

## MINUTES

### POSEY COUNTY AREA PLAN COMMISSION REGULAR MEETING

THE HOVEY HOUSE  
330 WALNUT STREET  
MT. VERNON, INDIANA 47620

JUNE 10, 2021  
6:00 P.M.

**MEMBERS PRESENT:** Mr. Mark Seib – President, Mr. Hans Schmitz – Vice President, Mr. Mike Baehl, Mr. Kevin Brown, Mr. Andy Hoehn, Mr. Randy Owens, Dr. Keith Spurgeon (via Zoom), Mr. Randy Thornburg, Mr. Trent Van Haaften – Attorney, Mrs. Mindy Bourne –Executive Director, and Mrs. Becky Wolfe – Administrative Assistant.

**MEMBERS ABSENT:** Mr. Dave Pearce.

**APPROVAL OF MINUTES:** Kevin Brown made a motion in the affirmative to approve the minutes from the May 13, 2021 meeting as emailed. Motion seconded by Mike Baehl. (8-0) Yes. Motion carried.

**REPLAT:**

DOCKET NO: 21-03-S-APC  
APPLICANT: Steve Noelle  
OWNER: Karl & Linda Dorff and Ronald Scott & Tammy Lynn Crabtree  
PREMISES: Lot 28, 29 and 30 in Country Terrace Subdivision, Section E. Part of the East Half of the Southwest Quarter of Section 4, Township 7 South, Range 13 West, lying in Black Township, Posey County, Indiana. Containing .744 acres more or less. More commonly known as 1318, 1322, & 1326 Mockingbird Lane, Mt. Vernon, IN. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Approval of Replat of Lot 28, Lot 29 & Lot 30 in Country Terrace Subdivision, Section E in an RS Zoning District under The Subdivision Control Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville and Unincorporated Posey County.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. Mark Seib asked if there were any conflicts of interest. Hearing none, he asked if anyone was here to speak regarding this request.

**STEVE NOELLE:** I'm representing the Crabtree's and the Dorff's. The Crabtree's own lot 28 and they have a house there. The Dorff's have a house on lot 30. The Dorff's also

own lot 29. What we are proposing to do is to divide lot 29 in half. The east half would be combined with the Crabtree lot, and the west half would be combined with the Dorff's lot.

**MARK SEIB:** Are there any questions from the board? At this time, we will open the public portion. Is there anyone here wishing to speak for or against this proposed replat? Seeing and hearing none, we will close the public portion.

Mr. Seib confirmed with Mindy Bourne there were no emails, phone calls or letters.

**MARK SEIB:** It is now up to the board to take action as they see fit.

A motion was made in the affirmative by Andy Hoehn to approve the replat #21-03-S-APC. Motion was seconded by Kevin Brown. **Roll call vote (8-0) Yes. Motion carried.**

**MINDY BOURNE:** Ok, so this replat has been approved.

**SITE DEVELOPMENT PLAN:**

APPLICANT: James O'Risky  
OWNER: Shamrock Storage, LLC  
PREMISES: Part of the Southwest Quarter of the Northwest Quarter of Section 5, Township 7 South, Range 13 West, in Black Township, Posey County, Indiana. Containing 4.562 acres, more or less. More commonly known as 445 Givens Road, Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Approval of Site Development Plan in a B-1 Zoning District under The Zoning Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville, and Unincorporated Posey County.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. Mark Seib asked if there were any conflicts of interest. Hearing none, he asked if anyone was here to speak regarding this request.

**JAMES O'RISKY:** 10650 East Copperline Road, Evansville, IN 47712. This relates to 445 Givens Road, where the site of the former access mini-storage is located. What we would like to do is request permission to add additional building space this year, at the site, to expand it due to business needs.

**MINDY BOURNE:** There is a report of the Site Plan Committee Review meeting in your folders. They are proposing to build a 40 X 170 storage building. The building will have drive-up storage with standard storage doors. They will be adding a six-foot chain link perimeter fence. This project does not require a Rule 5 permit, and at this time, they have not submitted for their State Construction Design Release yet. I have received no comments from agencies for jurisdiction at this location. The board didn't see anything

that needed to be modified on the site plan. It is worth mentioning that they are going to relocate the entrance to allow for better maneuvering within the site. We stated that they needed to have a six-foot concrete apron, and they are going to.

**JAMES O'RISKY:** I was told that we needed to add the apron, and the gate relocation is based on really the current use. For us to add a security gate that properly works, and for us to stay off of the former owner's property when the gate swings out, I need to stay on my side, the east side. If I run the gate to the east side of the existing first building, I'm going to block the current customers. So, that's one reason to move that down, and also, the RV parking situation out there. As it's evolved over the years. We looked at it, and we talked to Barry and some other people about it, and it seems like it's more functional to come in on the existing east side of the property, so the gate access, in your drawing it shows the simulated RV parking, you will go around the gravel on the proposed new building on the east side. We would move down, more in line with the middle of the property.

**MARK SEIB:** We have a drawing here, and it shows that the current entrance is now down by the storage units on the western end of the property, and you're going to be more towards the middle.

**JAMES O'RISKY:** It will be more towards the middle of the total property, in line with where that large utility pole is at.

**MARK SEIB:** That should not cause any obstruction of view, or anything? Or a safety hazard, or anything with entering or exiting the property?

**JAMES O'RISKY:** Not in my opinion, and not in the opinion of Barry, who is doing the engineering on this one.

**MARK SEIB:** So, Barry Tanner is your engineer?

**JAMES O'RISKY:** That is correct.

**KEVIN BROWN:** Is there drainage around the building, or anything like that?

**JAMES O'RISKY:** There are pipes in there from when Ed had it before, running to a tile that runs south to Givens Road. Barry has looked at some of that, if you want to add anything technical, we can let him talk about that.

**BARRY TANNER:** 625 East Eighth Street. The drainage is not going to change any from the way it is now. Actually, it might be a little better. We're going to do some grating in that site. Right now, there are some flat spots that kind of hold water from time to time. Everything kind of drains down toward GAF, or the Refinery, in that area. We're not changing anything from that standpoint.

**MARK SEIB:** That's been discussed with the Committee. With that being said, I will now open up the public portion. Is there anyone here wishing to speak for or against this proposed site development plan? Seeing and hearing none, we will close the public portion.

Mr. Seib confirmed with Mindy Bourne there were no emails, phone calls or letters.

A motion was made in the affirmative by Kevin Brown to approve the Site Development Plan for James O'Risky. Motion was seconded by Mike Baehl.

**HANS SCHMITZ:** We need to add an amendment that this is contingent upon State Construction Design Release.

**Roll call vote for the amendment. (8-0) Yes. Motion carried.**

**Roll call vote for the original motion. (8-0) Yes. Motion carried.**

The Proposed Findings of Fact were then reviewed. A motion was made in the affirmative by Hans Schmitz to approve the Findings of Fact for the Site Development Plan for James O'Risky. Motion was seconded by Randy Thornburg. **Roll call vote (8-0) Yes. Motion carried.**

**MINDY BOURNE:** The Site Plan has been approved. So, before you begin construction on the building, you need to come in and get your Improvement Location Permit. You cannot get that permit until you get your State Release. After that point, you can come see us.

