

# Burns Harbor Advisory Plan Commission

Minutes of Monday, May 2, 2016

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Monday, May 2, 2016 in the Town Hall. The meeting was called to order by Advisory Plan Commission President, Eric Hull at 7:00 pm.

The Pledge of Allegiance to the American Flag was recited.

### Roll Call:

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

### Additional Officials Present

Building Commissioner-Bill Arney, and Attorney-Christine McMcWilliams

### Minutes

McCormick moved to approve the minutes of April 4, 2016 as written. Poparad seconded the motion. Motion carried by unanimous vote.

### Communication, Bills, Expenditures

Plan Commission Secretary Falbo communicates there are three petitioners for the Board of Zoning Appeals. Paperwork is in process of being completed.

Board of Zoning Appeals President Poparad states he will not be able to attend the May 24<sup>th</sup> meeting. If a quorum isn't possible for the 24<sup>th</sup>, Poparad suggests meeting on another night, with the exception of Tuesdays and Thursdays.

### Report of Officers, Committee, Staff

Hull refers to Ordinance 2016-03 Amendment to zoning regarding Signage.

Bozak states there was literature passed with a Supreme Court ruling which prompted him to ask Chesterton about the changes made to their zoning ordinance but they didn't specify what those changes were and that we should look at our ordinance to see if changes need to be made.

Hull asks attorney McWilliams to look at our ordinance to see if there is anything we need to look at or need to discuss changing.

Biancardi refers to the Impact Fee for commercial development which she and Arney discussed last month. Biancardi states she researched to see what other communities charge and she was able to find that information. However, in the course of researching, Biancardi found that every one of the communities did the same Impact study and believes it is probably required by state law if we want to do one. Biancardi states she would like to follow up with Attorney McWilliams because it is something we need to justify.

Hull suggests Biancardi proceed and come back to the board with her findings.

### **Preliminary Hearing**

None

### **Public Hearing**

None

### **Old Business**

#### ***Trail Creek***

#### ***Patrick M. Kleihege***

Pat Kleihege owner of Trail Creek appeared before the Board stating he will renew his bond sometime during the week of May 2, 2016.

Hull states the current bond expires June 1, 2016 and Kleihege will have ample time to renew.

Biancardi asks if this is one-year renewal and Kleihege replied yes.

### **New Business**

Biancardi states we need to remind Village of Burns Harbor IGC/BH, LLC their Letter of Credit expires August 4, 2016. It will be necessary for them to come to the July meeting to make sure there is something in place after August 4.

Biancardi will contact Village of Burns Harbor IGC/BH, LLC.

### **Good of the Order of the Community & Any Other Business**

#### ***Redevelopment Commission***

Westphal questions rezoning of Haglund and 149 for the Town with regards to the Container Village and notes 149 is an extra duty highway. Westphal questions the town's ability to do repairs on that kind of highway.

Hull states if the town takes possession of 149 it will most likely be the town's responsibility if they continue that usage meaning it may not be a heavy haul highway any longer. Hull states this is definitely worthy of discussion.

Westphal asks if we are going to extend the area beyond the 3½ acres allotted for the new downtown area referencing the Duneland's school property.

Bozak replies we are not under any discussions at this time to acquire or even to try and acquire it.

Hull states that if we own only that parcel of land and we choose to do something on it we are limited to the land we own.

Westphal asks if we are pursuing the Duneland land and Hull states the Plan Commission is not and he can only speak for the Plan Commission at this time.

Hull states if another board comes and officially asks us to make a zoning change we will have several meetings to discuss.

Bozak states the RDC will be discussing the road issues expressed and will have a presentation to address these questions and those of a lot of people in town.

### ***Discussion of Chickens in Residential Districts***

Arney states he has had a lot of complaints about chickens. Arney refers to Chapter 3 of the Town Code for animals.

#### ***Chapter 3.3 K***

***"Farm Animals"*** shall mean cattle, cows, horses, sheep, swine, lambs, goats, poultry, rabbits, and any other animals generally considered as indigenous to agriculture.

