



# 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 22<sup>nd</sup>, 2023

MEMBERS PRESENT: Anthony Hendricks                      Joe Haney  
                                 Rita Beaty    Earl Cunningham  
                                 Glen Minich    Harold Parker  
                                 Deb Vance

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

### PLEDGE OF ALLEGIANCE

Anthony Hendricks asked for approval of the agenda for the August 22<sup>nd</sup> meeting.

Joe Haney made a motion to approve the agenda as presented.

Rita Beaty seconded.

All Approved. Motion carries 7-0.

Anthony Hendricks asked for approval of the July 25<sup>th</sup> meeting minutes.

Rita Beaty made a motion to approve the minutes as presented.

Earl Cunningham seconded.

All Approved. Motion carries 7-0.

### Petitions:

- 1. Petitioner Ronald W. Hamilton, Jr. represented by counsel Anthony Novak of Newby, Lewis, Kaminski & Jones, LLP respectfully petition the Plan Commission to vacate two public ways located to the south of 804, 808 and 812 E. 2nd St., Union Mills, IN. Noble Twp. Exhibits attached hereto.**

Earl Cunningham made a motion to remove the petition from the table.

Joe Haney seconded.

All Approved. Motion carries 7-0.

Ron Hamilton stated his address is 808 E. 2<sup>nd</sup> St, Union Mills, IN.

Anthony Hendricks stated this is the right-of-way between Mr. Hamilton and the Co-Op and it is a thirty-foot (30') wide right-of-way zoned R1B.

Ron Hamilton stated yes.

Anthony Hendricks stated they last left the discussion about the setback if vacated. He would get fifteen feet (15') and the Co-Op would get fifteen feet (15'). We should leave it to Mike or Doug; did anyone get back with them about the Co-Op.

Michael Polan stated no. He tried several times to reach them down in Indianapolis and left voicemails and did not receive a return call.

Harold Parker stated his son talked to the head of the Co-Op about it.

Anthony Hendricks asked what he said.

Harold Parker stated he didn't know anything about it and he would have to look into it.

Anthony Hendricks stated they would get half of it.

Michael Polan stated they have had ample time to respond to their voicemail messages. He thinks they are ready to take care of business.

Glen Minich stated he would like to see a map exactly what is being vacated because there is some discrepancy. They are only vacating an alleyway?

Anthony Hendricks stated last month they vacated the alleyway, right?

Attorney Biege stated yes.

Anthony Hendricks stated this month they are talking about the road.

Glen Minich asked if the north/south portion was being vacated.

Anthony Hendricks stated that is not being vacated. Just the hatched part of the map.

Harold Parker stated they are just doing the section down on the bottom.

Glen Minich stated they are doing the road and the alleyway.

Anthony Hendricks stated the alleyway was vacated last month.

Glen Minich stated okay.

Harold Parker asked if A Street stops at the alleyway.

Anthony Hendricks stated they would have access to the Co-Op through there if it were to be developed.

Glen Minich stated he was told there is a proposal that it will be left undeveloped.

Anthony Hendricks stated if he so chooses to put that in the motion for setback purposes.

Earl Cunningham asked if there are any intentions of building on it.

Ron Hamilton stated none.

Glen Minich stated he wants to clean up his fifteen feet (15').

Ron Hamilton stated no. He is trying to put a berm and trees to stop the flow of corn dust, the smell, etc. There are a lot of things happening on the backside of the Co-Op. That is what he is trying to do. One (1) of his neighbors started a berm so he wanted to try to do this the right way and go through all the right channels so that is why he is trying to follow the process.

Harold Parker asked how high the berm would be.

Ron Hamilton stated five feet (5').

Joe Haney made a motion to approve for Petitioner Ronald W. Hamilton, Jr. represented by counsel Anthony Novak of Newby, Lewis, Kaminski & Jones, LLP to vacate the 30' right-of-way located to the south of 804, 808 and 812 E. 2nd St., Union Mills, IN. Noble Twp.

Rita Beaty seconded.

