is going to be equipment movement and dust from construction and equipment moving gravel and dirt for prepping the property. However, that is not going to be there all the time. Over the last three (3) years, they have probably been there approximately one hundred and sixty (160) hours total. Going forward, there's only a couple hours at most a day that the property would even be used. So, the concerns and where he is going with this is not that his client wants to be limited in how it is used, but willing and recognizing what the situation is. Again, he does emphasize there are big concerns. They obviously have some personality conflicts here and nobody has slung mud so they are going to continue down that path tonight. The issue is how do they do that and they truly do think, in addition to being self-serving in wanting the petition, is that it is their ability to control and everybody's best opportunity to control what goes on, on that property. Thank you.

Anthony Hendricks stated he believes in the packet, there was a survey by his firm that they did to do a boundary so for full disclosure they are not working with the petitioner; they did a boundary a while ago. They are not involved in this in any way possible. One (1) thing he wants to note for everyone in the room, and Mike and Doug can look into this, this was a pre-existing landscaping operation. So, there are things he could still do with that. Not saying a trucking company, but are there things he can do on this site as a pre-existing condition prior to grandfathered in?

Attorney Biege stated his question back would be if the use was ever discontinued. If it was discontinued then the grandfather goes away.

Anthony Hendricks stated not that he is going to vote either way, but he remembers that side of Wilson's Landscaping and they used it. It had a pond and they fed trees and dug trees. Not to the intensity that it is used today, but that was his question. As long as he didn't stop use he could have kept doing that under their code.

Attorney Biege stated correct.

Michael Polan stated he would like to add is that as far as the excavating, moving dirt, and the prepping, that is not something that his department was able to stop because they do not regulate

flat work and excavation. As far as the air quality and the dust, he was not able to address that. He was made aware of that by their legal counsel when he issued the first stop work order for the building that was put out there. They addressed all of the other issues that were in their jurisdictional authority. They met with them and the other jurisdictional agencies that were involved. They got compliance with the wetlands and MS4. They agreed to stay action on the building until the ruling from this Board and they have been withering this down until here they are at this hearing tonight. Should this Board decide to make a favorable ruling on this, he would have conditions that he would ask be put in that.

Anthony Hendricks stated he is looking at the schedule of uses and B2 doesn't look like it allows much of what they are asking for.

Adam Koronka stated he has the description for B2 up and out of the Joint Zoning Ordinance it says the district generally characterized by an integrated cluster of establishments serviced by a common parking area and generating a large volume of vehicular and pedestrian traffic. The intent of the district is also to encourage the concentration of regional business area to the mutual advantage of both the consumers and merchants and thereby to promote the best use of land at certain strategic locations and avoid encouraging marginal strip business development along major streets.

Anthony Hendricks stated he is looking at the schedule of uses and B2, which Mitch can elaborate on, is Special Exception for truck rentals, etc. There are a lot of Special Exceptions and not that much permitted. B2 is not general commercial.

Rich Mrozinski stated he has been waiting to talk about this for a while. He has been following this situation for a couple of years. He has been out there a lot and talked to the neighbors a lot. This zoning thing is something that should have come up a couple years ago before they started running an illegal business. He doesn't understand, so maybe they can explain it to him, he knows that the Army Corps ordered him to stop filling in a wetland, but now that is okay? He doesn't understand how that has happened. He has filled it in obviously and it's a wetland. He has dealt with wetlands at the RDC and he can't understand how IDEM would let that go by.

Michael Polan stated their representative appeared at the meeting that he called and between his last communication with the petitioner and the Army Corps, he had started working with them and communicating with them, let them come on site, let them perform an inspection, and they determined there was a certain amount of fill that they wanted removed, he is unsure how much it was, but they agreed and that amount of fill was removed and they reported to them at the meeting that they were satisfied with their portion of this.

Chris Willoughby stated it seems like there might be confusion and maybe not. There is a man-made lake there in addition to the wetlands. There was no dispute with regard to the pond. There was an issue and it wasn't much. As indicated in the letter, the Army Corps, which he knows it is surprising to get clearance and it not to be an issue, but that letter is there. He wants to make sure that they are not confusing the pond that filled in which was not a dispute at all verses the wetland and the disturbance of that.

