

Plan Commission Meeting Minutes  
Special Meeting July 13, 2017

Meeting came to order by Vice-President Richard Tincher at 7:00 pm.

Commission Members present: Mike Duke, Gary Holbert, Richard Tincher, Jack Bodiker, Mark Tucker, Lynnette Allen & Rob Doty.

Building Commissioner: Gene Kates

Town Attorney: Ed Martin

Public Members: Anna Marie Potes Schiverdecker & Joseph Scott Schiverdecker

This meeting was in regards to the Enforcement Order issued on June 7<sup>th</sup>, 2017 by Gene Kates, Building Commissioner of the Town of Centerville, for 312 West Main Street, Centerville, Indiana requesting the owner to correct an issue with the current septic system that is failing and creating a health concern on the property by connecting into the Town of Centerville sewer system line.

Ed Martin started the meeting by reading the legal rules of the meeting.

Richard Tincher asked if there were anyone in attendance that may have issue with the order that had evidence that they want to present.

Ed Martin swore in Joseph Scott Schiverdecker before he presenting evidence. Joseph Scott Schiverdecker, 3986 N Centerville, Road, Greens Fork, Indiana. Since Mr. Schiverdecker is listed with the Wayne County Records Office as interested party on the residence, he did receive a letter requesting his present at the meeting.

Mr Schiverdecker presented bankruptcy documents that they relinquished the house back to Mr. Dan L Worl on July 6, 2016 after two years of living in the residence. Gene Kates questioned Mr. Schiverdecker if they were aware that they weren't connected into the sewer system. Mr. Schiverdecker stated no knowledge of the the resident not being connected to the Town of Centerville sewer system and presented almost 2 years worth of water bills with the sewer bill being paid.

Jack Bodiker questioned when the first discovery was, Building Commissioner Gene Kates stated that was on April 19, 2017.

Ed Martin asked if there were any other interested parties that wanted to present evidence, Neither Mr. Dan L Worl or Mr. Allen Kirsch were present.

Chairman Richard Tincher asked is anyone present further evidence. Building Commissioner Gene Kates presented the following information:

Town of Centerville received a compliant that there was a smell and raw sewage on the ground, he went to inspect on April 19, 2017. First notice letter was sent to Mr. Allen Kirsch and Mr. Dan Worl. April 24, 017, Mr Kirsch starting repairs and had the septic tank pumped. May 1, 2017 Mr. Kirsch stopped repairs, contacted IDEM stated that he didn't feel the sewer line was sufficient for connection. May 11, 2017 IDEM inspected site and the line was found to be satisfactory, and okay to require house to connect. May 16, 2017 a second letter was sent. May 23, 2017 Mr. Worl called and requested until the end of May to complete repairs. June 1, 2017 Mr. Kates contacted town attorney Ed Martin for legal direction. Mr Martin researched and recommended moving forward with a letter under the Unsafe Premises law recommending 90 day notice to connect to public sewer and Order to Vacate and remediate unsafe issues. 30 day notice was sent on June 7, 2017.

Mr. Dan L Worl is listed as legal owner, even though there isn't anything at the Wayne County Records office, Mr. Allen Kirsch told Mr. Kates that they are buying the house on contract from Mr. Worl.

Mr. Worl indicated to Mr. Kates that he would pull a permit to get the work completed, by doing this, the Town of Centerville add the T connector to the sewer line for the connection to the house. As of the time of the meeting Mr. Worl had not pulled permit. Mr. Kirsch pulled permit 17-44 in May 2017, but this can not be

passed to Mr. Worl, he will need to pull his own permit for the work.

Mr. Martin asked Mr. Kates if he feels that Mr. Kirsch had willful disregard to the order, he stated yes and then was asked if Mr. Worl also had willful disregard and he also replied yes.

Mr. Kates presented into evidence copies of all the letters sent along with IDEM report with photos of the failing septic system.

Lynnette Allen asked since the work stopped in May, if the hole was still present at the site. Mr. Kates and Mrs Schiverdecker both replied at the same time, yes. Mr. Kates also mentioned that along with all of the rain we have had, it is still pushing raw sewage up and onto the ground. Mr Tincher asked if the sewage has contaminated the creek behind the property and Mr. Kates stated that it hasn't of yet. Mr. Bodiker asked if we had a high rain fall, could it potentially run into the creek, Mr. Kates stated that it absolutely could.