All Approved. Motion carries 7-0.

- 2. Petitioner Coral L. Laun as Personal Representative of the Estate of John H. Laun** represented by counsel Andrew Voeltz of Howes & Howes, LLP respectfully petition the Plan Commission to vacate the undeveloped but plotted roadway and/or alleyway adjacent to the property located at North Pine Lane, New Carlisle, IN. Hudson Twp. Exhibits attached hereto.

Michael Polan stated they did not get the notice in time. He recommends that the Board table that to the following meeting.

Harold Parker made a motion to table.

Rita Beaty seconded.

All Approved. Motion carries 7-0.

Anthony Hendricks stated they are moving on to old business.

### **1. Solar Discussion**

Attorney Biege stated he has some revisions to it, but he is under the impression the Commission wanted to wait a little while to see what was going to come down.

Anthony Hendricks asked if there is any new information.

Attorney Biege stated what they have done so far is ready, but if they want to let it sit then they can.

### **2. JZO Draft Discussion**

Anthony Hendricks stated he wants to move into the JZO Discussion which is changing the ordinance that Doug drafted and they might want to look at some other things.

Attorney Biege stated in BZA they have two (2) issues that come up on a consistent basis. One (1) of them is storage containers. He thinks we should address that because it comes up a lot. Also, semi-truck trailers used for storage. Those are three (3) things that he knows of. He is thinking that there may be some stuff or the public may have something. He would suggest we set this for a workshop to see if they have anymore public input. They have to go through a specific process to change it and it is not arduous, but they have to publish and there are several steps that he has to follow if they are going to make changes to the code, which they haven't for over five (5) years. There may be other issues that they are not aware of and a workshop could bring those to the surface and they can get them all done at once because he tried not to revise the code every year or too often.

Harold Parker asked what he is doing.

Attorney Biege stated his advice would be for the Plan Commission to set a workshop for a regular scheduled Plan Commission meeting. They will put it out to the public and give notice to see if there is any other input as to any other revisions or updates they should make to the code.

Harold Parker asked if he has listed his updates or revisions.

Attorney Biege stated no. He did the 04.01 that Tony wanted, but he hasn't done any of the revisions because he doesn't know what the Plan Commissions feelings are on at least the two (2) items that he is aware of and there may be more.

Glen Minich stated the storage containers cannot be put into a residential area without a variance, correct.

Attorney Biege stated right.

Joe Haney stated he doesn't think they are allowed with a variance under the current JZO if he remembers correctly.

Attorney Biege stated it is unclear. That is why he wants to get it cleared up because the BZA has been getting inundated with requests for them. The last two to three (2 – 3) years they have gotten more of them, but before that they never heard about storage containers.

Glen Minich stated it's too easy for a resident to call, order one (1), have it put on their property, not set in place, and it will cost the residents money because they just keep telling them they have to move it out. That is the problem they are talking about.

Attorney Biege stated he is predicting that it will ultimately cost the County more money in attorney's fees because he has to take action to get those removed. He would like something more solid in their code to work with long term.

Anthony Hendricks stated the workshop allows the Plan Commission to publish these three (3) items and have the public talk about them next meeting.

Attorney Biege stated he doesn't think they have to publish the items specifically, but let the public know they are going to have a workshop on input for revisions to the code because there may be something else out there that they just haven't run across in BZA that should be addressed.

Anthony Hendricks stated specifically those three (3) things.

Attorney Biege stated right.

Earl Cunningham asked if they have an estimate on how many storage containers are sitting around in the County right now.

Michael Poan stated a lot.

Joe Haney stated a lot. As he is driving around checking different things, there has to be hundreds throughout the County that are technically in violation of the JZO. Most of them are well placed. They also need to think of some sort of permitted or exempted use for Agriculture for example because as of right now, the way he reads the JZO is that they can't even get a variance in Agriculture; they would need M1 or M2. M1 would be a variance and M2 is permissible. That is the only way to get a storage container.

