

Members Present

Mr. Nixon, Mr. Vickery, Ms. McBride, Mr. Washington, Mr. Stauffenberg, Ms. Polk, Mr. James, Dr. Pagast, Mr. Tripp, Ms. Bernard, and Mr. Hess

Members Absent

Mr. Olthoff, Mr. Flett, and Mr. Tholen

In Attendance

- **Board Members**

Mr. Bossert, Mr. Arseneau, and Mr. McConnell

- **Department Heads**

Mark Frechette and Bob McElroy

- **Media**

Laura McElroy

1. Call to Order

The meeting was called to order by the Vice -Chairman, Mr. Vickery, at 9:00 a.m. Quorum present.

2. Public Comment

3. Approval of Minutes – October 26, 2011

A motion to approve the minutes was made by Mr. James and seconded by Mr. Washington. Motion carried with a voice vote.

4. Subdivision

- **Foxborough Oaks**

Mr. Van Mill stated that they are not prepared to take any action today on this. They are working with the Village of Limestone and also the engineers on this so they are asking for it to be tabled.

Mr. Jams made a motion to table it and Mr. Washington seconded it. Motion carried with a voice vote.

5. Building

- **Issuance of Occupancy Permits Only After Proof of Contractors Lien Filings or Releases**

Mr. McElroy stated that they have a proposed change to the county ordinance concerning the occupancy permits in determination of buildings. In going over the current ordinance, they noticed some deficiencies and a problem was brought to their attention concerning an issue. In today's packet there is a draft copy of the ordinance and the underlined portions would be those that they want to add. He doesn't believe there was anything to be stricken. The first addition is pertaining to altered structures. State statute provides that we can issue occupancy permits for altered structures. We never had that in our code. He does not know why it was omitted but it should have been in there in the first place. The second thing that is underlined is that an occupancy permit may be revoked which is not in our code either. You would have thought that it would have been common sense that if one can be issued one can be revoked if they are violating the building codes but it was not in there. He had to go to court once on an issue like this. He had to get a temporary restraining order. Instead of the building department simply revoking the occupancy permit, he wound up doing a lot of work going to court for something that should have just been a red tag issue. The next thing that is underlined is concerning liens for contractors and subcontractors. The scenario in this case is that the owner of a building does some construction work so contractors and subcontractors come in and they do their work but if they don't file their liens when the person who is leasing the property comes

in he has no idea that these liens are out there. Let's say the owner does not pay the contractor, the contractor has the mechanics lien and he can file the lien after the person who leased the premises would have checked and he can come in there and remove whatever he put in. He has a right to do that with his mechanics lien. That kind of leaves the lessee hanging out there with a piece of property that he really can't use because suddenly he may not have water, air conditioning, or electricity. This would occur probably in a situation where maybe the owner is having some financial problems and the bank has not taken over yet but the person who is leasing the property can be injured. It is a situation where they look to try and protect the welfare of local businesses who are leasing the premises. We don't want their businesses to be adversely affected in an event of something happening concerning the owner.

Mr. James stated that at one time you could move into your property if you were building it as long as you had the bathroom and kitchen facilities running. How does this work on a person that is building their own home?

Mr. McElroy stated that it should be up to the building department. It is up to them to go in there and look at the codes and make that determination. Do you want somebody living in a shell that is not ready? That is a fire hazard.

Mr. James stated that the reason that it was this way was the fact that people were building their own homes and finishing their own homes. That was the reason for it. How is this going to work today if somebody comes in with a permit and is going to build his own home and he builds it and gets it to where they can move into it and then he is going to complete it? Are we going to tell him that he cannot move into it because it has to be completed?

Mr. McElroy stated that it has to be completed to the point where he needs an occupancy permit. It has to meet the codes before he can move in otherwise you are saying the codes don't matter and we cannot have that.

Mr. James stated that his question is – What is going to be the code that we are going to allow these people to move in? Are we going to have a life safety element only or does the drywall have to be painted and the electrical covers all on the electric outlets? Where are we going to start and stop with this? This is the war we are going to have next.

Mr. McElroy stated that they follow building codes that are within our county code. National codes – that is what they follow. We rely on the building department to make that determination when to issue an occupancy permit. You have to rely on the people who are experienced and the pros in doing this.

Mr. Washington stated that back in the 60's there was a company that came into Kankakee County and they made deals with individual property owners to construct the shell of a house and those people had nothing but the shell to live in until they completed it themselves. The company constructed the shell, supplied the material for them to complete the house, and let them live in the house until they completed it. This would eliminate that.

Mr. McElroy stated that he believes that it would. Do you want somebody living in a shell that does not meet the codes? It really is not a healthy situation and it is a fire hazard.