Rich Mrozinski stated his concern was that it was a similar situation where somebody filled in a wetland and the way they figured it out was when all the neighbors down stream were getting flooded because it shut off the normal flow of drainage. It's been kind of dry this year so he doesn't know how it will turn out, but it was concerning to him that they were allowed to fill in a wetland. The buildings in there, do any of the buildings have permits?

Michael Polan stated there was one (1) building that was delivered to the site without a permit. They red tagged that and when they were in the meeting with Army Corps, MS4, and legal counsels they made an agreement to stay further action on that until the ruling from this Board.

Rich Mrozinski stated he had conversation with the building inspector and that was one (1) of the first concerns he had was that when he went on the property, Mr. Allen got pretty surly with him and also with some of his neighbors. That doesn't help his case at all. It's an illegal business. He has a mailbox out there so he is doing business. He has people that show up in the morning, get their trucks, and go to work hauling stuff in and out. That's a business in a residential area. That's not permitted. He has pretty much ignored a lot of authority when they have tried to talk to him over the last couple years. That doesn't bode well for his case either. This is the kind of thing that comes up that make their jobs just a little bit easier, but it's not a case of if it's right or wrong like the previous case, but this is a lot of wrong from somebody that thinks they can ignore authority and do whatever they want to do. The neighbors are the benefactors of all of the things going on. He doesn't know of anybody that would like that to have a business in their back yard that is ripping the trees out, filling in a wetland, with an illegal road and an illegal business. He doesn't see any justification whatsoever to let this continue. In fact, he would like to know from legal, could he be made to put the stuff back that is not legal.

Attorney Biege stated there is no permit on the building so that could be ordered to be removed, but is legal for him to take trees down and grade the land.

Rich Mrozinski asked about the road way coming in.

Attorney Biege asked if that driveway is permitted.

Michael Polan stated he believes the driveway was put in by NIPSCO or some utility company. He knows he has done work to it since then, but it predated.

Rich Mrozinski stated it predated the rocks, but like the neighbors said with the trucks going in and out they are going to get the rock strung into their yard and into the road and that's not good for anybody.

Rich Mrozinski made a motion to deny the Petitioners Rodney Allen RLC represented by Chris Willoughby of Braje, Nelson & Janes LLP to rezone from R1B to B2 the property located at 2945 E. State Road, 2, LaPorte, IN. Kankakee Twp., zoned R1B.

John Carr seconded.

All Approved. Motion carries 8-0.

## **Old Business:**

### **1. Resolution Establishing Electronic Means of Communication in Meetings**

Attorney Biege stated there is a resolution on the agenda.

Anthony Hendricks stated they hope that the present time in the world they live that this might be ending soon.

Rich Mrozinski stated this was a resolution done by the Governor. It was adopted by the Board of Commissioners and the Council also. Unless somebody has an opposition to this, he would make a motion that they adopt it the same as the Commissioners and the Council did.

Attorney Biege stated if they want to vote over Zoom, they need to adopt it.

Rich Mrozinski stated they can Zoom two (2) meetings in a row before they have show up in person. They can Zoom it, but the vote will not count.

Attorney Biege stated the Resolution contains all the rules that the legislature set out. They have to adopt this if they want to vote by Zoom.

Anthony Hendricks stated the Resolution follows the Governors executive order.

Rich Mrozinski made a motion to adopt the Resolution.

John Carr seconded.

All Approved. Motion carries 8-0.

### **2. Meadowview Discussion**

Anthony Hendricks stated a little update on Meadowview, the control has been done. They have the pipes and they are beginning construction in ten (10) days.

Michael Polan stated when he appeared before the counsel at budget hearings, they expected to be grilled at budget hearings. That's the one (1) time a year when they get you. They focused a lot of the questioning on Meadowview. They asked why permits were issued to build out there and what can he do now that they know what the situation is out there to prevent any further flooding or property damage. His response to them was that he reviewed the prior Commissioners' issuance of building permits, which goes back to Commissioner Jim Blint and maybe Commissioner Hamilton as well, but he did not find any errors in the issuance of the building permits. The only soil boring reports that are required are from the Health Department and they are for septic systems. They don't have anything to do with that in the Building Department. They look at the structures. There were no errors by his predecessors in issuing those permits, but now that they know this is a problem and there are four (4) lots remaining out there, what are they going to do about it? That was presented to



him by the Council. Earl was there at that meeting if he would like to jump in and add a little bit about that and they can have some discussion on that.

