FRANKLIN COUNTY PLANNING AND ZONING COMMISSION
FRANKLIN COUNTY GOVERNMENT CENTER
SECOND FLOOR COMMISSION CHAMBERS
400 EAST LOCUST STREET
UNION, MISSOURI 63084

TRANSCRIPT OF PROCEEDINGS
PUBLIC MEETING
MAY 16, 2017
(Commencing at 7:00 p.m.)

Reported by:
Patsy A. Hertweck, C. R.
Midwest Litigation Services
# INDEX

<table>
<thead>
<tr>
<th>PROCEEDINGS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Call to Order and Roll Call</td>
<td>5</td>
</tr>
<tr>
<td>Hearing Procedures by Ms. Eagan</td>
<td>6</td>
</tr>
<tr>
<td>Approval of Minutes (From April 18, 2017)</td>
<td>8</td>
</tr>
<tr>
<td>Communications and Visitor Comments</td>
<td>9</td>
</tr>
<tr>
<td>Old Business:</td>
<td></td>
</tr>
<tr>
<td>File No. 170045 - William M. Buell:</td>
<td></td>
</tr>
<tr>
<td>Presentation by Ms. Eagan</td>
<td>12</td>
</tr>
<tr>
<td>Discussion</td>
<td>15</td>
</tr>
<tr>
<td>Vote</td>
<td>24</td>
</tr>
<tr>
<td>Preliminary Plats:</td>
<td></td>
</tr>
<tr>
<td>File No. 170075 - Carla Theissen:</td>
<td></td>
</tr>
<tr>
<td>Postponed</td>
<td>24</td>
</tr>
<tr>
<td>Planning and Zoning Commission Forum</td>
<td>25</td>
</tr>
<tr>
<td>Planning Director's Report</td>
<td>25</td>
</tr>
<tr>
<td>Adjournment</td>
<td>26</td>
</tr>
<tr>
<td>Certificate of Reporter</td>
<td>27</td>
</tr>
<tr>
<td>IDENTIFICATION</td>
<td>DESCRIPTION</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------------------------------</td>
</tr>
<tr>
<td>COUNTY:</td>
<td></td>
</tr>
<tr>
<td>EXHIBIT A</td>
<td>Franklin County Unified Land Use Regulations</td>
</tr>
<tr>
<td>EXHIBIT B</td>
<td>Official Zoning Map</td>
</tr>
<tr>
<td>EXHIBIT C</td>
<td>Official Master Plan</td>
</tr>
<tr>
<td>EXHIBIT D</td>
<td>Case Files -- All Cases Heard</td>
</tr>
</tbody>
</table>

(All exhibits, if any, were retained by the Commission, and will not be attached hereto.)
APPEARANCES

BOARD OF PLANNING AND ZONING COMMISSION MEMBERS:

William Evans, Jr., Chairman
Jay Schultehenrich, Co-Chairman
Stanley Voss, Commissioner
Ray Cunio, Commissioner
Ron Williams, Commissioner
Dan Haire, Commissioner
Tom Tobben, Commissioner
Russell McCreary, Commissioner

PLANNING AND ZONING STAFF:

Ms. Scottie Eagan, Planning Director

LEGAL COUNSEL:

Mark Vincent, County Attorney

MIDWEST LITIGATION SERVICES:

By: Patsy A. Hertweck, C. R.
711 North Eleventh Street
St. Louis, Missouri 63101
(314) 644-2191
PROCEEDINGS

[MAY 16, 2017]

CHAIRMAN EVANS: I'd like to call to call to the Tuesday, May 16th meeting of the Franklin County Planning and Zoning Commission.

Scottie, would you please take roll.

MS. EAGAN: Bill Evans?

CHAIRMAN EVANS: Here.

MS. EAGAN: Jay Schultehenrich?

COMMISSIONER SCHULTEHENRICH: Here.

MS. EAGAN: Todd Boland?

COMMISSIONER BOLAND: [Not present.]

MS. EAGAN: Tim Reinhold?

COMMISSIONER REINHOLD: [Not present.]

MS. EAGAN: Ray Cunio?

COMMISSIONER CUNIO: Here.

MS. EAGAN: Bill McLaren?

COMMISSIONER McLAREN: [Not present.]

MS. EAGAN: Stan Voss?

COMMISSIONER VOSS: Here.

MS. EAGAN: Dan Haire?

COMMISSIONER HAIRE: Here.

MS. EAGAN: Russell McCreary?

COMMISSIONER McCREARY: Here.
MS. EAGAN: And, Ron Williams?

COMMISSIONER WILLIAMS: Here.

MS. EAGAN: Okay. We have a quorum.

CHAIRMAN EVANS: Thank you.

At this time, I will give the Planning and Zoning Commissioners the opportunity to declare an conflict, communication, and relationship they may have had that might influence their ability to consider today's issues impartially. [None]

If there's no declarations, Scottie, would you please give us the presentation of the meeting procedures and exhibits.

MS. EAGAN: Tonight's Planning Commission meeting is governed by the Franklin County Unified Land Use Regulations.

