

## MINUTES

### POSEY COUNTY AREA PLAN COMMISSION REGULAR MEETING

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

JULY 8, 2021  
6:00 P.M.

**MEMBERS PRESENT:** Mr. Mark Seib – President, Mr. Hans Schmitz – Vice President, Mr. Kevin Brown, Mr. Randy Owens, Mr. Dave Pearce, Dr. Keith Spurgeon, Mr. Trent Van Haaften – Attorney, Mrs. Mindy Bourne – Executive Director, and Mrs. Becky Wolfe – Administrative Assistant.

**MEMBERS ABSENT:** Mr. Mike Baehl, Mr. Andy Hoehn and Mr. Randy Thornburg

**APPROVAL OF MINUTES:** Kevin Brown made a motion in the affirmative to approve the minutes from the June 10, 2021 meeting as emailed. Motion seconded by Keith Spurgeon. **(6-0) Yes. Motion carried.**

**REPLAT:**

DOCKET NO: 21-04-S-APC  
APPLICANT: Steve Noelle-Surveyor  
OWNER: Michael T. & Jolene T. Hemmer, Scott A. Hartmann  
PREMISES: Lots 2, 3, 4 Meadowland North Subdivision, Section 26, Township 6 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. Lot 2-1.50 acres more or less, Lot 4-1.50 acres more or less. More commonly known as 10851, 10901, 10911 Middle Mt. Vernon Rd., Mt. Vernon, IN. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Approval of Preliminary and Final Replat of Major Subdivision Plat, in an R-1 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:** 3001 Blackburn Road, Mt. Vernon, IN. I am representing the Hemmer's and the Hartmann's. The Hemmer's own Lot 4, and the Hartmann's own Lots 2 & 3. Lot 3 is a vacant lot, and what they are proposing to do is to split Lot 3 in half, with the Hartmann's taking the east half of that lot & the Hemmer's taking the west half.

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

**MARK SEIB:** At this time, we will open it up to the floor for public comment. If there is anyone here wishing to speak for or against the proposed Replat, please come forward. Seeing and hearing none, we will close the public portion. Now it is up to the committee to discuss and take action as they see fit.

A motion was made in the affirmative by Kevin Brown to approve the replat of 21-04-S-APC. Hans Schmitz seconded the motion. **Roll call vote. (6-0) Yes. Motion carried.**

**REZONING:**

DOCKET NO: 21-06-RE-APC  
APPLICANT: Steve Noelle  
OWNER: James E. & Louis Winternheimer  
PREMISES: Part of the Northeast Quarter of the Southwest Quarter of Section 26, Township 6 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. More commonly known as 10325 Middle Mt. Vernon Road, Mt. Vernon, Indiana. Containing 1 acre more or less. (Complete legal description is on file at the Posey County Area Plan Commission)

NATURE OF CASE: Petition to rezone property from A (Agricultural) Zoning District to R-1 (Residential Single-Family) 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 the applicant met all the requirements for notification per the statute. Mindy Bourne stated that the legal notice had been placed in the newspaper, however the notices to the adjoining property owners were not sent out as required. Since proper notification had not been completed, this Rezoning request will need to be tabled until the August meeting. Kevin Brown motioned to table the Rezoning of 21-06-RE-APC. Dave Pearce seconded the motion. **Roll call vote. (6-0) Yes. Motion carried.**

**SITE DEVELOPMENT PLAN:**

APPLICANT: Dan Labhart, Plant Manager  
OWNER: Green Plains Mt. Vernon, LLC  
PREMISES: Part of the West Half of the Southeast Quarter of Section 14, Township 7 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. More commonly known as 8999 West Franklin Road, Mt. Vernon, Indiana. Containing 88.22 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 Plan 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 there were any conflicts of interest. He stated that he had a conflict of interest because he does business with this company, therefore, he stepped down and turned this portion of the meeting over to Vice-President, Hans Schmitz. Hans Schmitz confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute and asked if anyone was here to speak regarding this request.