**SITE DEVELOPMENT PLAN:**

APPLICANT: Nick Barton

OWNER: Barton Automotive Services, Inc.

PREMISES: Part of the Northwest Quarter of the Southwest Quarter of Section 22, Township 5 South, Range 12 West, Robinson Township, Posey County, Indiana, containing 4.49 acres, more or less. More commonly known as 9019 Highway 66, Wadesville, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Approval of Site Development Plans in a B-3 Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mark Seib asked if anyone had any conflict of interest. None were heard. Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. He then asked if anyone was here to speak regarding this application for Site Development.

**NICK BARTON:** 6750 Wade Park Drive, Wadesville, IN. I just want to add onto the building, 3600 square feet at the southeast. It will have two overhead garage doors, two in the front & two in the back. We just need more space, due to the need of increased business.

**MARK SEIB:** How close are you? You built a retaining wall after you purchased that property. How close are you to that retaining wall?

**NICK BARTON:** It's roughly 15-20 feet. I don't have the exact measurements.

**MARK SEIB:** So, how many bays does that allow you?

**NICK BARTON:** Four additional bays, two on each side.

**MARK SEIB:** What about your watershed? Are you still going to have it run the same way as the rest of the main building? The way you've got it, filled in and done, I think that's pretty much the way it will be going.

**NICK BARTON:** It's not going to change any with the building.

**MARK SEIB:** Are you planning to add rock or concrete, or anything with the area outside or around for your approach into the building?

**NICK BARTON:** On the front, we are going to rock it this year, if approved, and then pave it next year. The back will remain rock indefinitely. There will be additional parking on the front and the back, that will also be extended 60 feet.

**MARK SEIB:** I'm assuming that with the issues with the parts and everything, that your parking lot is getting to be an issue.

**NICK BARTON:** Yes, we are feeling it too.

**MINDY BOURNE:** There was a Site Plan Committee meeting. There is a report in your folders. I think he has pretty much addressed all of this. They don't need a Rule 5 and they have received their Foundation Design Release from the State.

**MARK SEIB:** We will open the floor for public comment. Is there anyone here wishing to speak for or against this proposed Site Development Plan? Seeing and hearing none, we will close the public portion. Now it is up to the Committee to take action as they see fit and discuss among themselves.

Mr. Seib confirmed with Mindy Bourne there were no phone calls, emails, or letters.

A motion was made in the affirmative by Randy Thornburg to approve the Site Development Plan for Nick Barton. Motion was seconded by Kevin Brown. **Roll call**

**vote. (8-0) Yes. Motion carried.**

The Proposed Findings of Fact were then reviewed. A motion was made in the affirmative by Kevin Brown to approve the Findings of Fact for Site Development Plan. Motion was seconded by Mike Baehl. **Roll call vote (8-0) Yes. Motion carried.**

**MINDY BOURNE:** This Site Development Plan has been approved. Before you start construction, you will need to come in and get your Improvement Location Permit.

**SITE DEVELOPMENT PLAN:**

**APPLICANT:** Randy Sheffer-Sheffer Construction & Development LLC

**OWNER:** Babcock & Wilcox Nuclear Operations Group

**PREMISES:** Part of the West Half of Section 18, Township 7 South, Range 13 West, lying in Black Township, Posey County, Indiana. More commonly known as 1400 Old SR 69 S., Mt. Vernon, Indiana. Containing 99.67 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

**NATURE OF CASE:** Approval of Site Development Plans in a M-2 Zoning District under The Zoning Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville, and Unincorporated Posey County.

Mark Seib asked if anyone had any conflict of interest. None were heard. Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. He then asked if anyone was here to speak regarding this application for site development.

**RANDY SHEFFER:** 1425 N. Royal Ave, Evansville. I'm here to represent BWXT for a small metal building addition to the existing plant. Right in the center of the plant.

**MARK SEIB:** What's this building for?

**RANDY SHEFFER:** They are very secretive on what they do there, but it is a metal building addition for manufacturing. They're going to put a piece of equipment inside to produce some of their parts. They don't tell me everything.

**MARK SEIB:** I'm assuming that there is no issue with the rainwater off the building or anything? That the design has it taken care of, and that it won't go onto another adjacent property? Talking about the run off water from the rain.

**RANDY SHEFFER:** Yes, there is a 16-foot storm sewer right there on site. We're just going to tie into it.

**MARK SEIB:** Good enough. How tall is this building?

**RANDY SHEFFER:** It's 38 feet, or 39, and it will tie into a 60 foot tall building.

**MINDY BOURNE:** The Site Plan Committee Review meeting. It's a metal building, that's 40 X 47. Rule 5 is not required for this project, and they have not submitted for their State Design Release yet for this project.

**MARK SEIB:** With that being said, we will go to the public portion of the Site Development Plan. Is there anyone here wishing to speak for or against the proposed Site Development Plan? Seeing and hearing none, we will close the public portion.

Mr. Seib confirmed with Mindy Bourne there were no emails, phone calls or letters.

**MARK SEIB:** We will now leave it up to the Committee to take action and have discussion.

A motion was made in the affirmative by Kevin Brown to approve the Site Development Plan for BWXT with the condition that their design plan is approved by the State. Motion was seconded by Randy Thornburg. **Roll call vote. (8-0) Yes. Motion carried.**

The Proposed Findings of Fact were then reviewed. A motion was made in the affirmative by Kevin Brown to approve the Findings of Fact for Site Development Plan. Motion was seconded by Mike Baehl. **Roll call vote (8-0) Yes. Motion carried.**

**MINDY BOURNE:** This Site Plan has been approved. Before you start construction on the building, and after you get your State Release, you need to come to the office to get your Improvement Location Permit.

**SITE DEVELOPMENT PLAN:**

APPLICANT: Bill Rountree, Sr. Manager Ultem Manufacturing

OWNER: Sabic Innovative Plastics Mt. Vernon, LLC

PREMISES: Pt NW & Pt NE Section 24, Township 7 South, Range 14 West, located in Black Township, Posey County, Indiana. Containing 534.80 acres more or less. More commonly known as 1 Lexan Lane, Mt. Vernon, Indiana. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Approval of Site Development Plans in a M-2 Zoning District under The Zoning Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville, and Unincorporated Posey County.

Mark Seib asked if anyone had any conflict of interest. Kevin Brown has a conflict since he works for Sabic, so he will not participate in this application and he has exited the stage. Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. He then asked if anyone was here to speak regarding this application for site development.

