

APC MINUTES

June 19, 2024

Members present: John Reece, Abby Journay, Gary Friend, Jim Hufford, Steve Hernly, Coy Applegate, Don Calhoun, Jason Brewer

Members absent: Amy Alka, Adrian Moulton, Will Greer, Tom Kerns, Terry Alfrey

Legal Representation: Jason Welch

Staff Present: Debra Johnting, Area Planning Director, Recording Secretary

Others present: Ed Thornburg, Claudia Thornburg, Kelly Ballenger, Levi Doss, Martha Doss, Wayne Lumpkin

President Calhoun: It's after 7 o'clock so we will go ahead and call the hearing of the Area Planning Commission to order, the date is June 19, 2024. We'll have approval of the minutes from the May 22nd meeting. Any comments? Is there anything that needs to be changed or added?

J. Hufford: I will make a motion to accept the minutes as presented.

G. Friend: I second that.

President Calhoun: It's been moved and seconded that we accept the minutes as presented. All those in favor say aye. Aye. All those opposed no. Motion passes. First on the agenda is APC2024-15-Z, Kelly Ballenger. Would you like to come up? This was tabled at our last meeting and he's got us some more information so we'll go from there.

G. Friend: Did you bring us any more information?

K. Ballenger: Yeah, I gave her the information.

D. Johnting: Business overview and some pictures in the packet.

K. Ballenger: And the pictures are what you'll see from the road that's facing towards where the zoning is and the cars will be. And it's almost, that's all tree line covered.

G. Friend: I guess for me it doesn't answer any of the questions. What I was getting at is how are you going to control wasteful runoff? How are you going to control 100-year rainfall and the fluids that can be on your property? Where are they going to go and how are you going to make sure that you're not...?

K. Ballenger: If we drain everything that comes on the property, you shouldn't have that issue.

G. Friend: And how are we supposed to know that's going on? You're just going to do it.

K. Ballenger: Yes, it's a trust. I mean you have to have trust in something.

G. Friend: Sure, that's true.

K. Ballenger: I mean my thing is you know that everybody around us that has junk yards and are buying right now are in their 80s and 90s. There's nobody to take over once these guys are gone. Then, where do the cars go, they get stacked up. They get left in town, the county, the town gets on them. They take them for free. People don't make no money. And that's what I do. I mean, I give people a fair amount of money for cars where they can actually take that money and put down on something to drive until they need something. It's not only just for that, I mean it's for my part of the community too. I mean, I help, you know, I've donated hundreds of cars to the fire department that's probably saved thousands of lives. I mean, it's not all about, you know.

G. Friend: Like I said before, I like your presentation and you as a person. My struggle is taking five acres into M-2.

K. Ballenger: I started this when I was, you know, I started buying cars when I was 13 years old.

G. Friend: I know. You're here because you got in trouble from the state of Indiana.

K. Ballenger: Well, I didn't get in trouble with them. They just told me I had to do something.

G. Friend: Okay.

K. Ballenger: I'm not in trouble.

G. Friend: You're here because the state of Indiana, you're in violation.

K. Ballenger: No, they didn't say that either. My thing is to buy and disassemble cars without having to turn the title work in and all the hoopty, I have to be salvage licensed. They don't even, Indiana don't even call to have the be zoned to have a salvage license. As long as the zoning writes off that you can have it, that's all they have to have. You don't have to actually be zoned. But she said Randolph County requires you to be zoned.

G. Friend: But we're not abnormal. It's not something another county wouldn't want. I struggle, there has to be another remedy out there than just turning some Ag-Intensive land over to what would be a junk yard.

K. Ballenger: I mean if I could go rent ground somewhere, but then that takes away from me being able to give a reasonable amount of money to somebody. That you know, people in Indianapolis doing everybody you know, they're giving \$150.00 for a car and they're turning a major profit. When I'm making pennies on the dollar just to help somebody out. You know, I can, you know, I can do that. I could go and just completely destroy somebody and they have no money to live on. But that's not what I'm into. I'm into helping everybody.

G. Friend: What I'm saying is that there's other remedies for you to get in compliance with state of Indiana. Other than us turning ag-intensive ground into M-2.

K. Ballenger: But I mean I bought the ground to have to do what I want to do with it.

G. Friend: But you bought the ground as an Ag-Intensive ground.

K. Ballenger: Yeah.

G. Friend: You didn't buy M-2 ground.

K. Ballenger: Yeah.

G. Friend: And you're asking us to go there so you can run a salvage yard and I don't see in your salvage yard, in your report, unless I haven't looked close enough. But what's the protection for all of your neighbors? What's the protection if you don't get stuff reclaimed right? If you do get more water than you could handle, what is? What about the people? Are they going to be affected down at Camp Modoc?

K. Ballenger: No.

G. Friend: But how? How do you know? How do you know that?

K. Ballenger: Because I'm going to do everything in my power to keep it from happening.

G. Friend: I don't discredit you at all. But how do you know that cannot happen? You don't even know from the survey what your watershed is every year.

K. Ballenger: I don't know.

G. Friend: You're not ready for this. You don't know for, for the people, I mean this is more than just you running a good sound business and you being a nice person, and I believe you are. This is more about the future. Who replaces you and how that land goes from here? So, I'm having a hard time thinking that just so you can get compliance from the state of Indiana. We need to turn over land to M-2 which opens us up to any kind of industrial situation down there. When there are other remedies as you're agreeing to, for you to do to keep your business running.

K. Ballenger: Yes

G. Friend: Well that's, I can't go to M-2 when you have other options other than turning that farmland over without any plan at all. On how you're really going to do it, how you're really going to stay compliant. I mean, you may get there and you probably will someday. But you are not there yet in my opinion and for those reasons and for that reason I'm not in favor of this personally. But I digress now, so I will let anybody else talk about here because I have said what I think. But you have my reasons.

K. Ballenger: I believe that if I was going to have those issues I'd have had them years ago. I haven't had none. I'm third generation buying cars. And we've never had no issues before. We've been since '72 and we've never had no issues with the state of Indiana or Randolph County. That's what I'm saying. You have to have faith in me that you know I'm going to do what I'm supposed to do.