Some matters on the agenda may be for action by the Planning and Zoning Commission. These matters do not involve public hearings. Other matters on the agenda require public hearings under Missouri law.

If a matter involves a public hearing, all individuals who desire to testify will be given an opportunity to do so.

At this time, I would like to place into the record these Regulations as Exhibit A, the official Zoning Map as Exhibit B, the official Master Plan as Exhibit C, and
the case file for each case as Exhibit D for all the cases to be heard in the meeting.

[Thereupon, evidence was marked for identification and presented for the record as Exhibits A, B, C, and D.]

All Old Business items on the agenda will be covered first. Once the Old Business issues have been taken care of, each item of New Business will be opened.

As each case is opened, a staff report will first be read by the Planning and Zoning Department, followed by the Commissioners' questions for the staff. Then if anyone in the audience would like to speak or comment on a file that is part of the public hearing, they must first print their name on the sign-in sheet provided, and then be sworn in by the Chairman.

When it is your turn to speak, you will come to the front of the room to address the Commission and only the Commission, not anyone in the audience, with your comments. It is possible for the Planning Commission to decide to move a New Business issue to Old Business, and vote on it the same night.

At the conclusion of all questions, comments, and discussion concerning each case, the Planning Commission will proceed. Any final decision by the Planning and Zoning
Commission concerning conditional use permits may be appealed to the Board of Zoning Adjustment anytime within 90 days.

Applications for such an appeal may be acquired from the Department offices during normal business hours.

CHAIRMAN EVANS: Thank you.

All the Commissioners should have received a copy of the minutes from the April 18th minutes. If there are no corrections or additions, the Chair would entertain a motion to approve.

COMMISSIONER McCREARY: I make a motion to approve the minutes from April.

COMMISSIONER CUNIO: Second.

CHAIRMAN EVANS: We have a motion and a second to approve the April minutes. All in favor signify by saying aye.

COMMISSIONER VOSS: Aye.

COMMISSIONER CUNIO: Aye.

COMMISSIONER WILLIAMS: Aye.

CHAIRMAN EVANS: Aye.

COMMISSIONER HAIRE: Aye.

COMMISSIONER TOBBEN: Aye.

COMMISSIONER SCHULTEHENRICH: Aye.

COMMISSIONER McCREARY: Aye.

CHAIRMAN EVANS: Opposed? [None]
The minutes are approved.

Communications and Visitors Comments: Is there anyone present who wishes to address the Commission?

Will you please step forward. State your name and address and sign in, please.

And on communications and comments, we have a limit of three minutes.

[Thereupon, the witness was sworn.]

MS. WANDA OBERMAR: My name is Wanda Obermar, and I reside at 1515 Mill Hill Road in St. Clare, Missouri. And this has something to do with the Brush Creek debate that's being reviewed tonight.

First, I kind of wanted to know why we as on the road were never advised that this property was being rezoned as an RV park. That was a question I have never -- I didn't -- I wasn't advised. I never got anything by mail, and I don't know. Maybe that's not the procedure.

Having it rezoned to an RV park then, this gentleman, Mr. Buell, has decided he would like to have a eclipse party or eclipse group as an RV, and he -- at this time, we haven't really understood how many people he's planning on having.

We've lived on this rather nice quiet road for the last 50 years. And the road is not adequate for very heavy traffic at any time, and passing back and forth on
some of the curves is even worse.

And it sounded as if the event would be a one-time only event, which I don't have a problem with one time. But I do have a problem with the idea that he may be actually wanting to use this as a full-time event park. And I -- we don't know how many people are going to be using this park.

The noise level at this time, we can hear every train that comes from the east, and we can always hear them coming from all over. But the noise level that we hear even from St. Clare at the -- the horse arena, that's pretty -- it's pretty loud, and on some nights when the wind is blowing, it's extremely loud. Now, it's not disgusting, but it is there.

Now, when a group gets to a place as large as he's expecting and has bands and has loud noise, who's going do check on this? There's a lot of people that live within the distance. So you could kind of become a captive audience.

We have witnessed in the last -- just this last two weeks the swollen creeks, and they get really bad. He has a crossing that is a one-car slab, from what I can see. And the road that you have to go over to get to this is totally gravel, and in some places there are drop-offs on either side of the road. Now, passing vehicles with RVs or
large campers, this could be a real problem. And the road
is very dusty.

CHAIRMAN EVANS: Ms. Obermar, I'll
have to ask you to complete your --

MS. OBERMAR: Okay.

CHAIRMAN EVANS: -- your comments.

MS. OBERMAR: Wondered if they have
handled the sewage problems. It doesn't sound like they
have any permanent sewage. Port-A-Potties you can have all
you want if you don't a permit. Is there going to be safe
running water for the group?

CHAIRMAN EVANS: Please, ma'am, I'm
going to ask you to finish.

MS. OBERMAR: In other words, you
want me to quit?

CHAIRMAN EVANS: Yes, ma'am.

MS. OBERMAR: Thank you.