**BILL ROUNTREE:** 7854 Margaret Circle, Newburgh, Indiana. I am here as the Senior Manufacturing Manager for the Ultem business part of Sabic's plant location here in Mt. Vernon. With me tonight are Jason Deadmond, who is our Project Manager for Sabic, John Schneider with Bowen Engineering, Todd Hickrad and Charles Walter from Qual-Ex. They have been involved as key players in this particular project. What we are here for tonight is a new building. It is building Number 87 on the drawings and information that has been provided to you. It will serve as a consolidated facility for the Ultem Chemical Operations, where it will house two process laboratories, two control rooms, several offices, and a maintenance facility for our Monomer & Polymer Operations in Ultem. It's about 30,000 square feet of usable floor space. It's a two-story structure. At maximum, it would hold 30-35 people. It's not a large building, but employees who work in multiple buildings in the Ultem part of the plant site will relocate to this building after it is completed. No manufacturing will take place in this building. We are not adding process equipment, or adding manufacturing, if you will. The building is near the center of the existing property and will be at least 2000 feet from the nearest perimeter of our property line. There is no additional traffic flow and minimal new parking spots. I believe, maybe four new parking spots will be associated with the new building. There is minimal change in lighting or noise on the plant site as a result of this particular unit. We did do a review with the Site Development Committee on May 25<sup>th</sup>, where we reviewed the plans in more detail.

**ANDY HOEHN:** Bill, do you anticipate additional employees at all?

**BILL ROUNTREE:** I don't. At this point we would not anticipate additional employees. We are really just consolidating to make this part of our production more productive.

**MARK SEIB:** I have a question concerning the proposed site. There is construction that is going on, on the site. There was discussion that we had concerning the footers, that have been poured and done. Is that something that has been started? Or is that something that has been completed?

**BILL ROUNTREE:** You probably had a discussion with Jason Deadmond, our Project Manager, this afternoon, so I would maybe ask that he be a part of that since he was a participant in that discussion, and I was not. I will have Jason answer that question.

**JASON DEADMOND:** 11900 Browning Road, Evansville, Indiana. I am the project manager for this building at Sabic.

**MARK SEIB:** I guess what I'm wanting to do is, I'm trying to find out the process of what has gone on, so that we can understand more, whether we have a problem, or what, with the footers, and the concrete, beyond the dirt work.

**JASON DEADMOND:** The foundations have been placed for the lower foundations.

We have placed some, but not all of the piers, of which our structure, or steel will eventually sit on. No work that will be above grade, in the future, is complete at this time.

**MARK SEIB:** Can you explain to me, was that permission granted from the Building Inspector for you to go ahead? I understand there was some other discussion from that. Tell me how you came to that.

**JASON DEADMOND:** On April 26<sup>th</sup>, there was a meeting between our engineers from Qual-Ex, Mindy Bourne and Ed Batteiger. Several items were discussed. Mostly, the intent of the meeting was to understand what the Area Plan needed from Sabic in order to proceed. As part of that meeting, there are two important notes regarding the construction. One of those notes, was that Ed Batteiger needed to be notified before any placement of concrete. Another note is regarding activity, which was allowed prior to the granting of the Posey County Building Permit. It was stated in the meeting, that the moving of ground and the construction of foundations were mentioned as acceptable. It also states that we would be at risk for that work. That was stated in the meeting. What we interpreted the risk to be, was the risk of change in our design or our foundation. At no point in time did we ever understand or feel that doing this work would put us in jeopardy of obtaining a permit from this council. We have absolutely no motivation or motive. We proceeded as these minutes read from our meeting. We moved forward with the placement rebar & concrete for the foundation. Before each one of those instances, we contacted Ed Batteiger's office. We scheduled an onsite visit with him. He was not able to attend the first two or three pours, but he was contacted on each occasion, with several days advance notice, to review any of that work, and we have correspondence as such. He was able to come out to the site June 1<sup>st</sup>. John and myself showed Ed around the site and reviewed everything that we were doing and no issues were raised at that time. It was not until yesterday, that we came to the realization from conversations with Mindy and others, that this could potentially delay, or even further more, prevent our Area Plan permit.

**MARK SEIB:** So, you are done with the footers. You have them all in place, and that's where you stopped at, at this point in time?

**JASON DEADMOND:** It was our understanding that we could not go above grade with any work, per our direction of what we had figured from our conversation. So, we have not proceeded beyond that because we felt that's what our limitations were currently, and we do have our State Foundation Approval. We had it before any of the concrete was placed or any excavation took place.

**MARK SEIB:** Does anyone else from the Committee have any other questions for this gentleman at this time? I would like to have John, who was there with you, to come back up because I have some questions for him.

**KEITH SPURGEON:** I would like hear again when you were told that you would be at risk? You thought you were at risk from what?

**JASON DEADMOND:** Our assumption was that we were at risk for any changes that might be stated from the Area Plan Commission or potentially the State, but we had our state permit at the time. So, we really felt like our risk was very low for any of the work we were intending on proceeding with, and that's why we proceeded in that fashion.

**MARK SEIB:** Are there any other questions? Can you step forward and state your name? And I'm just asking you to validate that that's what you heard as well.

**JOHN SCHNEIDER:** 1453 Summit Street, Jasper, Indiana. I'm the Project Manager for Bowen Engineering. I will confirm everything that Jason just said is factual. I was there with Jason when Ed was on site June 1<sup>st</sup>. We showed him the site. He was free to look all around. He had no questions, made no comments and had no concerns.

**MARK SEIB:** Let me ask, were you in attendance at that meeting?

**JOHN SCHNEIDER:** I was not.

**MARK SEIB:** Is there any other questions for this gentleman at this time? The reason why I've asked for them to do this is that we need to get, and it appears to me that it's an internal issue, that we need to get taken care of with our Building Inspector. Going from there, I just wanted to make sure that we understood exactly what the scenario was. I don't think that, with the comments that have been made at this time, that Sabic was at fault, or anything such as that. That's why I wanted this to be brought up, so that we can have a record of it as well. With that being said, we are going to continue on with the rest of the application and we will open it up for public comment. Is there anyone here wishing to speak for or against this proposed Site Development Plan? Hearing and seeing none, we will close the public portion. Mindy, you also had a committee report.

**MINDY BOURNE:** The Site Plan Committee Meeting report is in your folders. Like they stated, it is 30,000 square feet floor space with a height of 32 feet. They have an approved Rule 5 and they also have their Foundation Design Release from the State. That's really all I have.

**MARK SEIB:** With that, is there any other questions from the Committee?

Mr. Seib confirmed with Mindy Bourne there were no phone calls, emails or letters.

**MARK SEIB:** At this point, it's up to the Committee to discuss and take action as they see fit for this proposed Site Development Plan.