G. Friend: You're going to M-2. You owe us more. You owe us more than just a verbal plan.

K. Ballenger: Yeah.

G. Friend: You owe us how it's going to be done, and how it's going to be guaranteed that it's done. We don't have that right now. So anyway, I told you'd I'd stop talking.

President Calhoun: Is there anybody else on the Board who has any questions or comments? Okay, if somebody from the audience would like to come up and make a comment you're welcome to come up. Just a second. You need to state your name and your address and then talk.

W. Lumpkin: Wayne Lumpkin, 8817 West 1050 South. In regard to Camp Modoc, it sets higher, it. None of his ground drains even towards Camp Modoc. His ground drains on my property. I got cattle have cattle up right there drinking, they drink right there. And we've got grass waterways. It's about four miles, correct. And absolutely no problems. And as far as, you know, we didn't have any problems zoning the solar panels and you know those, there's way more ground that they are going to disturb. I mean when all of a sudden you know you can't mix topsoil and never get that topsoil back, the top soil won't be, it won't be ever mixed. And so it would be just a fallible, as the day they started when he quits and.

K. Ballenger: And actually, some of the land that we had 2,500 cars on at one time. Wayne farms it now and yields better than any crop he has. And he can guarantee it.

W. Lumpkin: That surprised me. You know the, you know, I'd have thought.

K. Ballenger: That started in 1972 when the first car went on that property.

W. Lumpkin: And there's no there was no complaints from any of the neighbors and everybody from here to Muncie knows Kelly. And if you know him, you want to be. We wouldn't be here if we didn't know him. I mean, these guys got more friends. For every friend I've got he's got a hundred, and that goes from, I would say that about anybody. And he'll do anything. You know, I realize that isn't the issue. You know who he is, but it seems nuts. When I know how hard he works, I know how hard he did to start a business here and they changed the rules, but we got to be certified from the state and that the only thing holding us back is the zoning now. I just know how... These guys, and it's a multiple generation thing but the West brothers have always given in any part to anybody for a fraction of the dollar. And that's just the way they do it. You know we have it with, you know, we was concerned when they when they when they zoned that landfill on top of the gravel pit, we was concerned about that. But that doesn't seem to be much difference but we're drinking that water now, but there's nothing comes across the road that is ever harmful. And you know, not far from here. Not far from us, you know Jack and Tina Pemberton. They used to run the Blue Moon down in Losantville when it was good. He's doing the same thing in Tennessee and he didn't go there for that purpose, but he started the same business Kelly's got, and he's going gangbusters down there. And I'm just hate to see that Kelly had to move to do that. I just know who he is in the community whose family is in the community. I just don't know what the problem is, I

just don't. In my opinion it's not environmental. The solar panels destroy that soil way more than Kelly will ever destroy that soil.

K. Ballenger: And that's something that never goes back to. I mean, 36 was beautiful til then. I mean absolutely. I love driving that way just because it was beautiful. Now it just. I just turn off. I go down State Road 1 now, to Winchester because I hate seeing the solar panels down through there. I mean all those thousands and thousands of acres. It's just... It's never going to be the same again. And I've lived here since I've been 11 months old. I moved next door to where I grewed up. I worked for Wayne was 12 years, old start paying taxes, cleaning the ferret house crates. I mean. You know, I'd buy cars when I was a kid and I'd ride a bicycle to buy them and my brother, if I couldn't get my brother to get them for me, I'd take a tractor and haul them home. I mean, it's in my blood. It is. You know a buddy of mine. Bill and Sherry Kim. It hits deeper to me than just something somebody started, you know.

J. Hufford: You got one here on that on your operation that all hazardous material will be drained from the vehicles and placed in appropriate containers and disposed of according to the law. Now, will that be done in a building or will be done out on the ground?

K. Ballenger: Well, I actually went and talked to several other yards and they actually do theirs out of a building. They don't even have them in lean-tos and EPA agrees with that. The drain pans go underneath. Cars go on top. They drain in. As soon as they're drained, everything's capped off. And then I bought big dumpsters, enclosed dumpsters from Best Way. That they actually use it like Walmart to haul, you know, nasty food, they don't leak. I mean, that's what they used them for. And then that's what I am going to store all the oil in and everything in. I'm trying to do whatever I need to do.

President Calhoun: When you store that oil, somebody come and pick it up?

K. Ballenger: Yes, J&R trucking. They pick up oil, gas and some of the gas we actually burn in our vehicles if it's good. I bought a brand-new gas truck just to burn the fuel in because if I tear it up, then at least the warranty's going to cover it. But J&R takes it that's what they heat their shop in Muncie. They actually own the old GW Pierce place too. They buy all of it. Where I work at Prairie Farms, I'm over all their drivers there and all their transportation. And all of our oil goes to the same place there. And you know that's working with food product. You know, I and I've never been harassed by a multimillion-dollar company. The way I dispose of a product off their property and I would I do the same on my own.

G. Friend: Do you keep a chain of custody log for the fluids?

K. Ballenger: I can. I never have.

G. Friend: Do you right now?

K. Ballenger: I have not. Because right now I can dispose of them with all the fluids in them.

G. Friend: I mean, when you take the fluids out, but you can keep the chain of custody log where all of those fluids go?

K. Ballenger: And I don't because I don't actually drain them now.

G. Friend: Oh, okay, I thought you did.

K. Ballenger: Yeah, I can until I disassemble the vehicle completely I don't have to keep the vehicle, I mean, I don't have to drain it because they drain it there. They have the station, like I was telling you, and they do all the same stuff that I will do. But once I start disassembling, yes, I will have to have a and that's what do, I will sell it to them as a recycled material and he gives me, you know, like \$100 for a 500-gallon tank of oil, which isn't much, but it's something you're getting more out of the vehicle. And then like if the only thing that wouldn't be recorded is the pickup truck that I run the fuel in. But any fuel that smells bad or anything, it goes into the oil. And it just goes and disposes and antifreeze the same way. Good antifreeze. I save it because we work on people's vehicles for, you know, trying to help the community. I mean we're always, you know, you know somebody, well, last week, a farmer's bailer caught on fire and he made it to my driveway. Brand new bailer. What do you think, \$70,000 for a brand new bailer. A piece broke off, he pulled it in there and put the fire out. I welded a brand new piece on it on Sunday at 8:00 o'clock at night for free. Just so he could go finish hay. So, I mean, it's not that, you know, I want to do this to be rich and be you know the man or whatever. I mean it. It hits me. Because my grandpa did this. You know my dad did it. You know, this isn't what I'm into. This is my hobby. This is my and you know, shouldn't get emotional over a damn junkyard. But I said it's a something that I'm really good at.