Attorney Biege stated right and they don't have real good regulations on how to attach them to the ground. Anyhow, he thinks a workshop would be a good place to discuss this and let the public know there is an inquiry as to whether or not there are any other revisions that they want.

Anthony Hendricks stated they can set a workshop for September as the first item in the agenda for public input.

Mitch Bishop stated LaPorte City just revised theirs. They had a meeting about two to three (2 – 3) months ago by now. They had a review of their entire JZO, which they had the same document they had, by a planning professional. They shared that with him and he passed it along to Doug and Mike about three (3) months ago. They should probably do a review of that and see what the professionals recommended as well.

Anthony Hendricks stated yes.

Harold Parker stated there is a firm out there calling themselves professional readers. What makes them a professional.

Attorney Biege stated hourly rate maybe.

Mitch Bishop stated it was a planning firm out of Chicago or Indianapolis. They might have sub offices in other places too. He believes they had one (1) in Fort Wayne and maybe West Lafayette.

Anthony Hendricks stated he could bring those to the workshop.

Attorney Biege stated he might add, for those that are in the Plan Commission that are not aware, David McCain on behalf of the City of LaPorte, Steve Hale on behalf of the City of Michigan City, and himself for LaPorte County spent six (6) months making sure that the code was integrated for economic development purposes and that it was consistent amongst the municipalities in the County. Apparently, it is no longer.

Anthony Hendricks stated yes. They will set a workshop for next month. The other new business they have is the Commissioner's have set a standard price for legal attorneys for Boards and Commissions and they need to make a motion to retroactively from May 7<sup>th</sup>, 2023 to accept that \$175 an hour approval for legal work so this Board is on record with that increase in hourly rate.

Harol Parker made a motion to retroactively accept the Commissioner's hourly rate from May 7<sup>th</sup>, 2023.

Rita Beaty seconded.

All Approved. Motion carries. 7-0.

Earl Cunningham stated from time to time they table things and he thinks that they should give their petitioners the option to request to table as well because if they only have six (6) people here they have to get eighty-three percent (83%) of those six (6) people where if they have nine (9) people here they only need fifty-five percent (55%). It puts them at a tremendous disadvantage when they don't have a full Board. We should give them that night of the meeting if they are down to seven (7) people they will need seventy-one percent (71%) instead of fifty-five percent (55%) if they are willing to take that chance because they don't let them come back next month when they have nine (9). It seems like it would make sense when we send out stuff that they can come in and counter them. Or maybe put it at the top of the agenda. They should be informed rather than come up here when there are only five (5) people up here that they have one hundred percent (100%).

Anthony Hendricks stated he believes that has happened several times.

Attorney Biege stated a couple years ago.

Anthony Hendricks stated the attorney of the petitioner realizes that and is informed of that and they then ask to table.

Attorney Biege stated if they know they don't have a full Plan Commission that we inform them prior to presentation of the petition, that way if there are any remonstrators, they understand what is going on too. Two to three (2 – 3) years ago they had several meetings when they didn't have a quorum.

Michael Polan stated he would like to add that they are currently down a member right now because of the Purdue Extension appointment.

Anthony Hendricks asked if there is any headway.

Michael Polan stated he hasn't heard.

Rita Beaty stated she apologizes for last month; it was the first meeting she has missed in probably twenty (20) years.

Michael Polan stated no problem.

Attorney Biege stated he's still upset about it.

Earl Cunningham asked if the Purdue Extension appointee has to be one (1) of their employees or can they just appoint someone else.

Attorney Biege stated it is a designee from them. The statute is pretty specific as to each seat, but as far as that person, it's not a job, it's just an appointment from that entity.

Earl Cunningham stated right, so they could name somebody else that has worked with Fair Board or with Soil and Water or somebody else. It doesn't have to be a Purdue employee.

Attorney Biege stated no.

Earl Cunningham stated then there is no reason they can't find somebody to do that. Maybe they aren't aware of that.

Harold Parker asked Attorney Biege if he is sure.

Attorney Biege stated he can double check the statute to make sure it's not specific and report next meeting.