A motion was made in the affirmative by Andy Hoehn to approve the Site Development Plan for Sabic. Motion was seconded by Randy Thornburg. **Roll call vote. (7-0) Yes. Kevin Brown abstained. Motion carried.**

**KEITH SPURGEON:** I would think that we need to work to improve our communication. I'm a little concerned that they made an assumption about the risk. I understand that there may be fault both ways there. I'm not against the project, but it's a little disconcerting when a project gets started before we give approval. I agree with you Mark, that we need to try to internally clear that up so that this doesn't happen again.

The Proposed Findings of Fact were reviewed. A motion was made in the affirmative by Andy Hoehn to approve the Findings of Fact for Site Development Plan. Motion was seconded by Mike Baehl. **Roll call vote. (7-0) Yes. Kevin Brown abstained. Motion carried.**

**MINDY BOURNE:** This Site Plan has been approved. You will need to come into the Area Plan Office to get your Improvement Location Permit tomorrow is what I would suggest.

**MARK SEIB:** Gentlemen, I thank you for being open and honest with us. We greatly appreciate it. It's just that we have a little bit of a hiccup that we need to take care of. When it was first known to us, we didn't know which side it was on. I appreciate your honesty and openness and your ability to try and help us get through this. And let it be known that Kevin Brown is back for the rest of the meeting.

**COMPLAINTS:** 515 Locust Street, Mt. Vernon, IN

**ATTORNEY TRENT VAN HAAFTEN:** I gave direction to go ahead and file an ordinance violation this week. There is a court date of July 26<sup>th</sup> at 11:00am. I will advise of the progress.

**MARK SEIB:** And who is the judge?

**ATTORNEY TRENT VAN HAAFTEN:** Superior Court. The process is that the person appears for the initial hearing. They can either deny or admit that they have violated the zoning ordinance. They are supposed to be fined. It can be denied. If they deny it, it will be set for a hearing, for a trial. They have violated the zoning ordinance. Obviously, there is a monetary penalty involved with this violation. They have an area of gravel that has been spread out. As you know, the ordinance requires a certain surface. I would like direction from the board.

**MARK SEIB:** Is there anyone here in the audience that has a stake in this complaint? Any questions from the board? Trent has asked for a little bit of guidance.

**ATTORNEY TRENT VAN HAAFTEN:** Again, the penalty is monetary. Obviously, that's not going to solve the problem that we have, in terms of the continued parking, which I'll ask the judge to prohibit that, and if it continues, to jack up the fine. But in this circumstance, she's also got gravel spread out in a big portion of the yard with some

items on there that are not permitted under the zoning. It's got to be a harder surface, or you have to park on the street. We can ask the judge to have them remove that gravel or change the surface to something that meets the ordinance. Again, if anyone has any other suggestions, let me know.

**MARK SEIB:** Any other discussion or comments?

**RANDY THORNBURG:** Would it require asphalt or concrete?

**ATTORNEY TRENT VAN HAAFTEN:** We have a fancy term for it, all-weather surface. It's going to require a little bit more than just spreading rock in the yard. Just note, again, that this is one that we've sent 3 or 4 requests for them to address you guys and nobody ever shows.

**MARK SEIB:** Trent, thank you for doing as the board asked from last month. We will wait to see what the 26<sup>th</sup> brings.

**COMPLAINTS:** 425 N. Canal Street, Mt. Vernon, IN

**MINDY BOURNE:** This is a new complaint. It is regarding the same sort of thing, vehicles parked up in the yard. See attached photo. The first photo you see is what was submitted with the complaint where they are parked up in grass. On this one, the property owner is David Eaton. I did send them a letter. They never contacted me. We also have a complaint for the property next door, which is the next one on the list. That property owner did contact me and he said that he had been in discussions with this property owner because both complaints involved the same thing. I don't know if maybe these two talked, but this one never contacted me. You will see from the second photo, that there is gravel. It's existing gravel. It has some grass growing up in it, but there was already gravel there, and in this picture, there are no cars anywhere. But when I spoke to the next complaint at 431, he said that he was going to tell this property owner that they needed to park in the gravel, alongside the road and not in the grass. This is where they originally were parking anyway.

**MARK SEIB:** So, they were parking like the first picture?

**MINDY BOURNE:** Not always. These are rental properties. That's another thing to keep in mind. I think previously, maybe before these renters, people were parking alongside the street. When these people moved in, they decided to park in the grass because it was easier.

**RANDY THORNBURG:** Parallel to the street?

**MINDY BOURNE:** There is gravel there, it just wasn't...

**ATTORNEY TRENT VAN HAAFTEN:** But then you get that question, of whether it's an all-weather surface?

**MINDY BOURNE:** From my understanding, this is. But that's what is very hard with our ordinance, is trying to determine what is... because a lot of times too, they don't maintain the gravel, so then grass grows. You can even see in the first photo some of the gravel showing through.

**RANDY THORNBURG:** Has the property owner been contacted? The landlord?

**MINDY BOURNE:** Let me rephrase this. In the complaint, it said the owner was David Eaton, but according to the official records, it is DRE Properties, LLC. Yes, I sent a letter to them, but they never responded to my letter. This last photo you have was taken on June 6<sup>th</sup>.

**MARK SEIB:** It appears that they are adhering to the letter that you sent earlier.

**MINDY BOURNE:** Yes. Like I said, I have talked to the adjacent property owner who also had a complaint filed on them, and he said that he had been in contact with this property owner. They were both discussing it.

**MARK SEIB:** Is there anyone here that has an interest in this property, that is here tonight? Seeing no one, how does the committee feel?

**ANDY HOEHN:** Clearly, parking in the front yard is a no-no.

**RANDY THORNBURG:** So, the landlord has been contacted?

**MINDY BOURNE:** I sent a letter to the property owner.

**MARK SEIB:** The landlord is ultimately responsible for the property. It's a flip of the coin whether they got the message or didn't get the message. Do we wait until they file another complaint? Or hope that they have heeded the warning?

**ANDY HOEHN:** How are these administered? Are they just going out in regular mail?

**MINDY BOURNE:** We send it by certified, and actually, they have to sign for it, and I get a green card saying that they did receive it. They show delivery of 5/12.

**MARK SEIB:** I guess the intent is that the property owner gets the notice and then hands it down, saying look, do you want to live here? Then you have to adhere to the rules of the City of Mt. Vernon. That's the hope, that's the way it works.

**ANDY HOEHN:** I would like to see some kind of acknowledgement that that has happened. If it's a one-way conversation, and it goes away, to me, that's not very proactive.

**MINDY BOURNE:** If they don't respond to me, my next course of action is to send it out by Sheriff. But like our last complaint, they didn't respond that way either.

**ATTORNEY TRENT VAN HAAFTEN:** Let me ask this question, we've got photos of them pulling into the front yard. Am I hearing you right, since you spoke to the one, Jim Powers, they started parking parallel now?

**MINDY BOURNE:** He said that they are. He said that he was in conversation with the other property owner as well and that they were going to do what they should.

**ATTORNEY TRENT VAN HAAFTEN:** Because if they are going to just park parallel, then it could be argued that that's not an all-weather surface. If they are just parking parallel, is that ok?