Mr. Washington stated that it is not so much what he wants them to do but it is what they had the finances to do at the time. Many of them were people moving from Chicago out to Pembroke and they had been

attempting to build their own houses on their own and they could not do it and then the company built the shells and many of those houses are in existence today and are completed by the occupants but the only way that they could complete them was to live in them and complete them on their own.

Mr. McElroy stated that it was probably done without knowing if they were up to code. That is probably the point – health and safety are in the codes. That is why they have those codes. It is to protect lives. They are doing it themselves without licensed contractors coming out to do the electrical or the plumbing?

Mr. James stated that it is very common.

Mr. McElroy stated that is why we have fires and people dying. With heating and ventilation, suddenly there is carbon monoxide which is exactly the situation where he had to go to court. Seven people ended up in the hospital with one almost dying. That is why we have these codes – to prevent those things. That is why we have a building department to enforce those things. Are we saying that we enforce it for some people but not for others?

Mr. McConnell stated that he is a HVAC inspector for Bradley and Bourbonnais and he concurs with what Mr. McElroy is saying. What they are seeing now is the incompetency of the homeowners to do the work properly. They are seeing more and more of that and the potential danger of death and injury. One he looked at recently was a disaster. Grant it, they did not have the money to do it but does that outweigh the safety factor. He also understands what Mr. James and Mr. Washington is saying concerning homeowners being tight on money; however, that should not be overruling the fact of life safety.

Mr. Vickery stated that he does not know how the banks are going to handle this now. This is a different time now. Are they going to loan money on a shell? He does not think so.

Mr. Nixon asked what role this is going to play when a person is going to add a section on to their tri-level. They are already in occupancy but they need to make some adjustments to their lifestyle while they change the building around.

Mr. McElroy stated that they rely on the building department on whether or not an occupancy permit should be issued. They are familiar with the plans that are being submitted to them and what is being required. You could assume that if a licensed contractor is working on the premises that they are going to be safe. What about the innocent children who are being put in danger when it is not done correctly? They certainly didn't mean to but they certainly are being put in danger. We have to protect them.

Mr. Nixon stated that he agrees with that in theory; he agrees it adds a layer of safety to make sure that things are done correctly. He asked if he has gone over this with building code and gone over the finite details.

Mr. McElroy stated that he has not gone over the finite details.

Mr. Washington stated that he is not trying to belabor the point of safety at all but it concerns him that some of it seems to be a little too much encroachment on the privacy of an individual being able to do their own work in their own house. He understands the safety issue and is not opposed to the safety issue but it still appears that the privacy of the individual is being encroached upon. There are homes that he can recall where the people lived in the basement until they completed the house. He doesn't know what level of improvement they did in the basement to do so but they moved in almost immediately after completing the

basement. You have circumstances here that may dictate some consideration prior to implementing this overall enforcement.

Mr. McElroy stated that all building code encroach on an individual's right yet we have them and we all believe that they are worthy of being in place.

Mr. Washington asked if that approves continuing that encroachment even more.

Mr. McElroy stated that if they are at the level where they have to get a building permit issued they are doing some substantial work.

Mr. Van Mill stated that he thinks that they are going to have a conversation after this to get the details worked out. He understands that after the ordinance was reviewed they saw a gap in the code where we do not have the authority to revoke an occupancy permit. He thinks that is the crux of this.

Mr. McElroy stated that that is one of the major problems but the other thing is when an occupancy permit is issued. We have always relied on the building department to make that decision.

Mr. Van Mill stated that he has not seen issues. He thinks that they have a good protocol in place for most of that. If we are talking about one or two cases, he is wondering if we just need to be recognizing those situations. He is trying to work his way through the process for which we would revoke an occupancy permit. His staff could do that formally in writing which is how they would probably do it and they would red tag. What would be the process after that? In the worse cases, such as we are talking about today, it is going to take probably more than just them going out there. Once they determine a situation needs to be red tagged and they post it and the individuals don't leave what kind of exposure does that leave their staff?

Mr. McElroy stated that at that time they would come to the State's Attorney's office and they would have to go to court.

Mr. Van Mill asked how that is different from what they do now.

Mr. McElroy stated that he doesn't have anything in the code that says that he can tell them that they can't occupy the premises.

Mr. Van Mill stated that if they deem a property unsafe they can do that under property maintenance.

Mr. McElroy asked where it says that he can revoke the occupancy permit.

Mr. Van Mills stated that he is not saying revoke but they can remove people. This is a mechanism to make it more streamline rather than a more convoluted process that they currently have.

Mr. McElroy stated that he would say that that is true.

Mr. Vickery stated that he thinks that these ordinances, codes, and regulations give us the tools to use these things. That doesn't mean that you indiscriminately use them. It is a judgment call but Mr. McElroy has outlined that if you have to go to court to enforce these things that is needless. It doesn't give the building department the tools to do the things that they need to do.

