Burns Harbor Advisory Plan Commission

Minutes of Monday, April 4, 2016

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Monday, April 4, 2016 in the Town Hall. The meeting was called to order by Advisory Plan Commission Vice President, Andy Bozak at 7:00 pm.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Eric Hull	Absent
Andy Bozak.....	Present
Toni Biancardi	Present
Gordon McCormick	Present
Bernie Poparad	Absent
Krista Tracy.....	Present
Crystal Westphal	Present

Additional Officials Present
Building Commissioner Bill Arney, and Attorney Christine McWilliams

Minutes
McCormick moved to approve the minutes of March 7, 2016 as written. Westphal seconded the motion. **Motion carried by unanimous vote**.

Communication, Bills, Expenditures
None.

Report of Officers, Committee, Staff
McCormick states that he, Westphal, and Tracy conducted a review of Chapter 12 (Mobile Homes) and Chapter 5 (Garbage) to address revisions to the Town Code.

Town Code Chapter 12:
12-1-5. MOBILE HOME PARK
B. *Zoning Districts: A Mobile Home Park may be located on land zoned R-3.*

McCormick states we need to **remove R3** as Mobile Homes are allowed. He also states we need to add SD4 and SD5.

12-1-6. LICENSE TO OPERATE
A*. At such time as the total number of mobile home spaces within the Town exceeds 160*

McCormick questions why is there a total mobile home figure of 160 required prior to licensing be applicable.

Biancardi asks McWilliams if we could take out the requirement of 160 and require all of the mobile home parks to be licensed.

McWilliams states she would have look into the matter and doesn't know if this is an arbitrary number.

Arney states there is something in the IC code that requires that number.

***A-2**. Mobile home park operators shall apply for License to Operate and pay to the Town Clerk-Treasurer the yearly fee on or before May 10 of each year in accordance with the following schedule.*

McCormick questions why the licensing date is May 10th when every other business in town is January 31st. McCormick states this needs to be changed.

McCormick states street lighting should be added, it is a requirement by the State of Indiana per IC Code 16-41-27-17. If it is added to our ordinance and a park is in violation and does not pay, can we lien the property?

Arney states that the Building Department is able to enforce any State code as long as it is adopted it to our ordinance.

Town Code Chapter 5:
McCormick states there are number of things in Chapter 5, starting with the following.

5-1A
It shall be the duty of every person who is the owner or occupant of any premises within the corporate limits of the Town of Burns Harbor, Indiana to use the size and style of garbage container provided or authorized by the Town of Burns Harbor for garbage or refuse to be collected by or on behalf of the Town.

Biancardi states we need to remove the words authorized and style. McCormick states we need to add residential before premises. McCormick states we need to add:1-90 gallon trash container and 1-90 gallon recycling container. If a residential property requires more than the two supplied, it will be the homeowners financial responsibility to pay for extra containers.

5-1D
*All refuse collected from any residence or business on each regular pick-up in excess of that which is contained in **the containers authorized by the Town of Burns Harbor** shall be collected at the expense of the occupants of said residence **or business.***

McCormick states remove the word "business"

McCormick states **ADD** to the code**:** any trash other than residential use will be responsibility of property owner or occupant.

McCormick states **ADD** to the code**:** any residential use property that is doing a cleanout due to a disaster such as fire, flood, etc. or an eviction MUST have a dumpster on site to handle the refuse. Any person violating this provision will be given 24 hours to address the situation or they will be assessed the cost of manpower and equipment for cleanup. If the cost is not paid in 30 days, a tax lien will be imposed.

Arney states he has means to enforce a violation fine after 24 hours.

McWilliams states she is not sure if 24 hours is reasonable because it would depend on the situation. McWilliams cites basement flooding as an example.

McWilliams suggests looking at Chapter 9-Nuisance and Chapter 12-Garbage and Refuse to compare to see what currently exists. McWilliams also suggests adding language so it can all be packaged under the Garbage section.

Chapter 15-Signage
Pennant Flags, Banners and General Signs
Biancardi discusses temporary flags used at businesses for sales. Biancardi states business owners have asked for the ability to use flags more often than the 30 days per calendar year currently allowed.

Arney states pennant flags have become very popular and he has allowed temporary flags but recently business owners want to place permanent flags on their properties, residential owners have been hanging pole banners, political signs, neighborhood signs and inflatables. Arney states we need to have control over what is being displayed and the timeframe for removal. Biancardi states we need to write language in our code to address these types of signage.