Earl Cunningham stated he has accurately reflected the concerns of the Council. Are they going to complicate it by giving building permit to four (4) more lots that may have the same problem?

Attorney Biege stated he wants to remind the Board that they can't simply deny a Building Permit. That is an unconstitutional taking of property. So, they cannot arbitrarily say no. This issue will disappear eventually someday as these old subdivisions disappear because now, they have engineering requirements and everything else before a subdivision comes in as they see with these requests. This is a slippery slope; although the Councilpersons concerns are not unwarranted, the remedy cannot be not allowing the issuance of buildings permits.

Earl Cunningham stated they could issue a building permit to be without a basement.

Attorney Biege stated again, that is taking property. What basis do they have that they can't have a basement? Because they have had other drainage issues out there? No. He thinks they could do a disclosure.

Earl Cunningham stated he thinks they could deny a basement, let them take us to court, and have the court say they have to let them put a basement in.

Attorney Biege stated he is supposed to give them advice to keep them out of court.

Earl Cunningham stated it would take the responsibility off the County of allowing another basement that might flood. They are in an area where they know there are some of them that are flooded. Not all of them. There are some people out there who say they have never had any flooding.

Attorney Biege stated let's be clear, the County is voluntarily engaged in this process. The County is not legally bound to fix these problems for these people. Somebody has a wet basement? Not the County's problem.

Michael Polan stated there are people with wet basements all over the County. Normally, those are isolated problems, the County doesn't get involved in it. Buyer beware. This Meadowview situation is a very unique situation in which twenty-seven (27) or more homes in one (1) subdivision were inundated with subterranean water. This was not by any failure by the surface water management system; that is functioning adequately and performs as it should. This is subterranean water coming up; it is a unique situation. He doesn't know that it has happened before or since in any other subdivision. Sure, they have had surface water issues where people fill in ditches, fill in swales, or a retention pond and build a home there. Yes, that causes problems. This is not that. This is separate and unique from that. He does share the concerns of their Council of denying a permit. He has instructed staff that anyone that would apply for a permit out there that it goes to him directly and he will handle it personally because he wants them to know what they are getting into. He likes the idea of the disclosure. They already have a written form that they produce to people when they are moving from the city into Ag zoning for residential use. Why couldn't they do something similar?

That's where he is leaning and what he would suggest, but this was recommended to him by the Council to bring that up in this Commission for discussion and to see if they could take any possible action on it.

Anthony Hendricks stated they should add it to the next agenda meeting, but at that point some sort of people like himself, Mike, and Doug and maybe another member could discuss. He thinks they need full disclosure here. If somebody comes to Mike's Office for this area or maybe for any area, they need to know. The Building Commissioner needs to see their soil borings; is there a water table or water indicators? Then attach that to the permit. When they are building the building and digging the foundation of the basement, it needs to be documented if they saw water indicators or water table and that Mike was notified and the homeowner knew that and signed that they saw it and was aware that their basement is in a water table or there are water indicators. When they are digging those foundations, they see that. There are some people in Meadowview late in the game that knew their soil borings showed water indicators. At a minimum, they get full disclosure and the builder and homeowner acknowledge that they know so when they come back to the Council and Commissioners. It won't be something new and it's not like they didn't know so don't come crying to them for another mill-five (\$1,500,000) because everyone of them who built their home or in their real estate disclosure through the Building Permit saw that they knew when it was built. It went from the septic to the Building Department to the excavator of the inspections and they saw something in there. They're not telling them no; they're just telling them that they are aware and we are aware. They don't need this happening again for anyone in a subdivision.

Michael Polan stated he agrees. He would add that when they do a soil boring report for the Health Department for the viability of the septic system, they don't go down more than five feet (5') and they use hand tools. So, if they are going to put a nine-foot (9') basement in and they get a five-foot (5') soil boring report, that isn't going to cut it.

Anthony Hendricks stated when they are building them, they see. Mike's inspectors inspecting footings, they see.

Earl Cunningham asked if they could do a deeper soil boring.

Michael Polan stated not with hand equipment.

Anthony Hendrick stated it gets expensive.

