

MINUTES
ELKHART COUNTY PLAN COMMISSION MEETING
HELD ON THE 11TH DAY OF DECEMBER 2008 AT 9:00 A.M.
MEETING ROOM – DEPARTMENT OF PUBLIC SERVICES BUILDING
4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Chairperson, Jeff Burbrink, with the following members present: Tom Lantz, Tom Holt, Blake Doriot, Meg Wolgamood, and Mike Yoder. Staff members present were: Robert Watkins, Plan Director; Mark Kanney, Planning Manager; Duane Burrow, Senior Planner; Robert Nemeth, Planner; Dan Piehl, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Holt/Wolgamood*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 13th day of November 2008 be approved as submitted and the motion was carried unanimously.

3. A motion was made and seconded (*Holt/Lantz*) that the legal advertisements, having been published on the 27th day of November 2008 in the Goshen News and on the 4th day of December 2008 in The Elkhart Truth, be approved as read. The motion was carried with a unanimous vote.

4. A motion was made and seconded (*Doriot/Wolgamood*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearings. With a unanimous vote, the motion was carried.

5. Mr. Burbrink reported that attorney Glenn Duncan is present representing the Town of Bristol to address the Board concerning the North Bristol TIF.

Mrs. Wolgamood moved to amend the agenda by adding the North Bristol TIF as a Staff/Board item. Mr. Lantz seconded the motion, which carried with a unanimous vote.

6. The application to amend the Elkhart County Comprehensive Plan by adopting the ***Northwest Gateway Study*** for the Elkhart County Plan Commission on property affecting the area of Elkhart County from Ash Road east to SR 19, and from CR 6 south to US 33 was presented at this time.

After submitting a draft of the Northwest Gateway Area Plan dated December 1, 2008 [*attached to file as Petitioner Exhibit #1*], Mr. Watkins recalled that a proposed plan and presentation was made last month by the Redevelopment Commission and R.W. Armstrong. That plan was more or less accepted, and as part of that presentation, he said there was discussion that in order to make this plan have more traction legally, the plan or at least a summary of the plan should be adopted as an amendment to the Elkhart County Comprehensive Plan.

According to Mr. Watkins, the document he submitted is their attempt at doing that. He pointed out that the document is in the same form as the comprehensive plan and can be attached to it. It contains a description of the area and what was proposed, a map of the area, the vision that was presented as part of the study, and he said it identifies the goals and objectives in terms of identity, land use, mobility, and a proposed future land use map. The request today is to adopt this document as an amendment to the comprehensive plan for guiding development in the Northwest Gateway area as defined in the document.

Mr. Kolbus advised that the document would then go to the commissioners for their final approval. He then asked if it is correct that the draft the board members have in their packets is dated December 1, 2008, and Mr. Watkins replied yes.

Mr. Burbrink recalled that they had an extensive review of this plan last month in a good presentation. Mr. Watkins reiterated that they have pretty much accepted the study, but he said it is far too comprehensive and too large to be adopted as an amendment to the comprehensive plan so this document provides a summary of the plan and guides the development in that area.

Kenny Jones of Wightman Petrie, Inc., 4703 Chester Drive, Elkhart, said he thinks this is a great idea; however, he suggested they expand the boundary on the north side to some definable line past CR 6 so you can control both sides of the road. He pointed out that you don't want to have a nice development on one side of the road and little or no control on the other. When Mr. Burbrink suggested the toll road, Mr. Jones felt that could be used as the north boundary.

Mr. Jones also suggested using the southwest corner of CR 10 and CR 6 as he thinks there is some commercial zoning there already. He pointed out that that is a signalized intersection with municipal utilities there so chances are someone will come in and push them to go commercial on that intersection someday anyway. He noted that Conrail is on the south side of US 33 and the area stops at Ash Road, which is a well defined boundary, so he would be more concerned with what they can control and that would be both sides of CR 6.

In response, Mr. Watkins said there are actually two parts to this; one is the TIF district that was established around the Wal-Mart area, which is the main focus of the project. The study area was an area developed around the TIF district that would or potentially could impact that TIF area in terms of traffic or development. He then clarified that CR 6 was the boundary of their study and it was not intended to direct or control development; it was only to make a proposal for how the community suggested this area should develop.

Mr. Watkins agreed that the county line is a distinct boundary, but he pointed out that St. Joe County was represented on this committee and did have input into what was happening there. If it's the Board's desire to expand the boundary, he indicated he would not be opposed to expanding it to the area shown in the photo; however, he said they would have to revise the narrative because it was advertised as stopping at CR 6.

Mr. Doriot agrees with a definable line, but he feels the plan should go forward as is and if they want to extend the boundary past the area that was advertised or the area that was studied at a later date, then there is a process they should follow. He pointed out there are residents who are not in the study area and may not have been represented and Mr. Watkins agreed. Mrs. Wolgamood agreed that the toll road would be a good stopping point, but she also agreed they should move forward with this plan. Mr. Kolbus advised that they could move forward with a recommendation that they look to expand from CR 6 to the toll road in the next study area and then bring that back for consideration.

During the presentation by Mr. Foutz, Mr. Watkins said it was clear that the intent of that group was to reproduce this study in other gateway areas so he suspects the Board will see more of this in the future, specifically North Cassopolis Street where it comes into the state.

A motion was made and seconded (*Yoder/Wolgamood*) that the public hearing be closed and the motion was carried with a unanimous vote.

The Board examined said request and after due consideration and deliberation, a motion was made and seconded (*Lantz/Holt*) that the Advisory Plan Commission recommend to the Board of County Commissioners that the Elkhart County Comprehensive Plan be amended by adopting

the Northwest Gateway Area Plan dated December 1, 2008. A roll call vote was taken and the motion was carried with Mr. Doriot abstaining.

7. There were no audience items.

8. At this time, Bristol town attorney Glen Duncan submitted a packet of information that includes a copy of a Written Order of the Elkhart County Plan Commission Approving the Declaratory Resolution and Economic Development Plan for the North State Road 15 Economic Development Area *[attached to file as Petitioner Exhibit #1]*.

As required by statute, he explained the Town of Bristol is establishing a new TIF District known as the North State Road 15 TIF District through its Economic Revenue Development Commission. Once it has been approved by the commission, he said part of the process is that they must have the Plan Commission enter an order indicating the Economic Revenue Development Area conforms to the development plan for the Town of Bristol. None of this changes any zoning, and he said all the TIF district does is create an area that allows them to segregate some of the property tax revenues that will hopefully be generated from new growth in the area within the TIF district.

Mr. Duncan then went on to describe the information he previously submitted (Petitioner Exhibit #1), which includes the Written Order to be signed by the Plan Commission, a map of the area that is contained in the TIF district, a description of the area, and the Declaratory Resolution passed by the Bristol Redevelopment Commission.

According to Mr. Duncan, this is the second TIF district that Bristol has established. Earlier this year they created a TIF district south of the Norfolk/Southern railroad tracks, which basically dissects the Town of Bristol. The initial plan for the expenditures that will be made out of that TIF district revenue is the creation of a bypass around the Town of Bristol. They have worked with Wightman Petrie developing the location and they are moving ahead with that project, but development has slowed down so there is not a lot of building going on in the area that they thought might generate some revenues for that process. However, he said they are working to promote the area, and they are working with the Elkhart County Redevelopment Commission to try and generate some growth in that area.

In describing the location of this particular TIF District, Mr. Duncan said it is north of the railroad tracks and roughly includes about half of the property within the town limits. He estimated that this TIF district takes in another 25% and is smaller in terms of geographic area. He said most of the residential area in the Town of Bristol is west of Division Street, and there is a fair amount between the south side of Division Street and the railroad tracks. He said the residential growth appears to be going on north of the railroad tracks, north of the river, and even going farther west. This TIF district also encompasses the new industrial park to the north on what was the Blakesly Farm, and it includes an area they recently annexed along Commerce Drive where he said they anticipate the commercial growth to be.

* *(It is noted that board member Dennis Sharkey arrived for the meeting at this time.)*

If they are able to develop the SR 15 bypass around the Town of Bristol, Mr. Duncan said there will be some major expenditures improving the intersection where SR 15 crosses SR 120. Although their consultants and the State of Indiana haven't said this is an issue, he said the town perceives that as SR 15 between Bristol and Goshen is improved, they foresee a lot more traffic on SR 15. Once you get north between Bristol and the toll road, he said it is narrow and they

anticipate that improvements will be needed as that may become a bottleneck and an area of development. In addition to just doing roadwork, he said they would like to do some amenities such as sidewalks and landscaping, and they would like to have a nice entryway south of the toll road. Extending water and sewer lines will also need to be done and he said that is included in the list of things they want to use the TIF revenues for.

Mr. Duncan apologized for being put on the agenda on such short notice, but he said they had problems getting the tax information out in writing. However, he said they have done all of the public notices that are required to accomplish what they are asking.

Mrs. Wolgamood moved that the Advisory Plan Commission accept Mr. Duncan's presentation to approve the Written Order (*see attached*). Mr. Doriot seconded the motion, and with a unanimous vote, the motion was carried.

9. In presenting additional staff/board items, Mr. Kolbus explained that the Commissioners have asked the Plan Commission to certify the final draft of the Subdivision Control Ordinance. He said they need a motion to allow the Chairman and Secretary to sign-off on the certification and move the draft forward to the County Commissioners.

A motion was made by Mrs. Wolgamood that the Advisory Plan Commission approve the draft of the Subdivision Control Ordinance as approved at the November 13, 2008, Plan Commission meeting in final form. When Mr. Doriot said he has not seen the draft in final form, Mrs. Wolgamood withdrew her motion.

Mr. Watkins explained that we went through the minutes of the meeting word for word, item by item, and incorporated those into the draft. The draft then went to Mr. Kolbus, and when it came back, it then went to Craig Buche to put into ordinance form so it could go to the commissioners. He said this all happened fairly recently and he apologized for not getting copies to the Board.

Mr. Watkins went on to say that the areas of discussion and what was approved at the November 13, 2008, meeting were the definitions of tract and parcel, and then the adjustments to the Administrative Subdivision. In reviewing those revisions, he said the motion was made to revise 4.01 B.1 in Chapter 4 (Administrative Subdivisions) to: *"That one (1) new buildable tract, at least three (3) acres in size, is created. Residual parcels created by the administrative subdivision that are improved (have been issued an improvement location permit prior to the residual parcels creation) and still meet the minimum requirements of this Ordinance for a lot have standing as buildable tracts without going through the subdivision process"*. Also changed was item B.8, which now says, *"A buildable tract created by the administrative subdivision may thereafter only be further split by a minor or major subdivision"*. He said the definitions that were approved were also changed.

When asked about the inclusion of the use statement, Mr. Watkins said it has been included and starts on page 7. He went on to review the Conflict in Zoning Statement, which says, *"When proposing to subdivide land for residential purposes, the following statement may be required to be placed on the secondary plat at the discretion of the Plan Commission at the time of primary approval: The lots in this subdivision are near agricultural, business or manufacturing properties, operations or uses. These subdivision lots may be subject to inconveniences or discomfort arising from such properties, operations or uses. Such discomfort or inconveniences may include, but are not limited to: noise, odor, fumes, dust, smoke, fugitive lighting, operation of machinery (including aircraft), large truck traffic at any time, the storage*

and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more inconveniences or discomfort described may occur as a result of any of these operations or uses that conform to existing laws and regulations and with generally accepted customs, practices and standards. While buffers may exist to lessen these impacts, lot owners in this subdivision should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in areas near agricultural, business or manufacturing properties, operations or uses.”

In conclusion, Mr. Watkins pointed out that had this certification not been requested, this would be on the commissioner’s agenda on Monday and it would have been approved.

Mr. Yoder suggested that they certify the draft today, and if they find something over the weekend they don’t like they can address it at the commissioner’s meeting on Monday.

When asked if the document is in an electronic form, Mr. Watkins said it will be, but he does not have it yet.

Mr. Holt then moved that the Advisory Plan Commission certify the draft of the Elkhart County Subdivision Control Ordinance as amended at the November 13, 2008, Plan Commission meeting. Mr. Lantz seconded the motion, and with a unanimous roll call vote, the motion was carried.

10. Mr. Burbrink reported that the Executive Committee has reviewed the employment agreement with Mr. Watkins and some minor adjustments are being made. He said the agreement will be presented to the Plan Commission for approval in January.

Mr. Doriot requested that the changes be highlighted and Mr. Kolbus said he could do a “clean copy” and a “changed copy”.

Mr. Burbrink said the Executive Committee is also preparing a 2009 Slate of Officers to be presented at the January meeting. He said the appointment to the Technical Advisory Committee will be very critical as they are changing the Rules of Procedure and the Tech Committee is going to become more important to the function of the Plan Commission. The Tech Committee will be meeting twice a month and he said the Plan Commission is going to expect that individual to review the applications more thoroughly because they will end up with a technically compliant application before it gets to the Plan Commission. He then asked for a volunteer who is willing to serve on the Tech Committee and commit to being there.

If she is no longer the Secretary of the Plan Commission and the Plat Committee chair, Mrs. Wolgamood indicated she would be open to serving on the Technical Advisory Committee.

Mr. Sharkey suggested they increase the pay for that person as there will possibly be two additional meetings they would need to attend each month.

Mr. Doriot agreed and he said the Executive Committee also discussed the per diem paid to Plan Commission members whether they attend the meeting or not. He pointed out that you get a specified number of sick days at a job and he thinks the Plan Commission should do the same. If you only attend four meetings in the year, he said you shouldn’t get paid for 12 and Mr. Sharkey was in agreement.

Mr. Burbrink said the committee suggested that two missed meetings could be considered sick time and board members would forgo the per diem for any meetings missed beyond that. Another option would be to sign claim forms each month and if you are not there you would not get the per diem for that meeting. He explained that he Executive Committee suggested forgiving two meetings as board members do participate in workshops and committee meetings in addition to the

monthly Plan Commission meeting. Mr. Kolbus added that some members take the time to go through the agenda or go out and inspect the sites so there are reasons to give some leeway.

When asked if that is a policy the board could adopt today, Mr. Burbrink indicated that it would be an amendment to the Rules of Procedure. Mr. Kolbus asked the board if they want something formally to review, but Mr. Yoder felt it was a simple policy to create.

Mr. Doriot then moved to amend the Rules of Procedure by adopting the policy that the Plan Commission will pay per diems for the Plan Commission meetings attended with allowance for two missed meetings in a calendar year. If additional meetings are missed beyond the two, the per diem will not be paid for those meetings. Mr. Yoder seconded the motion, and the motion was carried with a unanimous vote.

11. In discussing an additional per diem for the board member appointed to the Technical Advisory Committee, Mr. Yoder asked how important it is for a board member to be at that committee meeting. Mr. Doriot felt it was very important because that Plan Commission member knows what went on at that meeting verses what comes back in the minutes.

As the appointed board member to the Tech Committee, Mr. Lantz said he was told that basically everything was “cut and dried” before the meeting and it probably wasn’t necessary to be there. He found that it was another day out of the month that he needed to be somewhere else, and he feels whoever attends the meetings should be paid for their time.

Barry Pharis of Brads-Ko Engineering & Surveying was in the audience and he said they would not just be attending the meetings; there is preparation to make it of any value. If they don’t prepare, he said there is no reason to have anyone there.

Mr. Watkins suggested they have someone attend a couple of the meetings to see if they feel whether or not it is necessary for a Plan Commission member to be there. He doesn’t believe a Plan Commission member is listed as part of the Technical Review Committee in the Subdivision Control Ordinance.

Another factor, Mr. Yoder said, is that they are going to be asking Department Heads to be cutting their budgets. He said it’s hard for him to say they are going to pay another person to attend the Technical Review Committee and then tell Mr. Watkins in six months he has to cut ten percent out of his budget. From his perspective, attendance has to be critical and he doesn’t want to ask anyone to go to those meetings and just do it for free. If they can survive without it for awhile, he said that may be what they need to do.

Mr. Doriot said he or his representative attends the Tech Committee meetings so if there is something controversial, he could report it to the Plan Commission.

After reviewing the portion of the Subdivision Control Ordinance that specifies who is appointed to the Technical Advisory Committee, the Board determined they would begin 2009 without a board member being appointed.

12. The ***Agreement for Legal Services for 2009*** was presented at this time (*see attached*).

Mr. Sharkey moved that the Advisory Plan Commission retain James Kolbus as board attorney for 2009. Mr. Lantz seconded the motion, which carried with a unanimous roll call vote.

13. Mr. Watkins reported that a pictometry contract (new aerial photos for GIS) has been completed and will be presented to the commissioners for approval on Monday (December 15) along with the Subdivision Control Ordinance. He also said he met with the finalist for the new

development software package (Blue Prince) and he has been assured he would have a contract by Friday, which they will forward to him, Mr. Buche and Mr. Kolbus. He hopes to have a contract in place by the end of the year so we can go forward with the new development software next year.

He explained the two finalists were both very similar and very good packages, but there are some underlying programming differences. The significant difference with the Blue Prince software is that it is an enterprise license where you buy one license and can hook-up as many computers to it as you want. The cost of the Blue Prince software was about \$30,000 to \$40,000 less than the enerGov package, and through Scott Mills' negotiations, they were able to reduce that another \$40,000. This is a four to five month process, and if careful, he said they can finish the design and implementation about the time the fiber-optic is ready so they can go live with the other departments.

Mr. Watkins went on to say that Blue Prince will host the contractor/public side of the program so a contractor would be issued a password and be able to apply for permits on line. If everything can be submitted electronically, he said subdivisions could also be applied for on line. After a password has been issued, contractors can request inspections on line, and if we had mobile connectivity, he said the program has the capacity to route that inspection directly to the inspector in the field. They could do the inspection if they are near the site and then send it directly back to the builder. However, he said we will probably download the inspections in the morning and then dump them back into the system at night. The contractor can still be notified, but he said it would not be instantaneous. The contractor will also have the ability to check on his projects and monitor the status of inspections. In addition, the office can generate addresses of neighbor property owners and merge them into a notification letter, which currently takes days to obtain from the Auditor's office.

Mr. Watkins also reported that Marc Watson has been hired as the GIS Coordinator replacing Tricia Bulson, and that implementation of the Subdivision Control Ordinance is scheduled for March 1, 2009.

14. The meeting was adjourned at 10:09 a.m.

Respectfully submitted,

Kathleen L. Wilson, Recording Secretary

Jeff Burbrink, Chairman