



BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN

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NELSON PETERS LINDA K. BLOOM THERESE BROWN

MINUTES

Commissioners' Legislative Session

10:00 a.m. Friday, July 22, 2011

Council Chambers Courtroom – Citizens Square

Commissioners Present: Nelson Peters, Linda Bloom and Therese Brown

Others Present:	Chris Cloud	Commissioners Office
	Mike Green	Commissioners Office
	Bill Fishing	County Attorney
	Bill Hartman	Highway Dept.
	Kim Stacey	Allen County Parks & Rec
	Jeff Baxter	Allen County Parks & Rec
	Beth Dlug	Election Board
	Amy Scrogam	Election Board
	Barry Schust	Voter Registration
	Dan Bollinger	Voter Registration
	Soctt Harrold	DPS
	Nicole Liter	DPS
	Pat Fahey	DPS
	Michelle Wood	DPS
	Dave Hawk	Huntertown Attorney
	Derek Frederickson	Huntertown Engineer
	Sue Gongwer	Huntertown
	Pat Freck	Huntertown
	Vivian Sade	Journal Gazette

Commissioner Peters called the meeting to order at 10:04 AM. Commissioner Peters led the meeting with the Pledge of Allegiance and a moment of silence.

- 1. Approval of the minutes of July 8th, 2011.** Commissioner Brown made a motion to approve the minutes. Commissioner Bloom seconded the motion. Motion carried 3-0.
- 2. Update from the Allen County Parks and Recreation Board.** Kim Stacey, VP of the Allen County Parks and Recreation Board and Jeff Baxter gave this update.
- 3. Update on redistricting from the Election Board.** Beth Dlug, Election Board, stated as a result of the US Census, local and state governments are required to review their election districts to ensure that they have equal representation across the population. The general assembly has already established the congressional and state legislative lines. The Commissioners and County Council are now required to do the same with their district lines this year. Before the district lines are established, the Election Board needs to do re-precincting. At the end of June, the State supplied us with the maps and information we need to do the re-precincting. Part of the process this year is that if we have an issue, if we have any lines that are in question, we have to let them know about that by August 4. Otherwise, whatever they drew stands for the 2012 election. She stated we have already identified at least 30 problem areas that require our attention on those lines. She strongly recommends that the Commissioners file an objection with the State of Indiana Election Division to not allow their lines and that we will present them new lines which we have to do by December 31. However, our timeline is much quicker than that. We are working with Dave Estes and we hope to have our new lines drawn within the next couple of weeks. We then plan to

send them to the State to make sure that we are not doing anything illegal with our lines. Then we will present those lines to Dave and he can take the precinct lines and put them into population numbers which is what the Commissioners need to do the districting. She stated that 10 years ago when this was done it was accomplished by the end of October and that is what our target is this year. Commissioner Brown made a motion to file a formal objection with the Indiana Election Division to the precinct files identified in House Enrolled Act 1601, SECTION 13 due to errors or incompleteness. Commissioner Bloom seconded the motion. Motion carried 3-0.

4. Resolution of Notice of Errors with Precinct Boundaries on behalf of the Election Board.

Commissioner Brown made a motion to file a formal objection with the Indiana Election Division to the precinct files identified in House Enrolled Act 1601, SECTION 13 due to errors or incompleteness. Commissioner Bloom seconded the motion. Motion carried 3-0.

5. Consideration of a Loan Agreement with the Allen County Redevelopment Commission regarding the Greatbatch Sewer & Water Reimbursement Agreement. Scott Harrold, DPS, stated that about a month ago the Commissioners approved an agreement with the City's Board of Public Works to reimburse them for work that Greatbatch is doing in water and sewage to the site. He stated what is before the Commissioners today is a loan agreement that the County Redevelopment Commission approved on July 12. It basically says that the Redevelopment Commission will reimburse the Commissioners for any costs associated with that reimbursement agreement as well as with a land write down that will be paid to Greatbatch upon their certificate of occupancy. He stated if the Commissioners approve this, the Redevelopment Commission will pay them back. Commissioner Brown made a motion to approve the Loan Agreement with the Allen County Redevelopment Commission regarding the Greatbatch Sewer & Water Reimbursement Agreement. Commissioner Bloom seconded the motion. Motion carried 3-0.

