



# LAPORTE COUNTY PLAN COMMISSION

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**Michael Polan**  
Building Commissioner

## LA PORTE COUNTY PLAN COMMISSION MINUTES October 3<sup>rd</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; Randy Novak, County Council

### PLEDGE OF ALLEGIANCE

Anthony Hendricks asked for approval of the agenda for the October 3<sup>rd</sup> meeting.

Harold Parker 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 August 22<sup>nd</sup> meeting minutes.

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

Rita Beaty seconded.

All Approved. Motion carries 7-0.

### Petitions:

- 1. 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.**

Attorney Biege stated notice is adequate.

Andrew Voeltz stated he is with Howes & Howes in LaPorte located at 717 Indiana Ave. He is representing Coral Laun. They had filed this a couple of months ago and the notice wasn't adequate

because of a deficiency with regards to publication with the Westville Indicator. They are here because they are petitioning to vacate the undeveloped, but plotted roadway and/or alleyway adjacent to the property located at North Pine Lane, New Carlisle, IN, Hudson Township. The parcel adjacent is 26-04-29-233-007 HUDSON LAKE BEACH LTS 3971 3973 & 3974 TAYLOR DITCH A ASSMT #1. This is a petition by Coral Laun as the personal representative of the estate of John Laun, which the estate is still pending. She has the capacity to do this and he will ask the Board to take notice of the fact that there was a petition that was filed previously to vacate the other half of this roadway by Mr. Bradley R. Kerric at 7916 N. Pine Lane. They are asking that the fifteen-foot by one hundred-foot (15' x 100') or thereabouts portion of that plotted, but undeveloped roadway be vacated. The portion that would be entitled for Ms. Laun or the estate of John Laun to receive. That is what they are asking for here. He understands that there are remonstrators present. He doesn't know what else to say here at this point because the reality is that the other half has already been done and taken care of; it's there. So, what is the issue with this half? He doesn't know. It is up to the Board's discretion obviously. He will entertain any questions the Commission may have.

Attorney Biege stated for disclosure, he has represented the estate of John Laun for years and he referred them to Mr. Voeltz. They have never had any conversation about this and he has no interest in the outcome, but he wants to make sure he has full disclosure.

Anthony Novak stated the north fifteen feet (15') has already been vacated by this Board.

Andrew Voeltz stated that is correct. From the adjacent landowner meaning Mr. Bradley R. Kerrick at 7916 N. Pine Lane, New Carlisle, IN.

### **Remonstrators:**

David Ambers stated he is an attorney located at 601 State St., LaPorte, IN. He is here on behalf of Mr. and Mrs. Obanion who he previously represented who have property to the south of the roadway. They were here a couple years ago on this. Two (2) wrongs don't make a right and that is what he is going to start with today. First of all, the petition that has been filed before them today does not meet the requirements under the statute. This petition should have referred to Indiana Code 36-7-4-711. The petition must state the reasons for and the circumstances prompting the request. The petitioner has not stated the reasons nor circumstances prompting this request. The petition does not describe how the conditions in the platted area have changed so as to defeat the original purpose of the plat. The petition does not state how it is in the public interest to vacate all or part of the plat which is what they are doing if they vacate this roadway. The petition does not state that the value of that part of the land in the plat not owned by the petitioner will not be diminished by the vacation. The petition does not advise that they may impose reasonable conditions on any approval. They previously vacated the north half as Mr. Kerrick requested which was thirty feet (30'). His clients remonstrated and they went ahead and vacated it anyway. The next day Mr. Kerrick put up a gate, not blocking the half of the roadway that was vacated, but partially on his and partially on what they are being asked to vacate tonight. The map he is using for reference was provided by Mr. Hendricks in his capacity as County Surveyor. His client's have been paying him for two (2) years to try to get that gate taken down. It was supposed to be taken down by the County Highway Department and then it was stopped by Commissioner Gramarossa. Now, Ms. Laun is in here

asking that this south half of the roadway be vacated. That is the only access his clients have to the rear of their property. Their property is over to the southwest and there is no room in between their house and the lot lines to get equipment or anything to the back yard. They used to use the portion to the north until Mr. Kerrick put up the gate that he refuses to remove. They would use it to get to the rear of their property. Mr. Obanion has several health issues and they often use that right-of-way to get him to the back door of the property. They asked him to apologize that they couldn't be here tonight because Mr. Obanion just found out he has lung cancer and he has bigger things to take care of than to attend this meeting. If they vacate this then they are decreasing the value of his client's property and therefore they would ask that the south portion remain open. It is the only clear way for his clients to get to their property. There is an unimproved, but platted roadway on the other side of his client's home. Unfortunately, it is heavily wooded and his clients don't have the funds nor the right to enter a County roadway and clear trees from a platted, but not improved County roadway. It truly is the only way they can reach the rear of their property. In addition, the petition at paragraph three (3) states that the undeveloped, but platted roadway and/or alleyway are not being used for any public purpose; it was until Mr. Kerrick put the gate up. It was how his clients accessed the rear of their property. Paragraph four (4) of the petition states that the vacation of the undeveloped, but plotted roadway and/or alleyway would not be detrimental to any public use or purpose. Again, it would definitely be detrimental to his client's ability to use that to access the rear of their property so therefore they would ask that they do what he wishes they would have done before and deny this petition. Mr. Kerrick got his north half to cure the sins of his building, but his clients need the south half to access the rear of the property and they would beg of them not to grant tonight's petition.

Brad Kerrick stated his address is 7916 N. Pine Lane, New Carlisle, IN. They vacated half of the roadway roughly a year and a half to two (2) years ago. He owns the one (1) side. He doesn't see why the other side can't be vacated and granted to Ms. Laun in the front one hundred feet (100'). The center is full of trees all the way down. There is no way someone can drive down that roadway without trespassing on his property or Ms. Laun's property due to the trees that are going down the middle of the roadway.

Andrew Voeltz stated he would respond to Mr. Amber's presentation with regards to the fact that there is no way to access the rear of the property. If they look at an aerial photo of what this property is, and he doesn't want to get into stuff with regards to encroachments or whatever else, but the reality is that the remonstrators have access to their property off of East Lilly Lane directly to their garage. This area to the north, meaning the plotted, but undeveloped roadway doesn't provide any other access to their property that they don't already have. If it was already granted for Mr. Kerrick a year and a half ago then what is the difference here. It seems to him to be the same type of petition. He could be wrong; he has been wrong before. They would ask that the petition be granted. If he may real quick, the area that he is talking about here is to the west of their garage. That is to access the Obanion's property. When they are talking about them complaining that it will cut off their access, their property has access to the west. If they will note, and again he will not talk about encroachment matters or whatever else, the properties to the east are owned by Coral or John Laun or the estate. The issue is that, what they have continued to do is come across his client's property. They have cleaned up a little bit, but for them to indicate that there is no access to their property, but Lilly Lane goes right by their driveway.

Harold Parker stated Dave Ambers stated it wasn't up to par. Does that mean anything to Doug? He said it wasn't a legal filing.

