

Burns Harbor Advisory Plan Commission

Minutes of Monday, October 7, 2024

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Monday, October 7, 2024, at the Burns Harbor Fire Department. The meeting was called to order by Advisory Plan Commission President, Jeremy McHargue at 6:00 pm.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Jeremy McHargue	Present
Bernie Poparad	Present
Roseann Bozak	Present
Travis Dunlap	Present
Gordon McCormick	Present
Michelle Watkins	Present
Aaron Adcock	Present

Additional Officials Present

Attorney-Clay Patton and Building Commissioner- Joe Lawson.

Also Present

Shem Khalil- Global Engineering and Land Surveying, Attorney Edward Graham- Law Offices of Edward P. Graham, Ltd., Olivia Ochoa- MasTec Communications Group via Zoom, and residents of the Town of Burns Harbor

Minutes

Bozak made a motion to approve the minutes of July 31, 2024. McCormick seconded the motion. Poparad- Aye, Bozak- Aye, Dunlap- Aye, Watkins- Abstain, McCormick- Aye, Adcock- Aye, McHargue- Aye. Motion passed.

Bozak made a motion to approve the minutes of September 9, 2024. Watkins seconded the motion. Poparad- Aye, Bozak- Aye, Dunlap- Aye, Watkins- Aye, McCormick- Aye, Adcock- Aye, McHargue- Aye. Motion passed.

Communication, Bills, Expenditures

Town Code Updates

Nothing to report.

Report of Officers, Committee, Staff

Nothing to report.

Old Business

Culverts/Drainage Code Ordinance, Inspection, and Enforcement

McHargue stated I have a few questions after reviewing the draft ordinance prepared by Building Commissioner Lawson. A discussion was had regarding the ordinance draft and certain scenarios of different situations. Poparad stated that an inspection should be required before the job takes

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place. McHargue stated I do not want to create an ordinance that has so much involved in it that it is hard to fix the problem. Dunlap stated my only question is what originated all of this? There is a whole section in the town code that ties to stormwater and there is an entire section outlining responsibilities including drainage and culverts. McHargue stated I will work with Building Commissioner Lawson on reviewing the existing stormwater ordinances that relate to culverts and see what we need to do to move forward. If any other members have anything either so we can have a better draft prepared for the November meeting or a better understanding of what we have going on. I think this could also be brought up at the next stormwater meeting to discuss this matter.

New Business

Review: Bonds, Maintenance Guarantees, Letters of Credit

McHargue stated we have a few bonds with dates approaching so we need to keep an eye on those.

Permit Extension- MasTec Communications Group for AT&T- 1240 North Boo Road

Ochoa stated I am Olivia Ochoa and I am with MasTec Communications Group we are looking for approval on a building permit extension application for the placement of a standby generator at 1240 North Boo Road. Bozak stated the application states equipment delays, do we have all the equipment for it or are we still waiting? Ochoa stated we are good to go now and construction is scheduled to start November 4, 2024. McHargue stated as a follow-up question because we just ran into this with the Town of Burns Harbor generator, are there any utilities or anything that will have to be run underground to that tower? The last time utilities were run underground it cost the Town of Burns Harbor about \$30,000 to replace our fiber cable. Ochoa stated my colleague Bernard would be able to answer that. Dunman stated I am Bernard Dunman with MasTec Communications Group. I am looking at the plans here and I do not see any underground work. This is a diesel generator and there is nothing illustrated as far as underground on the plans. McCormick asked if the muffler on the generator is a critical grade muffler to be used in a residential area. Dunman stated yes, that these generators for as big as they are, they are incredibly quiet and run between 65-70 decibels range. Bozak made a motion to approve the permit extension for MasTec Communications Group for the placement of a standby generator. Dunlap seconded the motion. Bozak-Aye, Watkins-Aye, McCormick-Aye, Adcock-Aye, Poparad-Aye, Dunlap-Aye, McHargue-Aye. Motion passed.

Putman Builders- Secondary Plat Approval for Phases 5-8 in the Village of Burns Harbor

Attorney Graham stated I am Edward Graham and I represent Putman Builders who is applying for a secondary plat approval for phases 5-8. Mr. Putman hopes to add to the community with over 54 lots being added. All public improvements have been installed except the top coat of asphalt in phases 6-8. Mr. Putman would like to proceed first with phase 5 and then thereafter he would proceed in the sequence of phases 8, 7, and 6. Putman stated, I am Tom Putman and we are wanting to finish the phases in the Village of Burns Harbor. A discussion was had regarding the secondary approval. Khalil stated we need to review phase 5, so we will need the Plan Commission's approval to start that review process. If it is satisfactory we will send a letter to the Plan Commission and if we are only reviewing phase 5 then the bond will only be for that phase as well. Putman stated that is correct and we would only like to submit the approval for phase 5, but we are prepared to submit for phases 8, 7, and 6 as well. Khalil stated I just want to make sure that the review will include all the phases and the bond will include those phases as well. The performance bond will be on that surface. Phase 5 surface has been completed and would only require the maintenance bond, so it is completely up to you on what you want to submit. Putman asked if we could separate the application into two parts. We expect to move into the subdivision within two years to be nearly complete with it. We would like to do the final three phases without the final lift of asphalt on so that if there are any repairs needed, we can repair any damage to the

roadway and then put the final layer of asphalt on. Khalil stated we can write the letter stating it is for phase 5 only and then unfortunately you will have to submit it as builds for the three other phases because the surface is not installed yet. We just need approval that Global Engineering can review phases 5-8 and, in the letter, we will divide phases 5 and then phases 6,7, and 8. McHargue stated the only other thing I would like is the assurance that we have a map of the street light infrastructure because the rest of the Village did not have that. Putman stated I will make sure we have that for the Town of Burns Harbor and coordinate that with Nipsco to have a proper map. Bozak made a motion for Global Engineering to review phases 5-8 and give the Plan Commission their recommendation. McCormick seconded the motion. Dunlap-Aye, Watkins-Aye, McCormick-Aye, Adcock-Aye, Poparad-Aye, Bozak-Aye, McHargue-Aye. **Motion passed.**

