

RE: Mule Ridge Recreational Park

Minutes-Vermillion County Commissioners Special Meeting May 7, 2007

The Vermillion County Commissioners met in the Commissioners Courtroom, Courthouse, Newport, Indiana.

President, Tim Wilson called the meeting to order and led in the Pledge to the Flag.

Roll call was taken: Present were President Tim Wilson and Kim Hawkins. Also present were Attorney Jon Spurr, and Auditor Sherrie Koma, and Deputy Auditor Amy Tolbert. Harry Crossley was absent.

Also present were members of the APC and BZA.

A special meeting was called by the Commissioners to meet with the APC and BZA and the public to discuss the Mule Ridge Recreational Park.

Wilson asked that anyone that had questions direct them to the Commissioners and they will try to direct them back. We don't want any arguing. This is just an informational meeting and we are trying to find out some answers as to what has taken place. Wilson asked Jay Cox, owner of Mule Ridge, to explain what is going on with his project.

Jay Cox said the project was first thought of and conceived in 2005 at which time he hired a local attorney to see what he needed to do to be legal in zoning. He said it went on for a while, it went back and forth and he doesn't know the in house discussions between the attorneys and the other people he checked with other than the communications he directly had. He said he has had no communications with anybody here, nor has he bribed anybody, or offered to bribe anybody or bought anybody off. However, he has paid his bills to an attorney and proceeded with building the building and opening the park up in 2007 in between time of course built trails and did all of these other things. Cox said last October they put a website up. There was never any plan to hide anything or do anything to deceive anybody of what we were going to do. He said in all of his conversations with Spurr, who was his attorney, we always talked about what we were going to do. The building inspector, who he understands is longer here, stopped by several times and asked how we were progressing in our recreation park development and we always brought him up to snuff. He said he doesn't think he missed any highlights of things that have happened in chronological order. He said he has had no contact with the Commissioners, everyone keeps saying they never heard of it. He doesn't know whether they ever heard of, didn't ever heard of or have any reason to ever heard of. He understood from the Attorney that he was zoned properly for a recreational park. He said he proceeded with that and its opened. Cox said he read a little article and he guesses he is known as "Boss Hog". He said that was in the Clintonian and when he read through the comments in it, some were kind of amusing, if you don't take them to seriously. Cox said as far as his integrity he has served on Presidential Commissions for 4 different Presidents, served 2 different Governors, received the National Leadership Award for Congress in 2003, served for 20 plus years for Hendrick's County Development Commission where he has never taken a bribe or offered a bribe or taken a dollar from anybody. He said he served for 20 years on the Selective Service Commission without pay, served on the School Board as President for 8 years in North West Hendrick's County. He said he has been in public life for 40 plus years, County, State, and Federal. He said he thinks he has an impeccable record and if anybody, Web Crouch, can produce somebody that I have bribed that would be fine and dandy with him. He said that is all he knows about the Recreational Park. Hawkins said that Cox mentioned the John Koma, who was building inspector, came there and asked him how he was coming with the recreational park or was he checking on your building permit? Cox said he checked on the building and he stopped in on two different occasions and asked