Attorney Biege stated his argument was that the petition did not have the contents that the statute requires so it is up to them if Mr. Voeltz's presentation was adequate.

Harold Parker stated thank you.

Rita Beaty stated it seems recently when they vacate these lanes or proposed roads from one (1) point, when they did it, they would always vacate the other side and asked the owner if they wanted that particular piece. Since this was kind of current a year and a half to two (2) years ago as to why they didn't do that.

Andrew Voeltz stated his understanding, and correct him if he is wrong, but the petitioner is entitled to one-half (1/2) and then any adjacent landowners would be entitled to the other half if they joined in on the petition. If they don't, this is what they wind up with. So, they have Mr. Kerrick who owns the entire property to the north and that is why they see this plotted, but undeveloped roadway cut off as far as its' width because it went from thirty feet (30') to fifteen feet (15') because he wound up with fifteen feet (15'). This Plan Commission has followed the statute that if the adjacent landowners do not join in on the petition or otherwise acquiesce or consent to the vacation and then they don't declare any property interest in that, then it would go to the petitioner. Is he wrong here?

Attorney Biege stated the Commission has done both. Here for a lot of years when there was a vacation, the Plan Commission would vacate both sides where one (1) side would go to one (1) party and one (1) side would go to the other party. There is usually a reason why half of it is vacated, but he doesn't remember why only half was done in this case. There is usually a reason why though.

Rita Beaty stated that was back in the olden days when she was here.

Michael Polan stated he is trying to remember why the other half wasn't vacated. He thinks most of them were present for that hearing. To his recollection, the other property owners, Like Mr. Voeltz alluded, were not part of the petition and they were not asking and didn't want it, but now they do.

David Ambers stated the reason the other half wasn't vacated was to leave his client's access. If he remembers correctly, the attorney that presented this before had a letter of Ms. Laun consenting, but the Board as an alternative to keep both sides happy cured the sin of the barn, but left his client's access. If they grant this petition tonight, they will undue what was done. He fought like heck last time and thirty-three (33) years of practicing law he had never seen half of a roadway vacated. They fought and they fought and they begged to keep that access open. Then the gate was put up. And now there is this petition. Please quit where this was left off last time; leave his client's access to their property. Thank you.

Glen Minich stated the Obanion's have access through Hemlock that has not been developed right?

Anthony Hendricks stated yes, it's plotted, but unimproved.

David Ambers stated his clients would not be able to stay on their property.

Earl Cunningham stated because their house is built over the property line.

Glen Minich stated if they use Hemlock that comes right down next to their lot.

David Ambers stated his clients use the northern roadway to get to the rear. Hemlock, as they can see, is grown up with trees and they don't have the means or the ability to clear that area. Even if they could, they can't because it is a County roadway. So, to get to the back of their house the only way is through the northern strip. If they vacate the portion along Ms. Laun then they have cut them off from the rear property.

Glen Minich stated the back access also has trees. The one that he is saying they are using.

David Ambers stated they can get to the rear of their property still through there. Can't they see how clear it is?

Glen Minich stated not really.

David Amber stated he has pictures; it is clear. They can get a car through that property without trespassing on that half of roadway.

Earl Cunningham stated he would like to see the pictures.

Rita Beaty stated if they are not allowed to drive beside their garage then the garage must be too close to the setbacks because there should be plenty of room for them to be able to drive up from Lilly Lane up beside their garage to address what they need to at the north end of their property.

Anthony Hendricks stated Mr. Ambers is going to present pictures showing that there is enough room to go around the trees and not trespass on the Laun property.

*David Ambers present pictures to the Plan Commission.*

David Amber stated this picture shows his client when she was measuring the gate. They can see about where the roadway is because Tony said the gate was eight and a half feet (8½') over onto the right-of-way. It is a nice and clear path back there that they can access their property.

*The Plan Commission members overlook the photos.*

Rita Beaty stated back to Hemlock that is too full of trees. How many feet are between their garage there at the corner of Hemlock and Lilly? How many feet do they have between what he is considering the roadway of Hemlock and their garage there where they have vehicles parked on the side.

David Ambers stated he does not know. He would guess less than fifteen feet (15').

Rita Beaty stated it could possibly be a thoroughfare for them to actually access the north end of their property then because she can see vehicles that are parked there. They can't really judge where the lines may actually be through Beacon, but she can see vehicles off to the west side of the property line according to the County which to her gives the thought that there is probably more than fifteen feet (15') then that they could access all the way to the north end of their property from the west side of their garage.

David Ambers stated he doesn't know. He would have to ask them and unfortunately with Mr. Obanion's health they couldn't be here.

Rita Beaty stated that is her thought process for them to be able to still access the north end of the property without utilizing the roadway to the north.

David Amber stated he does not know. It could be a well. It could be a variety of things and he just doesn't know and he would rather not speculate and unwittingly mislead them.

Earl Cunningham asked if there is any setback whatsoever on the northeast side of the existing home at the southwest corner of the Laun property.

Andrew Voeltz stated that would be a question for Mr. Ambers.

David Ambers asked what the question was.

Earl Cunningham stated if they look at the south west corner of the Laun property and the northeast corner of the existing home on his client's property, is there any setback whatsoever from that property line?

David Ambers asked if she owns two (2) or three (3).

Andrew Voeltz stated three (3).

David Ambers stated they received a building permit. He would assume it complied at that time or received a variance. The house has been there for years.

Earl Cunningham stated he understands that, but they are looking at a garage that sits at an angle and doesn't sit on the west side of the property parallel to the property line according to their aerial shot. There is enough room for a car sitting alongside there. It seems to him it is just as easy to get through from their own property as the half of the existing property that does have some trees on it. According to the aerial view that he is looking at, the existing home is sitting virtually on the property line of the Laun's southernmost property.

David Ambers stated again, he can only assume it was approved by the County and received a building permit. He's not sure if they ever had a variance or not.

Michael Polan stated he can address that. They did file for a building permit. It was handled by the Commissioner before him. That was built, but did not follow the plans that were approved. It is in violation of the setbacks and encroaching.

Rita Beaty asked Mr. Ambers how often his clients utilize the roadway to the north.

David Ambers stated they used to utilize it regularly until the gate was put up. Then Commissioner Gramarossa stopped the County Commissioners from taking it down. She has emails and email chains Mr. Haney was apart of that Mr. Mrozinski requested the County Highway to go out there and take the gate down once Mr. Hendricks made the determination in his capacity as County Surveyor that the gate was eight and a half feet (8½') onto the non-vacated portion of the right-of-way. It was supposed to have been done May 23<sup>rd</sup>. He has an email from Mr. Stevens saying he was going out there the next day. The email above that was from Mr. Mrozinski saying thank you. When the County went out to remove it, Commissioner Gramarossa wound up being there and was on the phone with Ms. Laun.

Rita Beaty stated they used it daily pretty much prior to the gate.

David Ambers stated he doesn't know if it's daily, but they used it routinely prior to that gate going up. They haven't been able to use it since. The gate should be removed, but that's not for this Board to do.