Michael Polan stated he thinks he remembers that there is something about that position. Their appointment to the Plan Commission was commensurate with that position.

Anthony Hendricks asked if they have somebody in that position.

Michael Polan stated no.

Harold Parker stated they're not living in Lafayette.

Attorney Biege stated if he may, he is better than he thought he was, he has the statute with him. It says verbatim "The County Agricultural Extension Educator. However, the County Agricultural Extension Educator must be a resident of the County to serve under the subdivision if..." and it goes on.

Anthony Hendricks stated it is that position.

Attorney Biege stated yes.

Anthony Hendricks stated that position is out for hiring isn't it.

Earl Cunningham asked what it says if they don't reside in the County. What is the next alternative?

Attorney Biege stated "If they are not a resident of the County, the County Extension Board shall select a resident of the County who is a property owner with agriculture interest to serve on the Commission under the subdivision not to exceed one (1) year."

Anthony Hendricks stated they could appoint someone.

Earl Cunningham stated that is simple. Then they need to send that to the them and tell them we need an appointment.

Anthony Hendricks stated find somebody please.

Attorney Biege stated "in a non-voting advisory capacity."

Rita Beaty stated they wouldn't be able to vote?

Anthony Hendricks stated no, it's a non-voting member of the Extension. They can't appoint one (1) of their voting members.

Rita Beaty stated okay.

Attorney Biege stated no, it says "shall serve the Commission in a non-voting advisory capacity." So, they are here, but they can't vote.

Deb Vance stated what's the point.



Anthony Hendricks stated that doesn't help them any.

Rita Beaty stated what good would that do them.

Anthony Hendricks stated they need to fill that Education position. It is out for bid, right? They'll have to ask their legislators to clear that up next session.

Michael Polan stated not to further complicate this, but how they were talking about earlier revision to the JZO, he is looking to update their Technical Design Manual for Stormwater rather than add to an already thick JZO, once completed they could add a sentence to the JZO under Article 20 that refers to the Technical Design Manual once that is completed. He will be doing that sometime in 2024 and he will bring it back to them then.

Anthony Hendricks stated that is intense.

Harold Park asked if anybody watched the Lebanon deal with the nine thousand (9,000) acres that the State bought for industrial.

Anthony Hendricks stated no.

Harold Parker stated they don't have any water, much like their northern part of LaPorte. Their answer is to build a viaduct to West Lafayette for twenty-eight (28) miles and divert a million (1,000,000) gallons of water an hour twenty-four-seven (24/7) to fill their needs for water for the industrial park if it ever gets going. He is old enough to remember when Arizona tried to come after Lake Michigan; they were going to reverse a pipeline and make it a fresh water line.

Anthony Hendricks stated the Compact stopped that.

Harold Parker stated yes, that's what the Commission for the Great Lakes was convened to protect Lake Michigan's water.

Anthony Hendricks stated they will be taking water out of the Wabash instead of the White.

Harold Parker stated that is what they are talking about, but it is pretty hush hush. They have all that ground annexed into the City so the County Commissioners have no work they can do on it.

Anthony Hendricks asked if they have a problem with wells not producing.

Harold Parker stated they don't have wells down there. They don't have deep water; they have water in pockets. They are talking about tapping one of those and at that rate of water, the water would be done. He just wants to make them aware of this. Water wars is a big thing. They are blessed that most of their County has enough water, but if they get down to LaCrosse, they can't do a deep well either close to 30. They have to have linear wells. If they start draining all the water out of those drains and waters, it will lower their water table and maybe make it a non-functional area too. It's something to watch. There are some other worries about the State of Indiana being brokers

for land buying up acres and then putting it out there for bid. It's not a private entity, it's the State. It's just something to watch coming over the hill.

Anthony Hendricks stated he will look into it.