J. Brewer: How often are the fluids picked up?

K. Ballenger: Like right now I'm not. We're not, with me being at Shores cleaning up and I've hauled over 30 semi loads out of Shores. I haven't been buying much. So, like right now I've been averaging like twelve cars a month. Which it's hard to go scrap his stuff and mine at the same time. But if I'm really running good. Twice, oh, twice every three months or something and it's not a whole lot. I mean we got four quarts, five quarts per car. Most of the cars you buy now, you know Cash for Clunkers killed all the old stuff. I mean, you're looking at 4-cylinders, 6-cylinders, you have four or five quarts, and then a 500-gallon tank. It takes a lot of a lot of cars to fill a 500 gallon tank up. And you have seen this gas, you know, most that gas is reused. So, most people when they break are driving. You don't buy a lot of cars that's sitting in the ditch no more. Same way you know. When scrap metal hit \$400.00 a ton in '05. That's where the, you know all the stuff sitting in the weeds left. Every farm in America junked everything they had. So, I mean, so you have most of the stuff you use as your fuel. Then you use a lot of it in trucks now. And so yeah, that's why I bought a gas truck, because I just thought it would be silly to dump good fuel in a in a heater for somebody else. But you know I can, when gas is \$4.00 a gallon, I might as well use it for myself. And luckily, I've never blown my truck up yet, so. It's still running. No, I guess it's different than like I said, just trying to. Just trying to be a. It's something that really means something to me and

you know, Gene Shore, I don't know if you know Gene Shore. I mean. Multi-millionaire and you know he's been there since, I guess, 80 years he said the other day with that building has been there and I hand him cash for what I'm junking for him. He don't even count it. I mean, he trusts me that much that I'm going to treat him right that he don't even maybe like, say, you know, Bill and Sherry, they can, you know, Levi Doss. He can. Whenever I got behind at Willie's, I had a whole bunch of cars piled up, and I had to get rid of, just to get some of my money flow going back. Levi came and drove for me. All I did was load cars and he would haul them in and mom and dad would show up and they would haul a load in and I just sit there and just keep sending them and you know, he came to support me, you know, said, you know. And I can have 100 people here tomorrow. You know, there's a lot of people that really care about me and I think that's why it's so emotional for me.

President Calhoun: I don't know that anybody here is doubting your own ability and all that. The environmental issue is what is the concern.

K. Ballenger: You know, I talked to an EPA guy the other day and he told me he said, you know, you'll get more if you run your salvage yard correctly, like you're supposed to, which that's what I plan on doing. I'm going to do it like I'm supposed to because I don't want to be in trouble. I don't have the money to pay fines. So, it's either you do your job or, you need to stop. But that EPA guy said he has more oil spills on a construction site than a junkyard will, because when you blow a hydraulic hose at a construction site you're not ready for it. So, where's that 30 gallons of hydraulic fluid go? Straight in the ground. Farmers the same way. Wayne knows it, you'd be going across the field blow hydraulic hose next thing you know your machine is not working behind you. Where'd that 30 gallons of fluid go? And how do you clean it up? You don't. You just hope for the best. And go, I mean, he said, you know, 100 pieces of equipment on a job site will dump more pollutant in the ground than what my yard will if I treat it right. And then, if you're going to do that, you might as well put something around on everybody that has a construction site, you know, put a limit to what they can do and not do. Tar on the road is the same way, put that tar on the road, water. Where's all that chemical go? In the ditch lines? So, I said I'm not trying to be rude and nothing. But I just. You know, I have to sell myself. Because you have to be able to trust me, I said. I don't know you. You don't know me. You know, Levi said you were a good guy. You know, I have to take his word for it. And you know, I have to sell myself to you. You got to trust that I'm going to come in here and do what I'm supposed to do. And if you come and check on me. It's going to be right.

G. Friend: It's not you that's the problem. I've said that more than once and I want you to know that. It's not you that I have a problem with. You're not ready to be a salvage yard. You're just not there in my opinion. I'm one on this Board and when the vote comes you'll see what everybody's opinion is. If you get a non-favorable, you still come before the County Commissioners, all three of us.

K. Ballenger: Yeah.

G. Friend: You are not ready. There are other remedies for you to continue your operation and your business.

K. Ballenger: Don't know what remedies that would be.

G. Friend: I don't know either but that's up to you.

K. Ballenger: Because every role I do is what they require from the State of Indiana. How I get rid of my fluid, how I set it up. It's all.

G. Friend: Like I said, it's not you. You're asking this Board to send a favorable recommendation to the County Commissioners to turn your property over to an M-2 zone, industrial. And that's going to take scrutiny as to why? And are you ready? Is the area ready? Being a very good person as I believe you are is nice and it's great. That's not what's going to decide this for me. What's going to decide it for me is do I believe that we need another salvage yard in Randolph County? Under the circumstances you're bringing it to us at and I personally do not. I believe you'll have to find other remedies. I also believe that you're only here because of the State of Indiana.

K. Ballenger: Well, yeah, because they change the rules all the time. I mean, whenever I was, five years ago, it was. I had to have an LLC.

G. Friend: I don't understand. You're saying we have to go to an M-2 from Ag-Intensive just so you could continue to stay in business and I would wonder how you got from there to here? Where are all the steps in between that you could do or could have done. Is it because you don't have a dealer's license? Did the State of Indiana didn't like you trading titles? I don't know exactly for sure why you're here, but what you're asking Randolph County to do is just turn land over to M-2 industrial zoning. That's a big ask. And it's bigger than just being a nice guy. It's a nice guy that has an absolute ironclad plan and you don't have that right now, Kelly. In my opinion.

J. Hufford: Is that land now, is it being used or before with your business stuff? Has that been a scrap yard or what was it used for?

K. Ballenger: Well, we do, we've got cars there, But it's never been used as a scrap yard. So now my grandpa's property which still has cars on it. And has since '72.