Andrew Voeltz stated if he may clarify really quick, that gate has been there for eight (8) years. This is not something new.

Anthony Hendricks stated he doesn't recall.

Michael Polan stated it has been there many years. This has been a Hatfield and McCoy feud between the neighboring parties for that long that has periodically involved multiple departments in the County including the County Commissioners, the Building Department, the County Surveyor, and others. The feud seems to center on them. There are trees in that undeveloped roadway and Mr. Kerrick and Ms. Laun had both claimed that when Obanion's were trying to access their property using the unimproved roadway, which he is not even sure that should be allowed because it is unimproved and not meant for public transport,

Anthony Hendricks stated if this Board chooses to vacate or not, they still have to seek Commissioners approval to use an unimproved roadway and they can't just drive across it and destroy it and make it a muddy mess.

Michael Polan stated so there have been ruts and mud and damage.

Anthony Hendricks stated over the years they have seen the Commissioners have people use unimproved roadways and just ruin them whether they are farmers or residential so they have to ask the Commissioners for use whether they vacate it or not.

Earl Cunningham asked if Mr. Polan could verify how many years the gate has been there.

Michael Polan stated it has been there years longer that he has held his current position. He can't confirm for sure that it has been eight (8) years, but it has been more than four (4).

Earl Cunningham stated thank you.

Rita Beaty made a motion to approve for Petitioner Coral L. Laun as Personal Representative of the Estate of John H. Laun represented by counsel Andrew Voeltz of Howes & Howes, LLP to vacate the undeveloped but plotted roadway and/or alleyway adjacent to the property located at North Pine Lane, New Carlisle, IN. Hudson Twp.

Deb Vance seconded.

Joe Haney stated he recalls this was shortly after he was elected and the first year, he was on the Plan Commission, the more he sits here and listens, he is remembering the reason that the split off was because there was no property on the southern side that seemed to indicate that they did want it. They didn't remonstrate against it at the time if he recalls correctly. Mr. Kerrick did, but he doesn't believe Ms. Laun did. That was part of the consternation that led to this split thing at the time. It is a difficult question here before them tonight.

All Approved. Motion carries 5-2.

Anthony Hendricks stated they are moving on to old business which is the Joint Zoning Ordinance Workshop. Public is invited to attend. They will probably go through Doug first and then Mike. Everyone has received emails about possible changes or amendment to the Joint Zoning Ordinance.

### **1. JZO Workshop**

Attorney Biege stated he will do the JZO first and then the Subdivision Ordinance. They want to clarify the issues surrounding shipping containers that is in front of the BZA constantly. So, they are asking for a variance and they need to have a call on whether they are going to have shipping containers in the County or not and if so, they don't have any building requirements for them on tying them down or securing them in some way. He is asking the Plan Commission for some clarification. It will give the public a better idea on what the County's position is and secondly, it will give the BZA some guidance on how to decide these matters, and thirdly, when there are variances granted, he is always concerned that it is not safe because they don't have any standards to secure them.

Michael Polan stated he would agree with counsel that they do not have written standards and how they have handled it in the rare occurrence that the BZA has granted approval is that there is an inspection where there is a proper footing, footing depth, and anchored proper such as a carport would be anchored. That is how the procedure is now.

Glen Minich asked if that would be a land anchor and an anchor into the foundation. It could be a land anchor.



Michael Polan stated right.

Attorney Biege stated what he foresees them doing tonight is that the Plan Commission will give him direction on what to draft or make changes if they want to and then he will bring them back because Mitch Bishop sent everybody a booklet that nobody has had time to look at yet.

Rita Beaty stated two (2) hours before.

Anthony Hendricks asked if shipping containers are allowed now.

Attorney Biege stated no.

Michael Polan stated he believes in Ag zoning for Ag purposes but not in other zonings.

Glen Minich stated how about industrial because if they don't allow an industrial, but in Ag they are going to have a lot of clean up to take care of.

Attorney Biege stated he think that's the problem because they don't say either way. They are kind of using common sense which is never good.

Glen Minich stated he thinks they need to address it if it is going to be in Ag then they need to be on an Ag use lot of at least twenty (20) acres. That will take care of a lot of it.

Anthony Hendricks stated he was under the impression they weren't allowed, but yes, they need to say where they are allowed and what they have to do if they are there.

Harold Parker stated these are the railroad ones and he has a couple and he uses them for storage of oils and such.

Anthony Hendricks stated he sees a lot of them on Ag. Industrial he agrees that they have to allow them because that is their business.

Glen Minich stated again, he would like to make the statement that it needs to say a twenty (20) acre agriculturally used lot and that will take care of a lot. Most of the time they are coming up three (3) or five (5) acre lots out in the Country where they say they are zoned Ag, but they are not a farm. By going to the twenty (20) acres it eliminates a lot of trouble.

Attorney Biege stated so Ag. M1 and M2 should be a given; they should have it in manufacturing. A lot of their requests are needed for temporary placement during construction or as a cheap shed, basically.

Glen Minich stated the majority of because they have already put it there and they find out that it is not legal to do it so they are coming to ask for forgiveness.

Attorney Biege stated he would go so far as to say they need to figure out where to put it and disallowed otherwise.

Glen Minich stated correct.

Harold Parker stated if Ag wants to use them, they have to come in for a permit.

Attorney Biege stated no. If it's not Ag, M1, or M2, they are disallowed. The best Mike could do is red tag it or force them to come in and ask for a variance after the fact.

Glen Minich asked if Doug sees his point. If they just say Ag, a bunch of the homes are Ag zoning.

Attorney Biege stated he will put Ag with no less than a twenty (20) acre parcel. Will that work?

Glen Minich stated he thinks it will help. It will eliminate a lot of trouble. If they have twenty (20) acres they will be isolated anyway. The trouble is where they have three (3) or five (5) acre lots and they end up putting the container up against their neighbors. Good neighbor program.

Michael Polan stated it is ten (10) acres to be classified as a farm so he would concur, but with at least a ten (10) acre Ag use. He would agree that the cases that they are getting in residential lots; they are a popular item. People are accruing them and putting them on their land. They are getting red tagged by his office and then appearing before the BZA. They ask for forgiveness later.

Anthony Hendricks stated if they are going to look at districts, he would suggest that we add B2 and B3 as special exception.

Attorney Biege stated they can do that.

Anthony Hendricks stated business districts. They aren't going to do neighborhood commercial district or office service district, but B2 and B3 would possibly have some there, but they would need to be special exceptions.

Earl Cunningham stated the statement that if they have twenty (20) acres, what prohibits them from putting it up against their neighbor's property then. They can have a hundred-foot (100') setback from the neighbor's property line if they have twenty (20) acres. He looks at it like there could be three (3) twenty (20) acre parcel and the guy in the middle could have three (3) of the things and set them against all three (3) of his neighbors at the rear of his property.

Glen Minich stated that's a good idea. That doesn't muddy it up.

Attorney Biege stated in Ag, they will still have a thirty-foot (30') setback. It could be more; he is just reminding them.