**DAN LABHART:** I am the Plant Manager of Green Plains Mt. Vernon, LLC. I'm not exactly sure how in depth you want to go, to take people's time, but I can tell you a little bit about the project as I know it, and answer any questions. I have an aerial vision of the facility. I'll start off to explain a little bit. This is an addition to our facility that has been there for going on 13 years at this point in time. The project is actually an additional feed separation process, to manufacture higher protein out of our dry feeds. It's a separation process by using centrifuges, power wash screens and a dryer. As most of you know, we are an ethanol facility. As part of an ethanol facility, our products are advantageous to our construction site. We make dry feed and wet feed, but we don't want to make wet feed because nobody wants to buy it around here, and corn oil, bio-fuel corn oil. This addition, what it will do is take our dry feed, which right now is 32% protein. After the process, what happens is, ethanol goes through a separation process, pure & simple. We separate the alcohol & the water, and then it becomes feed for the cattle, and poultry & swine. What this is going to do, just before we start drying at the facility, it goes through the new process, and as you can see, all in red, to the north of the facility, it will be a process that has a great deal of wash screens, centrifuges, which spins and separates. What happens here, is that it will take additional fibers out of the grain of corn, and through the process, it will end up with more protein. The guarantee at this point in time, let me back up, the patent company that actually owns this process is called Fluid Quick Technologies. Green Plains has eleven facilities in North America. We're doing all eleven facilities, plus additional work, so we went ahead & purchased Fluid Quick. It's quite an expensive endeavor, but it also helps us save money, because it helps us go a little bit further in our technology. The guarantee on the end of this will be 50% protein. We have a facility already running, and they are very close to 60%, and 60% is key because it's human consumption at that point. The technology is basically to sell to a world that is short in protein usage. Corn oil becomes part of the protein. Soy beans are also protein. This is kind of a similar type of process. Our facility, which is a Vogel-Bush design, it was a continuous flow facility. It was actually a trial basis. It was designed from Germany. It was actually an experiment gone bad. We have, in the last two years, changed our facility over from being a continuous flow to a batch fermentation, which is a totally different process. It would actually make alcohol from a fermentation process. And then we also had what we call Project 24, where we had a change in our distillation. Distillation is a process where you separate the water, liquid & gases. The Vogel-Bush design was a total pressure, we had to have a lot of steam and heat & temperature to do the separation process. We bought a company by the name of ICM, which is the world renowned builder of ethanol facilities. They turned our distillation into a half pressure and half vacuum system. It doesn't mean a whole lot to people, but to us it does. It's more fuel efficient, and we are a very big user of energy here. So that's helped in a great deal of ways. It also means it will go down to product before it goes to the drying area, which is

also important because color is important to feed. The scope of the work on this, what it's going to do, you see we have four buildings here, and the project is estimated to be somewhere between 65 and 75 million dollars. It basically will be the north end of our facility. If you've been there, or if you've been at our facility, you are aware of what I am talking about. The north end is our truck line. It's where the grain comes in. It's where the feed is picked up and we have a lot of truck traffic at the top of it. But the buildings that will be built here will be an MSC building. This process is called an MSC project, which is maximum co-product, which means we are trying to get as much out of our product as we possibly can. The MSC building is a two-story building that is going to be approximately 80' X 130'. That's where all of the equipment will be stored and all of our separation process will take control. Then we'll have the support groups around it. There will be two storage bins to the west side of that. There is a reason they are on the west side. If you look at the drawing, there are a couple of buildings to the extreme west that goes to a red railroad track. One of those buildings will be the truckload out, and the second building will be the rail load out. Most of our transportation, believe it or not, is not trucks in this area. Half of our grain is brought in by trucks. The rest is by railcar, and vice versa when we ship things out. Half of our product is shipped out by rail and half is by truck. Most of our rails come here to the Mt. Vernon Port, and we offload both ethanol & dry feed to the river. That's the strategic forms of our facility, except on the river itself. We are planning on loading out both by truck & by rail, but honestly on the end of it, it will probably be more on the rail side because we are the farthest east facility that Green Plains has. So, we will probably be supplying the eastern part of the United States. Around the MSC building is our two storage silos. We also have our control & electrical building which is attached to that two-story section. To the east of it, there are three squares where you actually see, that will be a ring dryer. If you are familiar with Valero, Valero had two ring dryers, and turned them into rotary dryers. We've got rotary dryers that we've turned into a ring dryer. The reason we are making a ring dryer is because it's slower. It dries it cooler. As I told you, the color of yellow is very important, for no specific reason, except its marketing more than anything. So, it's more advantageous to this process. You have to keep in mind that we are still making DDG during this thing. We have two rotary dryers, which will be for our DDGs, which is our dried, distilled grain & soluble. We can also do the high protein. We can't do one or the other because there is too much activities in the split. There is also an RTO which is for the air emissions control. It burns off the emissions off the dryer itself, and then there is a cooler next to it. This product, if you've ever seen dry feed, it's flaky, gritty and grimy. This is like powder. It's almost like flour when it gets done. You don't transport it with conveyors. You can actually blow it in a tube, it's that light & fluffy. That's how we've actually changed the product when it's said & done. That's the manufacturing side of it. The red railroad tracks is exactly what it is. It is a spur coming off our incoming track. We will be loading 24/7, just as our other facility is on the rail. The fourth building currently has a scale house on the top. It is located where our lane will be for our MSC trucks. We will basically have to tear that building down. We will build a new scale house in between the scales where they come in now. One of the things that I did want to mention, is that when you started out, you said that our property line is 88 acres, but it's actually 278.