Earl Cunningham asked if they can require that.

Michael Polan stated he doesn't know.

Attorney Biege stated it is possible, but they would have to draft an entire set of regulations and they would have to hire somebody to help them draft those regulations.

Anthony Hendricks stated it would add about fifteen hundred dollars (\$1,500) to two thousand dollars (\$2,000) for every home.

Attorney Biege stated they would essentially add a section of the zoning code or enter a standalone ordinance.

Earl Cunningham stated he isn't saying they do it for every home that is built in LaPorte County.

Attorney Biege stated they have to. They can't just single out a subdivision. If they are going to do it, it has to be done across the board.

Earl Cunningham stated they spent a million and a half dollars (\$1,500,000) on this subdivision to fix a water problem and they can't require a new builder to have a ten-foot (10') soil boring?

Attorney Biege stated he didn't say that. He said they have to have regulations, but they can't pick and choose. It has to be fair across the board for everybody otherwise it's unconstitutional.

Earl Cunningham stated that's why people hate government because that's stupid. They're building on a hill fifty feet (50') up in the air and they have to have a ten-foot (10') soil boring as compared to a subdivision that is already flooding.

Attorney Biege stated no, he is saying it all has to be checked. There could be some limitations on the regulations, but what he is saying is that everything has to be checked the same way for everyone.

Anthony Hendricks stated it's tougher because even on the summit, there are veins of water running through that and they are a hundred feet (100') above a water table.

Attorney Biege stated he wants to remind Mr. Cunningham that the County chose to spend the money to remedy this. He is not criticizing what the County's choice was, but the County didn't have a legal obligation to do it. They did it because it was the right thing to do. In new subdivisions, it's not an issue anymore because all of that is engineered in at Plat Committee before it ever gets to here. This is only old subdivisions. It can be done, but it has to be done a certain way.

Earl Cunningham stated he thinks it's important that this Board direct their attorney to get with whoever is necessary to make sure that they don't build four (4) additional homes in that subdivision with basements that they later have to rectify. What do they have to do to make sure that doesn't happen?

Michael Polan stated what he has done so far is instructed staff if there is any application for building permits for those remaining four (4) lots, do not issue them, they go directly to him, and he will handle them personally. He thinks disclosure is one (1) way to go.

Anthony Hendricks asked if they have a disclaimer? A hold harmless?

Mitch Bishop stated that is what he was going to recommend, a hold harmless disclaimer.

Anthony Hendricks stated they do it in Drainage Board all the time.

Mitch Bishop stated Rick McVay, the ex-County Engineer, came in his office. He works for Structure Point now and came into his office where they discussed many things where Meadowview came up. There were six (6) lots that he mentioned that he wrote a letter to Ray Hamilton back in 2006 stating there was an area of the plat of four to six (4 – 6) homes that should not be built on. That was because of a seasonal high-water table. He said that it should be in the Building Commissioner records, but he doesn't know where. It is also in the archive in the County Highway. He could look for that.

Anthony Hendricks stated at least one (1) or two (2) of those owners knew that they had a high-water table and they put a basement in anyway.

Mitch Bishop stated it was interesting because Rick McVay said it was listed on the plat. There were like four to six (4 – 6) delineated homes or lots and it basically said right on there they cannot build for whatever reason. Have they ever found anything like that in the Building Commissioner's Office?

Anthony Hendricks asked if they can bring that back to the Plan Commission next month.

Mitch Bishop stated yes. It was just odd that he brought that up.

Anthony Hendricks stated at the minimum a disclosure and at maximum a disclaimer of hold harmless that when they come back to them, they can say they knew. There are homes right now being built with basements and a nine-foot (9') pour in a water table and they know. They are going to have pumps. They know it and they're doing it right now.

Michael Polan stated like their Attorney says, they are not in Russia or China so they can't tell them they can't do it. And depending on how they handle it, it's going to be more work and more legality and more money.

Anthony Hendricks stated they just don't want to hear they didn't know.

Michael Polan stated right and they don't want to institute something for four (4) lots that's going to affect every single residence in the whole County. However, this is a problem that needs to be discussed and they need to do something.

Harold Parker stated they will want at least a ten-foot boring and it's not a bad idea to have one (1).