Chapter 14-Park Lands.
Biancardi suggests the board examine Chapter 14-The Park Lands. She invites suggestions from the Park Board as well. Currently, we have the following Park Lands requirement:

14-3-7.
E. PARK LANDS:
1. Required Dedication: *The sub-divider of residential real estate shall set aside land for park and recreational purposes with a minimum requirement of seven (7) acres of land per 1,000 of the planned ultimate population of the subdivision in accordance with the following classifications: Typical Unit Category Acreage Requirement per Development Unit Single-Family .0102 Duplex .0102 Apartment/Other Multi-Family Dwellings .0087*

3. Alternatives to Dedication: *The Plan Commission may allow the sub-divider to make a cash contribution in the amount of $500.00 for each lot in the plat of subdivision in lieu of donating land for use by the Park Department. Payment of the cash contribution shall be made no later than upon the issuance of the first building permit. In the alternative, the sub-divider may provide a surety or letter of credit representing the amount of the cash donation and providing, in terms approved by the Plan Commission's attorney, that the cash contribution shall be paid in full upon the earlier of one (1) year after secondary plat approval or upon building permits being issued for more than 50% of the buildable lots in the subdivision. The contribution shall be deposited in a non-reverting capital fund for use as directed by the Burns Harbor Park Department for capital improvements of park properties in any quadrant of town. (Ordinance 219 ,12/17/2008)*

Biancardi states our parks are in need of equipment and if we would extend the dedication to commercial entities we may have a means and opportunity to bring in funds.

Khalil suggest a Commercial Impact Fee to bring in funds.

Biancardi also suggests the Park Commission look at Chapter 11, as well.

Preliminary Hearing
None

Public Hearing
Final Fee Schedule Proposal

Bozak opens the public hearing.

Biancardi states we have reconciled inconsistencies with the fee structure and permanent requirements.

Specifically:

- Changed Signage to $1.00 per sq. ft., with a minimum of $75

- Removed Max Permit Fee column entirely from the table for RC2, DD, BP, SD.

- Reduced Project Value from $5,000 - $100,000 to $1,000 - $100,000 to be consistent with Chapter 4 and what we require of our residents.

- Changed the Fee Schedule for RC2, DD, BP, SD as follows:
    - * Plus $50.00 fee for each required inspection as determined at time of plan review.
    - **Any additional inspections required as a result of change orders or unforeseen issues will incur separate/additional inspection fees which must be paid prior to a Certificate of Occupancy being issued. This change will enable us to cover our costs if additional inspections are required.

  Both changes were made to cover the cost of inspections.

- Changed Fee Schedule for R and RC1 as follows:
    - **Plus $35.00 fee for each required inspection as determined at time of plan review.

There was no public comment.

Bozak closes the Public Hearing.

Biancardi motioned to favorably recommend the Fee Schedule Amendment to the Town Council. McCormick seconded the motion. **Motion carried by unanimous vote**.

Public Hearing
Final Surface Parking Proposal

Bozak opens the public hearing.

Biancardi states surface parking has not been contemplated in the Ordinance and there is a need to enforce parking regulations.

Specifically:

- Adding definitions to distinguish between different types of Motor Vehicles and amending the Zoning Form & Function Table to include Commercial Surface Parking; and

    - **15-2-2 Definitions. 46. COMMERCIAL MOTOR VEHICLE:** a vehicle that has a gross vehicle weight rating of at least 26,001 pounds, is designed to transport 16 or more passengers including the driver, or similar vehicle with two (2) or more rear axles; or any size vehicle carrying hazardous materials which requires placarding.

    - **15-2-2 Definitions.48. COMMERCIAL SURFACE PARKING:** an off-street, ground level, permanently paved open area that provides temporary storage for commercial motor vehicles other than for expeditious delivery or pickup of materials or for construction use.

    - **15-2-2 Definitions. 130. MOTOR VEHICLE:** A vehicle that is self-propelled including automobiles, trucks, motorcycles, snowmobiles, recreational vehicles and like devices which have a gross vehicle weight rating of 26,000 pounds or less.

    - **15-2-2 Definitions. 145. Off-Street:** located outside of a street right-of-way.

    - **15-2-2 Definitions. 212. VEHICLE:**
        - Boats and watercraft (motorized and non-motorized)

        - Light: Cars and trucks with single rear axles and single rear wheels with a gross vehicle weight rating of 8,000 pounds or less, including motorcycles and scooters.

        - Medium: Trucks and similar vehicles, other than truck tractors, with single rear axles and dual rear wheels with a gross vehicle weight rating that does not exceed 26,000 pounds.

        - Heavy: Trucks, including truck tractors, and similar Vehicles with two or more rear axles. Any truck exceeding a gross vehicle weight rating of 26,000 pounds or any truck-tractor or semitrailer.

    - **Table 5-2 Zoning Form & Function Table** –

        - f. CIVIC SUPPORT, add Surface Parking, Commercial. Permitted only in Special Use District (SD). Neither Permitted nor a Special Exception in ROS, R, RC1, RC2, DD, or BP.

Bozak opens the public comment.
No comment in favor.
No comment in opposition.

Discussion of the Board.

Westphal refers to **CHAPTER 8, Sec. 8-5. WEIGHT LIMIT**.

A. It shall be unlawful for the owner, or any operator, of any motor vehicle, to drive, travel or park, on any public highway, byway, street or road, subject to the jurisdiction of Burns Harbor, Indiana, if the gross weight of said vehicle exceeds the weight of 16,000 pounds.

Westphal asks if we should change the weight limit.