6. Rezoning Petition 1638/11 to rezone 101.8 acres at the northeast corner of the intersection of Airport Expressway and Coverdale Road from RS-1/Suburban Residential to I-4/Industrial Park to make the parcel compatible with airport uses. Michelle Wood, DPS, stated that much of the ground in this area that is not already industrial was original zoning of RS-1 when the ordinance was put forth. Much of it has remained agricultural or it has been rezoned to industrial either for airport uses or for supporting industrial uses. The airport recently acquired this ground which is nearly 102 acres and found that residential zoning is really not compatible adjacent to the airport. The highest and best use is more industrial. Especially if that industrial zoning has restrictions on it to make sure the uses are compatible. With the I-4 zoning that is Industrial Park that is the zoning that staff prefers if there is not an intended user. It does allow a variety of industrial uses but most of them are in door. It is set up more as an office park rather than a heavy industrial site. The standards in the ordinance allow for bigger setbacks from other properties for screening of loading docks, general landscaping and generally a more attractive and less intensive industrial use for whatever comes in. There is not a user at this time but there are restrictive covenants that have placed on the property that will be recorded if the zoning is approved and they restrict additional uses – all residential uses, commercial incineration, junk yards, rubbish, garbage, trash dumps, recycling facilities, outdoor storage unless it is in conformance with the covenants, rendering plants. It also governs other things like landscaping and lighting. Staff is very comfortable with the rezoning. For whatever the future use may be, it will also come back to the Plan Commission for their approval of the development plan. There was one remonstrator who lives across the street on Coverdale Road. She had general questions about zoning around the one property owner that still remains, and questions about the sewer that was being extended. As far as the small property that is not being rezoned at this time, there have been discussions between Airport Authority and that property owner to potentially purchase the property. That took place between the public hearing and the business meeting. They have not been ignoring that property owner and they did not remonstrate against the proposal. The Plan Commission did unanimously recommend do pass. Commissioner Brown asked if this rezoning helped with the FAA and those types of restrictions that the airport might run into for future whatever the development might be so that it would be in compliance. Michelle said that was a good point and stated this is outside of our ordinance and our review but Tory Richardson from the Airport Authority discussed the 1980 compatible land use plan and that is a FAA mandate that there is a protection area around the airport. With the covenants placed on it, they can control anything that would be in conflict or cause an issue for them. Commissioner Bloom made a motion to approve Rezoning Petition 1638/11. Commissioner Brown seconded the motion. Motion carried 3-0.