Anthony Hendricks stated the problem isn't the boring; it's the report that has to come along with it because a well driller can do a boring, but they can't write a report like a soil scientist and tell them at every few inches what it is. Is it high water table? Is it water indicators? That is where the cost comes. Those reports are twenty (20) pages deep; they're huge from professional soil scientists.

Adam Koronka stated it reminds him of stuff in his personal life. He regularly has to sign a waiver of responsibility. What keeps them to that hold harmless statement attached to these four (4) lots in the plat book?

Rita Beaty stated she just pulled up the subdivision to try to see and she only sees three (3) lots that are vacant and they are currently owned by the same owner. Is there any way to possibly meet with that current owner and ask for a deed restriction on it that says no basement allowed on that particular lot? They could do a deed restriction which then would restrict that particular parcel to not allow a basement.

Attorney Biege stated the County should have done this before they spent the money; they had leverage to get this done. Now, they are trying to do it after they've spent the money which LaPorte County does all the time.

Rita Beaty stated it could be an option. It keeps them where they are still sellable. They are still a marketable lot, but they just have a deed restriction that say no basement.

Anthony Hendricks stated the land owner has offered those to the County if they want to buy them at a reduced price.

Michael Polan stated if the attorney likes that idea, then he likes it.

Attorney Biege stated it can't hurt sitting down with the owner to see if he will agree to something if they are concerned about those three (3) lots. They can still talk about what they are going to do across the board for the rest of the County; he doesn't have a solution right now, but they might be able to remedy those three (3) lots.

Rita Beaty stated that might be a simple solution.

Michael Polan stated that is a great suggestion.

Anthony Hendricks stated it was a good idea.

Earl Cunningham stated for the Board, the Plan Commission has called for a meeting with some questions about regulations such as cars and dilapidated buildings and so forth. Their criticism with the County is coming from what Dermody is doing in LaPorte City. People say every day, if Dermody can go in and get a property condemned and tear it down why can't the County? It's a little different situation with cities he understands. His most recent viewing of a property, if they are out in the area, they should look at is at the corner of Hamilton Street; the northeast corner of Wellsboro and Long Lane. It used to be a gas station there. It got notice from the Plan Commission to clean up the property because trees were growing out of the building almost. So, their solution was to just cut the trees down and left the brush laying on the lot. He would venture that there are at least fourteen (14) cars, maybe sixteen (16), vehicles hidden in the brush on that property outside of the buildings. There are raccoons coming and going in the building as well as birds, but sitting outside of the building on a corner lot in a busy neighborhood, there are fourteen to sixteen (14 – 16) vehicles. Some of them don't have engines or tires; they're just shells.

Attorney Biege stated to talk to the sheriff. Unless the Commissioners want to change the Junk Vehicle Ordinance, the Plan Commission right now as it sits, there is nothing Mike can do about junk cars. It's the Sheriff.



Rich Mrozinski stated the ordinance that they already have stated that the Sheriff is responsible; just add the Building Commissioner because he has inspectors. The sheriff is telling him they don't have enough people to go look at it and make sure that they're going to be back if they tag it in two (2) weeks. The Building Commissioner could have that and it would just be one (1) little thing so they don't get crazy to add to the existing Ordinance where it says the Sheriff's responsibility could be the Sheriff's and Building Commissioner's. Then they can go to work. There are junk cars all over the place.

Attorney Biege stated that amendment would be a Commissioner's amendment; it would not be a Plan Commission amendment.

Rich Mrozinski stated alright then; he will dig it up tomorrow.

Michael Polan stated they do have a code enforcement committee meeting coming up August 31<sup>st</sup>. They started meeting about a year ago. Right now, the County's code enforcement is fragmented. They have tall grass, unkept yards, and what now are the responsibility of the Township Trustees. They are part-time and have limited resources; they call him. They are helping out with that and with the junk cars. It's a shared effort, but they are just doing this on their own. They don't really have a specific ordinance giving them the jurisdictional authority. He can nag people with letters and inspectors and phone calls and talk to them. He is having around forty plus percent (40%+) success in getting some of those cleaned up by using those methods, but there are other sites where they are indignant. They are elderly, there are medical issues, there are financial issues; there are reasons preventing them from cleaning it up. Even if they had the teeth in the ordinance, he could fine them until the cows come home and it wouldn't make a difference. That is a wide swath of what they are dealing with since he took this on. They really need to think about how they are going to deal with those too. There are other Counties that have passed Code Enforcement Ordinances; St. Joe County was the most recent one (1) so they should familiarize themselves with that and the funding that it takes. St. Joe was split into three (3) separate ordinances, but it is all being run by the same department. Take a look at that; it gives some teeth. He didn't even see in their ordinance though how it addresses properties where they were not financially able to clean it up. When they talked about this in committee, they thought that they could maybe create a fund that is used to clean up the problem sites where the owners can't do it and then perhaps a lien is placed so that those efforts are recoverable upon the sale of said property.