**MINDY BOURNE:** You probably have multiple parcels. The parcels where this activity is taking place, that's the taxable acres.

**DAN LABHART:** A little bit about Green Plains, our corporate office is in Omaha, Nebraska. Most of our facilities are around the Omaha and Iowa area. In the middle of this process, I want to thank Mindy & Becky, they were a tremendous amount of help in leading us to where we needed to go for this petition. We have a lot of fingers in this deal. Our engineering company, actually Fluid Corp., is out of South Dakota. Our engineering company is out of Iowa. We also use another engineering company out of Indianapolis. And our electrical company is out of Nebraska. We have a lot of people in this whole piece. We are not completed with all the things that we need to do. We are still working. Our SWIPP has been completed and submitted to Carrie Parmenter, and she told us that everything was great, except it was in the wrong format for IDEM. We have redone it, and she should get it back next week, which is fine. I'll say it nicely, but we are speaking with the state, and it has a lot to do with their requirements, and what they are looking for. All of our engineers are working on that & checking with them as we go. We do have the Site Development Plan approval from them, but we don't have it all completed yet. Is there anything I missed that anyone wants to know?

**HANS SCHMITZ:** Are there any other questions for the applicant from the board? At this point in time, we will open the floor for any public comment for this proposal. If none, we will close the public portion.

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

**HANS SCHMITZ:** At this point in time, we will open it up to the board for any discussion or action.

**RANDY OWENS:** I have a question. It says that Rule 5 is needed and hasn't been submitted yet?

**MINDY BOURNE:** He just addressed that. Because at the time of the site review meeting, they had not submitted anything to Carrie. Carrie was a part of that meeting, and he said that he was going to get that to her next week, and that's been done. The SWPP, that's what that is, storm water prevention plan.

**RANDY OWENS:** So that's approved and that's not a road block?

**MINDY BOURNE:** That's correct.

A motion was made in the affirmative by Kevin Brown to approve the Site Development Plan for Green Plains Mt. Vernon. Motion was seconded by Dave Pearce. **Roll call vote. (5-0) Mark Seib abstained. Yes. Motion carried.**

The Proposed Findings of Fact were then reviewed. A motion was made in the affirmative by Keith Spurgeon to approve the Findings of Fact for the Site Development Plan for Green Plains Mt. Vernon. Motion was seconded by Kevin Brown. **Roll call vote (5-0) Mark Seib abstained. Yes. Motion carried.**

**MINDY BOURNE:** This Site Plan has been approved. So, once you get your approval from Carrie for your Rule 5, you can come in and get your Improvement Location Permit.

Mark Seib then resumed his place for the remainder of the meeting.

**SITE DEVELOPMENT PLAN:**

APPLICANT: Nix Companies

OWNER: Superior Property Holdings, LLC.

PREMISES: South half of the Northeast Quarter of Section 18, Township 4 South, Range 12 West, lying in Robb Township, Posey County, Indiana. More commonly known as 40 Frontage Road, Poseyville, Indiana, containing 6.625 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 an M-2 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.

**MATTHEW NIX:** 9275 Showers Road, Cynthiana, Indiana. I am with Nix Companies. Superior Properties Holdings, the owner, is our real estate holding entity that has common ownership with our operating entity. You may be more familiar with Nix Companies. The project is an expansion of our custom fabrication division in Poseyville. It's going to allow us for more capacity and also heavier crane capacity, to be able to handle larger parts to meet the demands of our customers. It's a metal fabrication facility. It's 65' X 152' pre-engineered steel building. It will have an overhead crane in it, and it is going to be attached to an existing 60' X 300' post frame building.

**MARK SEIB:** Are there any questions from the committee at this time?

**KEVIN BROWN:** Is it going to cause any other drainage issues, or anything like that?

**MATTHEW NIX:** To the extent that it does, it's all addressed in our site plan. There is a drainage ditch that has been designed to handle the water shed that comes off the roof. Frankly, the drainage will be dramatically improved when we are done. It's kind of a

drainage issue now, the way it was built originally. Part of the scope of this project will be improving the overall drainage of the site.

**MARK SEIB:** Matthew, this was an M-2 that was right up next to residential, and there are currently trees, I believe pine trees there. Are you still maintaining that barrier to make somewhat of an easier view for the residents?

**MATTHEW NIX:** I'm glad you pointed that out. The way our proposal is presented, Mr. Wanninger, the engineer that's put this together for us, it's got an evergreen screen as part of the design. But I do want to point out that there's already an evergreen screen there. We totally understand the purpose behind that. If I lived in that residence, I think it's a good policy. It seems kind of silly to put an evergreen screen right behind another evergreen screen that's already there. So, yes, we are going to maintain that. The evergreens go down the east, west border of the property, then they turn and come down the north, south corner. We meet on a corner. I'd like to point that out too. Our property adjoins in a corner of the subdivision property. To the extent that we need to plant more pine trees, then we will do so. I would just ask that we use common sense on the policy.