CHAIRMAN EVANS: Now, Scottie, just
for the record, as far as the RV park is zoned, right, in
that zoning district?

MS. EAGAN: Campgrounds and RVs are
permitted in that district.

CHAIRMAN EVANS: RVs are a permitted
use there?

MS. EAGAN: Correct.
CHAIRMAN EVANS: So it wasn't rezoned?

Anyone else wishing to address the Commission?
If not, we'll move on to Old Business. File 170045, William Buell.

Scottie, could you please give us the details.

MS. EAGAN: This is File 170045.
The applicant is William Buell.
The applicant is requesting to host special events, occasional, in the Non-Urban and Agricultural zoning district.
The property is located at 665 Brush Creek Road, approximately 350 feet north of Mill Hill Road, in Central Township.
The Facts: The total area for the property is approximately 66.3 acres.
The zoning of this property is Non-Urban and Agricultural. In this district, "Special Events, Occasional" require a Conditional Use Permit.
The applicant wishes to use this property as a campground and RV park, as well as have vendors on the property that would provide food, drinks, arts and crafts, and entertainment, which would require the special events, occasional.
The majority of the properties around the
proposed site are zoned Non-Urban and Agricultural.

The properties to the southwest, in Section 31, are zoned Community Development.

This property is surrounded primarily by undeveloped land with some low-density residential land to the south.

This property has access to Brush Creek Road, which is a County-maintained road.

This property is located within Public Water Supply District No. 3 boundaries.

A large portion of the property towards Brush Creek Road is in the floodplain.

Staff Comments: Any buildings used or built in connection with this CUP will need to be approved by the Franklin County Building Department for a commercial building.

All conditions shall be completed by August 18, 2017, unless otherwise stated. Failure to meet all conditions may result in the application expiring.

All new and/or existing entrances onto Brush Creek Road will need to be examined by the Franklin County Highway Department for a commercial entrance. Planning and Zoning shall receive a copy of the permit prior to the applicant commencing any activities on the property.

Any activity in the floodplain will require a
floodplain development permit.

Any building in the floodplain may require an elevation certificate as well as a floodplain development permit.

No more than 2,000 attendees shall be permitted on the property on any given day.

At least two security personnel shall be present at all times -- one at the entrance and one patrolling the property on which the event is held. An additional two security personnel members shall be present during peak activity times.

At least 25 staff members shall be present at all hours of the event.

Vendors, music, entertainment, and all other event activities shall not take place between the hours of 11:00 p.m. and 7:00 a.m.

A minimum of 25 toilet units and 6 hand-washing stations shall be provided.

The Conditional Use Permit shall only be valid for the event taking place on August 18 through 21, 2017.

Review Committee Recommendation: The Review Committee recommended approval of this Conditional Use Permit to operate special events, occasional in the Non-Urban and Agricultural zoning district, with 3 in favor and 0 opposed.
As you can see, a lot of these conditions that the Review Committee had from Mr. Buell were amended to be permitted to only have the event good for the eclipse.

CHAIRMAN EVANS: Any discussion?

COMMISSIONER McCREARY: I would say Mr. Buell came a lot more prepared to the Review Committee than last Monday. He discussed a lot of the questions and went over a lot of the content and planning, things like that, that we felt isn't necessary to make it part of the permit, you know, what if it rains, things like that. He hadn't thought things out.

He hadn't different fields of septic for people to use the bathroom, things like that, and with a lot more information was a lot more prepared for the meeting. And I think, we put some good conditions on this, and it's good to go.

CHAIRMAN EVANS: Thank you.

Any other comments, questions?

COMMISSIONER SCHULTEHENRICH: Bill, I have one question. The concern was brought up at the Review Committee that there should be rules and policies, and I thought this one is part of a condition or anything.

Was there -- or was there a reason why that was not considered?

COMMISSIONER McCREARY: Well, I think
one thing was how do we enforce that without County employees, County deputies. He's going to have that, his own security there, his own staff members there. Just like if a camper gets stuck on his road, it's his problem. Depends on the kind of violation, but all this is if it takes place on his property.

CHAIRMAN EVANS: Mark, would you comment on that? That pretty much would be the reason for not --

COUNTY ATTORNEY VINCENT: It would be, but you're going to have somebody out there all the time. Who's going to pay for it?

MS. EAGAN: It doesn't look -- I wasn't at the Review Committee, so I don't know, but it does address some of the things about quiet hours, what time activity has to stop, and all that stuff.

But like Mark said, we can't unless illegal drugs are being sold and all that kind of information. So it kind of -- again, I wasn't there that day, but I think they tried to take out of there what we couldn't enforce and not put in what we can't enforce.

COUNTY ATTORNEY VINCENT: We can't call the Sheriff's Department.

MS. EAGAN: Right. I had --

COUNTY ATTORNEY VINCENT: We don't
have that authority, the power to enforce, but certainly the
authority is the Highway Patrol's. It's all those people
do.

CHAIRMAN EVANS: Because I think we
had that issue before, and they would not go on the property
to enforce violations of regulations. It has to be a
violation of the law for them to go onto the property.

