

## COMMISSIONERS' MEETING

February 22, 2016

The Bartholomew County Commissioners met in regular session on February 22, 2016 in the Governmental Office Building, 440 Third Street, Columbus, Indiana. Commissioners Rick Flohr, Larry Kleinhenz, Carl Lienhoop were present. County Attorney J. Grant Tucker was also in attendance. County Auditor Barbara Hackman was absent, but was represented by her Chief Deputy Sandra Beatty.

Chairman Flohr called the meeting to order and County Assessor Lew Wilson gave the Invocation and led the Pledge of Allegiance.

The first item on the agenda was the approval of the February 15, 2016 Commissioners' Meeting Minutes. Commissioner Lienhoop made a motion to approve the minutes. Commissioner Kleinhenz seconded the motion that passed unanimously.

Next was the approval of claims. Commissioner Kleinhenz motioned to approve the claims. Commissioner Lienhoop seconded the motion which passed unanimously.

The next item was weekly reports. Chairman Flohr read the New Permit Report dated 2/15/16 to 2/19/16. Twenty-three (23) permits were issued with fees collected of \$2,980 and estimated construction costs of \$3,817,095.

County Engineer Danny Hollander gave the Highway Weekly Crew Report which included the following work: plowed and sanded roads; ditched in Hawcreek Township; patched roads; fixed washout on 675W and around a drain on 225E; and removed brush from Tinkey Road.

Mr. Hollander then presented the contract with **Daviess County Metal Sales, Inc.** for the construction of the County **Salt/Sand Storage Facility** totaling \$399,154. The agreement and supporting documents validate the bid awarded to them on 12/28/15. Commissioner Kleinhenz motioned to enter into the contract. Commissioner Lienhoop seconded the motion that passed unanimously.

Mr. Hollander submitted the Highway Monthly Financial Report for January, 2015, which included the Financial Report, Budget Status Report and Revenue

Comparisons for the Highway Fund, Local Roads/Street Fund and the Cumulative Bridge Fund. He also submitted the **2015 Annual Road Program Report**. The detailed report was summarized as follows:

<u>Surface Treatment</u>	<u>Miles</u>	<u>Tons</u>	<u>Cost/Mile or Ton</u>	<u>Total Cost</u>
Hot Mix Overlay				\$ 53,986.46
Hot Mix Overlay (EDIT)				\$ 642,557.06
<b>Total for Overlay</b>	<b>11.16</b>		<b>\$ 62,414.29</b>	<b>\$ 696,543.52</b>
<b>Total for Chip &amp; Seal</b>	<b>56.50</b>		<b>\$ 7,634.94</b>	<b>\$ 431,374.03</b>
<b>Total for Wedging</b>		<b>1,837.39</b>	<b>\$ 47.19</b>	<b>\$ 86,706.43</b>
<b>Total for Striping</b>	<b>53.40</b>		<b>\$ 985.87</b>	<b>\$ 52,645.50</b>
<b>Total for Side Wind</b>		<b>11,754.89</b>	<b>\$ 8.05</b>	<b>\$ 94,626.86</b>

Next, Commissioner Kleinhenz introduced State Representative Milo Smith. Recently, the Commissioners made a request to INDOT representatives attending the Commissioners' 2/8/16 Meeting to synchronize the upcoming US 31 road closures for the roundabout and bridge replacement. Despite the County and the state's contractor (for both projects) urging for the coordination of the closures, INDOT remained doubtful of that possibility. Representative Smith talked with the contractor and INDOT Deputy Commissioner Tony McClellan and it was agreed that combining the projects to one closure of 6 months made sense in that it would benefit the contractor, save wear and tear of the county roads, and limit traveler frustration. Mr. McClellan said that, while he could not make any guarantees, he would pursue rescheduling the projects.

Next, Captain Brandon Slate of the Sheriff's Department had previously requested permission to **trade-in 17 old firearms to Acme Sports** (Seymour) for a \$4,325 credit toward the purchase of replacement firearms. Captain Slate said that only Acme Sports was approached since they are the only area retailer that sells law enforcement Sig Sauer firearms used by the department. Commissioners at that time asked that at least one other dealer or appraiser give an estimate of value for the 17 trade-

ins, as a matter of propriety. Captain Slate brought in a second quote from Phoenix Guns (Columbus) in the amount of \$3,850 for the 17 guns. Commissioner Lienhoop motioned to give permission to proceed with trading-in the old, surplus firearms with Acme Sports. Commissioner Kleinhenz seconded the motion that passed unanimously.

