Burns Harbor Advisory Plan Commission

Minutes of Monday, September 12, 2016

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in its regular session on Monday, September 12, 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	Present
Crystal Westphal.....	Absent-Vacation

Additional Officials Present
Building Commissioner-Bill Arney
Attorney-Clay Patton
Global Engineering-Scott Kuchta
Secretary-Marge Falbo

Minutes
McCormick moved to approve the minutes of August 1, 2016 as written. Poparad seconded the motion. **Motion carried by unanimous vote**.

Communication, Bills, Expenditures
Richard Davis-Maintenance Bond for Parkwood Estates
Hull says we received communication from Richard Davis; his response to the Punchlist letter dated August 8, 2016.

Town of Burns Harbor
Advisory Plan Commission

We received your letter dated August 8, 2016. Progress is as follows: Items1, 2, 5, 9, 14, 15, 16, 17, and 19 have been completed. Items 20 and 21 are homes that were completed 2 years ago—Burns Harbor gave occupancy permits. Is GRM responsible for taking care of home owners' lawns? Item 36 is unreasonable. Balance of items on the list is in process. I am out of town and will not be able to make the September 12 meeting.

Regards,

Richard Davis

GLOBAL

Project: Parkwood Estates
Client: Town of Burns Harbor
Subject: Final Inspection Punchlist
Date: August 1, 2016

Global Engineering conducted a follow-up inspection to produce a final punchlist of items to be addressed before the release of the bond for this subdivision. The bond will be ending and these items are covered by the bond for repair. The following deficiencies need to be repaired:

Flatwork:

1. ADA ramp has settled at the northwest corner of Stanley Street and Lake Park Road. A water valve cast into the concrete as well as the adjacent curb are tripping hazards and are not ADA compliant. Provide detectable warning in new ramp.
2. 180 linear feet of sidewalk is missing between 264 and 274 Lake Park Road
3. Damaged curb in front of approach for 269 Lake Park Road
4. Crack in approach at 269 Lake Park Road
5. Substantial curb corner break east of 258 Lake Park Road mailbox
6. Crack in sidewalk behind 248 Lake Park Road mailbox
7. Crack in sidewalk behind 253 Lake Park Road mailbox
8. Crack in sidewalk behind 257/259 Lake Park Road mailboxes
9. Trip hazard in sidewalk ~70 feet north of ADA ramp at northeast corner of Stanley Street and Lake Park Road
10. Crack in sidewalk at 1215 Stanley Street
11. Crack in sidewalk at 1217 Stanley Street
12. Corner Crack in sidewalk at 1221 Stanley Street
13. Crack in ADA Ramp at southeast corner of Stanley Street and Haglund Road
14. Cracks in ADA Ramp at southwest corner of Stanley Street and Haglund Road
15. Damaged curb at southwest corner of Stanley Street and Haglund Road
16. Damaged curb south of 1220 Stanley Street mailbox
17. Trip hazard in sidewalk south of approach for 1220 Stanley Street
18. Crack in sidewalk behind 1212/1214 Stanley Street mailbox
19. Trip hazard in sidewalk south of approach for 1212 Stanley Street

Landscaping

20. Tree lawn restoration between 265 and 269 Lake Park Road
21. Tree lawn restoration between 264 and 274 Lake Park Road
22. Remove debris at the west end of Lake Park Road

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GLOBAL

Sewer

23. Grout around standpipe at northwest corner of Lot 40
24. Remove silt fabric from Inlet #1
25. Large cracks are visible inside of Inlet #1
26. Large cracks are visible inside of Inlet #2
27. Large cracks are visible inside of Inlet #3
28. Large cracks are visible inside of Inlet #5
29. Large cracks around pipe are visible inside of Inlet #5
30. Large cracks are visible inside of Inlet #6
31. Large cracks are visible inside of Inlet #7
32. Large cracks are visible inside of Inlet #8
33. Outlet at the east end of detention area is silted up and needs to be cleaned out with end treatment put in place.
34. Outlet in detention area coming from Inlet #4 needs cleaned out with end treatment put in place.
35. Clean out debris from sanitary and storm structures (all structures)

Asphalt Maintenance

36. Rout and seal all cracks in asphalt pavement on Stanley Street and Lake Park Road

Cost Estimate

ITEM	QUANTITY	UNIT PRICE	TOTAL
Cracked sidewalk	9	50	$450.00
Clean out debris from sanitary and storm structures (all structures)	1	1100	$1,100.00
Grout around pipes	1	200	$200.00
Cracked Structure	7	300	$2,100.00
Outlet Treatment	2	100	$200.00
Damaged Curb and Gutter	3	100	$300.00
Trip Hazard Removal	3	200	$600.00
ADA Ramp 4" Concrete over 4" compacted granular (SYS)	7	30	$210.00
Sidewalk, 4" Concrete over 4" compacted granular (SYS)	80	30	$2,400.00
Rout and Seal Cracks in Asphalt Pavement (throughout - SYS)	5600	0.75	$4,200.00
Tree Lawn Restoration (SYS)	111	10	$1,110.00
Total			$12,870.00

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Biancardi asks if it is reasonable for Mr. Davis to replace the trees, and:

36. Rout and seal all cracks in asphalt pavement on Stanley Street and Lake Park Road.

Bozak says he doesn't know about the trees and lawn and what happened, but if the owners of the property let them die, it's not Mr. Davis' responsibility to fix that.

Arney says trees are covered by covenants. It's not governed by the developer. We've had a lot of those trees die and the residents haven't replaced them due to different tree diseases.