Attorney Biege stated there is a big misnomer with the County Council people he has talked to that the condemnation funds themselves. They do not. They have placed a lien on and they can put it on the tax bill, but if that goes to tax sale and the Commissioners' sale then poof the lien is gone. So, the effort still needs to be funded and it has not been for years because people have the misnomer that the County actually gets the demolition back on every house and it does not. It does not.

Anthony Hendricks stated in most municipalities, that is true, right? Demolition costs are expensive and typically they don't come back.

Attorney Biege stated right and so there is no more money coming into the fund. They might get paid on a lien every once in a while, but not often. The properties aren't in good shape and a lot of

them end up on the tax sale rolls and subsequently at the Commissioners' sale. The law is that the lien disappears when it is sold at Commissioners' sale and nobody is putting in anymore funding in to do it. They used to do a lot more that they do now, but they got paid for it.

Earl Cunningham stated the County owns several properties, maybe a hundred properties, within the city limits of Michigan City and he has asked Mr. Schultz to give him a list of that because as a County they cannot be critical of people for not cleaning up their properties when they are not taking care of their properties in the city limits of Michigan City. They are sending vector control out and putting a lien on the properties the County owns. It is a double-edged sword.

Rich Mrozinski stated they had talked about that a couple years ago about just relinquishing all of them to Michigan City.

Earl Cunningham stated he agrees with that a hundred percent (100%). Or they should take a small parcel that nobody can buy or build on and give half of it to each of the neighbors. Let them pay a little bit of tax on it and take care of it or put a garden in. Right now, it's sitting in the County's name and they don't even mow it. There is one (1) that is atrocious right now at the corner of 10<sup>th</sup> and Ohio Street. It is a little pie shaped parcel that can't be built on. There are three (3) owners; one (1) is private, one (1) is the Catholic Diocese who mows it about every ten (10) days or a week and they mow theirs every month to six (6) weeks. Maybe. It is not practical for the County Highway Department to send a guy in with a mower into Michigan City when they could just pay a neighbor thirty bucks (\$30) to mow the darn thing. How do they figure out how to pay that and set up some kind of billing system? That is something else they have to be concerned with. He will have that list within a week of all the properties the County owns within the city limits.

Rich Mrozinski asked if that would be a Commissioner function then that they would relinquish all that property? Or would that have to come through here?

Attorney Biege stated his experience has been that they may want to have a conversation with Ms. Winski. When she was the Auditor there was some horse trading that went on between Michigan City and the County and some exchange of property. It was productive and he was County Attorney at the time so it was several years ago. He knows the County and Michigan City have done property exchanges in the past and it was productive for both.

Rich Mrozinski stated they could do that and get a list of the properties together and figure it out.

Michael Polan stated to wrap up, they have three (3) members on this Commission that is a part of the committee so after they meet the next time, they will come back here and they will have a report on where they are at on this for the full Commission. He would also add that these code enforcement efforts are crazy. He has two hundred plus (200+) cases. He has some that he is working on with the Health Department that are severe, but if they condemn a property and make somebody homeless, they have nowhere to go and they don't have a County Home. They have those conditions. Then his phone and email is being blown up because neighbors are fighting with each other and somebody has a snowman out in their yard.

Rich Mrozinski stated it is still there.

Michael Polan stated there is a wide range of this and this is almost like a whole separate department. The success that they have had is because he has two (2) employees who go way above and beyond their normal duties of inspector and administrator to also handle code enforcement. These are not dealings where people are thanking them; that is not the response they get. It's tough. They have a lot of cases. There are a lot of areas in the County to clean up and they certainly want to avoid pristine land one (1) day and then being sold to somebody else the next day and all of a sudden it is over run with cars that turns into a junk yard. These are things that need to be dealt with.