Joe Haney stated at the last Hazmat Right to Know EMA Meeting he was at, one (1) of the issues that came up was storage and handling of highly flammable liquids, gels, and other materials. We've had incidents locally here where a plant on three (3) different occasions had three (3) different fires. Now it's at tens of thousands of dollars in damage to fire equipment. One (1) person was injured. It is a huge concern when talking with everyone. Is there something they can look at in the JZO to put some better guard rails around some of these hazardous materials that are highly flammable and kind of box them in a little bit to make sure they need a variance for it as opposed to a permitted use or something along those lines to box this in. It will continue to be a problem moving into the future. It is one (1) thing that they have had issues with drainage, for example, when the liquid is highly flammable flows out and burns off, the EPA said it all burned up even though it goes down into the ditches and makes it way into the waterway. They are thinking it all burned up. Every agency out there from EPA to IDEM all seem to be kicking the can back and forth. Trying to address this in the JZO is something to really lock down what is and isn't permissible and if they're going to have something like this, make sure that they follow all the best practices instead of using equipment that is fifty to sixty (50 - 60) even eighty (80) years old in some cases.

Attorney Biege stated they can certainly take a look at it. This area is a lot more complex than one (1) would think because in a lot of areas the Federal rules and regulations supersede whatever they would try to pass. If there is a hole, yes. If it is covered by IDEM or EPA or one (1) of those agencies, however they assert their jurisdiction on the issue, they may or may not be able to do something. They can certainly take a look at it though.

Joe Haney stated he would love to. It would really help our first responders here in the area as well. If these things continue to happen then somebody is going to die from it. He doesn't see any other way around it. It has been pretty bad.

Michael Polan stated he is glad he brought that up. They are actually going to meet Thursday at 2 p.m. in Michigan City to discuss the local situation that he was referring to. They will be meeting and discussing it. He doesn't know what will come of it, but they are going to meet and discuss it.

Joe Haney stated excellent. Thank you.

Earl Cunningham stated if they are not aware of it the AIC Conference is the fourth week of September which would normally be the Plan Commission meeting. He is going. He doesn't know if Joe will be in attendance.

Joe Haney stated he hasn't signed up yet. He doesn't know if he can peel away that much time during the week.

Earl Cunningham stated he knows he will not be here on the 26<sup>th</sup>. They have moved the Council meeting to the first week in October if that helps. It's not like he needs to be here, but they need numbers.

Anthony Hendricks stated that will leave them with six (6) maybe seven (7).

Joe Haney stated if he does wind up signing up, he will let them know, but right now he can't be away for that many days.

Anthony Hendricks stated they might push the meeting.

Earl Cunningham stated there might not be enough that they have to have a meeting in September.

Michael Polan stated if they have two (2) or more out, they will try to reschedule it for October.

Mitch Bishop stated their Comprehensive Plan was adopted in 2009. Just recently, he attended two (2) NIRPC meetings last week and he thinks he received money to cover at least eighty percent (80%) of the cost of hiring a professional planning firm to help them revise their twenty (20) year Comprehensive Plan. The money he would have to apply for, but he had a good conversation with them. He got a price of one hundred and twenty thousand dollars (\$120,000). It wouldn't be for a full re-write, but just an update; that's all we really need. The grant would cover eighty percent (80%) of that. He will find out more, but hopefully they can get moving on that the first or second quarter of next year. He wanted to give them a brief update.

Anthony Henricks stated the Comprehensive Plan is the precursor to the Joint Zoning Ordinance.

Mitch Bishop stated they usually updated the Comprehensive Plan, the twenty (20) year plan, before the JZO, but if it's something that's needed, they can.

Attorney Biege stated the update is statutorily required.

Mitch Bishop stated yes, definitely.

Rita Beaty stated wow, that was only fourteen (14) years ago Mitch.

Mitch Bishop stated yes. They say it is a twenty (20) year plan, but it should be updated every twelve to fourteen (12 – 14) years.

Earl Cunningham made a motion to adjourn.

Joe Haney seconded.

There being no further business before the Plan Commission, meeting adjourned at 6:51 p.m.



Anthony Hendricks, President



Michael Polan, Recording Sec.