Biancardi says, so as a covenant we don't need to be concerned with the trees.

Arney says he personally doesn't believe that we should hold the developer to that.

Hull says he has to agree and as part of the correspondence he asks if they are responsible for taking care of homeowners' lawns.

Arney says some of these were from the original Punchlist. Global went through it and revalidated it and I know he has completed a number of things, i.e. handicapped ramps, sidewalks and the curbs. Davis hired Eagles Services to come out and check the storm drain and the sanitary. Davis had some questions about his responsibility for that and I told him, yes, typically you do. Davis had a large concern about cracks in the roads and is that his responsibility; he didn't believe it was his responsibility to fix the roads as it is a maintenance program. Arney says this issue is up to the Board and the Engineer to decide.

Hulls says then it's just repairing the sidewalk cracks and curb cracks. Kuchta says he doesn't know all the details but he knows they were going through the list of items and he just had certain general clarification questions for us.

Biancardi asks Kuchta his opinion on *36. Rout and seal all cracks in asphalt pavement on Stanley Street and Lake Park Road.* Kuchta says he can check on that.

Biancardi asks Attorney Patton if it is typical regarding the pavements. Attorney Patton says he will ask Attorney McWilliams about this. Attorney Patton says it is his understanding that these are roads less than two years old and they already have cracks in them.

Poparad and Biancardi both ask when was the topcoat put on the roads. McCormick asks if there is topcoat on there now. Biancardi says the Maintenance Letter of Credit was issued 2014 and it expires in December 2016, so in two years it would have had the topcoat when we accepted it and to standards. Hull says we would have to have had the topcoat to accept it. Biancardi says, correct, it would have had to be completed. Hull asks when the letter expires. Biancardi says December 1 and it looks like that list would be $4,200.00.

Hull says it sounds like Davis is working on the flat work and trying to get that done, questions about the landscaping, but we don't have anything on the sewer work.

Arney says Davis called for clarification to understand what needed to be done and I explained what needed to be done from the source that I was provided.

Poparad adds that when we did the Maintenance Letter of Credit they were still building houses over there and they were running concrete, lumber and other heavy trucks in there to finish the sub-division. Biancardi says that true he had heavy equipment on those roads.

Hull asks if we how many houses went up since the topcoats was put on. Arney says he can find out the exact number, but he's estimating at least six. Hull says that's going to be a factor.

Attorney Patton says since Global did this Punchlist, he doesn't know if it would be Global or Arney to get photographs, maybe specifically so we at least have an idea for the Board and also for Mr. Davis so we can say these aren't insignificant cracks.

Hull says if we can communicate with him about that and I don't want to speak for the entire Board, but at this time the things that are the homeowners' responsibilities *are* the homeowners' responsibilities. I think that's pretty plain, for example the trees. The debris at the west end of the road is not a homeowner responsibility. We'd like to see more progress on the balance, he states

they're working on it and maybe we can come up with some agreement on the asphalt. Arney says we need to tell him the asphalt needs to be sealed. He wanted to ask for relief from that. Biancardi says he can come before the Board next month. Hull says right now, the standing of the Board, is we are asking for it to be done. If he doesn't want to do it, we can discuss it further. Hull asks Arney if he can find out how many houses were built through the dates there, so our side isn't incorrect. Bozak say we want photos too. Kuchta says by the next meeting he will be able to provide clarification.

Biancardi asks Hull if we would not worry about 20 and 21 on the list regarding the trees because they fall under covenants. Hull says if they own the house and it's their tree so it's their responsibility. It's hard to hold Davis responsible for that and the same thing for the lawn if the ground has settled. Hull says he would be concerned about the road, it's damaged because he continued to build in there and we will need to discuss that.

McCormick says on the west side of Stanley, he noticed the sidewalk is sinking. You can visually see it. Arney says did you see that recently because he is working on all on that. McCormick says they looked like they were freshly put in but you can visually see they are sinking.

Hull says once he completes all these things we'll have Global take another look at it to finalize it and make sure that that's correct. Hull asks if there is anything else. Biancardi asks what our goal for that is because next month is October. He would have to by November the final walk through with Global because if we have to call anything we have until December 1st to do that. Ultimately we would let him know that we would like to see everything done by November so we can talk about it at our meeting.

Report of Officers, Committee, Staff
None

Preliminary Hearing
None

Public Hearing
None

Old Business
Hull says he has a note from Attorney McWilliams saying she provided us with information on the Chicken Ordinance and the Garbage and Refuse issues that have been talked about. She is still working on the Signage, so we will table that until the next meeting.

Façade Standards
Poparad says we had a meeting with Kuchta and Hicks and discussed façade standards. LiveWorkLearnPlay ("LWLP") and the Town Code don't work very well together so we're trying to work out something for the Food Truck Square and then something different for the downtown district. There are really strict standards in some places but if you go to RC1 and RC2 it's more relaxed and likely what the town can grow into. It would give the people a lot more leeway in what has to be done and it doesn't have to be so strict.

Biancardi says as Poparad says there are a lot of places that don't work and is just confusing. It's a huge project to tackle, so we talked to Kuchta and Hicks and decided to start at a minimum façade structure throughout the town. We're going to try to just come up with a general guideline

if you're building anything in town. This would be the minimum that we would require. We would suggest colors, windows and glass, as a minimum. Once we have that established so that we have a guideline for builders, then start tackling the specific areas in town. But, rather than waiting and trying to figure it all out in detail we can start with a minimum and then work from there.