**DAVID PEARCE:** I lived in the house on the corner and you couldn't even see the building. There are trees all along there.

**MARK SEIB:** And it's a thick growth, and I commend Nix for doing that. We've got manufacturing and we've got residential butting up, and anytime we can soften that and keep that. That's the best that we can do. I'm glad to hear that you are going to maintain those trees. I don't think there is any need to increase the trees, but if one goes out, or something, you'll need to plant one back in. I just wanted to make sure because we did have some comments about that at the last meeting. There were some concerns, and I didn't ask. I just wanted to ask that, and I commend you for continuing to doing that.

**MATTHEW NIX:** The other question that was brought up when we had our call with Mindy, was lighting. We are going to make sure there is no light that shines out. We are going to address that. If we get lights up, and it shines over there, we'll change it. We've been in Poseyville for five generations. We are part of the community. The last thing that I want to do is tick somebody off over something silly.

**KEVIN BROWN:** What are your operating hours?

**MATTHEW NIX:** We are a one shift operation. I can't say that we will always be. There's always a chance, but right now they're coming in about five in the morning, and they're running until about 3:30. We are conscientious of noise, of course. You can't stop everything, but we try to keep the big overhead doors shut early in the morning. They are conscientious of it.

**DAVID PEARCE:** Most of the traffic will be coming in on Frontage Road. Is that right?

**MATTHEW NIX:** Yes, that's the only way.

**DAVID PEARCE:** I guess Fletchall and Main Street would help alleviate some of that.

**MATTHEW NIX:** Thanks for pointing that out. This expansion allows us, in the next phase of our project, that we are going to be bringing in the next year or two, is going to allow us to continue to bring our manufacturing from Poseyville in town, from Fletchall, out to Frontage Road. Overall, it's going to be a lot better for the town.

**MARK SEIB:** Are there any other questions? We had a site review, and the report is in your folders. Any specific findings, or any issues?

**MINDY BOURNE:** The Rule 5, they said they were working on it. They weren't done yet.

**DAVE WANNINGER:** 2560 Woodstone Lane, Evansville, IN. We have submitted the Rule 5 to Carrie. She has approved it. It has been submitted to IDEM and they approved it this afternoon. We have done everything.

**MARK SEIB:** Just for technical reasons, since we have not received that, we will put that as a stipulation. Is there anything else from the committee?

**MINDY BOURNE:** They have received their Foundation Release from the State. They have submitted the rest of their plans to the State for review. The Foundation Release is only for the foundation. I have not heard anything on the rest of it, but they do have their foundation release so they can get started.

**MARK SEIB:** So, we can just modify that, and of course Mindy will check that before it is issued.

**HANS SCHMITZ:** I have a question about the site plan review. Was no Area Plan Commission member in attendance at that one? The list of attendees did not include any Area Plan members.

**MINDY BOURNE:** Mike Baehl was on there. I'm sorry, I left him off.

**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.

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

A motion was made in the affirmative by Kevin Brown to approve the Site Development Plan for Nix Companies, with the condition that their Rule 5 and state permit documents



are received. Motion was seconded by Hans Schmitz. **Roll call vote. (6-0) 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 Keith Spurgeon. **Roll call vote (6-0) Yes. Motion carried.**

**MINDY BOURNE:** Once you get your permits, you can come in and get your Improvement Location Permit. They can start their foundation since they have their Foundation Release.

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

**ATTORNEY TRENT VAN HAAFTEN:** We filed an ordinance violation, and a hearing date has been set for July 26<sup>th</sup> at 11:00am.

**MARK SEIB:** Any of you are welcome to attend.

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

**MINDY BOURNE:** We heard this complaint last month. At last month's meeting it was stated that the board members thought that I had not had a conversation with the property owner about the actual violation. Even though the violation seemed to be taken care of. They wanted me to reach back out to the property owners, send them a letter, and have a discussion with him. Which I did. I sent him a letter on June 11<sup>th</sup>. He called the office on June 14<sup>th</sup> regarding the follow up letter that I sent him. I was unable to take his call, but I spoke with him on 6/15 regarding the letter. The initial violation letter was sent on May 10<sup>th</sup>. He stated that based on the conversation that he had with the neighboring property owner, that he thought that he did not need to contact me. The neighboring property owner stated that he had taken care of it. I explained to Mr. Eaton that I had relayed to the board on June 10<sup>th</sup>, the conversation that I had with Mr. Powers, and he indicated that he had been having discussions with Mr. Eaton about the alleged complaint. Mr. Eaton said that there is existing gravel all the way to the sidewalk. He spoke with the tenant and she has always parked on the gravel, and she is parking parallel to the street. He would be unable to attend the July 8<sup>th</sup> meeting because he is out of town. I have additional photos. There is gravel for sure. These were taken on July 2<sup>nd</sup>, last Friday. I believe he has added gravel.