Earl Cunningham stated that is what he is thinking. If they are going to set a shipping container back there, they should have more than a thirty-foot (30') setback from the neighbor's properties. It's not like they are building a little shed.

Glen Minich asked him what number he likes.

Earl Cunningham stated if they have twenty (20) acres they should be able to put it one hundred feet (100') away.

Attorney Biege stated they can do that.

Glen Minich stated or they have to get a variance.

Earl Cunningham stated his thinking is that no matter how many acres they have they are always up against somebody else's property.

Anthony Hendricks stated they are supposed to be used for storage not for fences.

Attorney Biege asked if there is a consensus on the one hundred-foot (100') setback.

Joe Haney stated if they are going to put a one hundred-foot (100') setback on it, maybe then the size would be flexible. If somebody has nine and a half (9½) acres versus ten (10) or whatever the case may be, as long as they can meet the one hundred-foot (100') setback and they are zoned Ag, maybe that would take care of it either way. If somebody has three (3) acres, it would be really hard to get a hundred feet (100') off of the property line.

Glen Minich stated they don't really want them, but they understand that farmers and industrial and some B3 cases are a good idea because they are secure and they do contain, but at the same point, if they do what he is recommending then they are allowing residential to start having them and they don't want that.

Attorney Biege stated his intent was to only allow in Ag, M1, M2, B2, B3. Period. He will concentrate on use because they have residential use in Ag areas. If they say it is used as those categories only then he thinks it will solve the issue.

Harold Parker stated there are two (2) kind of containers; a forty-foot (40') and a twenty-foot (20'). Do they want to declare which one (1) they will allow? A forty-foot (40') gets pretty big,

Attorney Biege stated he doesn't think they need to.

Anthony Hendricks stated he wants to declare on how many are allowed. They can have two hundred (200) of them.

Glen Minich stated they could limit the overall scope of it.

Harold Parker stated they could factor in the square footage of how many acres, but there is a lot of differences between the sizes. The forty-foot (40') is actually cheaper than the twenty-foot (20') kind.

Rita Beaty stated because nobody wants them.

Harold Parker stated the forty-foot (40') is a behemoth to try to remove and get rid of.

Glen Minich stated remember, there is always a variance so if they want to come up with a scope not beyond.

Anthony Hendricks stated a hundred feet (100').

Rita Beaty stated when they said Ag use and they have to provide Ag use, does that have to be detailed. She is Ag use and has three (3) acres with twenty (20) chickens. It's Ag use.

Attorney Biege stated here she is with the chickens again.

Rita Beaty stated it's just a mention. They would be cutting hairs again. What do they determine is Ag use? Do they need another definition for that then.

Attorney Biege stated he doesn't think so. Either they are a farm or not. Hobby farming is not farming.

Rita Beaty stated that is why she was wondering about the acreage thing. She likes the acreage thing of either ten (1) or twenty (20) acres, but that is just her opinion.

Anthony Hendricks stated unless it is something legally, he doesn't see why they don't say a hundred feet (100') if they have less than one hundred feet (100') then go to the BZA.

Attorney Biege stated he will ask the two (2) experts on the containers here. Will that inhibit manufacturing or business in any way because he sees different sizes driving down the road.

Harold Parker asked what the question was.

Attorney Biege stated if they put a length limitation on them, are they going to inadvertently affect any manufacturing or business.

Harold Parker stated they would have to put the doors in if they are going to use a forty-foot (40') successfully. Twenty (20) they can get away with the end doors. They can put in roll up doors or anything they want to with it.

Attorney Biege stated Tony said a limit of no more than a hundred feet (100').

Anthony Hendricks stated yes, but again he doesn't want to stop industrial people from having them.

Harold Parker asked what the cubic feet is on one (1) of them.

Anthony Hendricks stated if they have an industrial facility and they are parked within five feet (5') of the line; they have bread making facility, O-Tech, and a lot of other people that store their trailers

and park as many as they can on their lot because they are coming and going. If they say a hundred feet (100') then they are all instantly in jeopardy.

Joe Haney stated there is no reason why they couldn't set different setback requirements for Ag versus M1 and M2. If they are in M2 and like the bread factory or O-Tech, they have hundreds of semi-trailers lined up out there. Regardless of whether it's a semi-trailer or a Conex container there is still those shapes there on the property line right up against it. They may be able to have a different setback for Ag versus the others.

Attorney Biege stated that would be fine. They already have setbacks in place for all the manufacturing businesses anyway so they could just put the hundred-foot (100') setback requirement for Ag use.

Anthony Hendricks asked if there will be any discussion on if somebody gets wild and has a hundred (100) of them. Or fifty (50), twenty (20), ten (10) of them.

Joe Haney stated one (1) container per twenty (20) or fifty (50) acres or something. He doesn't know what that number would be because depending on other factors.

Anthony Hendricks asked Harold Parker if he had more than ten (1).

Harold Parker stated one (1) per fifty (50) acres.

Joe Haney stated he isn't sure; he is just throwing a number out. If they have somebody with ten (10) acres they can't put a train line of them down the road.

Anthony Hendricks stated one (1) per ten (10) acres.

Joe Haney stated he is not sure what would be best.

Michael Polan stated they could do it in a form of percentage of lot coverage.

Attorney Biege stated they are going a little far on what they intended to do here.

Anthony Hendricks stated they are getting deep.

Attorney Biege stated the main goal was to shut them down around the residences.

Joe Haney stated they need to consider that there are at least a hundred around the County in residential places that he has noticed over the past ten (10) years. There's the guy right across from the fairgrounds that has a cool train setup. He has had a Conex container there as far back as he can remember. It's painted nice and if they're driving by, they probably won't realize that's it unless they take a close look at it. Is there some sort of special exemption for that where they might be able to maintain them? Right now, unless they are in M1 or M2, they can't have one (1). Technically, right now Ag can't have one (1); he knows because he looked it up.

Attorney Biege stated that the argument could be made that they are grandfathered in. They will eventually pass this and change the code so anything that occurred prior to would be grandfathered. If they popped it in there without a variance though, they have an issue, but if there is a previous variance granted then this wouldn't affect it because it would be grandfathered.

Anthony Hendricks stated where are they at. A hundred-foot (100') setback. How many acres? Ten (10) or twenty (20)?

Glen Minich stated four (4) forty-foot (40') containers.

Anthony Hendricks stated four (4) forty-foot (40') containers max.

Attorney Biege stated per parcel.

Glen Minich stated per parcel.

Anthony Hendrick stated per ten (10) acre minimum parcel. Or twenty (20) acres minimum parcel?

Harold Parker stated twenty (20).

Glen Minich stated he thinks twenty (20) works better for them getting them out of residential.

Joe Haney asked what about the handful of places where there is their working area is one (1) parcel that is not deeded into their larger field that they have acquired. He has seen that in some of the areas while driving around. They would be grandfathered in, but if they are not having to cut out and sacrifice farmland that they are currently tilling.

Anthony Hendricks stated if they wanted a new one (1) they would have to put it on their twenty (20) acres and not off the piece they cut off for their home or barns.