Kuchta says a lot of the existing planning from LWLP and back to SEAH and even some draft façade stuff Global had done five years ago. A lot it that was focused to the downtown area, which was just said is pretty unique, dense, zero lot line. There are not a lot of examples, actually no examples for anything in town. Of course, you want to shape these policies towards the future but you don't want to leave your RC1 and RC2 zoning, which probably are most likely zoning areas you're going to need to alter. So basically, take some of the work that's been done for the downtown and make sure it covers all the other zoning areas as well for non-single family residential.

Poparad says before our next Plan Commission meeting, we should have something to show the Board.

Attorney Patton says, one thing you may consider is have it be a façade improvement. I'm not sure if there is a financial incentive for these property owners or developers to do this because basically it sounds like what you're planning on doing is putting all these restrictions on what their property has to look like; and therefore there's an expense associated with that. I know a number of communities have programs where they pay an equal share towards those improvements up to a set amount. I think in Valparaiso it's $25,000. So if you spend $50,000 they'll reimburse you $25,000. If you spend $75,000 they'll only reimburse you $25,000. That's an incentive to get businesses that are already here to improve their façade. Or new businesses that come in and maybe was to spruce up a building or put up a nice building to have some money come back from the community just to have that snowball effect of improving the community overall.

Biancardi says the Duneland Economic Development Corporation does offer façade grants on an annual basis for that exact reason, for improvements. I think that Michigan City RDC does something similar and that is something that our RDC could consider when we get to the place when we have façade standards.

Attorney Patton says but if you are putting on all these requirements with these facades, it may have a reverse effect and people say "I don't want to go there because they're making me…"

Biancardi says which is why we're saying what's a minimum that's a compromise for those coming in and those that are here so we have some sort of a standard and then continue working from there.

Sarah Oudman from the audience says isn't there some discrepancy too between where the town center is in the two different plans.

Poparad say yes, but LWLP is a conceptual idea, just a proposal. Biancardi says no Board has adopted it. Hull says ideas we received from LWLP are proposed and suggested plans to follow, but we're still under our comprehensive plans that was enacted in 2009.

Oudman says that the area that is Route 20 which in the old plan has quite a few details on what the façade standards are already which would affect a lot of those businesses right along Route 20. I'm just wondering at what point do you decide you have to fix the discrepancy between us having the Food Truck Square and the adopted downtown over on Route 20.

Hull says, right now we're governed by the old plan because that's what's in the book. If we choose to make changes to make changes to go with the conception or the different ideas that would require a lot of code changes. This is just a first step to try to look and see what have we got and how can we do that.

Biancardi says to Oudman, one of the things that Poparad, Kuchta, Hicks and I talked about is laying those out and seeing where those discrepancies are and where do they blend and trying to come up with a plan or suggestion to the Council and the Board here is what all makes sense together. It just takes time to lay out and see what works together.

Hull says next month will really be our first conversation into that. It took us this long to get the chickens going. It's baby steps.

Biancardi asks Kuchta for next month for facades what are you looking at providing to the Board.

Kuchta says it's fairly reasonable to have some guidelines drafted. Poparad says we will schedule another meeting tonight. Biancardi says so we should have something drafted for everyone next month as far as the minimum across town. Kuchta says yes.

Current Code Review
Discussion of Chickens in Residential Districts
Hull says we received an informal proposal from Attorney McWilliams which follows:

Informal Proposal re: Chapter 3 – Animals **September 12, 2016**

Sec. 3-3*: Definitions:*

1. *Add definition for* ***"Backyard Chickens" or*** *"****Chickens":*** *A gallus gallus domesticus, a domestic bird typically kept on a farm. This definition does not include other fowl such as, but not limited to, peacocks, ducks, quail, geese, pigeons, turkeys, or waterfowl. (This definition should also be restated in the new section created below)*

2. ***"Chicken Coop"****: an enclosed structure for harboring chickens that provides shelter from the elements, provides adequate sun, shade and ventilation, and protects from predators and rodents.*

3. ***"Chicken Run":*** *a fenced in area attached to a chicken coop and used to confine and protect chickens while outside of a coop.*

4. ***"Rooster"****: any male chicken*

5. *Amend definition of* ***"Farm Animals"*** *to exclude backyard chickens. i.e…except for "Backyard Chickens" as is defined in the Town Code.*

Sec. 3-5: *Instead of deleting the creation of the Animal Warden, I would suggest adding the* ***Building Commissioner*** *as an enforcement officer. This way if necessity ever forces the Council to appoint a Warden, the position will not need to be re-established. Thus, amend/add the following:*

a. *Sec. 3-5: Re-letter section C to be section D and so forth*

b. *Add new section C: Should the Council fail to appoint an Animal Warden under this provision, the Town's Building Commissioner shall have all of the power and authority bestowed and granted to the Animal Warden so as to enforce these provisions as set forth herein.*

c. *Section E: add* ***Building Commissioner*** *after Animal Warden*

Sec. 3-7: *Bill Arney suggested removing the license requirement for dogs*

Sec. 3-8: *Add "Backyard Chickens" to the title and both subsections A & B (fix typo in Sec. B)*

Sec. 3-9: *Subsection A add* ***Building Commissioner*** *after Animal Warden; remove section A-1 (license requirement)*

Sec. 3-10: *Add* ***Building Commissioner*** *after Animal Warden in subsections A and B*

Sec. 3-11: *Subsection A 1 – add* ***Building Commissioner*** *after Animal Warden; Delete Subsection A 2 – if the ultimate decision is to remove the license requirement; add Backyard Chickens to title and subsection A and A1*