J. Hufford: Now that's not part of this?

K. Ballenger: No, it's not part of that. It was grandfathered in years ago. I mean they fought that through court years ago. But I want to do something myself and I have to use his grandfathered law to get it done. So. In '72 when he started, you guys were probably still in high school.

W. Lumpkin: I just don't understand it.

K. Ballenger: And one thing I don't understand either is Willy Moore he carried a salvage license with an agricultural land. So, somebody had to sign off for it. And that's why I say though, and that's all I have to have is a sign off that says that I'm allowed to acquire a salvage license.

W. Lumpkin: I just don't understand the difference between him wanting to start a business down here. We're in the south part of the county, but, I think you know, I would hope you guys would

rezone agricultural lands. And I'm sure you're probably do up around Winchester for industry, but it disappoints me when I go up and down 27 and I see Portland and I see Bluffton and I see all the industry and then I come down to Winchester and what the heck? Is it because we're doing things like this? I don't know. I don't know. But it did.

G. Friend: You know, a lot of times in your scenario there and you buy the land, get the zone before they do any of this. You're asking for us to catch up to you. You're not in compliance. You're bringing in a scenario that's totally different. Where, they buy the land, get it zoned, and then build.

W. Lumpkin: Well, I mean you can.

G. Friend: I don't want to argue with you guys, I mean. I just know where I'm at and you can't change my mind right now so.

A. Journey: I think I'm confused, I guess. Because in last meeting, I'm thinking you're not actually doing the things that you will be doing.

K. Ballenger: Yeah, we don't do a lot on that property, no.

A. Journey: So, you're just storing cars now and then you. That's what you're doing now?

K. Ballenger: Yes.

A. Journey: Nothing else?

K. Ballenger: No.

A. Journey: And then once you, if you were to get this zoning and you get your.

K. Ballenger: Salvage license.

A. Journey: Then you would.

K. Ballenger: Then you can, you can. Yes.

A. Journey: Then you would be starting the business then.

K. Ballenger: Yes, right now.

A. Journey: You're not actually doing it now?

K. Ballenger: No. Right now, it's more of a storage space, because you're not. I said I'm I did like. That I do more at other people's places clean up, as I do at my house.

A. Journey: So, then how did you get here? What, did you go to the state and say you wanted to do this?

K. Ballenger: No, they called me once I did my LLC, my business. I went to a lawyer, filed all that paperwork because to sell the cars then and to sell converters, you had to have a license, a LLC license or something. But you know. Thieves and all that ruined that for everybody, cause they were

stealing in them, and then they made new laws to save people from stealing them. So I did that to go in compliance with so I could sell my stuff. And then the new rules came up. Now, you have to have a salvage license to disassemble and part out all major components of the vehicle.

A. Journey: And you're doing that now?

K. Ballenger: No, not yet. But if I could. I can keep going now. Selling whole vehicles. And not taking them apart. But, I wasn't taking that step because if I sell the converters, I make more money. If I sell the engine, I make more money. If I sell the you know the frame I make more money. I'm going to try to make. Yeah.

A. Journey: That part I understand, I was trying to figure out what you're actually doing now.

K. Ballenger: They're just sitting there.

A. Journey: And how the state became involved. What brought you here? So, basically you are trying to develop your business and leave the next step of the?

K. Ballenger: Yes, we're not disassembling as of right now.

A. Journey: And then, how do you? What is your plan to stay in compliance environmentally? Which is the collection of the fluids?

K. Ballenger: I'm going to collect, I'm going to make sure I have all the drains, drainage buckets set up. You know the stand set up. You know, a building set up or...

A. Journey: We're asking like your plan in writing.

K. Ballenger: Yeah. That's what I gave her. There's a business plan.

A. Journey: I saw it, I just didn't see the actual formal part of it about collecting.

G. Friend: Right.

J. Hufford: When you disassemble these cars do you have a place where you're storing the parts?

K. Ballenger: Yes, they actually go in. They actually go in dumpsters. And in one of those pictures you can see one of the dumpsters sitting there and I use dumpsters now, I've got big enough where I can afford dumpsters and big trucks.

J. Hufford: So, you're not disassembling like in some salvage yards where you have where you physically store fenders and store that store.

K. Ballenger: Yeah. No, no, no, no, no, no. No, what I take out is, I will take like the cast motors I put in one pile because let's say they're \$230 a ton per cast motors. Aluminum motors are \$450 a ton. So, I will separate those and after that if I leave them motors in there, I'm losing all that money. Just because they're worth so much more money, if I can disassemble it. You know that's where I've

got to go to that next step to be able to do that I have to be able to go. To be able to make the money that, and I think if I can do that I can afford to pay people better.

J. Brewer: To do the next step, will someone have to come in approve that? Look it over?

K. Ballenger: Oh yeah, this is a drop in the bucket compared to what the state is going to do to me. I mean the state, they're going to have to, you're going to have to come out and check it, make sure you have pictures of where they're going to be stored, what they're going to be done, background checks, EPA checks, I mean, going up to you guys is going to be nothing compared to what it's going to be whenever they start going through me like a fine tooth comb and that's not saying they're going to say hey you, it's yours.

A. Journey: How do we how hold current operations like that in compliance? Is there a normal process that we do that?

G. Friend: Not that I'm aware of. I don't know right now other than a complaint goes in. You'd have to investigate to get it up in the courts.

J. Welch: Probably on the state level, if anyone is monitoring it it's likely to on the state level.

A. Journey: I was just thinking like how does he like satisfy those with concerns. Or like he goes to the County Commissioners, how would he satisfy those concerns? But we don't at the county level, we don't have a formal process it would up to the state and then?

J. Welch: The state would be the person that's going to come inspect him and that would be something that is part of the presentation that would probably be valuable for you to have would be the inspection process. What's going to be required of you if you do open the business? What steps you're going to take for each vehicle to satisfy the environmental regulations or whatever regulations they're going to be put on you by the state licensing. That's what they want to know. Because right now they don't know. They just know good guy saying that. Hey, I want to do this.

K. Ballenger: Yeah. That's what I have to do too is, you know, I have the paperwork for the state. And you know, then that's what they say. You know it's got to go through, once I fill that out, it's got to go to them and then they're going to bring all kinds of stuff.