Anthony Hendricks stated what about the securing of these? Is there something that needs put in that they have to be secured? How specific do they need to get?

Rita Beaty stated if they're not a temporary fix. If they're there for two (2) weeks or a month; it depends on how long they leave them.

Michael Polan stated if they are meant to be permanent, they should have adequate footings and they should be properly anchored.

Attorney Biege stated they could cover that by saying building permit is required and installation is subject to approval of the Building Department. Then Mike could set the standards that way.

Harold Parker stated there you go.

Rita Beaty stated when they are talking about the grandfathering, they are talking about people who had a variance to bring them in and then they will be grandfathered.

Attorney Biege stated yes, but the people that just plopped them down are not.

Glen Minich stated they are not grandfathering these containers on residential lots.

Attorney Biege stated if they have been granted a variance already.

Glen Minich stated that's fine.

Rita Beaty stated that shouldn't have been on residential.

Glen Minich stated the ones that are on residential lots that they are continually cleaning up because they are an eyesore to their neighbor would need removed.

Anthony Hendricks stated anchoring by permit. One hundred-foot (100') setback. Twenty (20) acres minimum. Max four (4) forty-foot (40'). Anchoring done by Building Commissioner's permit.

Attorney Biege stated he's got it.

Joe Haney stated he still thinks ten (10) acres would be a better fit. If they want to spitball that; he still thinks ten (10) acres at a minimum as long as they are hitting their one hundred-foot (100') setback.

Glen Minich stated the problem with ten (10) acres is the same thing that they are saying here. Then they have horse farms and llama farms and they will want them and they are residential. They're not really farms. That's why going to twenty (20) really does what it is supposed to do. If they want a container to store their pesticides or to store things at a farm or in an industrial place then they are okay with that.

Attorney Biege stated there are a lot of residential ten (10) acre parcels out there. When he sold his house, he had ten (10) acres and it was zoned Ag. That neighborhood, he was over on 150 E, had no business putting shipping containers out there.

Glen Minich stated there are a lot of expensive ten (10) acre lots up against a lot of inexpensive ten (10) acre lots. Does he see his point? That's where they get the problem.

Joe Haney stated sure.

Anthony Hendricks stated a ten (10) acre lot is about six-sixty (660') by six-sixty (660'). They could do it. So, twenty (20) acres in Ag zoning.

Glen Minich stated that is what he would prefer.

Anthony Hendricks stated this will not affect M1, M2, B2, B3. Ag zoning only.

Attorney Biege stated right.

Michael Polan stated on the other zoning designations they will go with the setbacks that are already listed for those zoning districts.

Anthony Hendricks stated and they have to go to the BZA. For the ones that aren't permitted.

Michael Polan stated this doesn't have to be conclusive this evening. They can take this under advisement. They have all received information from the County Planner who couldn't be present tonight because he fell ill. It was provided to the City of LaPorte by a consultant. They paid a significant amount of money for it. He hasn't been able to review it extensively, but it does appear to have quite a bit of good information that they could review and consider if they meet for a part two (2) of this later on in the year or next year. There is some stuff in there that would apply to cities and towns that wouldn't necessarily apply to them as an unincorporated area, but there is a lot of other information in there that is valuable.

Attorney Biege stated when they first developed the Joint Zoning Ordinance, the goal was to help to encourage economic development. Dave McCain on behalf of the City of LaPorte, himself on behalf of the County and Steve Hale on behalf of Michigan City met once a month for a year and a half or so to make sure it all meshed. Why the City of LaPorte went off and did their own thing he doesn't know, but he would suggest they take into consideration on these changes that everything was the same at one (1) time on purpose.

Anthony Hendricks stated after the changes have happened for the Joint Zoning Ordinance, is there a digital file somewhere? Mitch Bishop brought them some good points that if they move to a unified development ordinance with both the Joint Zoning Ordinance and the Subdivision Ordinance, but there needs to be a digital file. He knows there originally was, but this is the third version of this he believes. Is there a digital file somewhere still?

Attorney Biege stated he needs to verify with his staff since they are talking about computers, but he's pretty sure he has it saved by chapter at the firm. He just needs to confirm that. That's the JZO not the Subdivision Ordinance.

Anthony Hendricks stated he thinks they have one (1) somewhere.

Michael Polan stated these are online and on the County website. One (1) place is weird and has stuff crossed out, but there is another place where it is good access and it is indexed by chapter.

Anthony Hendricks stated it is under the Planner's website.

Michael Polan stated right.

Anthony Hendricks stated this started with the solar. Do they want to do anything with the solar ordinance with this wording that they have had for a while.

Attorney Biege stated the Solar Ordinance they passed as a standalone. The Indiana statutes have a very specific way that they amend their zoning code and there are many hoops that he has to jump



through; he isn't complaining. The Solar Ordinance though is a standalone that they passed through just the Plan Commission and the Commissioners. He would recommend they keep it that way as he foresees there will be more changes in the future. For example, the Floodplain Ordinance they took out of the Joint Zoning Ordinance because every three (3) years it is updated by IDEM and they have to pass a new one (1). So, they took it out otherwise they have to follow all the steps connected with a zoning code change. He suggests they keep solar standalone and not part of this.

Anthony Hendricks stated before they open the floor to the public, is there any discussion on Mitch Bishop's fourteen (14) pages.

Joe Haney stated overall, he would like to see them develop something making the highly flammable storage, processing, and manufacturing a Special Exception meaning they would have to go before the BZA. They have seen a few issues crop up over the past year where things continue to occur and there has to be some better guardrails to get around that. He knows there are some certain things in there for handling waste and things like that, but overall, looking at some of the stuff moving forward, especially if there is just a storage location where they are storing it and processing it at another location, there has to be somewhere around that. Of course, there's also a difference between highly flammable and combustible. Highly flammable is going to be the things that are going to be much more easily ignitable and once they go, they propagate much quicker. He thinks that's something they need to include in there to try to get a better handle on these things.

Anthony Hendricks stated they could have Doug look at it and see if they can tighten it up.

Attorney Biege stated he would suggest him tweaking their use chart because it's not very specific. It has chemical manufacturing and storage which is pretty general and then explosive manufacturing and storage. What is that? We don't have a definition. He would suggest they maybe add a category because it is presumed that the flammable stuff falls under the petroleum tank farms et cetera.

Joe Haney stated there are many categories.

Attorney Biege stated there are new products that didn't exist when they did this. He would recommend they create another category of flammable product and define that.

Joe Haney stated they should be able to pull a lot from the NFP standards as well. They can pull definitions off of there and delineate them down.

Attorney Biege stated they might have something.

Joe Haney stated they want to make sure they handle highly flammable versus flammable and combustible separately and obviously explosive.

Anthony Hendrick stated they have an expert here. Councilman Novak may be able to give them a little bit of insight from the perspective from firefighters and flammable.

Attorney Biege stated tell him where to find the correct definition.

Randy Novak stated NFPA would be the place to get the standards, but he can get us the books and everything for that. The other part of it is that somebody can haul truck loads that are placard going down the highway because they are required and take them to a warehouse and unload them and nobody knows what's inside there.