Mr. Duke asked when the last inspection was done to the property, he stated July 10, 2017 and nothing has done. Mr. Kates stated that it looks as if Mr. Kirsch has moved out of the residence, but the utilities haven't been disconnected yet.

Mr. Kates stated that Mr. Kirsch had tried to correct the problem, then there must have been issued between Mr. Kirsch and Mr. Worl that all work stopped.

Last conversation Mr. Kates had with Mr. Worl was in June, Mr. Worl called in and spoke with the town clerk on June 20, 2017, Mr. Kates was out of office that day. MainSource was notified because they are the mortgage holder, but not any responsibility to have issue corrected.

Mr. Kates stated that it could cost home owner from \$2500-\$3000 to connect to the sewer & clean up. He stated that Mr. Gregory who own 310 Main Street complied and hooked up and cost him around \$2300. He contracted Jerry Mull to do the work. Mr. Kates stated that on May 16, 2017 the Town of Centerville, requested a quote to hook up because they considered the safety issue and then billing the home owner and it was \$2700 just to connect, not the clean up of the raw sewage.

Mr. Schiverdecker mentioned that one of the reasons they moved, was because the septic was starting to cave in and crumb.

Mr. Duke asked if the property has had any other code violations, and Mr. Kates stated that it hasn't.

After all evidence has been submitted: Mr. Martin stated that we can affirm order as is or can be modified and issue a civil penalty up to \$5000, that needs to be relational related to the issue and what we are trying to accomplish. Civil penalty will take effect 10 days after affirming the order, will record with the Wayne County Recorder and will go against the property as a lien.

Mr. Kates recommended that we give him the right to shut off water & cap off fall line to the tank & fill in the failing septic tank, since the house is vacant, no immediate eviction required.

For discovery Mike Duke recommended \$1000 fine-discussed and decided to make it \$5000

Lynnette Allen motioned to modify the order to remove both Joseph Scott Schiverdecker and Anna Marie Potes Schiverdecker from any liability to the 312 West Main Street, Centerville, Indiana, Richard Tincher 2<sup>nd</sup> , 100% affirmed, motion carried.

Gary Holbert motioned to affirm the order from June 7, 2017 after modification against Mr. Dan L Worl, Mr Allen Kirsch & MainSource Bank, Mark Tucker 2<sup>nd</sup> , 100% affirmed, motion carried. By affirming this order, the commission gave Building Inspector, Gene Kates the authority to shut off the water to the residence after verifying no occupants still inhabited the premises. He also will cap off the failed septic system, fill with pebbles and crush the tank.

Lynnette Allen motioned that Mr. Worl willfully disregarded the letter to comply, Richard Tincher 2<sup>nd</sup> , 100% affirmed, motion carried.

Gary Holbert motioned to assess the \$5,000.00 penalty for not complying with the order, Mike Duke 2<sup>nd</sup> , 100% affirmed, motion carried. Mr. Martin will take care of the legal aspect of this motion.

Decided not to make a motion against Mr. Allen Kirsch because the legal owner is Mr. Dan L Worl and he is legally responsible to see that the issue is taken care of. This was reiterated by Mr. Kates to Mr. Worl.

Richard Tincher motioned to have the deadline of the compliance of July 27<sup>th</sup> , 2017 by 7:00 pm, Rob Doty 2<sup>nd</sup> , per Ed Martin, but the statute states that he has 90 days from June 7<sup>th</sup> to comply, he actually has til September 7<sup>th</sup> to actually comply. Ed feels, he will head to court to get it done. If Mr. Worl pulls permit and complies with the order by September 7<sup>th</sup> , we can decide to revoke civil penalty at that time. We will review at each meeting to see if M. Worl has complied to the order by September 7<sup>th</sup> , may assess new penalty at that time.

Mr. Schiverdecker requested us to review the possibility of reimbursement of sewer payments. Mr Martin let him know that that wasn't part of our jurisdiction and he would need to talk with the clerk/treasurer, Susan Dillman.

Richard Tincher motioned to close meeting, Jack Bodiker 2<sup>nd</sup> , 100% affirmed, meeting closed at 8:00pm.