Earl Cunningham stated that is what bothered him most about the site he mentioned. It is an out of County owner bringing vehicles from another County to store on a lot in their County and one (1) of them has a boot on it. They literally have a vehicle over there that has boot on it.

Mitch Bishop stated their neighbor to the west has a Property Maintenance Ordinance. He hasn't looked at it for about three to four (3 – 4) years, but he remembers it was fundable. It would take care of some of the issues that Mike brought up as far as taking people out of their house with nowhere to go. He and the previous Building Commissioner looked at it to potentially do an ordinance, but it looked like a decent ordinance and he can probably find it in one (1) of his folders.

Michael Polan asked if he wants in on the Committee. Has he been getting notices?

Anthony Hendricks stated to bring him in.

Earl Cunningham stated they're bringing him in.

Rich Mrozinski stated he needs more to do.

Michael Polan stated that is all he has.

Rich Mrozinski stated he has a question. As stated earlier about the case that they dealt with, he has been following it for a long time. He is running an illegal business in a residential neighborhood. Who has the authority to stop that because he has a feeling from what he has known from the neighbors that he knows very well that the activity there will probably continue tomorrow and will probably be worse. Something bad is going to happen. Bottom line, who has the authority to stop a business that is running illegally.

Attorney Biege stated they do. The Zoning Code gives them the authority to file for an injunction action plus they will have to issue an order to stop him.

Michael Polan stated the problem is if the physical location of the business is actually somewhere else because there is not a building on there where there is an actual business in it that he is operating from.

Rich Mrozinski stated he has a mailbox out there.

Michael Polan stated he does have a mailbox. There are semis that were parked there, but then they're moved. The majority of what is going on there is dump trucks and excavating which he doesn't have jurisdictional authority over. That is where the majority of those complaints were coming from though. The backup beeping, the noise, the diesel fumes, the engines running, the dust that is created from all of that construction. He has issued two (2) stop work orders and a cease-and-desist order that he sent the Sheriff out there with. He also gets notified from their attorney. He can't stop them from excavating. He can stop him from doing everything else. Even when he puts a stop to some of what he was doing, he was still running those excavators and the neighbors are still calling. That's the situation with that. Maybe the attorney could speak more on stopping operating the business, but he believes he operates the business out of another location. The building that is there is like an empty carport that is enclosed. There is nothing in it.

Rich Mrozinski stated when he has a mailbox there for his business and people that show up in their personal vehicle, park it, get in his equipment, and run themselves in and out the gateway that is a business to him.

John Carr asked what the name of the business is. He did a Secretary of State search on the guys name and there was no business listing that popped up.

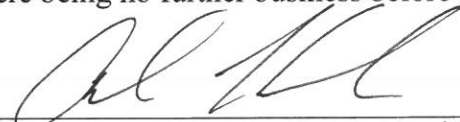
Michael Polan stated it is some kind of trucking company.

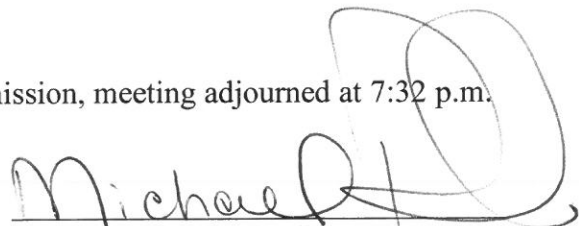
Rich Mrozinski stated something trucking, but he doesn't remember what.

Attorney Biege stated they don't want to go too far into discussion on a public record when the Board made a decision. He wants to keep it so we can't appeal every little thing that happened. Right now, he is hearing a lot of conjecture. They have facts on which the Plan Commission can take an action, great, but they shouldn't engage in conjecture in connection with an individual where action has been taken or might be taken in the future because he isn't hearing anybody with personal knowledge. He would recommend they cease the discussion until such time where they have cold hard facts or action for the Plan Commission to take.

Anthony Hendricks asked for any new business.

There being no further business before the Plan Commission, meeting adjourned at 7:32 p.m.

  
Anthony Hendricks, President *APK*  
Adam Koronka, Vice President

  
Michael Polan, Recording Sec.