Harold Parker stated exactly.

Randy Novak stated there should be something on the outside of the building. If it's full of flammable materials there should be something marked on the outside of the building as well. There's a lot of things that need to be looked at.

Attorney Biege stated okay.

Randy Novak stated anything that has anything that is highly flammable, highly combustible, or explosives or whatever, there should be an ordinance anyway where they have to report that to the County anyway.

Attorney Biege stated he agrees because they can only go so far with zoning, but that doesn't mean the County can't pass independent ordinance. For this purpose, if they create a new category that applies because right now if it explodes or is being stored, that is all they have.

Anthony Hendricks stated Randy gave them the three (3) words; combustibles, flammable, explosive.

Attorney Biege stated yes. They don't really have combustible and flammable as far as defined in the industrial areas.

Randy Novak stated all three (3) of those are the same when it comes to firefighting. It is all categorized the same. They're all bad things that can cause a big fire and make a big boom.

Attorney Biege stated for their purposes, when they talk about enforcing the zoning code if somebody is in violation, he has to be a little more specific on how he defines these things.

Randy Novak stated he agrees with him a hundred percent (100%) that zoning is only going to go so far. There needs to be rules in place in the County that anybody storing over "x" number of pounds. . . It's just like they do with fireworks. If they have fireworks it is scrutinized. When Menards set up a display, they would have to go to Menards and inspect their display. That's how much fireworks are regulated. Every store that is out there. Then when they get into this other stuff, especially when they get into Ag chemicals and stuff, they are regulated a lot, but there is a big missing gap with issues that they have been talking about.

Attorney Biege stated right. He is working on some other stuff outside of here.

Harold Parker asked about cleaning solvent. People have to clean bad stuff out.

Randy Novak stated it would be nice in the County without getting too restrictive, but it would be nice like in Michigan City, when somebody opens a business, they have to register with the City that they are doing business. They could open a business anywhere in the County and nobody would know what they are doing. He could ask Mike where so and so is doing business and he wouldn't know because they don't have to report to the County at all unless they are selling food in which they need to have the Health Department come in.

Michael Polan stated he agrees with that. That is why he likes the special exception requirement because it puts a check in there and then they would be required to report that to the County to get a special exception by the BZA. It gives them the chance to have a conditional approval. They would know exactly what is going on in there. If there is a problem later on down the road, they can refer back to that and prove that they have expanded beyond their initial scope of work.

Randy Novak stated in Michigan City the registry is free. It's not to punish people or to stop them from doing anything, but when somebody opens a business or changes a business, it allows the Building Department to come in and check everything to make sure everything is up to code. In this, they are referring to businesses that have the public coming in. If somebody works from home and they are a bookkeeper and nobody ever comes in then they don't need to have exit signs and things like that. If they have an actual market or something that is there and they are bringing people in and their movements are being restricted through there then it needs checked out just to make sure everything is safe. There is a way to do it without getting crazy though.

#### **Public Comment:**

Stephen Nightingale stated his address is 998 E. 1000 N., LaPorte. It is a forty (40) acre farm and yes, he has one (1) trailer on there and it is a hundred feet (100') away from the Hesston Steam Museum. He would like to make three (3) comments about three (3) articles in sections He will make them as brief as he can. The first is Article 2.06, the second is Article 22.07 and the third is Article 24.05. For Article 2 Section 6 (d) "The use determination of the enforcement official may be appealed to the board of zoning appeals for an interpretation of the use provision of the zoning ordinance." He has spoken to Mike about this previously and he has three (3) comments and suggestions. Number 1, there is no limitation in what he just read; what is the law withstanding? What is says right now is if someone disagrees then they can appeal to the Zoning Board. He doesn't want to put words into Mike's mouth, but that protects Mike as much as it protects anybody else. He thinks that the standing is a big issue these days among the legal folks as he is sure, but he doesn't think that needs changed there. Number 2, there is no limitation on time there. Statutes go for years. Do they really need that; he doesn't think they do. The one (1) thing he thinks where they could use clarification, he appreciates Mike's comments on this, is how does one (1) appeal to the Board of Zoning Appeals that is not in here accessing. Mike suggested that he bring this to their attention as a bit passed when they were discussing an ongoing matter. He had actually written three (3) letters to the Board of Zoning Appeals. This was when Versaw was before the BZA and he didn't get an answer to any one (1) of them. Now here they are. It is his belief that a certified letter to the Board of Zoning Appeals requesting an individual request under Article 2 Section 6 (d) that he be permitted to address the Board of Zoning Appeals would satisfy that issue. He didn't discuss this with Mike or Doug beforehand, but would that be sufficient?

Attorney Biege stated requesting what though. He is not understanding.

Stephen Nightingale stated he would be requesting permission to address the Board of Zoning Appeals.

Attorney Biege stated it doesn't work that way.

Stephen Nightingale asked how does it work.

Attorney Biege stated they are at a workshop here and it is open discussion here tonight. But in the Board of Zoning Appeals it is petition specific. The statute says you have to do a myriad of things to apply for a variance or special exception to the Board of Zoning Appeals. The Board of Zoning Appeals doesn't discuss matters generally. They either approve or deny requests. So, If Mike makes a decision and he doesn't agree with it, then he would simply file an appeal to the Board of Zoning Appeals from the Building Commissioner's decision and tell them what it is he wants.

Stephen Nightingale stated he thinks they are saying the same thing. Doug has been doing this a lot longer than he has. He has only been doing this for two (2) years now. If a decision in this particular case does require BZA approval, if Mike's decision is no and his decision is yes, then Article 2.06 gives him the right to appeal to the Board of Zoning Appeals.

Attorney Biege stated right.

Stephen Nightingale stated it doesn't give him a key to the front door. How does he resolve that? It says that he can appeal, but how does he get on the agenda?

Attorney Biege stated he would send it to the Board Secretary.

Stephen Nightingale stated he would send it to the Secretary of the Board of Zoning Appeals that he requests under Section 2.06 to appeal the decision of the enforcement official before the BZA. Is that correct? That's all he needs to do.

Attorney Biege stated yes. He thinks that is here and it is okay. He thinks he is asking more procedural type questions and he doesn't want to get too specific on the JZO.

Stephen Nightingale stated he is asking the question Mike suggested he ask.

Attorney Biege stated okay.

Stephen Nightingale stated he got the answer he was looking for.

Anthony Hendricks stated he is reading Article 2.06 (d) "The use determination of the enforcement official may be appealed to the Board of Zoning Appeals for interpretation of the use provision of the zoning ordinance." The way he is reading that is if he came to Mike and said he would like to do x, y, and z and Mike says no, then he as the owner would ask for a different use could appeal to the Board of Zoning.

Stephen Nightingale stated he is not the owner, but it doesn't specify in there.

Anthony Hendricks stated that's what he is asking. So, people can't come and say they don't like Joe Smith selling apples and would like to appeal Mike's decision because he doesn't like Joe Smith selling apples. That's not his use, but his neighbors use.