**RANDY THORNBURG:** It shows an attempt anyway.

**ATTORNEY TRENT VAN HAAFTEN:** I guess without the response, I agree with Andy, that there needs to be at least an acknowledgement that they realize that it's a problem and that they want to help solve it. Maybe we send another letter, not saying you are in violation, but mentioning don't park in the yard, park parallel with the street, where the rock is at, and prompt them to call.

**ANDY HOEHN:** As long as somebody would respond. That's the big thing, if somebody would just say, yes, I had a conversation. I don't think it's much point to pursue.

**RANDY OWENS:** They may be looking at it from the perspective of, we were notified and we started parking on the street and we don't need to do anything else.

**ATTORNEY TRENT VAN HAAFTEN:** That's what my question is. I'm not sure about the dates of this one where they pulled up to the front porch.

**MINDY BOURNE:** That was filed with the complaint. The person that filed the complaint attached this. But I do say in my letter, please contact the office by...and I always give a date. It's not uncommon for them to, but typically everyone does, yes. When they get my letter, they do call me, but we have a few that don't.

**ANDY HOEHN:** I'd feel better with a text, an email, or a phone call, or something to acknowledge and say, yes, I've had that conversation. Otherwise, we are just out in the ozone. I'd follow up again with a letter saying, please contact me at your earliest

convenience, by whatever method you want to put out there. If they've corrected the problem, then that's fine. We'll move on.

**MARK SEIB:** Does anyone else want to add to the discussion? Can I take it by consent, that we will do what Andy has asked and send a follow-up letter asking for an acknowledgement that they did receive it? Does anyone have any opposition? I see everyone nodding yes. So, that's what will happen. Mindy can report on it at the next meeting. We'll see how things turn out.

**COMPLAINTS:** 431 Canal Street, Mt. Vernon, IN

**MINDY BOURNE:** This is the same thing. Several vehicles parked up in the yard during the evenings and sometimes during the day, up by the front porch. It is a rent house. This is Imagine Indiana Homes, LLC. This owner did contact me. I spoke with property owner, James Powers, on the phone. I read the complaint to Mr. Powers, and we discussed the hard surface area requirement and material requirement within the zoning ordinance. Mr. Powers was not aware of this requirement. The property is rental property and Mr. Powers has explained to the tenants that they cannot park in the grass. This is a corner property. Parking is not allowed along 5<sup>th</sup> street. This was his statement. There is an existing gravel drive that they will use for parking. We discussed the maintenance of the gravel and that it was permissible to maintain as long as it's not enlarged or extended. In the ordinance, it does talk about non-conforming parking areas, which basically would be grandfathered parking areas. They're allowed, but you can't extend it or enlarge it, or you would have to meet the current requirements within the ordinance, which would be the all-weather requirement.

**MARK SEIB:** Is there anyone here in the audience to address this issue? Seeing no one in attendance that has a vested interest in this, what is the feeling of the committee?

**RANDY THORNBURG:** It appears that there is not much gravel there. It looks more like grass.

**MINDY BOURNE:** He did make the comment to me that there was gravel, but I guess the grass had grown, but he said that he sprayed it.

**ANDY HOEHN:** I would almost call this one closed since the person has responded and the reaction has been put in motion. I'd call this one closed until there is another complaint.

**KEITH SPURGEON:** I would agree with that.

**MARK SEIB:** Can I take it as consent of the board that it seems that everyone is in agreement that this one is closed at this time? Anyone opposed to that? Hearing none, I will go ahead and accept that.

**COMPLAINTS:** 500 E. Sixth Street, Mt. Vernon, IN

**MINDY BOURNE:** There are two trailers, a camper and a truck parked up in the yard. There are photos on this one as well. The ones that are colored were the ones submitted with the complaint. This is everything that is parked in the grass. So, then the next set, that are in black and white, are the ones that were taken June 6<sup>th</sup>, and some more on June 9<sup>th</sup>. This is what it looks like. Mr. Harris called me on May 17<sup>th</sup> at 8am and left a phone message regarding the complaint and asked which vehicle was in violation. I called him back on 5/18, and I left him a voicemail. On 5/19 I spoke to him. I sent an email to him at 1:19pm with the complaint, along with the photos that were submitted with the complaint. I stated that any recreational vehicles, trailers, or vehicles parked on the grass areas need to be moved to a hard surface. Any gravel driveways that are in existence, not new, are allowed for parking of vehicles. I said that the ordinance does not allow new gravel driveways in residential areas within the city limits. However, if they were created prior to 2012, they are grandfathered. That was my conversation with Mr. Harris. See what it currently looks like.

**MARK SEIB:** Is there anyone in the crowd that has a vested interest in this complaint? I see none, so what is the discussion?

**MINDY BOURNE:** I will elaborate on this one a little bit. Mr. Harris, I believe he works at Toyota, or somewhere, but it was hard for us to get to actually have a phone conversation. He called me and I was unavailable. I called him and he wasn't available. That's why we resorted to the email route, because he wanted to know which vehicles do I need to move. So, I sent him a copy of the complaint with the photos that were attached, of the ones that were in violation. Then I never heard anymore from him. So, I believe that he moved the ones that were in the complaint and he thought he was good.

**RANDY THORNBURG:** As long as he's made a good faith effort, I think we can let it go, unless we get another complaint.

**MARK SEIB:** Can I take it that this complaint has been taken care of at this point in time and it can be done at this time unless another complaint gets filed, or something such as that? Is that the consent of the board? I see everyone nodding, so everyone is in agreement. I will take that as consent.

**DIRECTOR'S REPORT:** Last month's meeting, I told you guys that I had to turn in my 2022 budget. It had to be in by the end of May. I got the permission of the board to go ahead and work with the Budget Committee. Once I got the approval of the Budget Committee, I could go ahead and submit my proposed budget. That's what I did. Now it is coming before you guys tonight for a vote.

**MARK SEIB:** With that being said, you have in front of you in your folder, the Area Plan's budget proposal that Mindy has submitted to the Auditor. We can make changes if there is anything that needs to be addressed by the full board. I just wish that we could

get on a timeline with the Auditor to make sure that we have plenty of time. Most of the departments do not have a board to respond to and have to get board approval. We are going to try to work with them a little bit closer next year, so that we know the timelines, and it can be presented to the full board for Mindy's proposal so that we can have it before we have to apply.

**MINDY BOURNE:** When I first became director, I knew that every, I don't remember exactly, but it was more toward the summer months, that I needed to submit my budget. It seems like here lately, the last several years, it keeps creeping up earlier and earlier. So, I'm never sure when it's going to happen.