7. **Rezoning Petition 1639/11 to rezone 2.89 acres on the south side of the 12200 block of State Road 14 West from RSP-3/Planned Multiple Family Residential to A-1/Agricultural so a Special Exception can be filed with the BZA to allow a family recreational use.** Michelle Wood, DPS, stated the petitioner is Gary Probst the owner of the property on the south side of Illinois Road. This is still a farmed property and it does have older agricultural buildings on it. There is a group that wants to use this property as a fall family event center. Outdoor uses, like Hilgers, where they might have mazes, face painting and just fall activities. It would be a temporary use – from September through November. This is not something the Plan Commission can review. They can only review the down zoning to A-1. The A-1 zoning allows them to go to the Board of Zoning Appeals for the special exception which they did. They received a conditional approval for the uses September through November. Staff's concern was with the adjacent property owners, the added noise and the activity on the site which basically has no activity other than farming currently. We urged the applicant to meet with the Chestnut and Sycamore Hills boards which he did. We did not receive any calls or remonstrance or negative comments either at the zoning public hearing or the BZA. There have been quite a few restrictions placed on this. Most importantly is that this approval only runs with the applicant and not the land so if Mr. Probst sells the property, someone else would have to come back to reestablish the use. Also, if it is discontinued for more than 12 months then they would have to come back to get a new approval. With those safeguards and the fact that there was no remonstrance they felt the down zoning could be supported to move it forward to the BZA. Commissioner Brown made a motion to approve the Rezoning Petition 1639/11 to rezone 2.89 acres on the south side of the 12200 block of State Road 14. Commissioner Bloom seconded the motion but said this is a very special exception and this is one of the more unusual rezoning that she has ever heard. Michelle stated we'll just have to see how it goes the first year. If they want to expand they will have to come back to the board. It's pretty reigned in and the restrictions are tight. If it works in that area great. If not, they will have to come back to the board and we may hear from the neighbors at that point. That's the good thing about the special exception vs. just a zoning that would permit the use without any restrictions. Motion carried 3-0.
8. **Amendments to Allen County Code Title 2 (General Planning) and Title 3 (Zoning Ordinances).** Pat Fahey, DPS, presented this item. He stated this the first phase of the overall ordinance update project that is being undertaken at this time for both the Allen County and Fort Wayne zoning and overall planning ordinances. The first phase was to put the existing ordinances into an updated organizational structure. The intent is to align the chapters in the Allen County ordinances and the sections in the Fort Wayne ordinances in a reorganized structure so that both ordinances would have similar general provisions, zoning districts, additional standards and administration and enforcement articles and subchapters. Cross references have been updated for both ordinances. This also includes the general planning provisions which are the comprehensive plan and the transportation plan. There are also areas that have been reserved for future chapters as the update continues. The proposal is that the effective date of these 2 amendments would be March 5, 2012. Staff continues to work with the review group and the governing board on the next phase of the project which will be updating the actual language of the permitted uses section of the ordinances. Hopefully that amendment will be coming back to the Commissioners later this year. Basically this just took the existing text and put into an updated organizational format and then the next phases of the project will be the ordinance language updating. This has been recommended for approval by the county plan commission and has also gone through the Fort Wayne plan commission and the Fort Wayne common council. **Commissioner Brown** asked how this relates to the permitting process discussion that we just went through. Is this one of several phases as we go through the whole re-review. Pat stated that yes, the overall project will have 4 phases and part of probably the third phase is going to be when we get into looking at the development plan procedures and the site plan routing procedures. That's when some of the issues that have been brought up by the permit review committee are going to be looked at. **Commissioner Peters** asked how far does this get us in the process that Therese asked about? What other resources do you see as necessary going down the road? **Pat Fahey** responded these are straight forward amendments but that as we continue to move through the next phases it is likely that we are going to want to look at best practices from other communities or look to have some kind of assistance for those more technical aspects of the amendment. One of the objectives is to have a very user friendly document and carry that over to the web document also. He stated they see there would be a need for assistance when they get to that point in the project also. There will be a number of areas where it makes sense for either technical reasons, legal reasons or formatting/graphic

reasons to bring in outside assistance. **Commissioner Peters** stated that the permitting group met this morning just to begin to put some meat on the bones. He said we hope that you have a draft RFP together in like the next couple of weeks. He stated he hopes you have the opportunity to provide some input on that draft RFP for that specific portion that you are talking about. He stated he doesn't know whether we have considered some of what Pat just mentioned but need to make sure that is in there. Commissioner Brown made a motion to amend Allen County Code Title 2 (General Planning) and Title 3 (Zoning Ordinances). Commissioner Bloom seconded the motion and asked if this was all going to be done in separate sections, phase by phase. Pat responded yes and this is the first phase. Motion carried 3-0.

- 9. Introduction of 2011 Allen County Strategic Plan Update.** Pat Fahey, DPS, gave this update. Commissioner Brown made a motion to approve and accept the 2011 Allen County Strategic Plan Update. Commissioner Bloom seconded the motion. Motion carried 3-0.

10. Sign Request

- a. Woodburn Rd – 2,500' West of Hetrick Rd to Sampson Rd – remove 45 mph Speed Limit, replace with 55 mph Speed Limit**

Bill Hartman and Dan Allen with Highway Department presented this item. Bill Hartman stated this change in the speed limit upward was requested by Mayor Dick Hoepfner of the Town of Woodburn. The speed limit was reduced during the construction of Fort to Port and now the construction in that area is complete and they have asked it to be increased. Commissioner Bloom made a motion to approve the sign request. Commissioner Brown seconded the motion. Motion carried 3-0.