Glen Minich stated they just had that in the last meeting. Mike wasn't comfortable with continuing the use at a certain zoning and he wanted the Board to look at it. Mike has the discretion whether to bring it to the Board whether it's even appealed.

Attorney Biege stated he will review them before they get to the BZA so if somebody says they don't like Joe selling apples next door and Mike said it's okay, it won't go to the BZA unless there is an allegation or an interpretation or something the Board should review. It will not be used as a complaint forum.

Anthony Hendricks stated that is what he was getting at.

Stephen Nightingale stated if he is next door, where they are is an example, but it is not the only example. In particular, if he disagrees with the decision the specifics are a certain activity which he will call it a land contouring project, if the decision is that it does not need to go to the BZA and his complaint is that does need to go to the BZA.

Anthony Hendricks stated that is what Doug is saying. If somebody doesn't like their neighbor then he would look at it and if Mike said it was okay then he would decide if it would go before the BZA or not. If there is something where the use is in the book and needs to be considered by the BZA.

Stephen Nightingale stated he isn't sure he agrees with what he just said in terms of what the law says. The law as it sits right here is if he disagrees with an enforcement official then he can request the BZA to review and he has standing to do it. There is no time limitation. The only question was how and he was told a letter to the Secretary of the BZA gets him on the agenda. That doesn't get him a favorable vote.

Attorney Biege stated to keep in mind that the point Tony was making is that it has to be contained within the JZO. It has to be a section and an issue surrounding Mike's interpretation of the Joint Zoning Ordinance.

Stephen Nightingale stated yes. He got the answer he wanted. That's one (1) out of three (3). Let's move right along. He thinks the other two (2) will be even easier. Section 22.07 the Natural Resource Protection chapter. Here is the scoop. In the Natural Resource Protection, the duties of the enforcement officer include issuing a stop work order and in Section 22.14 the power to enforce includes the power to enforce the restoration of any natural resources area impacted in violation. He would ask why they are limited to 22; this is DNR. He is actually arguing to give Mike some teeth. Give him a hammer or legal authority. Right now, for the rest of it, if he wants to enforce something he has to go to court and as they all know courts are stacked up and it could go two (2) and three (3) years. It seems to him that Mike has the power for the natural resources; he should have that power

for the rest of the Ordinance. He doesn't anticipate Mike disagreeing with him and he will have a chance in just a minute. As they consider how they are going to amend the JZO, he asks that they give the enforcement officer the legal support to do his job because he doesn't think he has it right now.

Michael Polan stated he can agree that when he needs to take enforcement actions against individuals or corporations it takes a long time to get through the court and or an injunction. They have had several code enforcement meetings where they have discussed hiring a hearing officer or magistrate and putting specific code violations on the docket so they can start pumping the cases through and getting the County cleaned up faster. He doesn't know where they are technically at with that yet; they are waiting on a draft ordinance, but it is something that has been discussed. Part of the other thing he was referring to; they concurrently enforce State statutes with DNR. That is not typically an action he would take on his own. He would either enter a case jointly with them or at the very least he would take concurrent action and follow their lead as the Floodplain Administrator depending on which outside agency it might be.

Stephen Nightingale stated he doesn't think they want to hear him read the Indiana Code Title 36-4, but he has it.

Anthony Hendricks stated he can present that to Mike for him to give to them later.

Stephen Nightingale stated he has read it, he is a doctor not a lawyer, and none of them are doctors are as far as he knows, but they do overlap in certain ways. It seems to him that the legal path to go in this direction is pretty clear. He will leave Number 2 at that. Number 3 is Article 24.05 (c) Hazard. Why has the phrase "through the excessive production of traffic, noise, smoke, odor, fumes, or glare" has been stricken from the ordinance rather than adding the phrase "including, but not limited to traffic, noise, smoke, odor, fumes, or glare." Why was that stricken?

Attorney Biege stated he will go back and double check it, but that should track the language of the Indiana Code exactly. These factors that are listed there in the JZO are taken from the Indiana Code. He can check the code. Maybe it was a typo or something or a scrivener's error.

Stephen Nightingale stated he brought the Indiana Code with him; does he recall what section?

Attorney Biege stated no.

Anthony Hendricks asked which section is he talking about again.

Stephen Nightingale stated Article 24.05 (c) Hazards.

Attorney Biege stated he can take a look at it. If they are missing language then they certainly need to have it, but he would not recommend adding language in addition to the Code because zoning is a statutory issue.

Stephen Nightingale stated he didn't learn that in medical school, but he learned that in the school of hard knocks.

Attorney Biege stated okay, there you go. He will check it out.

Stephen Nightingale stated it is language that is in the JZO right now and perhaps there was a compelling reason to remove it seeing as how it pretty much summarizes the whining that they will hear from the podium on occasion. He would leave it in there.

Anthony Hendricks stated anything that he may have, please give it to Mike so he can distribute it to them because they're just here taking information tonight.

Stephen Nightingale stated he made his point. Mr. Biege will take care of it.

Attorney Biege stated he has one (1) more too. Batteries.

Anthony Hendricks stated combustible, explosive, flammable.

Attorney Biege stated yes.

Anthony Hendricks asked how many batteries can they put in a container.

Attorney Biege stated the way they have handled it thus far, they are told the legislation is going to come down with rules and regulations, but at his age he isn't sure he can wait that long. So, the way they have handled it he likes. He just wants to check and discuss it with the Plan Commission that they have made a conscious decision because Mike and he navigated themselves through the first request. They have another request coming. From what he understands, batteries are not all the same and there are some developments of new batteries. On the Monroe Project, the BZA set limitation and certain rules where they had to train the local Fire Department on how to fight the fire, they had to put in a water tower, they had reporting requirements, they had inspection requirements. They are not in the JZO at all. What he is suggesting is they put electrical storage facility including batteries or any other type of electrical storage and make it a special exception. Don't try to get any farther into it because technology is changing so quickly. He is over the age of fifty (50) and doesn't understand most of it.

Anthony Hendricks stated energy storage devices.

Attorney Biege stated just storage devices and keep it that generic. That way, when it gets in front of the BZA, the BZA can delve in with whatever specificity they want. They are talking about another facility coming and he doesn't think it is the same type of battery from what he understands.

Anthony Hendricks stated they can codify that in the code.

Attorney Biege stated yes so at least they have some mention of it because right now they have nothing saying anything. The petitioner was fine with it and they had a fine attorney and they worked together on it, but technically they don't have anything in their code covering it at all.

Anthony Hendricks asked if this is something they could send them to approve maybe next meeting to actually vote and codify it in the code.

Attorney Biege stated yes, but the request they are going to have coming they will have a few months and he thinks they will be done with the changes by the time we get there. He wants to make sure everybody agreed the way we handled it and that we should handle it that way moving forward.

Anthony Hendricks stated Rita mentioned that there is one (1) rearing its head in Michigan right now.

Rita Beaty stated the marijuana proposal that she has eluded to a few different times that they need to address because it is coming.

Attorney Biege stated he never did get that.

Rita Beaty stated they don't have anything in there either. If they are going to start eventually. . .