**MARK SEIB:** I'd say he added gravel, but in some of the older pictures, it does appear to be light gravel in those areas. So, what is the pleasure of the board?

**KEITH SPURGEON:** They are grandfathered in, correct, with the gravel? As far as we know, they are parking parallel to the street like they are supposed to. Sounds like it has been taken care of.

**MARK SEIB:** I guess we can put this to rest. Can I have a motion that no further action is needed?

Kevin Brown made a motion to approve. Keith Spurgeon seconded the motion.

**Roll call vote. (6-0) Yes. Motion Carried.**

**COMPLAINT:** 100 S. Sharp Street, Poseyville, IN.

**MARK SEIB:** To give you a little bit of history, this was before the BZA before this meeting, concerning a building that was put on the property before they obtained a permit. The big issue is that there is no home on the property. In Poseyville, their ordinance does require that there has to be a residence on the property in order for them to have another out building. After the vote was done by the BZA, it was denied. Trent, correct me if I'm not right, but since the BZA denied it, it cannot be there, but they cannot enforce a time line of when it needs to be removed.

**KEVIN BROWN:** So, the only thing we need to make a motion on is the timeline?

**MARK SEIB:** Correct, just the timeline. Mr. Collins is here. He is the one who has it on his property. Derek, if you would like to come up and state your name and address for the record and then we will ask you some questions.

**DEREK COLLINS:** 108 S. Cale Street, Poseyville, Indiana.

**MARK SEIB:** Derek, what do feel is a fair time for you to get this removed from the property?

**DEREK COLLINS:** Whenever I moved it the first time, the moving company was like three months out because of the larger size of it. But then I decided to move it myself. I ended up moving it myself, but it was a pretty good challenge there. I'd have to be able to contact the person that had the trailer and see what their schedule is. I would think that within a month to two months I could be able to get it moved.

**MARK SEIB:** That's what I wanted to hear from you, what you thought you needed to make this corrected.

**KEVIN BROWN:** Did you know about this when you got it?

**DEREK COLLINS:** I had no idea.

**MARK SEIB:** Like Kevin mentioned, it is our place to basically put a time limit on having it removed from the property.

**KEVIN BROWN:** I make a motion that we give him two months to move it.

**RANDY OWENS:** He said one to two months, and after it's removed it's just going to be a blank property with nothing on it. I think maybe we should give him 90 days.

**DAVE PEARCE:** There's no rush.

**KEVIN BROWN:** I will amend my motion to 90 days.

**DEREK COLLINS:** Before you make a motion, I was just wondering if you make it for 90 days, say for some reason I don't get it moved within the 90 days, what's the penalty on that?

**ATTORNEY TRENT VAN HAAFTEN:** My suggestion would be that you table the complaint for 90 days, with instructions, letting you know that there is an expectation that you have it moved within those 90 days. It would be back on the calendar for three months out, so we would come back in. Somebody from the APC would check before that meeting to see if it's gone. Or if you move it, you could call down to the office and let them know that you moved it. Then we will verify it, so if it's moved, at that meeting it will be reported that it has been moved. Then the board can do what they just did, and say no further action on this complaint. Now, if you run into something, and it's not moved, the expectation would be to let the board know why it's not moved. Whatever you run into. We tend to run into one of two things, people just run into problems and they can't get it fixed yet, or people just don't want to get it fixed. Then after five months they are telling me to file an ordinance violation in court. I would say Mr. Collins, if you don't get it done in that time, contact the office and talk to somebody and let them know why. They may even ask you to come back to the meeting at that time, just to tell the board. Right now, there is no instruction to the attorney to go file an ordinance violation, but there's expectation that it will be moved. If we go down the road and it's not moved, then they will make a motion to file a violation.

**MARK SEIB:** And if it gets bad enough, there can be daily fines that can be attached to it up to \$500 a day.

**ATTORNEY TRENT VAN HAAFTEN:** From \$50 to \$250 per day.

**MARK SEIB:** I'm assuming that you are not going to continue to use the building as it is, because it's been asked to be moved.

**DEREK COLLINS:** It has two cars in it right now that don't ever come out and I don't have anyplace else to put them. It's just two cars that I hardly ever get out.

Kevin Brown amended his motion to table this complaint until the October meeting.  
Randy Owens seconded the motion.

**RANDY OWENS:** Since he was denied, is there an appeal process? Or anything like that, that could come into play during these 90 days?