J. Welch: It might be helpful to you that some people will come before the Board will hire counsel or someone to help them or someone who inspects vehicles who comes with them, who can put on a presentation to the board to tell them the kind of things they're going to want to know, because this is a specialized area and it's not something anybody does every day. So a lot of people that come in and have some help with their presentation. And that could benefit you possibly. That's just a suggestion from me.

A. Journey: Well, and I would love to support you but I don't understand the whole process of how the compliance works and I feel like what he's saying is setting it up for the future. It's not. It is about you. But it is also about the future of that area that's zoned into like all these things are

possible to happen on M-2. And that's kind of what I'm reading and like looking at all that could happen once it's zoned that. So, I would totally be in support of you. I'm thinking like future as well. What does that look like? And to make sure you're in compliance. What is that process moving forward? I feel like that's my responsibility here? So, it's not that I wouldn't want to support you in your business and your endeavors. But looking at like the big picture of it all. So, I think that's kind of what I was looking for when you came back was something much more detailed about the actual plan of how you were to go about doing it and maybe even you know conceptual drawings or something. Or having something you know from an expert that could talk to a lay person and explain that because I don't see that here.

K. Ballenger: It's hard to find an expert in what I do. I am the expert at it. So, you know, I mean if. I mean, just to go hire a lawyer to come here and tell you guys how to do what I do is I mean. That's like hiring you saying hey, can you tell them what I do?

J. Welch: Well, they can help you present better. It would be helpful to the Board. It is helpful. We've had Dairy farmers bringing attorneys in who are able to look at what the regulations are, look at what the Board has to satisfy in order to approve your permit. So, there are some things that could potentially be helpful. What I've seen. I've been doing this for 14 years, so I've seen a lot of people sit in your seat. And sometimes it is helpful to have someone who's familiar with the regulations help you with the presentation.

K. Ballenger: Like whenever my lawyer set up all my LLC and went through everything. Like I said, the rules that are now, didn't apply when I found my LLC. So, it's all you know it. Because she didn't, she didn't mention nothing about. You know, I gave it to her. So here. Whatever I need to do. Let's get it done. You're the lawyer. I'm paying you. You do it.

J. Welch: You know the other part of this, which hasn't been brought up tonight, but was brought up last time was, and there can be a commitment which could be signed by you. Yes, and that there is a change in ownership, a change in business. There can be an automatic reversion to Ag-Intensive zoning, but we haven't heard much about that tonight. We haven't seen that's been signed yet, so that's something else that you know...

K. Ballenger: And I said, I totally agree with that.

J. Hufford: We haven't gotten around to that part yet. You reminded me.

K. Ballenger: Yeah, I think it's the.

D. Johnting: Kelly, I have a question. We've talked about this and I think other people have kind of gone around this tonight. So, you're here because there was a complaint, or because you want to change what you do? And if there was a complaint, is it because you got blindsided by rules changes, or because you were doing something you didn't have a license to do?

K. Ballenger: That's what I got. I got blindsided by the rule change.

D. Johnting: There was a rule change and someone else knew it and you didn't know it. And you got turned in because you were doing, what?

K. Ballenger: Yeah. Because that's what she said that, you know, that I wasn't in trouble.

D. Johnting: What were you doing that you weren't supposed to be doing?

K. Ballenger: Advertising on the Internet.

D. Johnting: You weren't supposed to be advertising?

K. Ballenger: That's what they said.

D. Johnting: So, it wasn't what you were doing with your business?

K. Ballenger: No, was advertisement. I can't advertise. That was her rule. I had to pull all my advertisements down.

D. Johnting: So, it's not that you were taking fluids out or cutting cars apart or anything like that?

K. Ballenger: No, I can't advertise. Like I said, I can go buy all the equipment I want and buy all the cars I want. I can junk all I want. I can't advertise. That's their rule. I can't advertise.

D. Johnting: And that's what someone turned you in for?

K. Ballenger: Yeah, because I was buying more cars than they were, I guess. Competition. That's what she said. It's totally competition.

D. Johnting: So, they knew the rules and they are in compliance so they can advertise?

K. Ballenger: They can advertise That's the only requirement I had.

D. Johnting: How did they know that you didn't have your salvage license?

K. Ballenger: I don't know, just competition. Probably called like, hey, who's this guy? What is he doing? Why is he advertising? Let's check on him and see what he's doing. I have 30 days to take my advertisements down.

D. Johnting: You have buckets to drain things and the bins. You have those because you do do that?

K. Ballenger: No, I have them because I have before drained stuff. If I sell a motor to somebody, I drain the fluid out of it.

D. Johnting: So, that's something you're not supposed to do right now, or you are allowed to right now?

K. Ballenger: I can do right now. I can do that. I mean, I still like to still buy a car with the title and everything. The salvage license, all it does is, where you don't have to have a title for the vehicle's

that you scrap. I can still buy cars. I could go buy a car today and take it to the scrap yard with the title. They can't do anything to me.

D. Johnting: You can drain the fluid out even though you're not a salvage?

K. Ballenger: Yeah, I can drain the fluids.

D. Johnting: You're not being watched by the state on that?

K. Ballenger: No, I can. I can drain the fluids. I can take the motor out and sell the motor to him. I mean they can't stop me from doing none of that. It's having the salvage license.

D. Johnting: Their oversight to protect the ground from you? You could drain it out on the ground and they're not watching your log and seeing, hey, you've done this many cars, you should have this much oil?

K. Ballenger: Yeah. And you have to keep track of that stuff. Like the title. Like the what you sell. You have to keep track of that. Because the state can come in anytime to your house in the middle of the night and pull your records of what you sold and bought.

D. Johnting: But what about the fluids?

K. Ballenger: The fluids, I'm not sure what they do because. They all the other scrap yards never really told me that like that. I went and talked to a lot of them. They just said they just recycle them. Said you got to keep anything? And they said no.

D. Johnting: So, is there anyone at the state that will, you said you had to go through like a meat grinder at the state?

K. Ballenger: Yes. Yeah, they said it's very hard.

D. Johnting: Do you have that information where you can get it and bring it in?

K. Ballenger: Yeah, I'd just have to call the lady.

D. Johnting: Is it forms? Is it things you have to build or things you have to buy? Which is I think what we need.

K. Ballenger: I have to have an office built. I have to have a parking lot. That's a rule. And then you know, they have to have a proper area zone to store stuff.