Biancardi asks if this conflicts with the changes referred to in Surface Parking Proposal since we are allowing vehicles over 16,000 pounds to park on the surface.

Arney states we are talking about parking in permitted uses and trying to control overweight vehicles on our roadways. Arney states there is no contradiction.

McWilliams states it is only trucks over 16,000 pounds. The commercial trucks are addressed in an entirely different way. McWilliams state we are talking about a difference of definition and not necessary talking a difference of inability of use.

Arney states he agrees with Westphal and believes the contradiction in the codes actually protects us but he will need to see what the IDOT standard is.

Biancardi states we should move forward with the surface parking but go back and look in to Chapter 8, Sec. 8-5. Weight Limit.

McCormick asks to review **15-2-2 Definitions. 46. COMMERCIAL MOTOR VEHICLE**: and refers to a gross vehicle weight rating of at least 26,001 pounds, is designed to transport 16 or more passengers including the driver, or similar vehicle with two (2) or more rear axles; or any size vehicle carrying hazardous materials which requires placarding.

McCormick ask if this addresses/includes semis. It's very confusing that way it's written.

McWilliams states it is very similar to IDOT definition for a commercial vehicle. The intention of this definition is to cover vehicles of that nature as well. It is anything over 26,001 pounds.

McCormick states in **15-2-2 Definitions. 212. VEHICLE,** we specifically mention truck-tractor or semitrailer:

- Heavy: Trucks, including truck tractors, and similar Vehicles with two or more rear axles. Any truck exceeding a gross vehicle weight rating of 26,000 pounds or any truck-tractor or semitrailer.

Biancardi states the difference is 46 which is Commercial compared to 212 which is Vehicle, therefore the use is different.

McCormick state semis are commercial vehicles.

McWilliams states the definitions in 15.2 were pre-existing in the Town Code. The definitions in Chapter 8 were left alone to exist as they were prior to this recommendation in case there was any interplay with other code sections in the Town Code.

There was no further public comment.

Bozak closed the public hearing.

McCormick motioned to favorably recommend the Surface Parking Proposal Amendment to the Town Council. Tracy seconded the motion. **Motion carried by unanimous vote**.

Old Business
None.

New Business
Trail Creek
Patrick M. Kleihege-219-926-3232 or 219-462-1488

Biancardi states we need to remind Mr. Kleihege his bond expires June 1, 2016. It may be necessary for him to come to the May meeting to make sure there is something in place after June 1. Burns Harbor Secretary will contact Mr. Kleihege.

Good of the Order of the Community & Any Other Business
Biancardi states she has a request from RDC to let everyone know we will have a representative next month for a preliminary hearing to discuss rezoning Westport Property. The suggestion is probably RC2 to be able to move forward on a projects from the implementation plan.

Bozak states that Khalil to give an update on Westport Community Property.

Khalil states Westport Community is a 3½ acre property and the idea is to have a Pop Up Downtown per the recommendation of LiveWorkLearnPlay Inc. (LWLP). The area is not zoned for commerce or commercial use; it is not allowed under R which is residential. My colleague, Scott Kuchta and I are reviewing the zoning code together. RC2 would not allow two commercial uses in one building. The easiest way is to go is for the downtown zoning or apply for a Planned Unit Development (PUD). It is under Chapter 14, so it is allowed. If it is rezoned for downtown there are some restrictions for zoning based on RDC's vision for the development, such as buildings facing each other, having a plaza, or a town center feel.

Biancardi states what the Zoning Ordinance doesn't contemplate is the use of temporary structures for commercial use.

Khalil states they looked at the temporary use and it will not work because it is allowed for tents, events or mobile homes. Temporary use might be an issue for a longer period of time not only from the zoning requirements but from infrastructure requirements. You cannot connect to the sanitary sewer system as a temporary use and that would trigger problems with the health department. The two issues facing the town is zoning and utilities. The zoning side is relatively good with either the downtown or PUD. Either will work depending on the RDC's vision.

Biancardi states the purpose tonight is to make you aware of the plan. To look at the code. Go on-line to experience the implementation road map so you can see the ideas behind the concept.

Biancardi states that Khalil will come back next month with a preliminary presentation to see what the board has to say.

Kuchta states strip commercial is allowed under RC2. The main difference between RC2 and downtown is the mixed use commercial with residential or office. That's only allowed under downtown.

Westphal states a gas line that goes through the Westport Community Property. Khalil states they can work around that issue, i.e., parking lot, grassy area, landscaping, just not a building. He is heading to the recorder's office tomorrow to pull the actual deed and see if there is a restriction on that easement. We need to know the maintenance schedule of the pipe as well.

Khalil states RCD's vision right now is multiple levels of containers and the mixed use will not work with RC2. McCormick states RDC hasn't made a recommendation yet.

Biancardi states the RDC meets on April 13, 2016 and we'll wait to see what happens there.

Announcements
None.

Adjourn
Biancardi moved to adjourn at 8:20 pm. Westphal seconded the motion. **Motion carried by unanimous vote.**

APPROVED on May 2, 2016

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Eric Hull, President

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Marge Falbo, Secretary