**MARK SEIB:** Some of the items that are on this list, Mindy is getting ready to go before the County Council next month because our legal has expired. We've used everything we can. I'm sorry, she went this past Tuesday. They granted more money for the attorney fees as well. Mindy has always submitted more than what we think we might need in a quiet year. This year has been nothing but quiet, in no way. So, we have had to go back and the council approved the request for an additional for that. The other thing that you will see in here as well, is that Mindy has asked for a full-time person to be added to the employment for the Area Plan. After reviewing times and looking at the different things that we have before us, such as the solar project, and if you don't know, we have a lawsuit against the Area Plan and the County Commissioners from the solar opposition. I'd like for Trent to, later on, talk about that just a little bit, just to inform the board more about where we're at with that. With the business that we currently have and the amount of work that we've had, that has gone up. Mindy and Becky have a large amount of comp time that they are currently holding onto and I don't know if both of them can be using it up because of the workload that we currently have at the Area Plan. With that being said, Mindy went ahead and proposed having a full-time person and we will wait and see what the Council says and what they want to do. We'll go from there. We will be running out of part-time, in our budget that we currently have, by next month. So, we are preparing to go before the Council again to ask for more part-time. Our part-time that we have right now currently, is that we have a person that goes around & takes the pictures and makes sure that the people are following up with what they are supposed to be doing on the complaints. We also have a person who is coming in and typing up the minutes. How long did it take for the last minutes to be done for the public portion?

**MINDY BOURNE:** She got them done, basically last week.

**MARK SEIB:** It takes quite a bit of time because with our minutes, we go word for word. So, there's no paraphrasing or anything. I guess that's the standard that was set way back when and we have carried it all the way through. So, that is a process that they have to go through. It takes quite a bit of time as well. To be honest with you, with my time that I've been on this board, the amount of applications that have come through for buildings and everything else, has tremendously jumped. I'm just wanting to let you know because we will be voting on that and I want you to be aware that those are the

items that have changed from the usual standard budget items that we have. Is there any discussion?

**RANDY OWENS:** I have one comment. Right now, with the current staffing of having just the two people, plus the part-time, if Mindy or Becky were to go on vacation, then the other person is trapped in the office. If we want to staff it during lunch time, or if somebody is sick, we don't have enough people in that office to staff it during lunch and during illness.

**MARK SEIB:** You are right, Randy, and also the Commissioners, we can ask Randy about this, but they are wanting to maintain the offices during the lunch hours as well. It's hard to keep an office rolling with two and I think that the workload is now justified.

**HANS SCHMITZ:** I have one question, and it's more of a curiosity really. How is the salary for the office assistant set?

**MINDY BOURNE:** Honestly, I looked at the other offices, some of the other offices and their deputies, and I kind of tiered it off of Becky's as well. So, it's a step down from Becky's. I visualize this person, how they are going to be. I've put down a job description for the position in your folder. Basically, they would be assisting Becky or myself, in whatever needs to be done. They are going to have to be doing various duties. Minutes, primarily will go to this person. I will say that, because I need Becky on applications. These applications keep getting more and more complicated. We can spend hours completing one application, because we have to walk through the whole process. So, that's where I need Becky. That's my hopes, that this other person would just be assisting both of us.

**ANYDY HOEHN:** I would like to see a time study on the office and see if this really is a necessary item, and have it verified. You are getting ready to add \$36,500 a year, and in ten years, that will be close to a million dollars. I would want to at least verify that position. The dollar amount seems low to me. It's not the County average, but I would like to see that verified before we jump into adding it in.

**MINDY BOURNE:** Honestly, Becky's salary is less than the other offices. Some of the 4<sup>th</sup> & 5<sup>th</sup> deputies make more. Our office has never been, it's always been below the others.

**KEVIN BROWN:** When does this need to go back?

**MARK SEIB:** We have actually submitted it. The County Council takes it up in August, maybe July.

**KEVIN BROWN:** Is there enough time to do the time study that he wants before we vote it in?

**MARK SEIB:** I don't know, because we won't know until the next regular meeting. It will be close. It depends on if County Council decides to move ahead with their budget hearings, and maybe that's something that I should find out for sure, when they are having it. If Dave was here, we could get an answer.

**MINDY BOURNE:** The Council will hear budget requests during their July and August meetings, as needed. If you want heard, you have to request to get on their schedule. They always meet the second Tuesday of each month. So, they will meet July 8<sup>th</sup>, and I'm already on their agenda for that meeting. But, they are doing it in July and August.

**MARK SEIB:** So, it's an ongoing process. It's up to the committee. Decide what you want to do and go from there.

**HANS SCHMITZ:** I would recommend that we have Mindy request for the defense on August 10<sup>th</sup>, after County Council meeting, to give us a little bit of time to get everything together, and maybe discuss this issue again at our meeting on July 8<sup>th</sup>.

**MARK SEIB:** So, Mindy will get more documentation. Is that what you are asking for, Hans?

**HANS SCHMITZ:** What all would be involved with the time study?

**ANDY HOEHN:** Whatever competent company that does that kind of thing, would come in and look at what's being done, and what's required. Right now, I would say the minutes are not what the DLGF or the state requires. You could make it one page. I could make an argument that part of the law suit was because of the length of some of our minutes, as well, but that's probably another discussion for another day. To me, it's an unnecessary thing. If someone wants to come in, and if you've got it recorded, anybody can request that, and you can email them. I think we are doing things that have been done in the past, that aren't really required. We need an efficiency study, or time study.

**MARK SEIB:** So, you want to hire someone to come in and do that? Is that what you want.

**ANDY HOEHN:** Yes, if you are looking at potentially spending \$400,000 to \$500,000 over ten years, then it would be worth doing something now.

**MINDY BOURNE:** I'm just curious, do other offices have to do this when they request additional employees?

**ANDY HOEHN:** I don't know. I'm not on any of those boards.

**HANS SCHMITZ:** I did not make a motion. That was just a recommendation.

**MARK SEIB:** So, we don't have a motion on the floor.

**RANDY OWENS:** I don't even know what companies do time studies.

**MARK SEIB:** Plus, I don't know where we would pull it out of the budget. That's another factor. We don't have any allocation for extra out of our budget process. So, I guess that's another factor.

**RANDY THORNBURG:** What was the response of the Council?

**MINDY BOURNE:** The Council will discuss it.

**MARK SEIB:** We've sent the application in. The Council hasn't addressed it yet, but you and I both know that the Council will ask the questions, and drill the person, and make sure that it's legit, and have all of the information. Since we have put this application forward, we have now started the process of asking for Mindy and the staff to start putting those kinds of things together. Like how much time they have in comp, to show what kind of work load and that kind of stuff.

**RANDY OWENS:** The Council is the fiscal responsibility. Then I would think that we could approve this budget and if the Council wants to request a time study, then they can request it. Do you want me to make a motion? I will make a motion now, to approve this proposed budget and submit it to the Council.

Mike Baehl seconded the motion.

**MIKE BAEHL:** I think they need the help. We had four complaints from Mt. Vernon this month. Just to do that alone is quite a bit in my opinion.