Sec. 3-12: *Add "Backyard Chickens" to Title and subsection A*

Sec. 3-14: *Subsections A,B,C,D,E,G,I, & J – add* ***Building Commissioner*** *after Animal Warden*

Sec. 3-18: *Subsection B – add* ***Building Commissioner*** *after Animal Warden*

Add Sec. 3-19: ***"Chickens" or "Backyard Chickens"***

A. *Chicken, as used and defined in this Code, is a gallus gallus domesticus, a domestic bird typically kept on a farm. This definition is not intended to include other fowl, such as, but not limited to, peacocks, ducks, quail, geese, pigeons, turkeys, or waterfowl.*

B. *Chickens shall be permitted to be kept in the Town of Burns Harbor, Indiana, on parcels of land consisting of less than three (3) acres in accordance with all of the following requirements:*

1. *No more than six (6) chickens permitted on parcels of land less than three (3) acres in size.*

2. *The keeping of roosters under the provisions of this Section is strictly prohibited;*

3. *No person shall own or keep any other fowl, poultry, or farm animals under the provisions of this Section.*

4. *Backyard chickens must be kept under the control of the owner and on the owner's property at all times.*

5. *Backyard chickens must be completely and securely enclosed within a designated chicken coop containing a chicken run each of which shall meet the following requirements:*

    i. *The chicken coop and chicken run shall be located in the rear or backyard of the property. Neither the coop nor the run shall be located between the rear of the principal structure and the front yard lot line;*

    ii. *The coop and run shall be situated a minimum of ten (10) feet from all property lines. For corner lots, the coop and run shall be situated as near as possible to the middle of the lot. The Town's Building Commissioner shall approve the location of coops and runs on all corner lots;*

    iii. *Coops shall be predator and rodent resistant and shall be covered with a roof;*

    iv. *Coops shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the State of Indiana, Porter County, and the Town;*

    v. *Coops shall provide adequate sun, shade, and ventilation*

    vi. *Coops must provide at least ten (10) square feet of space per chicken kept therein;*

    vii. *Coops shall not exceed seventy-five (75) total square feet in size and shall not be more than ten (10) feet in height;*

    viii. *All feed for said chickens shall be stored in containers so as to protect from intrusion by rodents and predators;*

    ix. *Chicken runs shall be adequately fenced and protected from predators and rodents and shall provide access to the coop;*

    x. *No chickens, coops, or runs shall be located in common areas of a multi-unit, multi-use, or multi-family property.*

6. *Chickens shall be provided with access to feed and clean water at all times.*

7. *Chickens shall not be slaughtered anywhere on the property.*

8. *Backyard chickens kept pursuant to the provisions of this Section shall be for personal, non-commercial use only.*

C. *Any violations of this Section shall be subject to applicable penalties as set forth in Section 3-18 of the Town Code.*

D. *Conflicting Ordinances. Any ordinance or provision of any ordinance of the Town in conflict with the provisions of this Ordinance is hereby repealed.*

E. *Severability. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any part of this Ordinance which can be given effect without such invalid part or parts.*

Subcommittee original suggestions: ***"Backyard Chickens":***

a. *No more than six (6) chickens are permitted per single family dwelling unit*

b. *Roosters are prohibited*

c. *Other poultry, farm animals, or fowl are prohibited. No person may own or keep any other fowl, including ducks, quail, geese, pigeons, or turkeys and guinea heads and goats.*

d. *Backyard chickens are required to be located within a designated chicken coop and chicken run that shall meet the following requirements:*

    i. *The chicken coop and chicken run shall be located in the rear or backyard of a residential property. Neither the coop nor the run shall be located between the rear of the principal structure and the front yard lot line.*

    ii. *The coop shall have a minimum five (5) foot setback from any side or rear property line.*

    iii. *Coops shall be predator resistant with a covered roof.*

    iv. *During daylight hours, the chickens shall have access to a chicken run that is adequately fenced and protected from predators and shall also have access to a chicken coop.*

    v. *Water shall be provided onsite and accessible to chickens at all times.*

    vi. *From dusk until dawn, chickens shall be protected from predators by being enclosed within a chicken coop.*

    vii. *No chickens, coop, or run shall be located in common areas of a multi-unit, multi-use, or a multi-family property.*

e. *Chicken coops and chicken runs shall be maintained and shall be regularly cleaned to control dust, odor, and waste and not constitute a safety hazard, or health problem to surrounding properties.*

f. *Outdoor slaughter is prohibited.*

g. *Chickens should be for personal use only, not for commercial use.*

Informal Proposal re: Chapter 15 – Interplay with Ch. 3 Amendments

1. *Amend definition of "**livestock"** to exclude **"Backyard Chickens"** as is defined in chapter 3 of the Town Code,*

2. *Amend table of uses to include **"Backyard Chickens"** permitted in **RC1, RC2, and Special Use Districts.***

I have a concern about whether the keeping of Backyard Chickens automatically creates a "nuisance" as defined in **Chapter 15 ("anything, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life") and **Sec. 3-15** ("A dog or animal is hereby declared to be a public nuisance if it: Frequently or habitually barks, whines, howls, or otherwise causes annoyance or disturbance of the normal peace and quiet of the neighborhood…)*

**Essentially, any adjoining property owner whom believes clucking chickens obstructs the comfortable enjoyment of their property or life could make a claim that the chickens are a nuisance so long as the claim was reasonable.*

**May just be something that will need to be dealt with on a case by case basis if and when the issue arises.*

Hull asks if everyone has had a chance to review this, do you have questions, comments.