COUNTY ATTORNEY VINCENT: Probably
because that would apply with all the due process stuff they
normally would have to do.

COMMISSIONER SCHULTEHENRICH: The
question that comes to my mind is if we don't adopt
something like the rules and policies that Mr. Buell
indicated, and he would be agreeable, wouldn't -- he would
be potentially opening up to where any act could potentially
be done there. When we -- you talk about enforcement, and I
mean, you have certain things that are there for the purpose
of, hopefully, keeping some order, such as the speed limit.

Okay. I mean, what's the purpose of a speed limit, because
some people drive over the speed limit, 85, 90 miles an
hour.

COUNTY ATTORNEY VINCENT: Jay, I
can't hear a thing you're saying. I never can. Use the
mic, please.

COMMISSIONER SCHULTEHENRICH: Okay.
I guess the question that would be in my mind is, we don't have the rules and policies that Mr. Buell indicated. I mean, basically that would be -- I guess it would be allowed to -- basically to permit whatever in that regards on this event. Okay. And I don't think Mr. Buell is in the position of wanting to do that or anything. That's why he provided us with these rules and policies. I mean, the enforcement of comes -- the question in my mind is to, how far do you go with the enforcement of being of a concern that you raise? I thought in the past it's been talked about that we don't enforce unless there's a complaint or something along violations of whatever condition, rules, what have you. But if you talk about enforcement, you have the speed limit. Yet, people drive 85, 90 miles and hour, but you know -- but chances are there you're going -- you can be caught.

COUNTY ATTORNEY VINCENT: Who we going to prosecute, the owner or the person who committed the wrong?

COMMISSIONER SCHULTEHENRICH: Well,
you're the attorney. So you tell me who you would.

COUNTY ATTORNEY VINCENT: With the application, if someone is out there doing something wrong, we'd prosecute Mr. Buell for it.

COMMISSIONER SCHULTEHENRICH: I don't think you'd --

COUNTY ATTORNEY VINCENT: We take it to municipal court. That's what we do.

COMMISSIONER SCHULTEHENRICH: Sometimes isn't there the point of it being made that if there's rules and policies, that an individual can also say that with rules it's presumed you're going to be enforcing, you're going to be terminated because they are conditioned upon the permit that you've received from the County?

COUNTY ATTORNEY VINCENT: How we going to enforce it? Tell me, please. How we going to do that?

COMMISSIONER SCHULTEHENRICH: Let me ask you this question then, Mark. That is, where the Planning Commission does is it stated that consideration should be placed upon us for the form of the conditions?

Okay.

COUNTY ATTORNEY VINCENT: It's inherent.

COMMISSIONER SCHULTEHENRICH: It's
inherited?

COUNTY ATTORNEY VINCENT: It's inherent in some districts, but they have to be such that we can enforce them, which means regulations and rules. We do for subdivision plats for example. We don't do that.

COMMISSIONER SCHULTEHENRICH: No.

COUNTY ATTORNEY VINCENT: We don't get involved in fights between neighbors on borders. As far as these regulations are concerned, the same rules. If somebody is violating the campground rules and dumping trash where it doesn't belong, by our power, we have the right to enforce the person who has the conditional use permit, and you're going to prosecute Mr. Buell for it.

COMMISSIONER SCHULTEHENRICH: But, Mark, in your way of thinking why would we even place hours of activity on there if there's no format?

COUNTY ATTORNEY VINCENT: They'd dump trash or Mr. Buell keeping activity going beyond the hours that you guys allowed, that's what we do. We do that. But we are going -- we can only go after the person who holds the permit. We have -- we have no jurisdiction of with anyone who's one of his customers.

COMMISSIONER HAIRE: If this is an RV park which is permitting people to have weapons, we don't set the rules of the RV campground. The RV campground is
going to have the rules adopted by management, and those rules are enforced by the campground. We don't. When an RV park permits use and there's not a set of rules that goes along with it, why would there be any difference?

COMMISSIONER McCREARY: Certainly brings us to the point the applicant can certainly put violation of rules and policies, terms or conditions, will be cause for immediate eviction from the property.

COUNTY ATTORNEY VINCENT: That's mentioned.

COMMISSIONER McCREARY: That's in an outline they incorporated that's where people call the police and say this guy's out here doing whatever behavior he's doing, but it's not his right to arrest anybody. It's not our right to enforce these campsite rules.

COUNTY ATTORNEY VINCENT: Be careful. If he asks somebody to leave and somebody refuses to, then they are trespassing. You call the Sheriff.

COMMISSIONER McCREARY: Right.

COUNTY ATTORNEY VINCENT: You don't call Planning Commission.

COMMISSIONER McCREARY: I say we, the County.

COUNTY ATTORNEY VINCENT: Okay.
COMMISSIONER SCHULTEHENRICH: Dan, I think you -- I think I have a better plan for it, Mark.

MS. OBERMAR: Can I ask a question?

COUNTY ATTORNEY VINCENT: No, ma’am, this is not a hearing tonight.