D. Johnting: Which is what you're doing here.

K. Ballenger: Which is what I am doing here. Then I got to go through background checks. Insurance bonded.

D. Johnting: Well, I had to do those things to become a notary and I wouldn't call that a meat-grinder.

K. Ballenger: They come out and check the property, make sure that nothing's going to get over on this guy or this guy. Or this guy.

D. Johnting: How did they know that? What do they do? Do they check it?

K. Ballenger: I've never had them, never had them checked. I mean, I never had one because I'm not that far to have a check because I'm not there.

D. Johnting: Ed, for five acres would we need a drainage plan?

E. Thornburg: Yes. Now, one question. Have you got to meet the folks at IDEM yet?

K. Ballenger: The who?

E. Thornburg: Indiana Department of Environmental Management. Wonderful folks. They govern your life as far as any kind of wastewater discharge or anything like that. The volume you're talking about may be below what they're interested in, but that's something you'll have to find out. Forty thousand square foot for Randolph County is the point where you have to have a pollution control plan, you know, erosion control plan basically amounts to retention basin and so you don't discharge back to where they came on. That's usually associated with roof and parking lot. Hard surface, anything that water won't soak through counts towards that plan, that's not a terrible big deal breaker for a guy. But it is something, you'll get to meet an architect before you're done with this, because I can't build one for you.

K. Ballenger: I will never use five acres. Ever.

E. Thornburg: You're talking five acres for your parking area, basically.

K. Ballenger: But yeah, I'll never used five acres, but I figured that was a pretty simple number to, you know?

E. Thornburg: Five acres is giving you room to operate. I might have done some salvage work over the years. I might know how that works. You've got some challenges to get through there. If you've got a pre-existing yard that you could walk into and take over. It would be to your advantage. I realize you don't have one in your house.

K. Ballenger: I don't have it in my house, but I have one I have access to.

E. Thornburg: You may want to take advantage of that.

K. Ballenger: So, what do I do about that on the zoning?

E. Thornburg: It's a preexisting one?

D. Johnting: This is probably grandfathered if it was before the ordinance.

K. Ballenger: It is. It's still is. It was 1972 when it started. I pay the taxes on it. And I paid. I paid twice as much on taxes than my grandma paid for it. And I've been paying it for 20 years.

G. Friend: Early on, I mentioned there are other remedies to get where you need to get and you just mentioned one.

K. Ballenger: Yeah. I can do that. I'll be happy to.

G. Friend: And also, we mentioned that you weren't disassembling vehicles there and you currently are disassembling and selling, in some way or another or you wouldn't have gotten in trouble advertising.

K. Ballenger: No, the advertising is buying. I'm not advertising to sell stuff.

G. Friend: Because I've seen these pictures here, it looks like cars are littered around and you don't do any disassembling and selling right now of any kind?

K. Ballenger: If you look at the other pictures.

G. Friend: Do you do any disassembling?

K. Ballenger: No.

G. Friend: Of any kind whatsoever?

K. Ballenger: No.

G. Friend: You don't sell a single part off a car?

K. Ballenger: I do it if I some neighbor needs it, yes. If someone needs it, yes. But I don't disassemble them to sell the major components to the recycling. If somebody needs a motor, I'm going to help them out. And I mean, and a lot of times we'll do a car for a guy. And I said, oh, I got a motor out back. I'm going to go get it. And I'll take the motor out. And I put it in the vehicle for somebody. And if it was just for parts.

G. Friend: I think our lawyer gave you some of the best advice you need and that's getting some legal counsel. This is a jungle you're about ready to walk into and you're not ready, Kelly, to do this. And having County Commissioners buy off on it. In my opinion, at least certainly not this one to just sign away and say here you go, go to M-2, good luck. You're not there. It's not you. You're just not there. And like Abby when I asked about the plan, I got the information that was sent out to us. But it wasn't giving me what we asked for last time. You're just not there. You're not ready in my opinion to ask the Commissioners of Randolph County just to sign over five acres to M-2. And M-2 is going to be a junk yard, by the worst terms. A salvage yard by the best. You need a lawyer to even begin to get you through this, to get through it right. I knew when Ed asked about IDEM, to know even know who IDEM is, oh my gosh. You will. And I don't want to be disrespectful to you. I think you're a nice guy. I think you're a hardworking man that wants to do it, but there are rules for protection for other parcels of this county and people that we have to take into consideration.

K. Ballenger: So, what do I need to do to get the other signed off on. The other property?

G. Friend: I don't know. You need a lawyer. Wouldn't that be right, I mean.

J. Welch: That's what he needs to do. You need legal advice. I think that would be beneficial, but at least get a consultation with someone.

K. Ballenger: I mean, I wanted to do it at my house, but I could always have that one. It's already grandfathered in and already.

D. Johnting: That depends. Anything that's been out of use for a year is a discontinued use.

K. Ballenger: It's always been. It's always been. It's always had cars on it.

D. Johnting: It's got cars sitting on it doesn't mean it's in use.

K. Ballenger: Yeah, yeah. My uncle's always been down there paying for the last, probably.

J. Welch: I think it would be a good idea to talk with your counsel I think before you say anything else about any of it? Yeah.

K. Ballenger: I am not lying to you.

E. Thornburg: That doesn't mean you're lying about it. You just need to give the correct answers. And your attorney can help you.

K. Ballenger: So, I have to be dishonest?

E. Thornburg: No. There's a dozen ways to answer to give the same answer to a question. Ten of them will get you trouble.

G. Friend: Our attorney is giving you the two pieces of the best advice you've got tonight and you ought to listen.

K. Ballenger: Yeah.

President Calhoun: I think we all want to see you succeed with this. I really do, it's just. How you're going to get there? We want to make sure you're doing it right and you know, if this other property makes better sense, you know. Might be one way of looking at it, so.