The next item was the consideration of an **Ordinance Amending the Official Zoning Map**, Rezoning the Subject Property From “AP” (Agricultural: Preferred) to “CRc” (Commercial: Regional Center with Commitments) to be known as the **Bruce Nolting Commercial Rezoning**, Plan Commission Case No. RZ-15-02. *(See attached)* Planning Department Director Jeff Bergman explained that the owner, Bruce Nolting, proposes to rezone a 41.68+/- acre area generally located at the southwest corner of the intersection of US 31 and State Road 46. The property also has frontage on State Road 7 along its southern property line. Mr. Nolting has indicated that he would like to prepare the property for future commercial development, but at this time does not have any likely buyers or intended commercial uses for the location.

At its December 9, 2015 meeting, the Bartholomew County Plan Commission reviewed Nolting’s Commercial Rezoning application and forwarded it to the Commissioners with a favorable recommendation by a vote of 5 in favor, 2 opposed and 2 abstained. The favorable recommendation includes the following commitment, which is intended to provide screening from future commercial development for an adjacent residential property: A Type A Buffer Yard, which includes a fence or wall constructed along the east, west, and south property lines of East State Road 46 (owned by Paul Younger) at the time the subject property is developed.

As requested by the Commissioners in their January 11, 2016 meeting, Mr. Nolting provided a forum for more dialogue with neighbors regarding the property’s prospective use(s). Two letters were delivered to the Planning Department following that meeting: one from Mr. Nolting’s attorney, Joyce Thayer Sword, summarizing the meeting; and one from Alan and Gayle Eiler.

Commissioner Lienhoop recused himself from the proceedings since being a first cousin to Mr. Nolting.

While no settlement was reached at the meeting with the neighbors, Ms. Sword said that two permitted uses and three conditional uses would not be allowed under the zoning. They are: utilities substation, liquor store, agricultural supply facility, mobile and manufactured home sales, and the agricultural products terminal. Petitioner agrees to the conditional Type A buffer for the Younger property, as well. The desire for the area to be commercially developed was laid out in a comprehensive plan formulated in 1999. Accordingly, the petitioner can't agree to remove all the commercial uses requested by the neighbors. Ms. Sword proposed that developmental issues of drainage, how the property will eventually be used, subdivision controls, etc. are not part of a rezoning decision and outside the scope of this forum. Mr. Nolting wants to rezone the property to position it for commercial inquiries and development, but plans to farm it until that point. Petitioner and counsel believe they have met the ordinance criteria and petitioned to move forward with the rezoning.

Attorney Terry Coriden addressed the Commissioners on behalf of neighboring property owners: Gayle and Alan Eiler, Brent Crider, Paul and Marissa Younger, Ray and Barb Fawbush, Jerry Schnur, Martha Jo Cooper, and Daniel and Lesley Boewe. His main talking points were: drainage concerns; preserving the agricultural zoning as being the most desired use of land and, thereby, in keeping with the comprehensive plan; a perception that the site's future use is being concealed; property values being adversely affected by compromising the rural character of the area; and responsible growth. For example, the establishment of a wholesale facility there could dramatically affect the area with the influx and increased activity of trucks and people. On the other hand, another commercial use might not adversely affect the area and its residents to that extent and, thereby, be acceptable to the neighbors. Having omitted only a few of the possible commercial uses leaves many uses that would be undesirable and adversely affect the neighboring properties. Rezoning without having a ready buyer and knowing the proposed future use is a real concern.

Chairman Flohr opened the meeting for public comment. Comments were heard from Ms. Sword, Commissioners Kleinhenz and Flohr, Mr. Bergman and Mr. Coriden. There being no further comments Chairman Flohr closed the meeting.

Commissioner Flohr stated that if following the letter of the law, there is no reason to deny the rezoning request.

Commissioner Kleinhenz stated that an ideal situation would be to hear the petition with a specific buyer and purpose, but it is not a requirement for approval. He understood and agreed why the planners and visionaries in 1999 viewed the area as commercial. It was not surprising that the area was targeted for commercial development, but also empathized with the current residents' resistance to change. Appreciating the value of having commercially zoned property ready and waiting, he would readily approve the change if it were not for the residential opposition.

