

MINUTES

POSEY COUNTY BOARD OF ZONING APPEALS SPECIAL MEETING

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

JULY 20, 2023
3:45 P.M.

MEMBERS PRESENT: Mr. Larry Williams-Chairperson, Mr. Larry Droege, Mr. Mark Seib, Mr. Keith Spurgeon, Mrs. Beth McFadin Higgins – Attorney, Mrs. Mindy Bourne – Executive Director, and Mrs. Becky Wolfe – Administrative Assistant.

MEMBERS ABSENT: Mr. Ron Fallowfield

LARRY WILLIAMS: Having a quorum we can proceed to do business. The meeting is to discuss and take action concerning pending or threatening litigation or such other business that may come before the board. I'll turn it over to Beth.

ATTORNEY BETH MCFADIN HIGGIN: For the board's information we have received notice of a petition for review of certiorari filed by Deena & Robert Stolz versus the Posey County Board of Zoning Appeals. I believe the office was just served that yesterday and they accepted service for Mr. Williams today. So I wanted to make you aware of that. At this point the board would need to determine whether or not to, so your options of course are to: defend the lawsuit which means have an attorney appear on your behalf and make a meritorious argument on your behalf defending the lawsuit. Or you could do nothing, which is never advisable but I guess technically it's an option, which would generally result in a default judgement. So the board needs to decide what they would like to do so that either myself or an attorney on behalf of the board can take appropriate action.

LARRY WILLIAMS: Is there any action? Or discussion I guess.

KEITH SPURGEON: Well, I think we should defend it. I don't think that's really much of a question. We made a determination and I think it was sound and based on good evidence that we had at the time and I see no reason why we shouldn't defend it. I'd be in favor of also recommending that we try to use local council.

Keith Spurgeon made a motion to use local council. Motion was seconded by Larry Droege.

LARRY WILLIAMS: Is there any further discussion?

MARK SEIB: I just think that we have done our due diligence in the proceedings and come up with the conclusion that we did. And the decision that we made was a good sound one and I

think that because of that we do need to defend our position and we need to defend our ordinances as well.


Roll Call Vote (4-0) **Yes. Motion carried.**

ATTORNEY BETH MCFADIN HIGGIN: So we will make contact. The BZA is , of course, a county board so we will have some communication with the Commissioners so that they're aware of what's going on. Generally speaking on zoning, the county does carry insurance. In a previous lawsuit there was representation only through the trial court level and it was what we call "with reservation" just because it's a zoning/administrative decision so there's no real coverage for loss or anything under that. But I think it's always good to double check with the Commissioners to make sure we're all in line with how they want the defense to be handled.

Larry Droege made a motion to adjourn the meeting at 3:50 p.m. Motion was seconded by Mark Seib.



Mr. Larry Williams, Chairperson



Mrs. Mindy Bourne, Executive Director