

WABASH COUNTY PLAN COMMISSION

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WABASH COUNTY PLAN COMMISSION **BOARD MEETING MINUTES** **July 7, 2016**

**Wabash County Plan Commission Board
Wabash County Court House
Wabash IN 46992**

PC Board Members: Curtis Campbell, Randy Curless, Scott Givens, Doug Rice, David Schuler, Cheri Slee, Joe Vogel, Attorney Larry Thrush

Members present:, Curt Campbell, Randy Curless, Scott Givens, David Schuler, Cheri Slee, Joe Vogel and Attorney Larry Thrush.

Mr. Givens opened the Meeting at 7:00 p.m.
Mr. Vogel motioned to approve the June 2nd, 2016 meeting minutes.
David Schuler second
Motion passed.

S.E. # 2 for a Pond in an Agriculture Zone has been withdrawn at this time. Applicant Randall Cripe submitted the request to withdraw on 6/27/16

Continuation of Bobby Stephens complaint.
Givens, do you have any information for us to review at this time?

Stephens, yes about 15 years worth of it?

Givens, do you have any documentation for Mr. Thrush to review at this time?

Stephens, no, not at this time.

Givens, I think that we previously discussed all of this and we were not able to determine what the findings were and we cannot make any decisions until we know what those findings were.

Mr. Thrush, yes that is my understanding.

Givens, when you went through the process with the mediator, and a settlement was reached, did they give you and documentation telling what the stipulations were, or what the ruling was?

Stephens, yes they did.

Givens, is that something you can get a copy of to Mr. Howard and he can forward to Mr. Thrush to investigate.

Stephens, I don't think that's got anything to do with the problem out there. Me and the churches problems are 2 different things.

Thrush, this went to court and we have to know what the judgement was in order to proceed with any of this.

Howard, it was determined during the May meeting that the plan commission needs to see the documentation spelling out the actions required, which were approved in the mediation and order by the court. Mr. Stephens was to provide that information for the board to review during the June plan commission board meeting. He did not attend the June plan commission board meeting but did attend the June BZA meeting.

Givens, did the court ruling deal with any of the drainage issues?

Stephens, that is all they dealt with. Nothing about the residential zoning laws or blocking the drains or nothing.

Givens, just the drains?

Stephens, yes just the drains, because the county plan commission would not deal with it at that time. I filed a claim with my insurance company to remove the blockage and that's the end of it.

Vogel, do you understand why we need to see that documentation?

Stephens, no I don't, I'm not here about me and the church, and them blocking my drains. I'm here about the petition I filed with the plan commission to remove the blockage, the whole blockage, not just what me and the church have to do with it. And that is what my insurance company told me to do. They told me to go to the courthouse, go to the drainage board and fill out the paperwork. In 2005 that is what I done.

Vogel, do you recall or have any documentation of what was done based on that process?

Stephens, this is the normal drains out there that drains everything.

Slee, the drainage board can make recommendations for private drains but we cannot enforce those recommendations.

Stephens, they put a driveway in down through the middle of the whole thing, ninety (90) foot wide.

Vogel, we need to determine is it a private or public drain.

Slee, we need to back farther, John Stephens did a lot with this starting clear back in 2001. I reviewed all of this for the June meeting and Mr. Stephens was not present. I have had several other projects since then and would want to review again before discussing. John spent time at the site and worked with engineers and it's documented in old minutes. I do recall that it was stated in minutes back then that one tile was not hooked up because it was full of sewage. Mr. Stephens was advised to contact health department and go from there.

Howard, there is a letter in the file from Harvey notifying Mr. Stephens of the tile with sewage in it. He was advised to have the tile and his sewer inspected and he could contact the health department if further assistance was needed.

Stephens, there was never any engineering done at all, they just went out there and started dumping dirt with the county highway departments help. The county highway department helped them change the drainage and fill it in. That kind of leads me to think the county or highway departments got something to do with drainage. If the county highway is up there changing the drainage or putting culverts in somewhere then they probably have something to do with it.

Givens, the county does not go out and perform drainage work on private land as far as the highway department goes.

Stephens, I got pictures of them out there dumping dump trucks down in the land, filling it in. They even moved the drainage 25 feet to the east so they could do it. They moved the drains from where they were so they wouldn't be under the road. There was never any engineering done. They just went out there and started putting stuff in the way they wanted to.

Thrush, what issues did you raise in your litigation?

Stephens, they were blocking my basement.

Thrush, basement drainage?

Stephens, yes, that 15 foot roadway blocked every bit of the drains.

Thrush, what is your understanding of what the court ruling was?

Stephens, they were wrong in what they did and they had to open up the drains from my land, but that is not what we are talking about.

Givens, did they do that for you?

Stephens, partially,

Thrush, if they didn't follow the courts order then you should cite them for contempt.

Stephens, that's not the situation, the situation out there is the drains are still blocked out there and falling in.