D. Johnting: So, M-2 includes the scrap metal and junk salvage and storage, salvage yard, motor vehicle without vehicle crushing or shredding, and a lot of other things. That makes this property the highest zone that you can get. I think nuclear reactor falls into this although I think you're a little bit close to a residence. So, it's not the fact that you wouldn't do well with the M-2. But I mean, even before the dust could settle. People wake up in the morning and things are one way and by the end of the day their lives change. You say I can't do this anymore. And the sell it. And all of these things could be done there. Hopefully that doesn't happen, but it happens. The best laid plans.

President Calhoun: Do you have a copy of what can go on an M-2?

K. Ballenger: Yeah. Yeah.

President Calhoun: So that's what, you know. If you stop, if something happens to you and you quit and decide to sell, if we change it to M-2, any of these things could go in there.

D. Johnting: You can put a landfill in there.

President Calhoun: So that that's what we're all concerned about, I guess. And that's, we talked about signing the paper so it could revert back to the Ag-Limited. I think that's something that I think we'd all really like to see.

W. Lumpkin: Where do you get that paper?

J. Hufford: If we call for a vote and it gets turned down, it will be six months before he can return?

J. Welch: This is a recommendation, so that wouldn't happen. Once there's a vote, the recommendation goes to the Commissioners. So, once we have a vote on this, whether it's a favorable, unfavorable or no recommendation, if neither one gets seven votes, then that piece of paper that says the Area Planning Commission gives a unfavorable recommendation or a favorable. But the County Commissioners are going to have the final say on whether or not this happens.

J. Hufford: I didn't know the same rules applied like it does for the BZA.

D. Johnting: Generally, there's a time limit. Once you go here, no matter what they, once they vote, no matter what it is, you'll go to the Commissioners. Once they vote, if they turn it down. There's a time limit before you can come back and ask again.

G. Friend: Could you look that up and send it to the commissioners?

J. Welch: How long he has?

G. Friend: Yeah.

J. Welch: Three or six, but I don't want to guess?

D. Johnting: We've been through it before.

J. Welch: So, I guess, Kelly, you have an option here of going forward, withdrawing your petition, or I suppose you could requesting a continuance and they have to agree to put it off another month. So, those would be your three options right now. If you withdraw your petition, nothing happens. You go back to the drawing board and get your ducks in a row and you file again.

K. Ballenger: That's what I'll do.

J. Welch: You would have to make a request to withdraw your petition.

K. Ballenger: Withdraw.

President Calhoun: He's wanting to make a request to withdraw his petition. All those in favor say aye.

G. Friend: Is it a roll call?

D. Johnting: On the motion to withdraw, Gary Friend, yes. Jim Hufford, yes. Jason Brewer, yes. Coy Applegate, yes. Steve Hernly, yes.

K. Ballenger: I can reschedule something else.

J. Welch: They're voting right now, so you have to wait.

D. Johnting: John Reece, yes. Abby Journay, yes. Don Calhoun, yes. And Amy Alka, Adrian Moulton, Will Greer, Tom Kerns, and Terry Alfrey are absent. Motion approved to withdraw.

K. Ballenger: Thank you.

President Calhoun: Next is about the discussion of the solar amendment.

D. Johnting: I don't know that everyone has had long enough. I apologize, we just got this together. Then I didn't have time with the meeting last night to get the wording. And I was trying to get the minutes ready to get to Kelly so that I could call him and tell him to read them over and this is what they will be wanting to see tomorrow night. So I did tell him what you would expect. Anyway. So, if you want to read this over. Another thing that we might want to consider. Right now, solar is either the big solar fields that you see out in Ag. Only in Ag, not in residential or commercial. And residential solar that we envisioned on the rooftop and a half a dozen panels in someone's backyard. There is middle ground now for schools, businesses that could end up being half an acre in the middle of town, which was not really on our radar at the time. In fact, it's been four years and we've just now got requests for them. So, the cost for location permit is \$5 and it takes weeks to work with them. Not as intensive as the large solar fields, but more than just putting in 6 panels. And instead of having price per kW. On the other side of that, we charge a building permit for them as if it's a building, so when they are half an acre that gets pretty expensive. So, I'll have some more information on that for next month as well.

G. Friend: Is that going to be a change to the Unified Zoning Ordinance?

D. Johnting: It will be. Yes, a change to the Solar Ordinance which is part of the Unified Zoning Ordinance.

G. Friend: One question I had on one of the things you wrote. When you make a decision on an unfavorable to somebody's in your opinion, don't you think that ought to come to the Commissioners for verification?

D. Johnting: I'm sorry, are we talking the solar?

J. Welch: What would happen is on this, basically today is the public hearing, so we should probably at some point ask for public comment even though no one is here. Then announce that if it's continued to the next meeting then we would have public comment at the next meeting, because this has been published to have comment about this today.

G. Friend: Okay?

J. Welch: What would happen is if the Board makes a recommendation, then that recommendation would go to all of the all of the different municipalities and they would have to approve it, and if they have changes and they can send it back to us. So, it's a process to get a change made in the ordinance.

G. Friend: I understand.

D. Johnting: If we're if we're adding unfavorable, then we would probably have to keep working on it.

J. Hufford: No. Any changes does this process have to go through again and we send out to all the and things.

D. Johnting: At that point. But for what we do here, draft after draft or adding, I think we better take a look at the money.

J. Hufford: So, it's a long process.

J. Welch: Right. It's a process.

D. Johnting: Just because we have a very small amount and what I do right now. \$5 is for an accessory, which is what this would be? And we just kill them on the other side. I'd like for that not to be that way because eventually you've got. Sometimes it may work for us and sometimes it won't. I'd like realistic Area Planning permit and a realistic Building permit. Based on more realistic numbers than if they were building a house.

J. Hufford: We got this second draft here and it more or less goes from commercial to noncommercial. Should we have a different category name with different categories of that?

D. Johnting: I think so. Andy Fahl and Mike Wickersham stopped by a couple of weeks ago because they had heard about Baker School. Andy said other counties have a name for that middle size field, for schools and businesses.

J. Hufford: Yeah, that would be classified.

D. Johnting: That so it's more reasonable there. It's never going to be 40 acres. It's going to be more than the backyard and less than the Solar Farms, and it's going to be in town.

J. Hufford: Especially if it's going into a residential area or heavily commercial area. It should come before the Board anyway to make sure.