MS. OBERMAR: Okay.

CHAIRMAN EVANS: Any other discussion?

COMMISSIONER TOBBEN: She noted in the staff comment number 7 specifically the time of peak activity time. That's one thing that just caught my eye.

In Mr. Buell's note, he said peak time would be from 10:00 a.m. to midnight. Should we specify that, the peak time? Just a thought.

CHAIRMAN EVANS: Where is this at?

COMMISSIONER TOBBEN: It's the last paragraph on his letter to Scottie dated April 28, last sentence, the two during the peak day and evening hours of 10:00 a.m. to midnight.

CHAIRMAN EVANS: Again, Mark, we can include that as a condition in that permit?

COUNTY ATTORNEY VINCENT: In that situation you can, yeah.

Again, Mr. Buell is who has the permit and what you have to look to. And if he's going beyond the hours,
then you can do that. But you're going to prosecute -- I'm talking about prosecution. We would go to the County Municipal Court. That's what we do or subject to being fined there. So that help?

CHAIRMAN EVANS: So we include it as a condition?

COUNTY ATTORNEY VINCENT: If you want it.

COMMISSIONER TOBBEN: You can speak of the time which is described as between 10:00 a.m. and 7:00 p.m. or 10:00 a.m. to midnight, just further define peak time.

CHAIRMAN EVANS: Any other comments on that?

COMMISSIONER HAIRE: Since Mr. Buell defined the peak by his terms, it's a specific period of time we have in here. If it was two hours, but you have a large rate of time that's peak. So that means two additional security people for most of the day.

CHAIRMAN EVANS: Any other comments?

We could include that as Condition 12 if the Commissioners --

MS. EAGAN: I think we just amend Condition 7 to say activity shall be permitted during the time as designated by the applicant to be 10:00 a.m. to
V. CONCLUSION

The hearing concluded with no further business to be addresed. The meeting was adjourned at 1:30 p.m.
Planning and Zoning Commission Forum. Anything the Commissioners wish to discuss? Nothing.

Planning Director's Report.

MS. EAGAN: Hopefully, we'll have a preliminary plat next month on the agenda. I think there was just some confusion of applicant for this month.

And the only other thing that I have in my office we have had just minor, minor staff changes. Nichole is no longer administrative assistant, but I put her as County Planner now. So now when I'm not there, Nichole will be taking over the duties that I do instead of just being an administrator. She's been doing it for, gosh, at least seven years. So I thought it was time to give her that responsibility and pay to go with it. So she will do it hopefully a lot longer now.

CHAIRMAN EVANS: Good.

Congratulations, Nichole.

Anything else? If not, the Chair would entertain a motion to adjourn.

COMMISSIONER HAIRE: So moved.

COMMISSIONER SCHULTEHENRICH: Second.

CHAIRMAN EVANS: We have a motion and a second. All in favor signify by saying aye.

COMMISSIONER VOSS: Aye.

COMMISSIONER CUNIO: Aye.
COMMISSIONER WILLIAMS: Aye.
CHAIRMAN EVANS: Aye.
COMMISSIONER HAIRE: Aye.
COMMISSIONER TOBBEN: Aye.
COMMISSIONER SCHULTEHENRICH: Aye.
COMMISSIONER McCREARY: Aye.
CHAIRMAN EVANS: Opposed? [None]

Meeting adjourned.

[Thereupon, the proceedings concluded at 7:30 p.m.]
CERTIFICATE OF REPORTER

I, PATSY A. HERTWECK, Professional Court Reporter and Notary Public within and for the State of Missouri, before whom the foregoing proceeding was taken, do hereby swear that the aforementioned was held at the time and in the place previously described.

IN WITNESS WHEREOF, I have hereunto set my hand.

_________________________________
Patsy A. Hertweck, Court Reporter
Notary Public, State of Missouri
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complaint
completed
complied
concern
concerning
concluded
compliance
connection
conditioned
consensus
consider
consideration
considered
content
copy
Correct
corrections
COUNSEL
County
Countymaint...
court
covered
Co-Chairman
crafts
Creek
Cunio
crossing
curves
customers
Dan
22:1
dated
day
days
debate
decide
decided
decision
declarations
declare
define
defined
Department
depends
depuities
described
DESCRIPTI...
designed
desire
details
development
difference
different
Director
Director's
discuss
discussed
discussion
disgusting
distance
district
districts
doing
drinks
drive
drop-offs
drug
due
dump
dumping
dusty
duties
E
either
elephant
enforcement
Eggi
employees
enforce
Eleventh
expect
exempting
expiring
extremely
eye
Facts
Failure
far
favor
favorable
fear
feet
felt
fields
fights
file
F