- 11. Supplemental Agreement # 7 with A & Z Engineering for Stormwater Pollution Prevention Plan, Wetland assessment, Waterway permits, and additional right of way services for Limited Access right of way for Flutter Rd from St Joe Rd to Schwartz Rd, Project # 05-276. Cost - \$ 48,050.00.**

Bill Hartman, Highway Director, stated these are aspects of this project that have come up in the design phase that need to be addressed that weren't in the original scope. This is 80/20 so our portion is \$9,610. Commissioner Bloom made a motion to approve Supplemental Agreement # 7 with A & Z Engineering for Stormwater Pollution Prevention Plan, Wetland assessment, Waterway permits, and additional right of way services for Limited Access right of way for Flutter Rd from St Joe Rd to Schwartz Rd, Project # 05-276. Commissioner Brown seconded the motion. Motion carried 3-0.

- 12. Warranty Deed – Flutter Rd - St Joe Rd to Schwartz Rd, Project # 05-276**

- a. Parcel 16 – Wolfe**
b. Parcel 79 – Krause/Langer

Bill Hartman, Highway Director, stated there are another 52 parcels to go. Commissioner Bloom made a motion to approve Warranty Deeds. Commissioner Brown seconded the motion. Motion carried 3-0.

- 13. Warranty Deed – Gump Rd – Lima Rd to Coldwater Rd, Project # 03-296**

- a. Parcel 52 – Fitch**
b. Parcel 22 - Doster

Bill Hartman, Highway Director, stated there are another 29 parcels to go. Commissioner Bloom made a motion to approve Warranty Deeds. Commissioner Brown seconded the motion. Motion carried 3-0

- 14. Change Orders 37, 38, 39, 40, 41, 42 for Maplecrest Rd from SR 930 to Lake Ave, Project # 00-227. Total amount of these change orders is \$23,091.39 (Decrease).**

Bill Hartman, Highway Director, stated there are several increases in here. There is a \$76,000 increase for additional sheeting to stabilize MSE walls and piers around the railroads. Change order #38 is a \$24,000 increase in changes for drainage and additional width of gate at the utility access drive off of Lake Avenue. Change order #39 has no dollar change amount. Change order #40 is a \$5,300 increase for additional pavement markings required. Change order #42 is some additional security fence around the river greenway area \$1,540 increase. The good one is Change order #41 which we had many, many wick drains to be put into the project and many of them were deleted and that is the \$130,839 decrease which gives us the overall

decrease of \$23,091.39. Commissioner Bloom made a motion to approve Change Orders as read for a \$23,091.39 (Decrease). Commissioner Brown seconded the motion. Motion carried 3-0.

15. Change Orders 4, 5, 6 for Towpath Trail, Phase IV – Project # 0005007. Total amount of these change orders is \$43,981.80 (Increase). Bill Hartman, Highway Director, stated these are for subgrade problems in the driveway parking area at the trailhead and then there were also subgrade problems underneath the trail itself that led to these increases. We are just the administrator on this project and these increases are to be paid for by Aboite Trails because it is their project. We just administer it. Commissioner Bloom made a motion to approve Change Orders as read. Commissioner Brown seconded the motion. Motion carried 3-0.

16. Engineering Services with A & Z Engineering, LLC for IDEM Rule 5 permits for the following conversion projects:

a. Black Rd – SR 37 to End, Project # 0500411. Cost – \$3,950.00

b. Ehle Rd – SR 37 to Bruick Rd, Project # 0500511. Cost – \$2,920.00

c. Houk Rd – Hoagland Rd to Flatrock Rd, Project # 0500211. Cost – \$4,885.00

d. Grotrian Rd – South County Line Rd to Barkley Rd, Project # 0500510. Cost – 4,395.00

Total Cost - \$16,150.00

Bill Hartman, Highway Director, stated that these have been considered by IDEM to be actual construction projects rather than maintenance projects so we have been thrown into having to get permits from them for erosion control individually. Commissioner Bloom made a motion to approve the IDEM Rule 5 permits for conversions. Commissioner Brown seconded the motion. Motion carried 3-0.