D. Johnting: And that's a possibility. We didn't want that, for the large solar fields. Solar panels do not have their own zoning. The zoning does not change. They are a permitted use in Ag-Intensive. Many people think that there is a zoning classification for everything and there is not. There's only five zones total and things fit in them or they don't. The solar panels are not that area, it's not

rezoned. It's not even an overlay district. It's permitted by right in Ag-Intensive. Residential to power a home is permitted by right. These are located in a residential zone, because that's where the schools are, but it's kind of deceptive to say that this is for a "residential use" when it obviously is not. It is just located in a residential zone.

J. Hufford: Now does the state have regulations on that or are they leaving it just for home rule?

D. Johnting: Home rule.

G. Friend: We're talking about 10 Kilowatt again, residence is 110.

D. Johnting: Yeah, I think so about.

G. Friend: I guess it depends on the size of the panels. Between commercial and residential as well.

D. Johnting: And we have an issue at Union City. Ed and I talked about this. These panels are barely off the ground, which also creates a water flow issue, too.

E. Thornburg: The project that Union City is doing right now. And they're actually, they're actually setting panels on the first section. They use an imperviable cloth mesh under the gravel layer they put down to be a weed barrier. Didn't have the heart to break it to them that the weeds are going to grow on top of that mesh in about three years. But that's okay. We designed we had the we engineered the storm water plan as if that was a tarp. Now, after some serious study on it, and I actually have a sample of material. They are making an interesting claim about how much water this thing will pass through. But it's on a layer of gravel which is impervious so it's got run off of that. None of these sites are going have run off issues. But yeah, these panels are going to be less than three feet above the ground, laying nearly flat. And they sit on a little metal stand, that they honestly set cement blocks on to hold down. I'm really anxious to go a quarter of mile east of these things after a big storm and get some solar panels. But they claim the stuff will with stand 100 mph wind. I'll be honest, I can't get my head around this thing. I don't know if it's the same style panels that these guys want to put back here in Lake Baker or not?

D. Johnting: We didn't stop these project in Union City because they are not near residential. They have been great to work with, and said please help us do this, we will do whatever you want us to. They've been very accommodating. The second group that came in is near residential and they pretty much said we know that you have a loophole. And we'd like to, we'd like to get in on that. But the school does not. Folks coming in said that, but Roland did not say that. He doesn't want to do that at all. They're stopping right now until we do this.

E. Thornburg: This is the same company that's trying to come in to Monroe Central also. They're, they want sites. They're right next to a railroad track. Now think about the rocks and debris. Again, we can't help somebody that doesn't help themselves.

G. Friend: You're on the record.

D. Johnting: And it's the difference like what we're talking about with Kelly tonight. We're dealing with one company that says Ed, Deb, tell us what we need to do? But you can't write your ordinance for nice guys.

E. Thornburg: One concern that I have for him, is when you do the clause where it automatically reverts back to a previous zoning when you quit using it. That makes that property worthless to sell. Because, say he gets it done, say he runs a good top shelf salvage yard for 20-25 years. Health problems get him like they do most of us in 45 or 30 years. Then, instead of being able to sell that to a neighbor who maybe would continue with that same business, oh wait a minute. I quit. I'd have to revert back to Ag. He's done all this work and now all he's done is exercise.

C. Applegate: How do you enforce that if they do sign something like that?

D. Johnting: It goes on their deed.

J. Welch: It would be recorded.

D. Johnting: It will come up in a title search.

J. Hufford: Can it be put in the deed that at M-2 it will only be used as a scrap yard? That way if it gets sold we don't have to worry about the next owner having to go through all of this again.

D. Johnting: But we had we had some places that rezone and say I absolutely don't want competition. If I leave this place, I'm taking the business somewhere else. I wanted it to revert back. You have the wedding venue said, no, I'm building this building, when I sell this, I want it to be a wedding venue and continue to be that. So, he may build this business up and decide I made all my money. I'm going to sell out and go to Florida, but you can't sell it as a junkyard.

G. Friend: One of the problems is he can operate a salvage yard, as well as many other things on an M-2. He's still under the auspice of a salvage yard doing anything he wants. There's nothing we can do. They can go on down there and say wait a minute, I'm selling parts. He's just so far away from being ready for this. Jason's right, he needs legal representation.

D. Johnting: He needs some unemotional attachment with this to help him. The things I heard. The parking lot and the office. Those are not meat grinder stuff. Everybody has to do a background check for something.

G. Friend: He needs to take the other remedies and learn his. He's doing a very he's doing salvage business, but he's not doing it according to state law, I would imagine. And it wouldn't hurt him to exercise a different option of grandfathered in land to learn this business with IDEM and all that because they're going to come and visit him. And it'll keep him from going totally completely broke. He doesn't have any real experience following the regulations. He doesn't even know them. That's why I asked for the plan. You sent that out what I read and I said, that's not a plan.

D. Johnting: I told him it was not what you all would be looking for.

C. Applegate: He sent out a plan, it was just not what we wanted.

D. Johnting: I told him before he came in that he did not answer the questions that everyone had last time.

G. Friend: I know Levi real well. He's from Ridgeville, I'm from Ridgeville. We played baseball together. What I don't know is the connection is the Assistant Deputy Auditor, how she fits in.

D. Johnting: They're neighbors.

S. Timmons: It's the Losantville connection.

G. Friend: That wouldn't change my mind anyway.

D. Johnting: I had a hard time getting straight answers.

G. Friend: I'm not sure we got all of them tonight.

President Calhoun: Do we need a motion to adjourn?

J. Reece: I've got something on the solar. It seems like once you establish guidelines and so forth, they come up with a new way of doing it and they're called sunflowers. They are just a mast that goes up and fans out like a sunflower, attracts the suns, fold up when they are done with it or before a storm. Then it goes away. It's not there all the time. Something new.

J. Hufford: Yes, I've seen those.

President Calhoun: So, we need to postpone the solar discussion.

G. Friend: I would like to make a motion to postpone the solar discussion.

President Calhoun: It's been moved and seconded. All those in favor say aye. Aye. All those opposed, no. Motion passes. I make a motion to adjourn.

G. Friend: I second.

President Calhoun: Thank you for coming everyone.

President Don Calhoun

Vice President Coy Applegate

Area Plan Director/Recording Secretary, Debra Johnting