Hull refers to the following that Attorney McWilliams provided:

Add Sec. 3-19: **"Chickens" or "Backyard Chickens"**

A. Chickens shall be permitted to be kept in the Town of Burns Harbor, Indiana, on parcels of land consisting of less than three (3) acres in accordance with all of the following requirements:

   1. No more than six (6) chickens permitted on parcels of land less than three (3) acres in size.

Hull says Attorney McWilliams suggests it again as follows:

Subcommittee original suggestions: ***"Backyard Chickens":***

a. No more than six (6) chickens are permitted per single family dwelling unit

Hull says the first being and addition to the original code and the second being the subcommittee original suggestions.

Discussion

McCormick says so how many chickens do you get to have on the seven-acre lot which exists in the old part of Burns Harbor. 42?

Hull says how many do you want him to have?

McCormick says he's just asking. And you can't have them running loose in your backyard without a fence, if you do, you need a fence it sounds like. You can't have a fence near your neighbor's fence because you can't be within five feet of their yard. We are taking this way to the extreme.

Biancardi asks who is the committee.

Bozak says Westphal, McCormick and myself. McCormick was on vacation and had things going on so Westphal got Valpo's ordinance and that's what we discussed. And it looks like it if you see there is *Subcommittee original suggestions: "Backyard Chickens"* Attorney McWilliams has our original thoughts.

Hull reads what Attorney McWilliams said in her email as follows:

I have attached a copy of the draft proposal I prepared regarding the new Backyard Chicken Ordinance. Clay has a copy of this as well, please circulate the same to the other Board members for tonight's meeting. Unfortunately, any specific questions regarding my proposal may have to wait until the next Plan meeting. Clay is aware of the proposal, but he was not a part of the drafting. My intention with providing the draft to the Board is so that they along with Building Commissioner, Bill Arney, can review it and bring any suggested changes/additions to next month's meeting. From there, I can prepare the formal proposal and the Board can set it for hearing.

Biancardi says so we should just list our concerns. Hull says we need to streamline this based upon what all of you come up with.

McCormick says there is little discussion about how many chickens you are allowed to have within reason.

Arney says just to refresh everyone's memory as to how this came up. We had complaints in our office about people who have chickens. If you read the current code, chickens are considered poultry, not livestock, and we address all those. So currently, right now, technically by Town Code you can't have basically any type of bird.

McCormick says so if we go by this, now we're getting into lot coverage for separate buildings.

Arney says it's according to what we need.

Biancardi asks Arney what we need.

Arney says you have to add terminology of how many chickens you want or have or whatever is fine. If the chicken coup being so far off the lot line and you have to put a secondary fence in, you can't be five feet from adjoining property. If you look at the home in the Village or even in some of the other subdivisions that have smaller lots, if it's not covered by their covenants already, fenced in or penned in, I guess, it's not hurting anything.

Attorney Patton says I guess I would point out what Attorney McWilliams says as follows:

I have a concern about whether the keeping of Backyard Chickens automatically creates a "nuisance" as defined in **Chapter 15 ("anything, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life") and **Sec. 3-15** ("A dog or animal is hereby declared to be a public nuisance if it: Frequently or habitually barks, whines, howls, or otherwise causes annoyance or disturbance of the normal peace and quiet of the neighborhood…)*

Attorney Patton says with regard to the above especially if they are on a postage stamp lot.

Hull says it sounds like we can take some of what Attorney McWilliams has and pare it down to fit our needs.

Biancardi says she would ask Arney to mark it up the informal proposal, take out what he feels is excessive but still leaves him the ability to regulate. Biancardi is still concerned that this conflicts with Chapter 15 just as Attorney McWilliams said and then also the fact that the whole of Chapter 3 needs to be looked at not just chickens.

Arney says when we talked about this last time we we're dealing with domesticated animals, dogs and such things and that is why the Marshal is in there. By state code, that involves law enforcement, so it's important that we leave the Marshal or Police Department in there and it looks like she removed it completely and added Building Commissioner to replace those. The Building Commissioner can enforce it as far as chickens and you're allowed to have six or whatever we decide on that. Just last week I had a call about how many dogs you're allowed to have.

Hull says since we just received this today, let's give some time to digest it, take a look through it and see what changes we would like to see made. Let's mark it up and make sure that we have

it right and Arney you can do the same and we'll ask Attorney McWilliams next month to take a look the things we come up with and get this finalized so we can move on to bigger and better things.

Bozak asks if the committee should mark it up. Hull says individually you can take your parts and pick through it. Hull says if we're going to do it, we're going to do it right.

Garbage and Refuse
Hull says we also have an informal proposal on Chapter 5 Garbage and Refuse, as follows:

Informal Proposal re: Chapter 5 – Garbage & Refuse **September 12, 2016**

Sec. 5-1: *Remove "Refuse" from title; add Definitions section and add the following definitions:*

A. ***"Commercial Garbage"*** *means garbage or trash derived from the operation of business stores, hotels, or office buildings, and not the result of the ordinary operation of private residences, households, lodging houses, or apartment buildings.*

B. ***"Garbage"*** *means all discarded and unwanted common household and kitchen wastes, rubbish, including, but not limited to, food, food residues, and materials necessarily used for packaging, storing, preparing, and consuming the same, and all waste materials resulting from the usual routine or domestic housekeeping including, but not limited to, aluminum and steel cans; glass containers; plastic containers; crockery and other containers; metal; paper of all types, including newspapers, books, magazines, and catalogs; boxes and cartons; cold ashes; furnishings and fixtures; textiles and leather; toys and recreational equipment, and similar items.*