17. Updated Project Coordination Contract with Indiana Department of Transportation for Flutter Rd from St Joe Rd to Schwartz Rd, Project # 05-276. Bill Hartman, Highway Director, stated the previous item #11 was between Allen County and A&Z. This agreement is between Allen County and INDOT and approves INDOT's 80% of the money to cover the increases for the supplemental agreements in this project. This adds on to our agreement with them so that they will indeed pay the 80%. Commissioner Bloom made a motion to approve the Updated Project Coordination Contract. Commissioner Brown seconded the motion. Motion carried 3-0.

18. Appointments to the Allen County Plan Commission and Board of Zoning Appeals. Chris Cloud, Executive Assistant, stated that after some legal sleuthing, County Attorney Fishing has realized that we only have to make a Board of Zoning Appeals appointment to fulfill our obligations. The name before them today is Susie Hoot to be a dual appointment to both the Allen County Plan Commission and the Board of Zoning Appeals. Commissioner Bloom made a motion to approve the appointment of Susie Hoot. Commissioner Brown seconded the motion. Motion carried 3-0.

19. Appointment to a Fort Wayne Community Schools Common Wage Committee. Chris Cloud, Executive Assistant, stated the name before them is Cathy Serrano. Commissioner Bloom made motion to approve appointment of Cathy Serrano. Commissioner Brown seconded the motion. Motion carried 3-0.

20. Escrow Agreement between the Board of Commissioners, Tower Bank, and Rosema Construction, Inc. Chris Cloud, Executive Assistant, stated this is for Rosema to be able to keep their interest on the retainage required for the City/County Building project. Commissioner Brown made a motion to approve Escrow Agreement between the Board of Commissioners, Tower Bank, and Rosema Construction, Inc. Commissioner Bloom seconded the motion. Motion carried 3-0.

21. Other Business:

Resolution Related to the Construction of a Wastewater Treatment Facility by the Town of Huntertown. Commissioner Peters stated one of the things we wanted to talk about today was a proposed resolution that was presented by Mr. Chris Brewer on behalf of some citizens of Huntertown about 4 weeks ago. The purpose of the resolution from his perspective was to ensure that there was some amount of protection for citizens of Huntertown and that the process in which the sewer project up in Huntertown was done was done in as transparent a way as possible. About 2 weeks ago we told him that

conceptually we could pretty well agree with the sense and the purpose. Commissioner Peters stated we still maintain some idea that we don't want to get too involved with the issues that the Town Council of Huntertown themselves were charged with overseeing so we reworked the resolution a little bit. Commissioner Peters read the bulk of what the resolution states which pertains to the Commissioners following the whereas section. Commissioner Brown made a motion to approve the Resolution Related to the Construction of a Wastewater Treatment Facility by the Town of Huntertown. Commissioner Peters seconded the motion. Motion carried 2-1 (Bloom).

22. Approval to waive the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of July 22, 2011. Commissioner Bloom made a motion to approve waiving the 2nd Reading on any matter approved today and for which it may be deemed necessary for the Legislative Session of July 22, 2011. Commissioner Brown seconded the motion. Motion carried 3-0.

23. Comments from the Public. Derek Frederickson, Engineering Resources, stated they didn't have a presentation but were just here to answer questions regarding wastewater treatment in the Town of Huntertown. This is a topic that's important to the community and it's been very public and they are continuing to work with the community in terms of wastewater solution. He said that in the future should there be specific questions, he would be happy to come back. Commissioner Peters stated that as they move forward, the Commissioners would appreciate being kept in the loop so that when we get calls we can either dispel some of the concerns or render some sort of an opinion.

24. Motion to Adjourn. There being no further business, the meeting was adjourned at 11:08 a.m.

Allen County does not discriminate because of disability in the admission to, or treatment or employment in, its programs or activities. The Human Resources Director has been designated to coordinate compliance with nondiscrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided therein, and Allen County's ADA policy is available from the ADA Coordinator. Suggestions on how the County can better meet the needs of persons with disabilities may be submitted to the ADA coordinator at: Human Resources Department, 1 East Main Street, Room 300, Fort Wayne, IN 46802, or by phone at (260) 449-7217.