Arney also refers to

#### ***Chapter 15.2.8***

***AGRICULTURE:*** *The Use of land for agricultural purposes with the intent of selling any products produced by such activities. Agricultural Uses include farming, dairying, pasturage, apiculture, horticulture, aquaculture, floriculture, viticulture, animal and poultry husbandry, and the necessary Accessory Uses for packing, treating, or storing the products; provided, that:*

- *The operation of any such Accessory Uses shall be secondary to that of the normal agricultural activities;*
- *The above Uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within five hundred (500) feet of any residential District; and,*
- *The agricultural Use does not include the operation or maintenance*

Arney states we need to look at the Code as it currently stands and recommends making amendments. Arney asks if the town wants people to have chickens in their back yard or not. Arney states he has an accurate count of seven homes that have chickens and these are just the ones he knows about.

McCormick states his concern is about large number of chickens running loose.

Arney states this may become a Nuisance issue if it smells. We will then be able to govern that.

Westphal asks if anyone is grandfathered in for chickens.

Arney states no he doesn't think so.

Arney states he knows one individual who has had chickens as long as he can remember and has even responded to a coop fire. The only time we received a complaint was for a rooster. Arney states he sent a Nuisance letter and the owner got rid of the rooster but he still has the chickens.

Biancardi addresses Westphal regarding the grandfathered question. Prior to 2009 when Chapter 15 was changed, the only thing that regulated chickens was in Chapter 3. It states "as long as they are not running loose." If individuals who had chickens previously are not aware of that change they will continue doing what they do and not think they are doing anything wrong.

Hull states if this becoming a problem or a growing issue what has prompted it.

Arney states he received a call asking if it's ok to have chickens and he informed the individual that, technically by code, no poultry in penned enclosures are allowed within five hundred (500) feet of any residential District.

Arney's main concern was the "feeding or sheltering of animals or poultry in penned enclosures within five hundred (500) feet of any residential District."

Hull states we need to review Chapter 3 and also the definitions in Chapter 15. Hull asks for a small committee to address chicken concerns. Westphal and Bozak offered to check into these concerns and bring back suggestions in order for Attorney McWilliams to review and make any needed changes.

### **Curly Custom Cycles**

Arney states Lance Waugaman, Curly Custom Cycles is interested in purchasing land next to Mortar Net. Waugaman is under a Special Exception for the use because of a new development and a new building. Waugaman is filing with the Board of Zoning Appeals first to ensure that he is able to operate there. Waugaman understands he will have to come to the Plan Commission because of the change of pervious surface and the entrance ways to the State. Waugaman has a power of Attorney and wants to make sure he is able to operate there before buying the property. He intends to have a 130 x 80 foot building with a custom bike showroom. The Special Exception is for the type, which is motor vehicle sales and repairs. Arney states Waugaman is very excited about coming to Burns Harbor.

Poparad asks the size of the lot and Arney stated a 2½ acre lot. Arney states Curly Customs Cycles is looking for access point from Old Porter Road and the state highway. Arney states it will be the same set up as Mortar Net.

### **Chapter 11 Parks and Impact Fee**

Biancardi states last month we talked about reviewing Town Code Chapters and suggested that since Chapter 11 was Park, we requested the Park Board to look at it. Biancardi states she made those copies available for them and didn't get any comments other than a reference to Park Lands in **Chapter 14-3-7 E**

**Alternatives to Dedication:** *The Plan Commission may allow the subdivider 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 subdivider 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 was wondering if the \$500 is still a good amount. Biancardi states we can probably answer that in what might be this Impact Study.

Hull asks if there was further comment.

Biancardi states they did not offer up any further comments and didn't know if we want to skip that or look at it.

McCormick states we should do the Impact Study and then we'll come back and look again.

**Good of the Order of the Community & Any Other Business**

None

**Announcements**

None.

**Adjourn**

Bozak moved to adjourn at 7:40 pm. McCormick seconded the motion. **Motion carried by unanimous vote.**

**APPROVED on June 6, 2016**

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Eric Hull, President

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Marge Falbo, Secretary