Khalil stated it is my understanding that phase 5 has been completed, is the correct Mr. Putman? Putman stated yes. Khalil stated presuming everything is okay with phase 5; the secondary plat is a ministerial process. McHargue asked if you are looking for conditional approval upon Global Engineering's review. Khalil stated yes, for phase 5 only at this time. We would need to authorize the president of the Plan Commission to sign the secondary plat presuming that everything is okay and all the bonds are submitted to the Town of Burns Harbor's Clerk Treasurer. Bozak amended the motion conditional to the President of the Plan Commission signature based on the findings from Global Engineering for phase 5. Poparad seconded the motion. Bozak-Aye, Dunlap-Aye, Watkins-Aye, McCormick-Aye, Adcock-Aye, Poparad-Aye, McHargue-Aye. **Motion passed.**

McHargue stated before getting to the good of the order, we need to address the withdrawal we received on the petition from Provident Realty. Our town code requires us to approve that withdrawal. Bozak made a motion to approve the withdrawal petition from Provident Realty. Watkins seconded the motion. Adcock-Aye, Poparad-Aye, Bozak-Aye, Dunlap-Aye, Watkins-Aye, McCormick-Aye, McHargue-Aye. **Motion passed.**

McHargue stated I assume some of the audience is here to talk about Provident Realty in the good of the order. Still, I want to add that there is town code under 14-5-9C that reads: following the publication of notice for any public hearing, until the conclusion of the hearing, a petitioner may not withdraw the matter to come before the public hearing without the approval of the Commission. Then 14-5-9D regarding resubmission of a petition reads: a case which has been withdrawn by the petitioner shall not be again placed on the docket for consideration until three (3) months after the date of withdrawal. Regardless of what happens in the future, right now we have accepted their withdrawal and our town code requires at least three months before they can be placed on the docket again. McHargue asked if anyone had any questions from the Plan Commission board. There is a need for this board to address this in some way, just leaving it open-ended is irresponsible at this point. While Provident withdraws their petition, this does not prevent someone else from coming before this board. That property is still going to draw potential petitioners in the future, but with the data center itself, we need to figure out what the direction is and define it in our town code at a minimum. McCormick stated we need to have a definition for it, and then come together as a group to figure out what zone it can be allowed in. Whether it's a meeting like this or a workshop, it needs to be done. A discussion was had regarding the special district and potential rezoning of the proposed property.

Good of the Order and Any Other Business

McHargue stated anyone that who would like to speak if you can please stand up, state your name and your address, and try and keep your speech to two minutes.

Chuck Thomas 357 Marilyn Rd.- Thomas discussed fire safety and how the Plan Commission and Provident Realty were going to address these issues. There is no way to fight an electrical

fire and we cannot fight fires reaching 150-foot-plus tall buildings because the current ladder truck only reaches 75 feet.

Ed Orlando 1149 Gustafson Ln- Orlando stated I am suggesting the board have a 200-day moratorium to be able to discuss what the ordinances would look like. Orlando discussed concerns regarding the data center.

Neil Stout 209 Trail Creek Drive- Stout stated there is a 90-day period and I am strongly suggesting you extend that to 200 days. During that time, bring the town residents in, and discuss all the ideas they have, and then the Plan Commission can start to build the new ordinance. If you do it with public input and participation it will go a lot smoother.

Elaine Kaiser 209 Trail Creek Dr.- Kaiser discussed ordinances across the United States and the banning of data centers.

John Reigel 1560 Lob Wedge Lane- Reigel discussed the Town of Burns Harbor ordinance regarding special districts.

McHargue discussed the Town of Burns Harbor zoning ordinance and light and heavy industrial.

Karen Stapay 2621 Dogleg Dr.- Stapay discussed her concerns regarding the data center.

A discussion was had regarding the proposed 200-day moratorium from the residents of Burns Harbor and what the Plan Commission board could do. McHargue asked if the Plan Commission is the appropriate board to be requesting the change or should the Town Council be the ones to do so. Attorney Patton stated it can be initiated at either level. McHargue stated regardless, we have three months from October 7, 2024.

Tina Rongers- Consultant for the Redevelopment Commission- Rongers stated we are currently in the good of the order which is an opportunity for the public to comment and what I want to clarify is the request from Mr. Orlando, an action item that is not on the agenda and he is seeking to be answered right now. Is there a direction that can be given to Mr. Orlando where he can write his request for a 200-day moratorium to the Plan Commission so he can respond? I think there is also another point of clarification regarding the public's request for a 200-day moratorium. McHargue stated I understand where the public is coming from and the best I can say is we will see what we can do.

McHargue stated I would like to thank the Burns Harbor Fire Department for helping set this meeting up.

Announcements

None

Adjournment

Poparad made a motion to adjourn at 7:42 p.m. Watkins seconded the motion. Poparad-Aye, Adcock-Aye, McCormick-Aye, Watkins-Aye, Bozak-Aye, Dunlap-Aye, McHargue-Aye. Motion passed.

Approved November 4, 2024.

Jeremy McHargue, President

Jill Sherrill, Secretary