C. ***"Recyclable material"*** *includes, but is not limited to, aluminum cans; clean foil; pie tins; glass jars and bottles; newspapers; telephone books; office paper; catalogs; magazines; junk mail; cardboard; fiberboard; and mixed paper, plastic bottles, plastic milk jugs, plastic juice containers, cereal boxes, paper towel rolls, and empty steel and tin cans. Recyclables shall be interchanged with recyclable material.*

D. ***"Resident"*** *means the owner or occupant of a single family residential unit, duplex, or four-plex multifamily residential unit in the Town.*

E. ***"Trash Tote"*** *means a Town approved and/or Town-provided wheeled container intended to house up to ninety-five (95) gallons of garbage, recyclable material, and/or yard waste designed to be dumped or emptied by semi or fully automated truck equipment systems.*

*F. "****Recycling Tote"*** *means a Town approved and/or Town-provided wheeled container intended to house up to ninety-five (95) gallons of recyclable material and designed to be dumped or emptied by semi or fully automated truck equipment systems.*

F. ***"Yard Waste"*** *grass clippings, landscape vegetation, plants, trees, small brush or limbs, leaves, and other organic garden debris.*

Sec. 5-2: *Add Title:* ***Garbage Collection Fee***

A. Except as otherwise stated within this Ordinance, the garbage collection fee is to be paid by the Town.

Sec. 5-3: *Add title:* ***Trash Containers***

A. Revise section to read: "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 only those trash containers provided by or authorized by the Town for the collection of garbage by or on behalf of the Town."

B. Revise section to read: "All trash/recycling totes provided to residential dwelling units shall at all times remain the property of Republic Services. Town-provided trash/recycling totes which are assigned to individual residential dwelling units shall remain on the premises at all times or be returned to Republic Services when the owner or occupant vacates.

C. Revise section to read: "Each residential dwelling unit shall be provided one (1) trash tote for garbage and one (1) recycling tote for recyclable materials. Any resident may obtain and rent additional trash or recycling totes by requesting the same directly through Republic Services. In the event additional containers are requested, it will be the individual resident or occupant's responsibility to pay any additional fees which said fees will be billed directly to the resident by Republic Services (see fee schedule).

D. Revise section to read: "Residents shall keep the Town-provided trash and recycling totes clean and in good repair."

E. Revise section to read: "Residents shall place all trash and recycling totes within the lot lines at the edge of the roadway, and in a location deemed appropriate for efficient curbside pick-up on those days so designated. Failure of the resident to follow trash/recycling tote placement requirements may delay or interrupt residential garbage collection service"

F. Revise section to read: "All trash totes containing garbage will be emptied between the hours of 6:00 a.m. and 5:00 p.m. each week on the designated collection day (Thursday). All recycling totes will be emptied between the hours of 6:00 a.m. and 5:00 p.m. every other week on the designated collection day. All trash and/or recycling totes shall be removed from the curbside or street no later than Noon on the day after the regular collection. Residents shall promptly clean up and remove any scattered garbage, rejected items, and/or recyclable materials.

Sec. 5-4: *Add Title:* ***General Specifications***

A. Garbage shall be placed in either paper or plastic bags or shall be wrapped in paper or plastic and then placed in the Town-provided trash containers with the lid fully closed.

B. The following items are excluded from the Town's collection service and will not be picked up by Able Disposal: (i) concrete; (ii) construction or demolition debris; (iii) tires; (iv) large branches; and (v) any other item, in Able Disposal's judgment, that is too large for, or could damage the collection vehicle.

C. Appliances containing Freon such as refrigerators, freezers, and air conditioners require special handling and thus, incur an additional fee for their removal (see fee schedule). This additional fee is the sole responsibility of the resident and must be paid prior to removal. Any resident wishing to dispose of Freon units must contact Republic Services directly at 1-800-828-2253 to make arrangements for collection.

Sec. 5-5: *Add Title:* ***Bulk Day***

A. The Town will arrange two (2) annual town wide clean-up days for the disposal of large household items which are not picked up on a weekly basis.

Sec. 5-6: *Add Title:* ***Recycling Specifications***

A. All recyclable material is to be placed loosely in the recycle trash container. All recyclable material must be clean and free from food and liquid contaminates.

B. ******Maybe add a prohibition to "E-waste" here and define it in section 5-1.*** (discarded electronic waste or equipment i.e. computers, phones, televisions, monitors, printers, VCRs, DVD players, stereo equipment, or anything with a circuit board).***

Sec. 5-7: *Add Title:* ***Yard Waste***

A. Shrubbery and tree trimmings left at the roadside for collection must be limited to small branches and shall be tied in bundles which lengths shall not exceed four (4) feet.

B. Grass clippings will be picked up so long as state law allows it to be landfilled.

C. ***Leaf disposal? To be determined – Town just bought a leaf vacuum. Will be implemented this fall (2016) no specific details regarding frequency, time of day, etc. as of yet.***

Sec. 5-8: *Add Title:* ***Penalties***

A. Any person found violating the provisions of this chapter shall be subject to a fine of not more than ten dollars ($10.00). Each day any provision of this Ordinance is violated shall constitute a separate and distinct violation.