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PUBLIC HEARING 5/16/2017

music 14:14
one-car 10:22
one-time 10:3
opened 7:9,10
opening 17:15
operate 14:23
opportunity 6:6
opposed 8:25
14:25 24:21
26:7
order 2:3 17:18
outline 21:12
owner 18:23
o80 26:11
14:1,4,19,23
15:10 18:4
19:14 20:12,21
22:21,24
permitted 8:1 21:3
permitted 11:22
11:23 14:5
15:3 23:24
permitting 20:24
person 18:23
20:12,20
personnel 14:7
14:10
place 6:23 10:15
14:15,20 16:5
20:15 27:7
placed 19:21
places 10:24
plan 3:7 6:25
planner 25:10
planning 1:1
2:19,20 4:2,11
4:12 5:5 6:5,13
6:17 7:11,20
7:24,25 9:22
13:22 15:8
19:20 21:22
25:1,3
plat 25:5
plats 2:15 20:5
24:24
please 5:6 6:11
9:4,5 11:12
12:6 17:24
19:16
point 19:10 21:6
police 21:13
17:13 18:2,7
19:11 21:7
portland 13:11
Port-A-Potties 11:9
position 18:6
possible 7:20
postponed 2:17
potential 14:23
potential 17:15,15
power 17:1
20:11
preliminary 2:15 24:24
25:5
prepared 15:6
15:14
present 5:12,15
5:19 9:3 14:8
14:10,12
presentation 2:11 6:11
presented 7:4
presumed 19:12
pretty 10:11,12
16:8
previously 27:7
primarily 13:4
print 7:15
prior 13:23
Probably 17:8
problem 10:3,4
11:1 16:4
problems 11:8
procedure 9:17
procedures 2:4
6:11
proceed 7:25
proceeding 27:5
proceedings 1:9
2:2 26:9
process 17:9
professional 27:3
properties 12:25
13:2
property 9:14
12:12,15,17,20
12:22 13:4,7,9
13:11,24 14:6
14:9 16:6 17:5
17:7 21:8
proposed 13:1
prosecute 18:23
19:4 20:13
23:1
prosecution 23:2
provide 12:22
provided 7:16
14:18 18:7
public 1:10 6:18
6:19,20 7:14
13:9 27:4,14
purpose 17:17
17:19
put 15:15 16:21
21:6 25:9
p.m 1:12 14:16
23:11 26:10

Q
question 9:15
15:20 17:12
18:1,9,18
19:19 22:3
questions 7:12
7:23 15:7,18
quiet 9:23 16:15
quit 11:15
quorum 6:3

R
R 1:24 4:1,16
5:1
rains 15:10
raise 18:10
rate 23:18
Ray 4:6 5:16
read 7:11
real 11:1
really 9:21
10:21
reason 15:23
16:8
receive 13:23
received 8:7
19:14
<table>
<thead>
<tr>
<th>Recommended</th>
<th>14:21</th>
</tr>
</thead>
<tbody>
<tr>
<td>record</td>
<td>6:24 7:5</td>
</tr>
<tr>
<td>refuses</td>
<td>21:18</td>
</tr>
<tr>
<td>regarding</td>
<td>18:5</td>
</tr>
<tr>
<td>regulations</td>
<td>3:5</td>
</tr>
<tr>
<td>Report</td>
<td>1:23</td>
</tr>
<tr>
<td>requesting</td>
<td>12:9</td>
</tr>
<tr>
<td>require</td>
<td>6:19</td>
</tr>
<tr>
<td>reside</td>
<td>9:10</td>
</tr>
<tr>
<td>residential</td>
<td>13:5</td>
</tr>
<tr>
<td>responsibility</td>
<td>25:4</td>
</tr>
<tr>
<td>result</td>
<td>13:19</td>
</tr>
<tr>
<td>Review</td>
<td>14:21</td>
</tr>
<tr>
<td>reviewed</td>
<td>9:12</td>
</tr>
<tr>
<td>room</td>
<td>7:18</td>
</tr>
<tr>
<td>rules</td>
<td>15:21</td>
</tr>
<tr>
<td>sewage</td>
<td>11:8,9</td>
</tr>
<tr>
<td>sheet</td>
<td>7:16</td>
</tr>
<tr>
<td>Sheriff</td>
<td>21:19</td>
</tr>
<tr>
<td>Sheriffs'</td>
<td>16:23</td>
</tr>
<tr>
<td>side</td>
<td>10:25</td>
</tr>
<tr>
<td>sign</td>
<td>9:5</td>
</tr>
<tr>
<td>signify</td>
<td>8:15</td>
</tr>
<tr>
<td>site</td>
<td>13:1</td>
</tr>
<tr>
<td>situation</td>
<td>22:23</td>
</tr>
<tr>
<td>slab</td>
<td>10:22</td>
</tr>
<tr>
<td>sold</td>
<td>16:18</td>
</tr>
<tr>
<td>somebody</td>
<td>16:11</td>
</tr>
<tr>
<td>sound</td>
<td>11:8</td>
</tr>
<tr>
<td>south</td>
<td>13:6</td>
</tr>
<tr>
<td>southwest</td>
<td>13:2</td>
</tr>
<tr>
<td>speak</td>
<td>7:14,17</td>
</tr>
<tr>
<td>special</td>
<td>12:9,18</td>
</tr>
<tr>
<td>specifically</td>
<td>22:10</td>
</tr>
<tr>
<td>specify</td>
<td>22:13</td>
</tr>
<tr>
<td>speed</td>
<td>17:18,19</td>
</tr>
<tr>
<td>state</td>
<td>17:20 18:15</td>
</tr>
<tr>
<td>St</td>
<td>4:18,9:10</td>
</tr>
<tr>
<td>staff</td>
<td>4:11,7:10</td>
</tr>
<tr>
<td>sections</td>
<td>22:23</td>
</tr>
<tr>
<td>see</td>
<td>10:22 15:1</td>
</tr>
<tr>
<td>sentence</td>
<td>22:18</td>
</tr>
<tr>
<td>septic</td>
<td>15:12</td>
</tr>
<tr>
<td>Services</td>
<td>1:25</td>
</tr>
<tr>
<td>set</td>
<td>20:25 21:3 27:8</td>
</tr>
<tr>
<td>seven</td>
<td>25:13</td>
</tr>
<tr>
<td>subdivision</td>
<td>20:5</td>
</tr>
<tr>
<td>subject</td>
<td>23:3</td>
</tr>
<tr>
<td>suggested</td>
<td>24:7</td>
</tr>
<tr>
<td>Supply</td>
<td>13:10</td>
</tr>
<tr>
<td>surrounded</td>
<td>13:4</td>
</tr>
<tr>
<td>sworn</td>
<td>27:6</td>
</tr>
<tr>
<td>swollen</td>
<td>10:21</td>
</tr>
<tr>
<td>sworn</td>
<td>7:16   9:8</td>
</tr>
</tbody>
</table>