how we were coming along with the park. The reason he knew originally about the park is because they came before one of the boards to vacate a subdivision that he purchased that Koma had told Spurr had to be vacated before I could use it as a recreational area. He said Koma came to the site and inspected it with his son Jason and they discussed a recreational park. Cox said Koma stopped by and talked to him about it. Cox said he never gave it a thought one way or another about notifying anybody because the law didn't require him to notify. He said he did not ask for a variance of any kind. He didn't ask for any change in zoning he could use the zoning that was already established, his attorney told him that is what he needed to do. Hawkins said the reason they wanted him here tonight is to explain, we understand the ATV park, what else is in plans there. Cox said they have had a lake put in and are going to have fishing for the public, right now the fish are too small to charge anybody, it will probably take another year and half before it will ever be ready for the public. They are hoping to put in on the North side of the farm and driving range for guys who want to bat a ball down the field. Cox said there has never been any discussion with himself, his attorney, or any official in this County of putting in a shooting range. He said he doesn't know where exactly that came up but it doesn't make any difference but it is not in the plan nor has it. He said he does shoot himself, 3 days a week, skeet and trap but he has no idea or plan or putting in a public shooting range. Hawkins asked if camping was allowed. Cox said yes, on the website they offer camping, primitive camping; bring your tent, or scouts. He said they had a Christian group from a church called about camping out, their young people and we told them they were welcome. Cox said he noticed in the paper that they were going to have 200 campers a day coming in, he guessed trailers. He said they have never had one at this time. He doesn't think they will have people with campers because they don't have hook ups for them, electricity or sewage. Their daily average in the past month is 4.2 cars per day. He said that does not equate to 4.2 customers because several cars may have 4 or 5 riders with their bikes on a trailer. As far as vehicles go, it would be wonderful if there were 200 but there is never going to be 200 vehicles. There may be 200 people but there will never be 200 vehicles, he doesn't for see that anyway. Cox said they anticipated when they opened, in their discussions with the insurance company of New York that carries the insurance, what we would do the first year and they anticipated approximately 100 riders per week and they are within 5 or 6 riders each week of being on that mark. Cox said he couldn't think of anything else he needed to address that wouldn't be quarrelsome. He said he would be glad to answer any questions. Hawkins said lets wait a minute for that. Hawkins said so there are no plans for a gun range and Cox said no. Someone asked to ask a question and Hawkins said no, not yet. Hawkins said he had another question. He asked Cox if he had any problems at all with his land boundaries, is there any reason at all that your boundaries might be quarrelsome to a neighbor, like do you think you own this strip of land and maybe someone else is claiming it. Cox said he has never been contacted by anybody regarding his boundaries; the property was surveyed when he purchased it both from the Brown's and the Marshall's. He said they have moved all of their tapelines to prevent any trespassing inside those lines so there wouldn't be any doubt from anybody. He said he doesn't know where this issue is; nobody has talked to him about it. Cox said he knows what he owns. He said he had an occasion with a remove neighbor. Two years ago they had a logging company in logging their property and he received a phone call from superior log company down in Tennessee that the logger had been stopped by one of these people that was quoted in the paper. He believed that one of his gunman or something did something to. This guy said they were cutting trees on another mans farm, not his farm, but another mans farm. They went back and checked the coordinates and the survey and contacted the farmer who owned that ground and he said no that was Mr. Cox's field. That was the only dispute he has ever heard on the property and he wasn't directly involved in it because he was in his office and the timber company was timbering when this individual approached him and stopped him from cutting trees on his ground. Hawkins asked him if the access to his property has been gained from the state and wondered if he needed state access? Cox said he didn't know and was letting the Attorneys work that out. Hawkins asked if he has talked to the state highway and Cox said yes. He said he never filed for but he

understood that someone in Newport said they were contacted by the DOT because he had filed for an easement. He said he already has access and egress, why would he need to file for one? Hawkins said if there is something determined from this meeting or the next meetings, a step you need to fulfill are you telling us that you will make sure you fulfill that step. Cox said absolutely, he couldn't operate if he didn't. He said he also has two accesses on Highway 36 that he could use. Hawkins asked if he met with the residents before he opened, did you call a meeting or were you called to a meeting? Cox said he was called by Ann Smith that there were 5 or 6 gentlemen in her office and would he meet with those people and he said he would be glad to and they set up a time. He drove down and they met in his building, Mike was one of those individuals. We discussed, they didn't like the idea of noise. My son asked them what we could do to rectify that situation and they agreed that we move the tape back from Highway 36, the south side of the property, to a ravine up on the hill, which we put tape up, one of their cohorts rides and he was over there so he can verify that we did that the next day. Cox said he had done everything that anybody has asked him to do. Wilson said he pulled the website up and one of the rules is not to cross down fences and Cox said absolutely. