

## **MINUTES**

### **ELKHART COUNTY PLAN COMMISSION MEETING**

**HELD ON THE 10<sup>TH</sup> DAY OF JANUARY 2013 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 Vice Chairperson, Roger Miller, with the following members present: Tony Campanello, Doug Miller, Steve Warner, Steve Edwards, Roger Miller, Blake Doriot, and Frank Lucchese, incoming Board member replacing Mike Yoder. Jeff Burbrink was absent. Staff members present were: Chris Godlewski, Plan Director; Brian Mabry, Planning Manager; Duane Burrow, Planner; and James W. Kolbus, Attorney for the Board.

2. A motion was made and seconded (*Doriot/D. Miller*) that the minutes of the regular meeting of the Elkhart County Plan Commission held on the 13<sup>th</sup> day of December 2012, be approved as submitted and the motion was carried unanimously.

3. No legal advertisements were published in the Goshen News or the Elkhart Truth for this meeting.

4. A motion was made and seconded (*Doriot/D. Miller*) 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. **ELECTION OF OFFICERS FOR 2013**

Mr. Warner presented the following Slate of Officers & Appointments for 2013:

PLAN COMMISSION:	Chairman -----	Jeff Burbrink
	Vice Chairman -----	Steve Warner
	Secretary -----	Roger Miller

PLAT COMMITTEE:	Chairman -----	Roger Miller
	-----	Jeff Burbrink
	-----	Blake Doriot /
		Surveyor's office
	-----	Tom Stump
	-----	Doug Miller

APPOINTMENT AS HEARING OFFICER: ----- Meg Wolgamood

HEARING OFFICER ALTERNATE ----- Bob Homan

## APPOINTMENT OF MEMBERS TO THE JOINT ELKHART

CITY/ELKHART COUNTY PLAN COMMISSION COMMITTEE: Steve Warner

----- Steven Edwards

## APPOINTMENT OF MEMBERS TO THE JOINT NAPPANEE

CITY/ELKHART COUNTY PLAN COMMISSION COMMITTEE: Jeff Burbrink

----- Blake Doriot /  
Surveyor's office

## APPOINTMENT OF MEMBER TO THE JOINT GOSHEN CITY/

ELKHART COUNTY PLAN COMMISSION COMMITTEE: ----- Tom Stump

APPOINTMENT TO THE BOARD OF ZONING APPEALS: ----- Doug Miller

EXECUTIVE COMMITTEE: ----- Jeff Burbrink

----- Steve Warner

----- Frank Lucchese

----- Steve Edwards

**Motion: Action:** Approve, **Moved by** Blake Doriot, **Seconded by** Doug Miller, that the Advisory Plan Commission adopt the 2013 Slate of Officers & Appointments as presented.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 7, No = 0, Absent = 1).

**Yes:** Doug Miller, Blake Doriot, Tony Campanello, Frank Lucchese, Roger Miller, Steve Warner, Steven Edwards. **Absent:** Jeff Burbrink.

6. *Purposes of Advisory Plan Commission – Chris Godlewski*

Mr. Godlewski distributed a printout of the **Purposes of Advisory Plan Commission** document along with a PowerPoint presentation (*see attached*). This document was created by Board Attorney, Jim Kolbus. Mr. Godlewski felt it would be a good document for the new Board members to review, because it is a good educational tool.

There are two distinct **Plan Commission Functions**. The first function is to advise the legislative body, which could include the County Commissioners or four towns; Bristol, Middlebury, Millersburg or Wakarusa. The second function is for the Plan Commission to be the reviewer of development proposals.

The Plan Commission acts as the advisory function to prepare and revise the Comprehensive Plan and local land use regulations. The County Commissioners are the final policy makers. The Plan Commission is to develop an outlook of their own with a long term solution to problems. Since this is an autonomous Board and an advisory Board to the Commissioners, the County Commissioners may want to receive some level of detail, expertise and review as a recommendation from the Plan Commission before making their final determination. Mr. Lucchese commented that the Commissioners lean heavily on the Plan Commission for their recommendations.

The Plan Commission reviews development proposals such as, site plans and subdivision plats, and applies ordinances to these plans. He mentioned that when reviewing site plans and subdivision plats they either meet the regulations or they don't. It should be a clear decision.

He continued to list other Plan Commission functions:

1. Adhere to by-laws and procedures.
2. A key function is to maintain the Comprehensive Plan.
3. Annually re-examine what they are doing as a Board. He felt this item gets lost along the way.
4. Review and adopt the Plan Commission budget, which is done during the summer.
5. Meet periodically with County Commissioners. He suggested some Plan Commission members could meet with them once a quarter just to keep dialogue going.
6. Direct Staff as to how they want information presented. For instance, he thought the PowerPoint presentation seemed to help convey their message during the Plan Commission meeting.
7. Mr. Godlewski suggested attending short training courses for land use planning. He said once in the spring and once in the fall the Indiana EPA has a training course that the Staff attends and he suggested the Board members could also participate. There is just a nominal fee.
8. Have a Board representative at the Commissioners' meetings to sell an idea or to explain actions. If this body needed to make a big decision that needed to go to the Commissioners, having Plan Commission members represented at the meeting may be helpful to the Staff.
9. Create advisory committees to the Plan Commission.

Mr. Godlewski continued with **Administrative Functions** and pointed out that Plan Commission action is official with a majority membership of 5 members, which means there needs to be 5 yea or 5 nay votes for a majority. Mr. Doriot said that was a recommended number and asked Mr. Kolbus if it would go on without recommendation with a 4 to 3 vote or is it tabled. Mr. Kolbus said it is tabled and any official action needs 5 votes.

The Plan Commission supervises fiscal affairs of the Plan Commission. Generally, the Plan Commission is the authority on fiscal matters which translates to salaries, budgets, etc., which also comes in the summer during budget time. The Plan Commission also creates the fee schedule, which has not been changed in a while.

Mr. Godlewski's next topic was the **Comprehensive Plan**, which promotes health, safety, morals, convenience, order and general welfare. He said the statement of objective and statement of policies must be contained in the plan. The Comprehensive Plan also includes maps, charts, and the land use plan. Also, consideration needs to be given to the pattern of development (infrastructure or capital improvements).

The **Scorecard for Success** was created in 2006 as part of the Elkhart County Land Use Plan. He said this sheet is a guide to be used during the meeting when reviewing the petition. The sheet includes the Agenda Item, the Staff Recommendation, the Petitioner's feedback, the majority decision on the petition, and what issues were decided and set aside. He believed this would help chart the discussion and keep them on track with the pertinent points. It, basically, is to keep tally during the hearing and he suggested they could try to use it.

Roger Miller asked if the Scorecard for Success was to be used by the petitioner. Mr. Godlewski explained this sheet was a tool for the Board members to help chart the petition throughout the hearing. Mr. Doriot asked if he planned to have this sheet available each month, Mr. Godlewski replied that he could do that. Mr. Doriot suggested in the first column, the Agenda Item, to have the petitioner information available as illustrated in the sample sheet today. Mr. Campanello agreed and liked the idea and Mr. Godlewski agreed to do it.

As far as the **Zoning Ordinance** is concerned, the Plan Commission is advisory with recommendations and reporting being the main functions to the Commissioners or Legislative body. There are methods to replace a Zoning Ordinance, revise a Zoning Ordinance and change zone maps. Mr. Godlewski said with rezonings, the legislative body shall pay reasonable regard to the 5 aspects spelled out on page 8 of the **Advisory Plan Commission** document, which includes the Comprehensive Plan.

Mr. Godlewski said Action of Legislative body is based on time limits. He said it is a very lengthy process and spelled out. He stated that going through the entire process of adoption of anything, just the Hearing portion, and how long the Legislative body has to take to decide upon it could take months. He said it all depends on the complexity of the subject. Usually when they reach those points they walk through the process step by step with the Board, because it is difficult to comprehend everything all at once. He said it is spelled out in the **Advisory Plan Commission** document very well.

Under the heading **Subdivisions** on page 9, as reiterated before, the Plan Commission has exclusive control over approval of all plats and replats covered by the Subdivision Control Ordinance. Three to 5 members are appointed by the Plan Commission. Three to serve on the Plat Committee. The Subdivision Control ordinance specifies standards of development that would qualify for approval.

Mr. Godlewski stated that the Plan Commission has no discretion of plats and if it meets the minimum standards it has to be approved. Mr. Doriot said the Plan Commission can add reasonable conditions to the plat, but he agreed if it meets the minimum standards it shall pass.

Mr. Godlewski mentioned the change with Minor Subdivisions and that Secondary approvals are now granted by Staff.

The **Planned Unit Development** is utilized in Elkhart County quite often and Mr. Godlewski noted this process is used more often than most counties in Indiana. The zoning ordinance may regulate PUD's, and there is an entire section in the State law describing how to regulate PUD's. The Planned Unit Development is established by a formal adopted PUD ordinance created for each individual petition. The PUD ordinance designates a parcel of real estate as a PUD, there are a range of permitted uses, development requirements, documentation, and limitations may be imposed. Mr. Godlewski said all of the requirements are accounted for when reviewing the PUD request.

Mr. Godlewski encouraged the Plan Commission to review the **Purposes of the Advisory Plan Commission** document created by Mr. Kolbus, because he converted law language into a very readable format.

7. *Certification of Residency*

The Certification of Residency forms were submitted and signed by Roger Miller and Doug Miller [See attached Staff Exhibits #1and #2]. Mr. Kolbus informed the Plan Commission Board that the new members and the reappointed members should have received a Certification of Residency, which is now required under the State law and the rules. He said they needed to be placed into the record.

8. *Education for the Board* – This matter was not discussed.

9. *Zoning Ordinance Discussion*

Mr. Godlewski said from discussion at the Policy Committee meeting Tuesday, there was a

question raised about clarification on a specific line item detail concerning why residential use should not be allowed in an agricultural zone. He suggested that he could give the Plan Commission some thoughts on his interpretation. He stated, in order to build a residence in an agricultural zone a minimum lot size of three acres or larger would be required. A residence on less than three acres needs to be rezoned to a residential zone.

Mr. Godlewski stated to go back to the establishment of the Policy Committee meeting it was originally thought that the Policy Committee and the Technical Committee would both serve the purpose of going through the procedures and the zoning ordinance rewrite. He and Mr. Mabry had discussed that the Policy Committee may be best served if the Staff worked with them and they would give Mr. Godlewski and Mr. Mabry 10 to 20 broad objectives that they are looking for in the zoning ordinance. Mr. Godlewski and Mr. Mabry could then explain how that would fit into their objectives. He felt that may be a better way to approach it, because when the Staff goes through the zoning ordinance they know the technical details, but the Policy Committee may have a lot of questions. Mr. Godlewski just wanted the meetings to be more fluid.

Mr. Doriot said he observed from Policy Committee meeting that he thought the group of people in attendance sat down and went through the items as thoroughly and as thoughtful as any committee he had seen in 20 years. It took three hours of their time and that is a lot of time to ask businessmen to take out of their day, however, he thought they got a lot accomplished.

Mr. Godlewski mentioned that someone asked why the Committee was going through all the details and then someone else commented that they should go through each item. After that he and Mr. Mabry thought perhaps they should be looking at some broad objectives. The Technical Committee and County Staff could provide the specific items based on their broad objectives. Technically, this is an informal committee and not a committee by resolution. Mr. Kolbus stated that the Policy Committee's dialogue and input is valued and important, but it is advisory to this Board, just as this Board is advisory to the Commissioners. He said the input and dialogue that they provide needs to continue in whatever manner Mr. Godlewski deems is valuable to him in terms of receiving that input. Mr. Kolbus believed that if he feels it is important for them to go through the ordinance line by line and Mr. Doriot thought it was very useful because of the thoroughness, then they should continue to do that. He feels, in addition, they might want to look at some overriding concepts that may come up in the course of reviewing the document itself.

Mr. Doriot informed the Board that since most of the Policy Committee members are employed, it was suggested to him that the meetings be held in the evening instead of the middle of the day. Mr. Godlewski thought that was a minor consideration and the County could accommodate them. Mr. Doriot mentioned they would feel freer to take the time to attend, because they would not be missing time from their work. Mr. Kolbus suggested they could decide when they want to meet.

Mr. Godlewski said there would be a full board next month and this Committee was scheduled to meet January 29<sup>th</sup> to finish up the second part of Module 1. He informed them that Module 2 was not scheduled to be reviewed by any committee until well into February.

Mr. Doriot stated that pertaining to the residential item, he did not understand what the five Plan Commission members that moved to remove the residential portion wanted. He agreed with the Policy Committee that they need to get some clarification. He said the motion was to remove residential from the A zone and that is what passed. Therefore, they do need major direction on what the five Plan Commission members voted for. He said he is not giving direction because he believed the way it is now and with what the Policy Committee said, the majority of people in attendance thought it belonged in the A zone.

Mr. Godlewski gave his interpretation earlier in the meeting concerning what he thought was agreed upon. Mr. Doriot said he would like to know what the majority of the Board wanted. Mr. Godlewski repeated that they were going to keep the 3 acre minimum for lot size to build in an agricultural zone which would allow a residence to be built on any three acre lot or larger. Residential density greater, meaning smaller than 3 acres, needs to be rezoned to a residential zone.

Mr. Lucchese informed them that Mr. Godlewski's interpretation was basically what the Commissioners said in the letter, which was in Draft E. The letter Mr. Lucchese was referring to was sent to the Plan Commission in 2007. Mr. Doriot informed them that he had not seen the letter.

Mr. Lucchese clarified that the Commissioners are not opposed to building a residence in an agricultural zone, but the standard should be 3 acres or more. He informed the Board that Elkhart County is now an urban county and no longer a rural county and that they have to plan for the future. With the boom the county had in the late 1990's and early 2000's the things that needed to be repaired are coming back to bite us now, so the County needs to move forward.

Roger Miller understood that the committee meeting on January 29<sup>th</sup> was looking for some type of statement from the Plan Commission; however, he did not feel prepared to make a decision on this today and did not feel comfortable voting on it. He felt there needed to be more clarification.

Mr. Warner agreed they should discuss it further. Roger Miller thought the 3 acre concept was the way to go, but he wanted to look at general philosophies and overall goals. He did not think this was a simple statement to make.

Mr. Kolbus suggested that Staff could meet individually with the five members who voted to limit the residential and get their thoughts. They could meet with Mike Yoder and/or Frank Lucchese for their comments and come up with some line item, because they needed bullet points explaining why they voted as they did, have them bring that back, and then act on it next month. He said they would have to give it to the Board in advance so they can look at it. That way they will have clear guidance as to where they want to go with it.

Mr. Doriot noted that many of the Policy Committee members attended this Planning meeting today, because they talked about it at the meeting Tuesday. Mr. Kolbus was concerned if they would try to put something together today there would not be clear guidance on what they had.

Roger Miller clarified that Mr. Godlewski would put something together and present a written document to the Plan Commission for any changes that may be needed and then they could act on it in February. Mr. Kolbus recommended that Mr. Godlewski also needed to meet with the individual members who voted that way to see what their reasons were for voting as they did. That way the Committee could be given a complete statement and it would give them some direction. Mr. Kolbus explained the Plan Commission needs to take formal action on it and that provides the Committee direction in how they move forward looking at the ordinance itself and any other policy considerations that would arise.

Mr. Doriot stated that there will be some discussion back and forth with the Policy Committee concerning the reason for changes. He has gone to every Committee meeting and knows several members of the Committee said, "What is the use". The Plan Commission comes up with a unanimous decision and the unanimous decision is not what the Policy Committee wanted to hear. The Policy Committee revisited it three times and it was kicked back.

Mr. Godlewski agreed that the Committee suggests something and the Plan Commission does something alternate and the Commissioners could do something alternate to that. Mr. Doriot expressed that he was just letting him know that there probably would be some back and forth conversation, but they are willing to compromise.

Mr. Godlewski said with regard to the Committee, he would move forward with an additional point of the statement of objectives that they are looking for. Mr. Kolbus said the Module they are reviewing now does not address residential, so they can continue with that part of the project. Mr. Godlewski agreed and stated what they are addressing are the three articles; General Provisions, Development Review Bodies and Development Review Procedures. Mr. Godlewski said he would have something for February.

10. **Motion: Action:** Adjourn, **Moved by** Roger Miller, **Seconded by** Doug Miller. The meeting was adjourned at 9:42 a.m.

Respectfully submitted,

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Sandra Herrli, Recording Secretary

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Jeff Burbrink, Chairman