**ATTORNEY TRENT VAN HAAFTEN:** Under the zoning ordinance, denials of a Special Use allows the applicant to appeal to a local court. So, he could appeal to the Posey Circuit Court and make it a court action if he wanted to.

**Roll call vote. (6-0) Yes. Motion carried.**

**MARK SEIB:** You understand that it needs to be moved by the October board meeting, right? We're not going to send you a letter. We're not going to do anything else. We will wait for you to get it done, and if you get it done before that, like Mr. Van Haaften said, just make a phone call to us, and we will put it on the docket for the next meeting. I would suggest that you get a permit before you move it.

**MINDY BOURNE:** Before you move it, you need to contact me, and we need to talk about the property you intend to move it to. I need an address. I have to look up to see what it is zoned.

**MARK SEIB:** Even if it is in the county, out in the country, you have to have a permit.

**MINDY BOURNE:** It may require more than just a permit. It may require rezoning, or a special use, or a site plan.

**DEREK COLLINS:** (inaudible)

**MARK SEIB:** The question is then, is that property adjacent to your property? If it's one parcel, then Mindy can work her way through that. If it's two parcels, and there's no home on it, then it becomes another issue.

**KEITH SPURGEON:** I would just suggest that wherever you think you are going to move it, that you get that address and then you talk to Mindy. She can look it up and tell you for sure.

**COMPLAINT:** 621 E. Tenth Street, Mt. Vernon, IN

**MINDY BOURNE:** You should have information in your folder. The complaint is on Kristy Hogan. Vehicles are parking up in the yard. This is not the first time we've seen this one. This has happened in the past. We've sent her letters. I sent the letter by certified mail, and it came back as undeliverable. Then I had it sent out by sheriff. I gave them until yesterday to respond back. I did not hear from them, but I don't know if the sheriff was able to serve it because I don't have anything back from their office. I did go by the property today, and there's still a truck and a trailer parked up in the grass. There were numerous vehicles in the driveway, but on the concrete. Vehicles were parked out on the street. A contractor came in our office recently and got a permit for them for a privacy fence for the back yard. It did meet the requirements per the ordinance, so we did issue the permit. I don't know if they have intentions to move part of this to the back. I don't

know, but at this time I have not been able to get confirmation that they have received the complaint. I have not spoken to anybody, and the property still has violation issues.

**MARK SEIB:** I guess the proper procedure would be to wait for notification that they have been served. Once they have been served, or if they were served in time to know about this meeting and to call you, then we will proceed onto the next step, which will be a letter from our attorney. That would make logical sense in the process of doing this. Is there any discussion or a motion?

A motion was made by Keith Spurgeon to table this complaint until the next regular meeting. The motion was seconded by Kevin Brown.

**RANDY OWENS:** For my own education, some of these pictures look like they have poorly maintained gravel there. If they maintain that, then can they park there, right?

**MARK SEIB:** If that was grandfathered in.

**RANDY OWENS:** And how would we know that?

**MARK SEIB:** Somebody has to prove something, by going through records, or anything that would give it support that would show that it's grandfathered in. Like something from the previous owner.

**KEVIN BROWN:** Why doesn't the city deal with this?

**MARK SEIB:** The Area Plan of Posey County is the enforcement division for those cities and towns in the county. It's kind of a deal for the cities and towns because they don't have to have somebody, and the county is paying for our meetings and processing. Any other comments?

**Roll call vote. (6-0) Yes. Motion carried.**

**DIRECTOR'S REPORT:** (None)

**APPROVAL OF PAYROLL & BILLS:** A motion was made in the affirmative by Hans Schmitz and seconded by Keith Spurgeon to approve payroll and bills. **Motion carried.**

**APPROVAL OF COLLECTIONS:** A motion was made in the affirmative by Kevin Brown and seconded by Hans Schmitz to approve collections. **Motion carried.**

**CITIZENS CONCERNS:**

**DAVE PEARCE:** I have been contacted by two different people regarding a swine farm being considered on a Downen Road property. They wanted to know if that property,

now zoned agricultural, would have to be rezoned or anything if they put in a 40 acre swine farm. I'm just doing my due diligence. I told them I would ask, so I'm asking.

**MARK SEIB:** I guess we need to make sure that it's agricultural.

**DAVE PEARCE:** I think we have already determined that. This is the property that...

**KEVIN BROWN:** Is this the Collins' property?

**ATTORNEY TRENT VAN HAAFTEN:** The answer is just like any other. You look at the ordinance to see if that use, or how that use falls within the ordinance. The agricultural section does have specifics for a confined animal feed operation. And then the setbacks. I can't spit those out of my head.