Givens, is it your sewer drain that is still blocked?

Stephens, basement drains is blocked, the front end of my lot is blocked coming down into the big drainage ditch.

Givens, you're talking water on top and sewage?

Stephens, I'm talking about water shooting up out of the ground in spouts and blowing holes in my yard.

Givens, that sounds like a tile blocked, but it is not a county tile.

Stephens, the county helped block the big drainage ditch, not my land, or not my tile, my tile drains down into that big drain that runs to the Wabash River.

Thrush, what do you suppose this board can do?

Stephens, remove the blockage I guess. You can't make them remove the blockage, fix the drain back to normal?

Thrush, this is the plan commission, it is not the drainage board, not a court of law. If someone is damaging your property you have the right to take them to court, apparently you did that at one time, you can do it again.

Stephens, your saying this is not your issue?

Thrush, I'm saying this is an issue for a court of law not the county plan commission.

Vogel, we do not have the power to go on a property or force someone to dig up a private drain where as a court of law does.

Stephens, I just don't understand, do I need to go to, well I guess this is just out of your hands, but what about the residential zoning laws out there? Is there any zoning law that says you can't block peoples land?

Thrush, there are nuisance laws that say you can't do it.

Stephens, that don't do any good, 15 years later and it's not the county's problem it's my problem.

Thrush, why didn't you raise that issue in your first litigation?

Stephens, it has always been raised.

Thrush, if it was raised then the court addressed it.

Stephens, even the lake back there, it was brought up where it was never ordered by the state.

Thrush, why don't you bring in the court's ruling so we can see what the court said.

Stephens, I don't see how, that's between me and the church. What's that got to do with the zoning laws and blocking the land. Now if I need to go to court, we'll go to court.

Howard, we talked back in May about the fact that the Wabash County Plan Commission does not issue any driveway permits. We send request for drive entrances off of county roads to the county highway department to make a culvert pipe size determination.

Stephens, well is there any liability on residential zoning laws out there? Since the county won't let me live there. Now all they've got is junk equipment out there. I just got a copy of the zoning laws from an attorney. He says you can have residential homes, not dumps. But the county says they can't do anything about that.

Howard, we discussed these same things back in May as far as what would be permissible in an R1 zone. You originally said the equipment along the drive was junk, but later stated that it is used from time to time.

Stephens, they do all there maintenance right in that driveway. There is a county ordinance that says you can't park and do maintenance in a driveway in an R1 Zone.

Howard, I am not aware of any such policy for the R-1 Zone that prohibits a person from doing vehicle or equipment maintenance in their driveway. Can you show me in the ordinance book where it says that?

Stephens, what about camping in an R1 Zone, can they camp there?

Howard, I would think a group could camp there for a time if they wanted.

Stephens, Not in the R1 Zone Ordinance I got. It says you can have two campers per weekend max.

Ruling was passed in 1980. Campground, electricity, parties and everything. Nothing about it in the ordinance. What's the need to have a residential zoning law if people can park what they want to, dig big holes in the ground and dump there junk in it, computers, and everything in the world in there and the county can't doing anything about it. I just don't understand it. The state turned it into the county.

Givens, The state turned it into the county?

Howard, no the county visited the site, turned in the complaint to IDEM, IDEM wrote up the violations requiring the church to clean up the violation, submit weight tickets as proof of removal of the materials to an appropriate landfill. IDEM then re-inspected approximately 30 days after first inspection and gave a satisfactory write-up for removal of the violations. We have copies of all the IDEM reports.

Stephens, how come the county had to have the state come in? Why didn't the county handle?

Givens, in this situation the state can be much more aggressive with enforcement and penalties. If they are indeed dumping as you say, I can call IDEM, you can call IDEM, anyone who witnesses it, can call IDEM and report them. They will come out and investigate.

Stephens, they already done it, they come out and took pictures and turned them into the county.

Howard, no one has submitted any such pictures to the plan commission office.

Stephens, Jennifer Scott has them. The DNR took them. Dead animals, big holes dug back in there.

Givens, we have had people from the church comment too about the equipment along the drive, but it is operable and does get moved, but they won't complain to Barry and ask for it to be moved and yet it is the churches ground. It's not Barry's ground.

Stephens, how do you know it's the churches ground.

Howard, deed shows it as Wabash First Church of God Board of Trustees.

Stephens, they got 3 different places all in different names and he got all the work done and don't have to pay any taxes on it cause it's in the churches name.

Stephens, it's not in the churches name. He even bought 2 acres out in the middle of it and don't have access to it unless he goes through the church drive. That property is in three different names. The property on 525 N Wabash is Church of God name, land out there is in Church of God, Board of Trustees name, and then the 2 acres out in the middle of the big field is in Barry Hannas name.

Howard, there is not a 2 acre parcel out in the middle of the 36 acre parcel. There is the 2 acre parcel which borders the south line of the Chuck Goble property that is in his name.