Seeking additional input from the neighbors and other attendees, Chairman Flohr once again opened the meeting for public comment. Comments were heard from Pam Clark, Paul Younger and Brent Crider. There being no further comments Chairman Flohr closed the meeting.

Commissioner Kleinhenz motioned to approve on first reading the Ordinance Amending the Official Zoning Map from "AP" (Agricultural: Preferred) to "CRc" (Commercial: Regional Center with Commitments) for the Bruce Nolting Commercial Rezoning with the following conditions:

- Exclude five (5) of the normally permitted uses under CR zoning for the subject property: utilities substation, liquor store, agricultural supply facility, mobile and manufactured home sales, and the agricultural products terminal, and
- Provide a 100-foot Type A Buffer Yard, which includes a fence or wall constructed along the east, west, and south property lines of East State Road 46 (owned by Paul Younger) at the time the subject property is developed.

Chairman Flohr seconded the motion that passed unanimously. (Vote: 2-0, 1 abstention)

Commissioner Lienhoop returned to his seat for the remainder of the meeting.

The next agenda item was the Excess Loss Insurance Policy with **Transamerica Premier Life Insurance**. The application for this insurance had been approved and signed at the 11/23/15 Commissioners' Meeting. The insurance policy had been reviewed by County Attorney Grant Tucker. Commissioner Lienhoop motioned to approve the stop loss insurance policy. Commissioner Kleinhenz seconded the motion that passed unanimously.

The next Commissioners' Meeting will be held on Monday, February 29, 2016 at 10:00 a.m. in the Commissioners' Chambers. There being no other business the meeting was adjourned at 11:20 a.m.

BARTHOLOMEW COUNTY  
COMMISSIONERS

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RICHARD A. FLOHR, CHAIRMAN

ATTEST:

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LARRY S. KLEINHENZ, MEMBER

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BARBARA J. HACKMAN

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CARL H. LIENHOOP, MEMBER

ORDINANCE NO.: \_\_\_\_\_, 2016

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP  
OF BARTHOLOMEW COUNTY, INDIANA, REZONING THE SUBJECT PROPERTY  
FROM "AP" (AGRICULTURE: PREFERRED)  
TO "CRc" (COMMERCIAL: REGIONAL CENTER WITH COMMITMENTS)**

**To be known as the: Bruce Nolting Commercial Rezoning  
Plan Commission Case No.: RZ-15-02**

**WHEREAS**, this rezoning was requested by Bruce Nolting and includes the consent of all owners of the subject property; and

**WHEREAS**, the Bartholomew County Plan Commission did on October 14, November 12, and December 9, 2015 hold legally advertised public hearings on said request and has certified a favorable recommendation to the Board of Commissioners; and

**WHEREAS**, the Board of Commissioners of Bartholomew County, Indiana has considered the criteria contained in Section 12.6(G) of the Columbus & Bartholomew County Zoning Ordinance.

**NOW THEREFORE BE IT ORDAINED** by the Board of Commissioners of Bartholomew County, Indiana, as follows:

**SECTION 1: Official Zoning Map**

The zoning classification of the following described real estate shall be changed from "AP" (Agriculture: Preferred) to "CRc" (Commercial: Regional Center with commitments):

*Agricultural Tract 1 and Administrative Lot 1 in "Nolting/Schnur Administrative Subdivision" as recorded in Plat Book "R", Page 298D in the office of the Recorder of Bartholomew County, Indiana.*

**SECTION 2: Commitments**

The use and development of the subject property shall be subject to the following commitment: A Type A Buffer Yard, as defined by the Zoning Ordinance in effect as of December 9, 2015, which includes a fence or wall shall be constructed along the east, west, and south property lines of 6985 East State Road 46 at the time the property subject to this rezoning is developed.

**SECTION 3: Repealer**

All ordinances or parts thereof in conflict with this ordinance shall be repealed to the extent of such conflict.

**SECTION 4: Severability**

If any provision, or the application of any provision, of this ordinance is held unconstitutional or invalid the remainder of the ordinance, or the application of such provision to other circumstances, shall be unaffected.

**SECTION 5: Effective Date**

This ordinance shall be effective upon and after the date and time of its adoption, as provided in Indiana law.