Anthony Hendricks stated residential areas in Michigan are very upset at the odor coming from these farms. They say it is ruining their life. They stink.

Attorney Biege stated he could work on something, but it is illegal in this State and until they change that law, they can't do it.

Rita Beaty stated she knows, but she would like to have something in the backdoor ready to go because they just never know.

Attorney Biege stated he has a really good joke to explain why she didn't get around to it. There's a song that goes with it.

Randy Novak stated he agrees with them on the Michigan thing because they have a few deals up there. Real estate deals, not that kind of deal. The restriction right now is a dispensary, they have production places as well, but the dispensaries cannot be within a hundred and fifty feet (150') within a residence which is not that far. They need to have something in place so if and when the State ever does open it up because up in Michigan they opened up and they have corridors they have identified as somewhat of revitalization areas and they are issuing as many permits as people want and they are going to let the competition sort out who gets to stay. Everything along 12 is under contract. Everything on 39 is under contract. It is just a mad house. It's better to have something in place now.

Anthony Hendricks stated they need to be prepared.

Attorney Biege stated he can get a draft at the ready, but it also depends on what the legislature does if and when. In Chicago for example, they have a limited number of licenses and the licenses in the city to neighborhoods and geographic areas. The legislature might handle part of this and then if



there are holes they want to fill in they can, but that's why he hasn't done much on it or frankly anything.

Randy Novak stated New Buffalo has one (1) they are working on.

Attorney Biege stated there is a big disparity on how the states are handling the sales and distribution and that will have a significant impact on what they draft or pass.

Rita Beaty stated she was thinking about their meetings when they had the dancing things coming before them and the studios where they had to do the tours and they weren't ready. They weren't prepared. Then they had to create.

Anthony Hendricks stated they scrambled.

Attorney Biege stated yea the strip club. They were not ready for a strip club. They didn't have anything. They have an ordinance in place now.

Rita Beaty stated they did it quick.

Anthony Hendricks stated to keep the energy as open as possible. They are moving so fast that they can't keep up. At this point, they are seeing modular nuclear power facilities. They are coming.

Michael Polan stated he has three comments. First, on the topic that was just brought up; he agrees that if legislation changes State or Federally, they should immediately convene either by committee or commission to get in front of it because they know it will be coming. Backing up before that, on the lithium storage, they already know that's coming and he likes the idea of the Special Exception because it puts eyes on it and gives the BZA the chance to make any approvals conditional. They could require third-party inspection or different things to make sure they are covering all the safety aspects. The township fire is involved as well as hazmat and they aren't missing anything. Right now, they don't have any language so at least some broad language that puts a check in to give them some oversight. Lastly, Section 15.07 Basement Construction. They have come up with a form that they would require the public to sign that is an acknowledgement of a high-water table in areas where they know that it exists. He has been interested in that ever since Meadowview Estates happened. There were over twenty-seven (27) homes that were affected by subterranean water.

Anthony Hendrick stated thanks to the Council and the Commissioners that is solved.

Michael Polan stated yes, but they don't want more problems in more subdivisions especially in areas that they know subterranean water exists. So, he would like to add this form. This was approved by Doug a while ago. He has been saving this for a while. The Council the last time he was there to discuss this specifically, they requested that he discuss this at the Plan Commission level too. He wants to add this form into that Section 15.07.

Harold Parker asked if he needs a motion to get it added in.

Attorney Biege stated he suggest they do that by Building Commissioner's Rule with the approval of the Plan Commission. That way, they can change the form and see how it works and they can always alter it and they don't have to amend the entire JZO.

Anthony Hendricks asked for a motion to accept that.

Joe Haney made a motion to approve.

Rita Beaty seconded.

All Approve. Motion carries 7-0.

Anthony Hendricks stated thank you, Mike. It really helps.

Harold Parker stated they give Mike everything he wants.

Attorney Biege stated he has one (1) on the Subdivision Control Ordinance if they are done with the JZO.

Joe Haney stated he has one (1) more thing that he wanted to tie in when they are talking about the highly flammable special exceptions. Can they put in something where there is some sort of insurance? He doesn't know exactly where they would put the mark or just leave it up to the discretion of the BZA. Put in some sort of insurance clause. One (1) of the things they are running into with some of the volunteer fire departments is that they are getting equipment that is contaminated or ruined because of some of the run off from some of the hand sanitizer fires. They are trying to get reimbursed from the company's insurance company, but they are not wanting to reimburse them because they are claiming it is the cost of doing business for the fire department. Of course, the fire department every time they turn in a claim to their insurance, their rates go up. There has to be some way for things that are outside of the norm such as this where large volumes of product that is being washed all over the place and contaminating hoses and gear. Between the various departments, they are up to just over a hundred thousand dollars (\$100,000) and that is something they should be able to get help with. He would think there would be some kind of clause to put in there to have coverage in case it happens because they are shoe string budgets now as it is.

Attorney Biege stated that is an excellent point, but he envisions an ordinance. He wants to put teeth in that ordinance. If they put it in the JZO, Mike doesn't really have an enforcement authority under the code. He isn't discounting what he has to say, but he has it in his mind that he is going to put it somewhere else with some of the stuff they talked about drafting. It has not been forgotten. If he can't get it there and it doesn't fit in there he will come back here and they will figure something out.

Joe Haney stated thank you. Sounds good. He appreciates it.

Attorney Biege stated real quick; this is the easy one (1). In the Subdivision Control Ordinance, Section 04.07 Public Improvements Installation Guarantees. The way that the ordinance is drafted now, they don't have a stop gap to make sure that the bond for the developer is in and properly done

for the roads. All he wants to do is make a requirement that before secondary plat is recorded, it is approved and goes in front of the County Commissioners. He can't necessarily get it back here, but they are the last word anyway. That way there will be a double check to make sure it has happened. All he will do is add the words "County Commissioners" in a couple places.

Rita Beaty stated okay.

Anthony Hendricks stated yes. They have one (1) that is about to come. He has notified the Recorder, unless it has been bonded or built, do not record the document. They don't want people buying lots when there is no road and infrastructure put in.

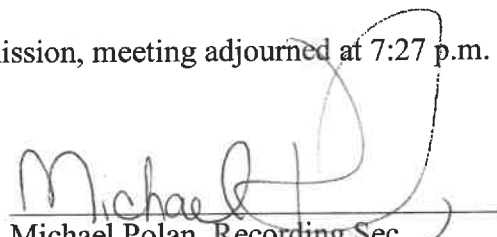
Attorney Biege stated he has been doing the Plan Commission's work for about fifteen plus (15+) years. They have not had major subdivision requests come into the County. They are going to have some coming down the line. He wants to make sure they have this setup. This is for major subdivision, not minor, and they will be coming so they want to make sure they have it all stacked up so the County is protected, but they can get these things through and approved.

Glen Minich made a motion to adjourn.

Rita Beaty seconded.

There being no further business before the Plan Commission, meeting adjourned at 7:27 p.m.

  
Anthony Hendricks, President

  
Michael Polan, Recording Sec.