Mr. Van Mill stated that they do over 1000 permits a year and those permits that they would consider defined as altering a structure is probably half of those which would be about 500. In those 500, this could apply in maybe one or two cases a year.

Mr. McElroy stated that the glaring deficiency right now is that it is only if you change the use. You can substantially alter that structure and it can be dangerous.

Mr. McConnell asked if the occupancy issue is based on the payment of all the subs and all the labor liens have been issued. He knows of five companies here in this county that have not been paid and the businesses are in there doing business for over a year even though those five companies have not been paid. If you tie that occupancy into having all the subs paid, then there would not be that problem.

Mr. McElroy stated that it is not a question of whether or not they get paid. It is a question of whether or not the lien is on file. The protection of the person leasing the property is what we are really looking at. As far as a contractor suing the owner that owes him the money, that is a civil matter that they cannot get into. We can't say that all the liens have to be paid. That is why liens are out there. The recorder's office is full of liens.

Mr. McConnell stated that liens do the contractors no good – they are ninth on the list.

Mr. Vickery stated that the problem comes when an occupancy permit is issued and then the guy files a lien and you have already paid them. That happened to him. He supports the lien end of it. File liens before proof of occupancy then the person knows.

Mr. James stated that he can see where this would work on new construction but he thinks that we are trying to come up with a “one brush paints all” and it is not going to fly. First of all when it comes to liens, they can be applied anytime. They don't have a time limit.

Mr. McElroy stated that they are placing a time limit on them with respect to the occupancy permit.

Mr. James stated that there are a lot of games that are played out there and he doesn't care what is put on print he can show you some expert that is going to show you a new trick with a hole in it.

Mr. McElroy stated that they are trying to eliminate some of the holes.

Mr. James stated that he is just trying to avoid potential problems. He can see where this can apply very well when a merchant builder comes in building track homes. This is excellent for that but now we have the other situation and it can't be painted with the same brush. He would like to see what the list of infractions is going to be before we approve this. You can get somebody go out that doesn't like somebody and he can red tag things and make headaches for them.

Mr. Van Mills stated that he doesn't know if this ordinance in itself would have the potential to create that kind of abuse. They have the authority to red tag. He doesn't necessarily see this as being something that could increase that likelihood. The tools that could be used or abused are already there. He doesn't have a problem sitting down and outlining it so the staff is more comfortable with going forward but if there are significant, legal glaring holes in our process right now he thinks that we need to close those up.

Mr. McElroy stated that you can always red tag on violations. If the building department is deciding that someone should not be living in a house because it is dangerous then that is when we need to have the authority to act. They need to have the authority to say that they cannot occupy if it is unsafe. They are not talking about revoking an occupancy permit just because there is one building code violation that might not affect safety. The building department needs to have the ability to say "This is not safe and you cannot occupy".

Mr. Tripp stated that he thinks that we are pretty well covered already. Why don't Mr. Van Mill and Mr. McElroy get together and come up with minor changes if they need to be and get the State's Attorney involved?

Mr. Bossert asked if this was a particular urgent matter that we have to adopt this today.

Mr. McElroy stated that there is not.

Mr. Bossert stated that he would suggest that we table the entire discussion of the resolution until the next committee meeting and in the meantime the planning office and the state's attorney can hash out some of these issues.

Mr. Tripp made a motion to table the issue and Mr. James seconded it. Motion carried with a voice vote.

6. Planning

• Kankakee River Valley Enterprise Zone Expansion

Mr. Van Mill stated that the Village of Herscher has come to the K3 River Valley Enterprise Zone and requested the extension of the zone to the Village for the development of a pretty substantial car dealership in their community. Country Chevrolet has been a long-standing business in the Village of Herscher in its downtown area and it has expanded and has been very successful. It has a need to go out inside the Village of Herscher out onto Rt.115 and Herscher Road. Over the course of the last year or two as they were putting their plans in place, the demands for which the construction is needing has escalated. As a result, they are looking at ways to control the cost of construction and the village is working with them in trying to do that. One of options that they have is the extension of the enterprise zone which would help them with sales tax abatement on construction. Mr. Van Mill showed the proposed extension up on the overhead screen. It would start on Rt. 115 on the south end of the City of Kankakee and run a three foot strip along Rt. 115 and take in the corner which is about seven acres where the site would be constructed in the spring. They held a public hearing at the Village of Herscher on November 7 in accordance with the regulations of the extension of the enterprise zone. They have talked to the municipalities that are involved in the enterprise zone and each municipality in the county will need to pass resolutions to amend the intergovernmental agreement to add the Village of Herscher as a participating member and also an ordinance that would amend the legal description to amend the map to include this property will be needed. In total the expansion would add about 10 to 11 acres. They have over 2 square miles remaining in the enterprise zone itself so it is fairly minor. So far they have had no objections to this and they are bringing it for consideration of this committee and the county board.