**S**

| safe | 11:10 |
| saying | 8:16 |
| 17:23 24:12 25:23 |
| Schultehenrich | 4:4 5:9,10 8:23 |
| 15:19 17:11,25 |
| 18:25 19:5,9 |
| 19:18,25 20:6 |
| 20:14,22 21 |
| 24:5,19,25 21 |
| 26:5 |
| Scottie | 4:12 5:6 |
| 6:10 11:18 |
| 12:6 22:17 |
| second | 1:3 8:13 |
| 8:15 24:8,11 |
| 25:21 23 |
| Section | 13:2 |
| security | 14:7,10 |
| 16:3 23:19 |
| see | 10:22 15:1 |
| sentence | 22:18 |
| septic | 15:12 |
| Services | 1:25 |
| set | 20:25 21:3 27:8 |
| seven | 25:13 |

**T**

| take | 5:6 14:15 |
| 16:20 19:7 |
| taken | 7:8 27:5 |
| takes | 16:5 |
| talk | 17:16 18:14 |
| talked | 18:11 |
| talking | 23:2 |
| tell | 19:1,16 |
| terminated | 19:13 |
| terms | 21:7 23:16 |

**S**

| safe | 11:10 |
| saying | 8:16 |
| 17:23 24:12 25:23 |
| Schultehenrich | 4:4 5:9,10 8:23 |
| 15:19 17:11,25 |
| 18:25 19:5,9 |
| 19:18,25 20:6 |
| 20:14,22 21 |
| 24:5,19,25 21 |
| 26:5 |
| Scottie | 4:12 5:6 |
| 6:10 11:18 |
| 12:6 22:17 |
| second | 1:3 8:13 |
| 8:15 24:8,11 |
| 25:21 23 |
| Section | 13:2 |
| security | 14:7,10 |
| 16:3 23:19 |
| see | 10:22 15:1 |
| sentence | 22:18 |
| septic | 15:12 |
| Services | 1:25 |
| set | 20:25 21:3 27:8 |
| seven | 25:13 |

**Subdivision**

| subject | 23:3 |
| suggested | 24:7 |
| Supply | 13:10 |
| surrounded | 13:4 |
| sworn | 27:6 |
| swollen | 10:21 |
| sworn | 7:16 9:8 |