Sec. 5-9: *Add Title:* ***Fee Schedule***

Code Reference/Section	***Description of Charge***	***Fee/Charge***
	Monthly single-family garbage collection fee	*Billed to the Town*
	Additional trash container requested by resident	*$3.00 per month*
	Additional recycling cart requested by resident	*$3.00 per month*
	Freon unit/appliance collection (refrigerators, freezers, & air conditioners)	*$40.00 per unit*

Subcommittees suggested amendments Ch. 5:

Sec. 5-1*:* *Subsection A – Add the word "residential" before premises; remove the words "authorized" and "style" replace with "1 ninety (90) gallon trash container and I ninety (90) gallon recycling container, if residential property requires more than the 2 supplied, it will be the homeowner's financial responsibility to pay for extra containers.*

Subsection D – remove the word "business"

*Subsection G – remove entire statement. Replace with "any trash other than residential use will be responsibility of property owner or occupant." * need to figure out how to address RC1 and RC2.*

Sec. 5-2: *New section- add "any residential use property that is doing a cleanout due to a disaster such as fire, flood, etc., or an eviction MUST have dumpster on sight to handle the refuse. Any person violating this provisions will be given 24 hours to address the situation or they will be assessed the cost of manpower and equipment to clean up, if not paid in 30 days, a tax lien will be imposed.*

Hull says this is putting some definition to remove Refuse from the title and have the definition for:

- Commercial Garbage
- Garbage
- Recyclable material
- Resident
- Trash Tote
- Recycling Tote
- Yard Waste

Because right now there is no separation between the Commercial Garbage and regular Garbage. It can be a problem for some of the businesses in town.

McCormick says the biggest problem is that our code didn't specifically say but only addressed residential waste.

Hull agrees.

Biancardi says the other thing that we need to do is say single-family because we don't provide garbage pick-up for multi-family.

Bozak says but it says means "the owner or occupant of a single family residential unit, duplex, or four-plex multifamily residential unit in the Town."

Attorney Patton says under Commercial Garbage it says "or apartment buildings."

Hull says again this information we just received today, it wasn't on the agenda but we'll give you some time to take a look at, mark it up and pick through it. Hull asks if there is anything else on the Garbage.

New Business
Review Bonds, Maintenance Guarantees, Letters of Credit
Hull says the only thing that I know of is 1239 Castle Street. It shows a certificate of occupancy that was good for six months issued on May 6, 2016, we're going to be coming up on that.

Developer:	Greg & Teri Mayes
Type of Bond:	Cashier's Check
Document Number:	26415575
Address:	1239 Castle Street
Description:	Yard
Amount:	$3,000
Date Issued:	May 6, 2016
Completion Date:	No more later than 180 days

Hull asks Arney if he has anything on that yet. Arney says he doesn't understand, they've done nothing; they're just sitting on it. They asked me for that and asked if I could work with them on that and I drove by it actually Friday and they've made no more movement on it. It's final grade, but they've not seeded it or planted it yet.

Biancardi asks what does this mean. They gave us this check but what are we going to do with it in 180 days. Hull says we are going to cash the check and we're going to seed the yard. Biancardi says we are going to need to let them know about that. Arney says he will reach out to them. Hull says if it's not resolved in October, we'll made movement to take care of it. Attorney Patton asks if the check has an expiration date because sometimes on the front of the check it will say void after so many days. Arney says he doesn't know and will have to check with Clerk Treasurer Jordan.

Bob Rohrman
Biancardi says Bob Rohrman is parking cars on the grass again. So, now instead of them facing the road, they are parking sideways. Poparad says two rows right after the curb, one row this way and one row that way. Arney says he will look into that tomorrow. Arney also says he's upset because Bob Kerr hasn't paved his lot and he should have the same privilege. Arney says, Bob Kerr is on the agenda to come to the BZA about that same issue.

Bill Scott, Job Steel
Poparad says Scott is just thumbing his nose at us, right now. If you look at his property, there are more trucks than ever and there are U-Hauls parked right out in front. Arney says once the BZA denied him he fired up. I already sent him a letter of notification that the BZA denied his variance and that he is to cease all operations except for his truck repair and trucks only waiting to be repaired. He has not responded, in fact, he's gotten worse and in my opinion, he is doing it on purpose. Biancardi asks Arney to bring it up at the Council meeting. Hull says he believes it's already on the agenda.

Curly's Custom Cycles
Arney says Curly's Custom Cycles wants to come to town and he would like to give the Board a preliminary of what he is doing.

Hull says please state your name and address for the record please. Lance Waugaman, 328 US Highway 20 is what they are saying it's going to be. I have a preliminary drawing from the engineer. This is what I have thus far. I am seeking approval to put the building and the driveway on my lot that I purchased. I should have final drawings from the engineer hopefully within a week or so.

Arney thought it would be a good idea if I came and provide these preliminary draws to you and as soon as I get the finals I'll provide those.

Waugaman says I'm trying to get the building and concrete done before the weather breaks so I can spend the winter doing all the inside work.

Arney says he is going to be coming to the Sanitary Board as well to ask for some assistance with tapping on to the sewer because the sewer tap doesn't go all the way up to his property. Our engineers have been working on that. It's almost to his property but not all the way. As you see he has already started clearing the line for the property since the BZA gave him the go-ahead with his Special Exception. I told him to come to the Plan Commission and give you a preliminary discussion on how he wants to face the building and the driveway cut and of what he wants to do there.