Mr. James made a motion to approve and Mr. Washington seconded it. Motion carried with a voice vote.

Ms. Bernard asked how big of an expansion is going to be built.

Mr. Van Mill stated it is going to be about a \$1.5 million auto dealership and repair facility.

Ms. Bernard asked if they are strictly seeking sales tax breaks.

Mr. Van Mill stated that that is all that is available to them right now through the enterprise zone.

Ms. Bernard asked how much are we looking at.

Mr. Van Mill stated that it would be about \$30,000.

Ms. Bernard stated her concern is that they have been there a long time and they know the market. She doesn't see them moving out of the county. Right now the county is in dire financial shape and this does not seem like the right reason. In our next meeting we will be talking about eliminating entire departments and yet we are giving corporate tax breaks to somebody who has been here. They are not going to be leaving the area if they don't get the tax breaks. She can't support this right now.

Mr. Arseneau stated that they have been there for five years and they are looking to expand. They are good business people for the Village of Herscher. They do bring in good tax money for the Village of Herscher and we do not want them to leave the Kankakee County area or the Village of Herscher. He is for this 100%.

Mr. Stauffenberg asked what would be the scenario if somebody wanted to build something else along this three foot strip. Can they automatically be in the enterprise zone?

Mr. Van Mill stated that they would not. It would require the same process that they are going through today which is a public hearing, a legal description that would incorporate that property into the enterprise zone, and approvals from all of the acting governmental entities.

Mr. Bossert stated that he thinks that, in this particular case, to say that this business will be there is probably not quite accurate. As we all know car dealerships are living on the edge very often as to whether they can keep their franchise. He asked Mr. Van Mill if it is true that it is very likely that Chevrolet is forcing a rebuild to keep a facility in Herscher; otherwise, they may lose the whole operation.

Mr. Van Mill stated that that is what he understands.

Mr. Bossert stated that it is not like they are going to go somewhere else either. Very often these facilities just go out of business. In this case, we are trying to help keep a business in town opposed to losing it. Yes, it is true that we struggle with providing economic development incentives to businesses that may or may not be around in the future but this is about the only tool in our toolbox that we have to assist and help a business.

Mr. Nixon stated that he thinks that this is one of the opportunities that we can take to provide that small tax break for right now and take the hit on the enterprise zone immediately for the construction materials but in return that dealership is going to grow and is going to create more business and more sales tax. That loss in revenue that would be generated from the sales tax would be probably replaced that first year of business. It provides a great service to Herscher and provides another dealership that may easily leave the area to go to another enterprise zone or to leave the county completely, so he supports this.

Mr. Vickery stated that auto dealerships generate a ton of income on the sales tax side and a quarter percent comes back to the county and one percent goes to the Village of Herscher. He would have a hard time working against this.

Mr. Washington stated that for those who can remember Duncan Ford, Ford forced them to build a new facility and almost immediately after they moved into it they could not maintain it and they had to leave. This is the same kind of situation.

Ms. Bernard stated that she is hearing all these reasons to give a tax break. This is corporate America trying to hold us hostage and threatening that if we don't give them this tax break they are going to leave. If they are depending on \$30,000 to \$40,000 to survive you have to question the validity of their business model. She cannot support this.

Mr. Tripp stated that he can't forget the past. We had a race track ready to come in here and we took the same attitude and they went down the road. Are we going to do that again? That could have been an economic engine for this county.

The original motion carried with a roll call vote of 8 ayes and 4 nays. Voting aye were Mr. Tripp, Mr. Washington, Mr. Stauffenberg, Mr. James, Mr. Vickery, Mr. Hess, Mr. Nixon, Mr. Bossert. Voting nay were Ms. Bernard, Ms. McBride, Ms. Polk, and Dr. Pagast.

Overview of Planning Department & Economic Alliance - Presentation

Mr. Van Mill gave a presentation using the overhead screens that gave an overview of the Planning Department's and the Economic Alliance's functions and activities.

Dr. Pagast stated that it seems like to him being on the county board that they would go to meetings and then report what is being done. He thinks it would be much better if there were more subcommittees actively involved in what is being done not just voting for it. He thinks that there should be more active participation by the county board members.

Mr. Van Mill stated that they do have two county board members on the Regional Planning Commission. Perhaps, they could give an update periodically at one of the committees to inform them of what is going on. All the agendas of the Regional Planning Commission go out in advance of the meetings. They have always encouraged more participation from the county board. They welcome it.

Ms. Bernard stated that she wanted to note that the Regional Planning Commission meets at night.

7. Old Business

8. New Business

9. Adjournment

A motion to adjourn the meeting at 10:10 a.m. was made by Mr. Nixon and seconded by Mr. James. Motion carried.

Jim Vickery, Vice-Chairman
Joanne Langlois, Executive Coordinator