**MARK SEIB:** And we have more next month. We also have a solar project that has been submitted. And if you remember, through the ordinance, we have all these reports and everything that has to be compiled and gone through, Mindy will be working on that. I'm not saying that Becky can't do it, but Mindy will be the one that will be the primary on all of that because this is our first application. We will have to go through it with a fine-tooth comb, and the T's have got to be crossed, and the I's have got to be dotted.

**RANDY THORNBURG:** Is the solar application completed?

**MARK SEIB:** Not yet. The application process is not done, to make it a final application, because Terry and Mindy are going through the boxes that were delivered, to go through all the paperwork for the preliminary application. Also, for you to put down on your calendar, it looks like we will have a hearing on the solar application July 29<sup>th</sup>, at the fairgrounds. It is tentative. Provided that all of the other stuff falls into line. So, if you would pencil in the 29<sup>th</sup> of July. We've had some times that we've had a lot of people show up and that's why we are moving it to the fairgrounds. My request is at 5:00 or

5:30pm start time. This would be to hear the application, of the starting process, of the hearing of the preliminary of the solar project that they will be doing. This is tentative now. Let me ask, what time would you be willing do this? Can everyone be there if it's at 5:00? So, let's make this tentative for 5:00, if everything works out for the 29<sup>th</sup> of July. Sorry, I got sidetracked. We have a motion on the floor to accept the budget as presented. Is there any further discussion?

**Roll call vote. (7-1) Yes. Motion passed.**

**APPROVAL OF PAYROLL & BILLS:** A motion was made in the affirmative by Kevin Brown and seconded by Hans Schmitz to approve payroll and bills. **Roll call vote (8-0). Motion carried.**

**APPROVAL OF COLLECTIONS:** A motion was made in the affirmative by Kevin Brown and seconded by Hans Schmitz to approve collections. **Roll call vote (8-0). Motion carried.**

**CITIZENS CONCERNS:**

**EARL SCHROEDER:** Marrs Township. What got me about the Council meeting, we were sitting there and hearing millions of dollars being abated here and millions of dollars there. Poor Mindy gets up there and they liked to ate her lunch because she wanted some money for some extra people. That is asinine.

**MARK SEIB:** Earl, that was for the attorney. It was to pay the attorney bill.

**EARL SCHROEDER:** But still, it was not millions of dollars like they just approved like it was nothing.

**KEVIN BROWN:** We had asked Trent to look at possibly putting a cap on the solar.

**ATTORNEY TRENT VAN HAAFTEN:** I was going to bring that up, Kevin. I had started some discussions with Terry Hall and when the lawsuit was filed, my initial attention was spent on that. So, we are still working on that. So far we can't sit here and point to where another state has specifically done that in just limiting the amount. Some states more so in the northeast... looks like a point system in terms of allotting, how much they allot in different areas. But we are still working on this.

**ANDY HOEHN:** But you don't see anything that shows the door is not slammed shut either?

**ATTORNEY TRENT VAN HAAFTEN:** I wouldn't say that. But do I have a definitive answer saying whether or not we can do this, no. But we are working on it.

**MARK SEIB:** Trent, would you talk about the lawsuit please?

**ATTORNEY TRENT VAN HAAFTEN:** I believe I sent everybody a copy of the actual complaint that was filed. A number of Posey County citizens have filed a lawsuit. The jest of it is they are seeking declaratory judgment or an injunction that a judge would issue prohibiting a couple of things. Basically making the original solar ordinance void, voiding the amended ordinance. The basis of that is saying that the process that was followed in passing all of them was not proper. They are also alleging a violation of the public meeting and the open meetings and the public records statute. I won't comment on anything at this point or the merit of it, but essentially what they are seeking is to stop Posey County, the Area Plan Commission and Commissioners from moving forward on any applications for a solar project until such time as the court has decided on this. There has not been any action yet so there is nothing that is prohibiting the County from moving forward on the application. When it was first filed, I got with Joe Harrison, attorney for the Board of Commissioners. The County carries insurance for a number of things and one of those policies is if the County is sued in certain circumstances, the insurance carrier has a duty to defend. What that means, is that they have to go hire an attorney and pay that attorney to defend the County. It was determined that the policy did cover both the Board of Commissioners and the Area Plan Commission. The insurance carrier has hired the law firm of Kightlinger and Gray. They have a number of offices. They specifically hired Jeff Lowe out of the New Albany office. I have worked with Jeff on some other cases and he is a very good and capable attorney. Posey County is going to be served well by his representation. I think Jeff had a meeting with Joe Harrison on Tuesday. I have been communicating with Jeff and will get information that I have to him. What this means is Joe and I monitor. We are not going to be spending a lot of time on it thus running up attorney fee bills for the Area Plan and the County, rather Jeff is being paid by the insurance carrier. He filed a request for an extension to file his answer. The County has not responded to the lawsuit formerly yet. That will probably take place sometime in mid-July. Once that occurs, there will likely be some back and forth and ultimately the judge will have a hearing to start setting some kind of timeline.

**RANDY THORNBURG:** Trent, will that be out of County or be a special judge...

**ATTORNEY TRENT VAN HAAFTEN:** What typically happens, and there is a trial rule that allows if a governmental agency, Board of Commissioners, is sued in their County, you typically ask for a change of venue because there is a trial rule that specifically allows you to do that. I think what you will see is a motion for change of venue. That then means that the sitting judge will name some neighboring counties and then the parties try to select. I fully expect it will not be heard by a Posey County judge.

**MARK SEIB:** I need to let you know that when we do get into this case, if there is anything that needs to be done immediately by the Area Plan Commission, it would fall on the Executive Committee to make those decisions. I will also try to make that as known to each and every one of you if the time allows. If something comes up and we have to make a quick decision, it will be easier to do it through the Executive Committee.

**KEVIN BROWN:** I have one more thing to talk about, the deal with Sabic and the hiccup internally. How will this be addressed?

**MARK SEIB:** I think what will be done is that we will get with Ed and have a discussion and go from there. We will try and work it through internally and hopefully it will all be taken care of once we make that issue known.

**RANDY THORNBURG:** I didn't have an issue with it. Being in the construction industry, that stuff happens all the time. You deal with hundreds of items on a daily basis. It's easy to do.

**MARK SEIB:** But we've also had some in the past that we've had that the project was completely built before they asked for a permit and so we've got to make sure that we, within our own ranks, are not misleading those contractors. We need to make sure that we are clear when we are talking with them about it. The other thing is that we've got to be in unison, with Mindy and with Ed both, saying the same thing. So, we will get with him and give a report back.