**MARK SEIB:** If it's zoned agricultural, then they do have the right to apply, if they meet the requirements.

**ATTORNEY TRENT VAN HAAFTEN:** I would say look at the ordinance. Look at what you want to do, and then look at the ordinance and see if you think it applies. Then contact Mindy and say, this is what we want to do, and she can give direction on how to move forward.

**MINDY BOURNE:** What I tell everybody is that I need the location of the property. I need details. I need specifics based on what they're proposing.

**DAVE PEARCE:** I mentioned that. And there's already something on Facebook about it as well.

**KEITH SPURGEON:** I think what we can tell people at this point, is when there are things like that, being proposed, or talked about, first of all, do we have any permits that have been turned in? We don't have anything in front of us, so if someone wants to do that, they will need to put in and request a permit. All of those get public hearings, correct? So, if something like that would come about, we can tell people to check with Mindy, and look on the website for when they're meeting. The agendas are posted ahead of time. There will be an opportunity for a public hearing if and when something like that would come up.

**MARK SEIB:** I will be sure that they get a public hearing, if they meet all the setbacks and everything else. I think if they meet all of the requirements of the ordinance, then there would be a public hearing.

**ATTORNEY TRENT VAN HAAFTEN:** Here's my question, was it someone that is going to apply to do that?

**DAVE PEARCE:** Apparently. They asked me as a member of this board, and I said I would ask.

**ATTORNEY TRENT VAN HAAFTEN:** They need to take a look at the ordinance to determine what they think they need to do and then contact Mindy with the specifics of what their plan is and their location, because there are specifics where that is concerned. There are certain permits that they will have to get.

**MARK SEIB:** And there are State permits that they will have to get.

**DAVE PEARCE:** They are aware of the State permits.

**MINDY BOURNE:** If you look up the zoning district you are in, and it tells you what is permitted and what's not. All of that is online.

**RANDY OWENS:** I know that I can go home, read the ordinance, and figure this out, but does a farming operation ever get so big that it becomes industrial and needs to be rezoned? Or can a farm be as big as it needs to be?

**ATTORNEY TRENT VAN HAAFTEN:** We're looking at the use. We're not looking at the size. That falls under a confined animal feeding operation. There are limitations and rules on that. Just like on a grain farm, there are rules about setbacks and different things like that.

**MARK SEIB:** It's just like for a home or whatever. You have to go through the process, and look and see if it meets the requirements that's there.

**MINDY BOURNE:** I will say when we amended the zoning ordinance back in 2012, when we consolidated the zoning ordinance, we talked about pig farms, and I don't know if maybe Jon was on the board, and he got very involved in that. All of that was added into our ordinance. So, it's in there.

**ATTORNEY TRENT VAN HAAFTEN:** And even with pig farms, there are some State statutes that apply.

**MARK SEIB:** Yes, especially the facility for the manure has to meet State specifications.

**ATTORNEY TRENT VAN HAAFTEN:** So, someone is not going to be able to just come in, if they have 40 acres of farm ground. You're not going to wake up one day and they have 600 head of swine. The general public thinks that they can do whatever they want on their land...

**MARK SEIB:** For ag, to add something like that, it gets complicated.

**MINDY BOURNE:** I need specifics. They can't just give me a generalization.

**KEVIN BROWN:** What is our meeting on July 29? What will that consist of?

**MARK SEIB:** It's going to deal strictly with the solar project from Tenaska. It's Posey Solar, LLC who has been the one who filed.

**KEVIN BROWN:** Is there a public portion? Will the public be speaking?

**MARK SEIB:** Here is the basics of what we are going to have. We are starting at 5:00. We are going to have a 45-minute opening statement by the applicant so that we can understand what they are asking. We are giving them 45 minutes, but they do not have to take it. From that, we will do just like we do on any other project. We will have the board ask them questions at that time. Then after that, if there is an organized opposition, which we know there is, we are going to give them 30 minutes to speak. Then we are going to open it up for the public portion. We will go through the process and see how many we've got, until we get to 8:45. We will have an hour and a half for the public portion. From that point we will have discussion among the board. What we are looking at approving at this point is the preliminary, which is what Mindy and Terry Hall have been pondering over, looking through, and reviewing, and making sure that all the paperwork is in order and everything meets the requirements of the application for everything on the 29<sup>th</sup>. At that point, we will approve or deny the preliminary. If we approve it, then they will move to the next step of trying to get everything to the point where it's ready to be finalized. Then we have another public hearing.

**KEVIN BROWN:** What happens if it's denied?

**MARK SEIB:** If it's denied, then it's the end of the road.

**ATTORNEY TRENT VAN HAAFTEN:** We will have two public hearings for the application. The preliminary plan and then the final. The second public hearing cannot occur any sooner than 28 days after the first one.

**HANS SCHMITZ:** Do we get to review the preliminary plan in advance of the meeting?

**ATTORNEY TRENT VAN HAAFTEN:** It is online. The notice for the public hearing, the link is provided in that. There is a link to all of that information.