**U**

<p>| understood | 9:21 |
| undeveloped | 13:5 |
| Unified | 3:4 6:15 |
| UNION | 1:5 |
| units | 14:17 |
| use | 3:4 6:15 8:1 |
| 10:5 11:24 |
| 12:19,20 14:19 |
| 14:22 15:13 |
| 17:23 20:12 |
| 21:3 |</p>
<table>
<thead>
<tr>
<th>V</th>
<th>valid 14:19</th>
</tr>
</thead>
<tbody>
<tr>
<td>vehicles 10:25</td>
<td>14:14</td>
</tr>
<tr>
<td>vendors 12:21</td>
<td>20:7,17,21:9</td>
</tr>
<tr>
<td>Vincent 4:14</td>
<td>16:10,22,25</td>
</tr>
<tr>
<td>17:8,22 18:22</td>
<td>19:2,7,15,23</td>
</tr>
<tr>
<td>20:2,2,7,17 21:9</td>
<td>21:16,21,25</td>
</tr>
<tr>
<td>22:4,2,22 23:7</td>
<td>valid 14:19</td>
</tr>
<tr>
<td>violating 20:10</td>
<td>violation 16:5</td>
</tr>
<tr>
<td>violations 17:6</td>
<td>18:13</td>
</tr>
<tr>
<td>Visitor 2:6</td>
<td>Visitors 9:2</td>
</tr>
<tr>
<td>Voss 4:5 5:20,21</td>
<td>8:17 24:13</td>
</tr>
<tr>
<td>25:24</td>
<td>vote 2:13 7:22</td>
</tr>
<tr>
<td>W</td>
<td>Wanda 9:9,9</td>
</tr>
<tr>
<td>want 11:10,15</td>
<td>23:7</td>
</tr>
<tr>
<td>9:13</td>
<td>wanted 10:5</td>
</tr>
<tr>
<td>18:6</td>
<td>wasn't 9:16 12:1</td>
</tr>
<tr>
<td>16:14,19</td>
<td>water 11:11</td>
</tr>
<tr>
<td>13:9</td>
<td>way 20:15</td>
</tr>
<tr>
<td>weapons 20:24</td>
<td>weeks 10:21</td>
</tr>
<tr>
<td>went 15:8</td>
<td>we'll 12:4 25:4</td>
</tr>
<tr>
<td>We've 9:23</td>
<td>WHEREOF 27:8</td>
</tr>
<tr>
<td>William 2:9 4:3</td>
<td>12:5,8</td>
</tr>
<tr>
<td>Williams 4:7 6:1</td>
<td>wind 10:12</td>
</tr>
<tr>
<td>wish 25:2</td>
<td>wishes 9:3 12:20</td>
</tr>
<tr>
<td>wishing 12:3</td>
<td>witness 9:8 27:8</td>
</tr>
<tr>
<td>witnessed 10:20</td>
<td>Wondered 11:7</td>
</tr>
<tr>
<td>words 11:14</td>
<td>worse 10:1</td>
</tr>
<tr>
<td>wouldn't 17:14</td>
<td>wrong 18:24</td>
</tr>
<tr>
<td>19:3</td>
<td>X 2:1 3:1</td>
</tr>
<tr>
<td>Y</td>
<td>yeah 22:23</td>
</tr>
<tr>
<td>years 9:24 25:13</td>
<td>zoned 11:19</td>
</tr>
<tr>
<td>13:1,3</td>
<td>zoning 1:2 1:19</td>
</tr>
<tr>
<td>3:6 4:2,11 5:5</td>
<td>6:6,17,24 7:11</td>
</tr>
<tr>
<td>7:25 8:2 11:20</td>
<td>12:10,17 13:23</td>
</tr>
<tr>
<td>14:24 25:1</td>
<td>0 14:25</td>
</tr>
<tr>
<td>Z</td>
<td>10:00 22:13,19</td>
</tr>
<tr>
<td>23:10,11,25</td>
<td>11:00 14:16</td>
</tr>
<tr>
<td>12:2:11 23:21</td>
<td>15:2:12</td>
</tr>
<tr>
<td>1515 9:10</td>
<td>16:11 11 5:2</td>
</tr>
<tr>
<td>16th 5:4</td>
<td>170045 2:9 12:5</td>
</tr>
<tr>
<td>12:7 24:6,11</td>
<td>170075 2:16</td>
</tr>
<tr>
<td>24:24</td>
<td>18 2:5 13:17</td>
</tr>
<tr>
<td>14:20</td>
<td>18th 8:8</td>
</tr>
<tr>
<td>2,000 14:5</td>
<td>2017 1:11 2:5</td>
</tr>
<tr>
<td>5:2 13:18</td>
<td>14:20</td>
</tr>
<tr>
<td>21 14:20</td>
<td>24 2:13,17</td>
</tr>
<tr>
<td>25 2:19,20 14:12</td>
<td>14:17</td>
</tr>
<tr>
<td>26 2:22</td>
<td>27 2:23</td>
</tr>
<tr>
<td>28 22:17</td>
<td>3 13:10 14:24</td>
</tr>
<tr>
<td>31 13:2</td>
<td>314 4:19</td>
</tr>
<tr>
<td>350 12:13</td>
<td>400 1:4</td>
</tr>
<tr>
<td>5 2:3</td>
<td>50 9:24</td>
</tr>
<tr>
<td>6 2:4 3:4,6,7,8</td>
<td>14:17</td>
</tr>
<tr>
<td>63084 1:5</td>
<td>63101 4:18</td>
</tr>
<tr>
<td>644-2191 4:19</td>
<td>66.3 12:16</td>
</tr>
<tr>
<td>665 12:12</td>
<td>7 22:10 23:24</td>
</tr>
<tr>
<td>24:12</td>
<td>7:00 1:12 14:16</td>
</tr>
<tr>
<td>23:11</td>
<td>7:30 26:10</td>
</tr>
<tr>
<td>711 4:17</td>
<td>8 2:5</td>
</tr>
<tr>
<td>85 17:20 18:15</td>
<td>9 2:6</td>
</tr>
<tr>
<td>90 8:2 17:20</td>
<td>18:15</td>
</tr>
</tbody>
</table>