**ATTORNEY TRENT VAN HAAFTEN:** I believe I also sent you a copy of the letter that I sent to the two school superintendents with regards to the fencing. I did make sure and gave your contact information, so if they wanted to discuss it directly with you, as opposed to me getting the phone calls. So, that is out there. I wanted to let you know that was done. The second thing is, this resolution. The legislation, with all the Covid and the remote meetings and everything else, the legislation did change a little bit with regards to the public meetings law. They do allow by law, that a board can adopt a resolution allowing for members to attend via video, via remotely. There are limitations on it. If you look at it, you can't do that for three meetings in a row. You can do it for two meetings in a row, but then you have to physically attend a meeting. There are certain meetings, for example, if a budget is being adopted, if you are increasing a fee, or imposing a penalty, you would have to be in attendance in order to participate at that meeting. I sent that out to you. Beth got with the cities and towns, in terms as getting some of the forms, form resolutions, that are going across the state. So, we will use that one. I understand the BZA approved it this evening at their meeting. I know I just sent that to you in the past couple of days, but if you want to address that this evening, you can.

**RANDY THORNBURG:** Did I understand that correctly, that it said that you could do up to 50% of meetings annually, that way? It just seems kind of high, I thought. Is that a standard number for the state?

**ATTORNEY TRENT VAN HAAFTEN:** This tracks the new law. This tracks the statute. There wasn't anything in here that we added. It's basically tracking the statute. It says that at least 50% of the members must be physically present at a meeting, in which a member will participate by means of electronic communication. Not more than 50% of

the members may participate by electronic means of communication for the same meeting. So, for example, we know that Keith is participating tonight, but there had to be at least 50% of you all here in order for him to be able to participate in the meeting.

**RANDY OWENS:** I'm with Randy. I thought it also said that you had to attend at least 50% in person, that you couldn't attend every meeting virtually.

**ATTORNEY TRENT VAN HAAFTEN:** Again, this is straight from the statute. We did not create any of this. You may not attend more than 50% in a calendar year by video.

**MARK SEIB:** And you can't pick and choose what you want to be on for. Such as, if there was one of these that you didn't want to address or talk about, you couldn't pick and choose. If you're on it, you're on it. Unless you have a conflict of interest. If you have a conflict of interest, then you could step down and then come back on. So, Trent has brought this to our attention and the BZA did approve it because we are under an emergency order by the governor. It looks like that is up for review in July. By our next meeting, we could be out of the emergency order. Do we want to have this capability to have this, if it's necessary? The BZA did say that they would adopt this ordinance, but they wanted the BZA attorney, Beth, to draw language up as far as what constitutes being absent. Is it because you are sick, or is it because... You have to have a justification for not being present. Being present is considered more important. Of course, previously, we never had the opportunity to do this before this emergency order was put into play.

**KEVIN BROWN:** For me, if you were out of town, it would benefit us.

**MARK SEIB:** Also, it falls more with only 5 members being on the board of the BZA. If they have two members that are not there, we have to inform the applicant that it has to be a unanimous vote, or it could easily be denied. So, they have to decide if they want to take the risk and go with a unanimous vote, or wait until next month to do it. This way allows for us to have a quorum, with the extra there to be able to do it so that it doesn't have to be a unanimous vote. Now, we haven't had that happen at Area Plan, except I think there was only one other time that we were very close and had to address it from there. It's another tool if we choose to use it.

**RANDY THORNBURG:** Will we continue to use Zoom for our meetings?

**MARK SEIB:** I am probably burning up all of my favors with Hans. He has been so gracious to put this on Zoom. Behind me is a machine that the County Commissioners, and the County Council have approved to put into play to allow us to have live streaming, and also the ability to do Zoom. The misfortune is that the Commissioners have not allowed, other than the Council and the Commissioners, to have streaming. We are in hopes that we can get on that list to be approved as well. Then it's all taken care of. But if we have to do it by Zoom, then we also have to go into this machine and do it. Hans is waiting for the company who installed this, who has the expertise, to show him the proper protocol in order to access that Zoom through that box.

**HANS SCHMITZ:** To give a little bit more information on that, my hypothesis is that we currently have to set up to directly connect the laptop that is accessing Zoom, into the system to utilize the sound, to where the microphone can go away. With that, I just need time to play around and figure that out. What the company is saying is that what is currently on there is not in the right format to allow for the Zoom feature. It's great for live streaming, but not for Zoom. If I do run into any road block, it will be because of that. Then there will have to be a little bit of outfitting for the Zoom. With that said, for a nine-member board, I don't think we need absentee language in the restriction.

Hans Schmitz made a motion to adopt proposed resolution 2021-0610-2. Andy Hoehn seconded the motion. **Roll call vote. (8-0) Yes. Motion carried.**

**KEITH SPURGEON:** I do have a follow up question, and Mark correct me if I'm wrong, but with the BZA, didn't we also ask Beth about language? The question was about public participation in a Zoom meeting and whether or not we would allow that. That she would put together some language, or am I wrong?

**MARK SEIB:** We did. Part of that was protocol of being on Zoom by the board members as well. If it's all right with the committee, I would like for Trent to explore that with Beth. If it's felt that we need a resolution to do that, then Trent can bring that to us at the next meeting. To just explore what is needed for people being on Zoom as well. Does anyone have an issue with that? Hearing none, and everyone is nodding their head yes, I will take that as consent. We will let Trent take that and come back with his recommendation.

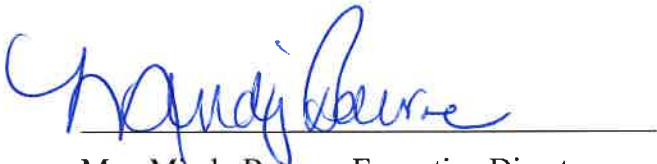
**RANDY OWENS:** One more thing. I just want to thank Keith for reaching out to the school systems in regards to the fencing. Do you want to elaborate on that Keith?

**KEITH SPURGEON:** I read in the minutes about the idea of putting fencing around the playground. On the surface, it seems like a no-brainer, but I talked to the Superintendents and they would rather we not do that. School Superintendents always get hesitant about things that they call "unfunded mandates" where they are forced to spend money on things, but aren't given the money to do it. So, where does that money come from? The biggest concern was from a safety standpoint. In this day and age we have to think about active school shooters. If you have a playground that's fenced in, then those kids and staff are sitting ducks from somebody shooting from the outside, or across a hilltop, or from inside a corn field. They purposely like to keep their playgrounds open to some extent so that people can run away. I know that at Marrs, Matt was telling me that they did put a fence along one side of the playground because there is a ditch and the kids kept kicking balls into the ditch. So, there was an issue with safety, so they did put a fence there. But, the Superintendents would really like it left to them and their respective school boards to make the decision about what fencing is needed and where for safety. I just wanted to let you know that I talked to them, and that's what they said.

**ADJOURNMENT:** Kevin Brown made a motion to adjourn the meeting at 7:56 p.m.  
Mike Baehl seconded the motion.

A handwritten signature in black ink, appearing to read "Mark Seib", is written over a horizontal line.

Mr. Mark Seib – President

A handwritten signature in blue ink, appearing to read "Mindy Bourne", is written over a horizontal line.

Mrs. Mindy Bourne, Executive Director