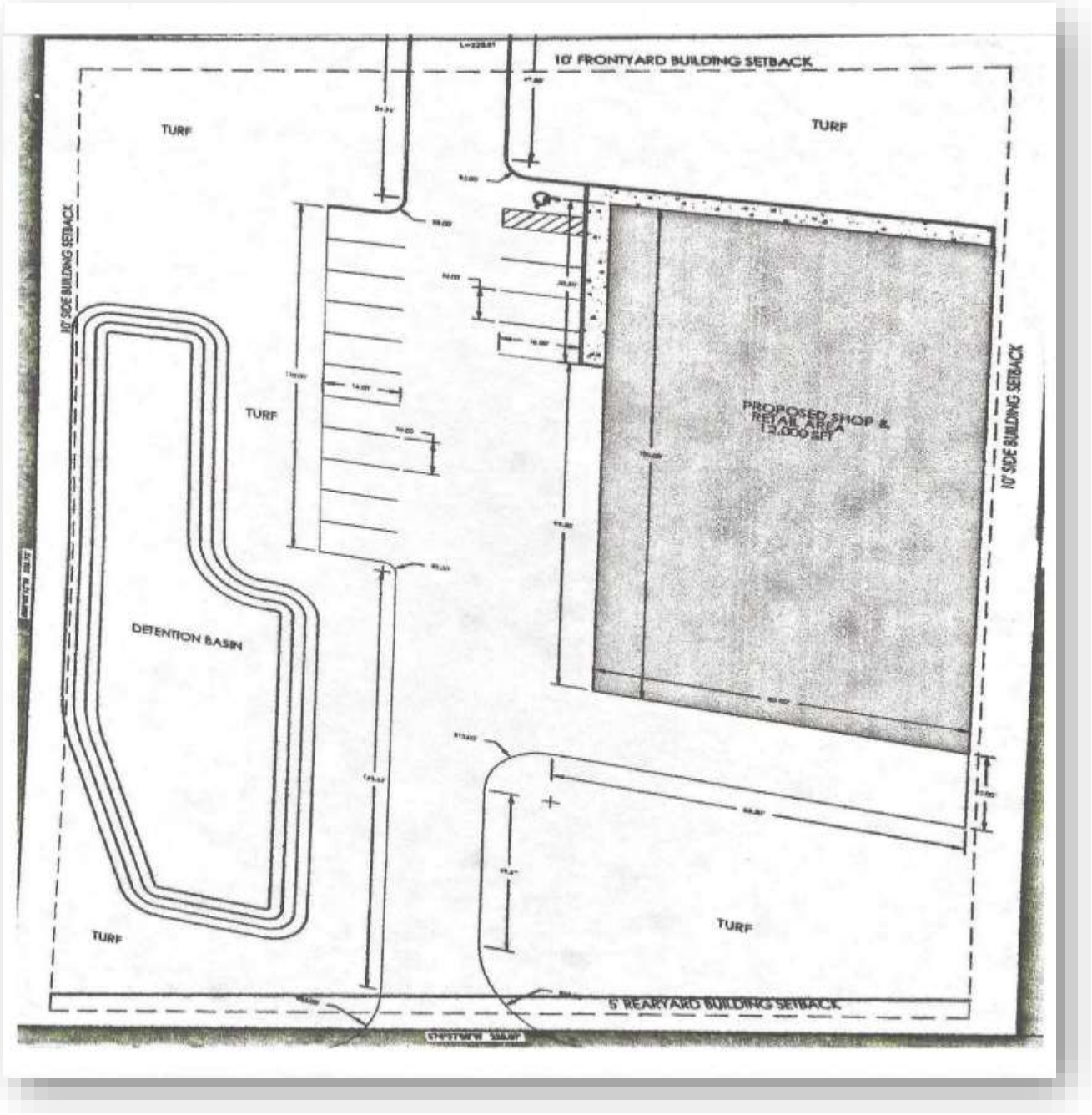
As of now, he should be good with no variances under Plan review. Once we know exactly what is doing, it's really going to be up to the engineers to approve the site plan. As far as the detention, run-off, the underground work, his biggest struggle is with the State Highway trying to get the cut-in. They want him to put a de-acceleration lane there. Hull says with the acceleration lane on the other end, coming out and turning right, is it to just keep that lane going more.

Arney says that's for the engineer to look at, but from what I see, the way Mortar Net is and where he is I don't know how they are asking him to put a de-acceleration lane in there. I shared that with him, I told him to look at the adjacent properties and maybe share that with the State Highway. They have to grant him access to the property and again that's between him and his engineer and State, that's not our battle. I know he's been in contact with Khalil already and hopefully we're ahead of the game at that point.

FBI will put the building up and then Todo is going do the excavating and asphalt.

Bozak says he is really excited about this project and would like to see the final drawings as soon as they are available.

Hull asks what type of façade is Waugaman looking at. Waugaman says he hasn't gotten that far yet but depending on cost I want to brick half of it up the front or faux brick and then landscape the entire front. I'm not sure exactly how yet but I will get a drawing but it's going to be very nice.



Hull says you don't have a whole lot of parking here is that going to be adequate for you. I don't have much traffic, it usually one to four people at a time, if that.

Hull asks how many employees. Waugaman says right now I have four.

Biancardi says did you say you do or don't have a showroom. Waugaman says yes I have a showroom. Biancardi says you do custom cycles. Waugaman says we do everything.

Attorney Patton says by ordinance there are eighteen spaces required including one handicapped. One concern I have is it looks like a short cut for drivers between US 20 and Old Porter Road. Arney says we had that with Mortar Net and they put up a chain which I don't recommend. Arney says that may be something you want to consider. Waugaman says he has already thought about that.

Hull asks if there will be a loading dock, any semi-trucks. Waugaman says just UPS.

Hull says "Cool, Welcome to Town!"

Good of the Order of the Community & Any Other Business
None.

Announcements
None.

Adjourn
Biancardi moved to adjourn at 8:05 pm. Bozak seconded the motion. **Motion carried by unanimous vote.**

APPROVED on October 3, 2016

_____
Eric Hull, President

_____
Marge Falbo, Secretary