**MINDY BOURNE:** I have copies for everyone tonight, for all the board members and the attorney. Then it will be at the library to view, starting Monday. They should have a copy there.

**MARK SEIB:** So, if somebody calls you and wants to see the application, it's at the library, as well as in our office.



**MINDY BOURNE:** It will be in our office, but I will state that if people want copies of things, they are going to have to go to the public library to make those copies. I don't have the means or the staffing to do that. And there's the link. It was in the legal notice. Becky can email it to all the board members.

**MARK SEIB:** So, that's the jest of the 29<sup>th</sup>. I will try to have some water there for us, and we may need to schedule a break at some point in there.

**KEVIN BROWN:** What about security?

**MARK SEIB:** We will have a deputy there. We might have one or two, whatever he wants to send our way. Hopefully, this will be very organized. The maps on the link are not as defined as what you have there. Any other questions about the 29<sup>th</sup>? The only other thing is that we will have to put chairs up to get them ready for the crowd. I would appreciate help on the day before, on the 28<sup>th</sup>. I will send out something to let you know what time we want to put chairs out. If anyone can come and help, we would greatly appreciate it because a lot of hands make it go quick. Hans will also be doing a test to make sure that Terry Hall can get on.

**MINDY BOURNE:** We will send out an email reminder.

**KEITH SPURGEON:** I just want to thank Mindy and Hans for setting up the Zoom links. I have probably used that more than anybody. I appreciate the opportunity and all the board support. I got to looking at everything that Hans has to do to set that up. I didn't realize that he had to bring in a ladder.

**MARK SEIB:** We are working on it, but the company is very slow to make the accommodations. The Commissioners & the Council have it on a live stream. I want to see us get into either the Zoom or the live stream as well, but they have to pay for every live stream they do. I am after the Commissioners to get that done. If someone needs to interact, they will need to come here. If we have a meeting where some of us can't meet in person, then we'll do a Zoom meeting. That way, they can have interaction. But with the live stream, the main thing is just to let the public be able to sit and listen to what actions we've taken. We did allow for the group, for the last meeting, to use Zoom if you cannot be there, but you have to be at over half of the meetings and there are other stipulations. I know some of us have had family issues, or health issues, or anything else that might come up, then you could be there if you did it through Zoom. We would make the accommodations for you to be able to use that, but we don't want to continuously use that as an excuse.

**ATTORNEY TRENT VAN HAAFTEN:** Real quick, there has been a motion for a change in venue for the lawsuit filed this week. It will go to a Vanderburgh County judge.

**MARK SEIB:** When do you anticipate this to be starting?

**ATTORNEY TRENT VAN HAAFTEN:** 45-60 days.

**KEVIN BROWN:** Anything else on the cap?

**ATTORNEY TRENT VAN HAAFTEN:** I know you asked the last time, but here's the thing, a legislative body can pretty much do what they want. I'm looking at it as, here are possible things that you could do, and then try and give you my opinion on it. I communicated with Andy yesterday when he first brought it up, and he's not aware of it happening anywhere else. Basically, so that's kind of indicative of what I'm struggling with because if we don't come up with a cap. So, I'm trying to figure out what kind of cap.

**KEVIN BROWN:** So, if there isn't a cap, solar can go all the way around?

**ATTORNEY TRENT VAN HAAFTEN:** That's why I'm trying to find out what kind of cap I can come up with and then present to you my findings.

**MARK SEIB:** The only problem that they have is that the transmission line will be at capacity. With that being said, it's going to cost somebody a bundle of money to get on it. I know that some of them are going to start feeding private companies to be able to do it, so there's another way for them to get more. Pulaski County is doing a joint venture with another county in Indiana, and it's going to be 12,000 acres. A 12,000 acre solar field.

**DAVE PEARCE:** I heard yesterday that they are thinking about upping that.

**MARK SEIB:** At 12,000, it will be the largest in the United States.

**KEITH SPURGEON:** The fear is that Posey County will become the center of solar energy.

**RANDY OWENS:** So, there were those three zones, where is Pulaski in regards to that?

**MARK SEIB:** It was in the highest assessment. So, I believe that's kind of putting it into perspective.

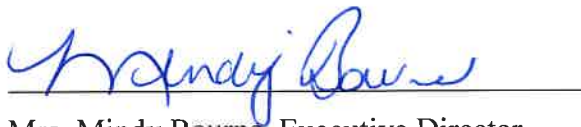
**RANDY OWENS:** Our lower assessed value is not going to attract it like a magnet.

**MARK SEIB:** I don't believe it actually will.

**ADJOURNMENT:** Kevin Brown made a motion to adjourn the meeting at 7:26 p.m. Hans Schmitz 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