Stephens, he has no access to the two acres unless he uses the church drive.

Givens, maybe he has an agreement with Goble or the church to access the property.

Stephens, no he doesn't, and he wants to build a barn back there to store his equipment.

Howard, I believe there is an ingress egress easement with the church to access the parcel.

Givens, which might be a good thing then it's not along the drive.

Stephens, so at this time you're telling me there is nothing you can do about the drainage, the residential zoning laws, there is nothing the county can do about that, they can park whatever they want to, in there whenever they want to. All of the junk. When we were here a month and a

half ago the county filed charges against a farmer for having junk out on his own property. Told him he had to move it, but his junk is different than the junk out there.

Givens, we have laws against unlicensed vehicle setting on properties.

Stephens, the old dump truck setting out back doesn't have an Indiana license plate on it and has been drove on the road without plates.

Givens, well we can do something about that then.

Stephens, its back there out of my way, I don't care what they do back there. If they want to move it all back there by the lake and do stuff back there. I'm tired of people coming in there drunk, and knocking on my door, the dope addicts, bullet holes in the back of my house, people threatening me from the church going up and down that driveway. Again that's nothing that you can do about that.

Givens, Again I suggest getting the court information to Larry so we can see what the remediation disclosed and what was to be done and the ruling. If they didn't follow the ruling then you need take them back for contempt of court.

Stephens, we didn't go to court we just settled it through a mediator. All I cared about at that time was just being able to live in my house. They agreed to tie the drains in, not to remove the blockage.

Givens, ok, now is your septic system in compliance?

Stephens, yes.

Thrush, it did go to court.

Stephens, no, we used a mediator.

Thrush, you may have settled it through a mediator, but it went to court. There is a Cause # and a judgement on the case.

Stephens, The judgement was for them to unblock my drain.

Thrush, then you need to take them back for contempt of court. You have a remedy, but it's not in this room, it is in a court room.

Howard, I have a copy of the complete documentation of the Cause #. In short, through mediation the complaint was settled. However there is no documentation in the Cause # spelling out what was to be done. That is what we have been asking Mr. Stephens to provide Mr. Thrush with.

Stephens, you are asking me for the ruling and you have a copy right there.

Howard, this is the court Cause documentation explaining the proceedings, but it does not tell us what was agreed to in the mediation. That is what this board keeps asking you to provide.

Givens, bring the documentation in that tells what was to be done. Give it to Mike a couple weeks ahead of our next meeting and he will get the documents to Mr. Thrush to review before we meet again.

Stephens, that is still not helping on the residential zoning laws out there.

Givens, I'm not sure there is a full understand of the residential zoning laws. Some changes have been made, but the examples you give often do not sound like familiar policies of the county ordinance.

Stephens, ok I will take it from here.

Givens, I suggest you get that information we have been asking for to Mike so he can get it to Larry.

Ron Dyson, Unsafe Premise Order.

Per Mr. Thrush, Dyson has hired Attorney Doug Lehman and they have asked the court for an extension of time, which was granted. Mr. Dyson has until 7/29/16 to respond to the court.

Der Pool, Unsafe Premise Order

Mr. Thrush will continue to monitor. Default date is 7/18/16.

Max Roberts, Unsafe Premise.

Work being completed. Gave an additional 30 days during 6/2/16 meeting.

Work continues to progress.

Joe Vogel motioned to give additional 30 days since progress is continuing.

Will review again during 8/4/16 meeting

Randy Curless 2nd

Motion passed

Ronald Denton junk complaint.

Mr. Thrush conveyed to the board the judge's ruling noting that it not only applies to the defendant but also to anyone using the property in the future.

Kathleen Covington

Mr. Howard talked with Mr. Eilts earlier in the week. Hank has an excavator broke down but will get to the demolition of the buildings in the next couple of weeks.

Board members reviewed the proposed 2017 budget.

Mr. Curless suggested going ahead and adding the salary committee's recommendation for the 3% increase to the pay scale for the office administrator. He also suggested dropping line item 03300. That could be handled as needed as an additional appropriation.

Board members agreed to the budget plan with the above listed changes.

Trustee replacement for Sue Ridenour.

Florence Dahlstrom submitted her name to serve as the trustee representative on the PC Board. Mr. Howard noted that Mr. Thrush had forward Indiana Code which outlines the procedure for the appointment of a trustee to the board. A letter will be sent to all trustees outlining the procedure to select a new representative.

Board members were asked to submit names for the replacement of the late Lowell Rosen. Consideration will need to be given to political affiliation.

Ordinance Draft Discussion.

Board members reviewed the draft ordinance section for satellite manure storage and manure staging. Discussion continued on residential development in Ag 1 and AG 2 zones.

Hearing no further discussion Joe Vogel motioned to adjourn.

Doug Rice second.

Meeting Adjourned 8:45 PM

Also Present: Bobby Stephens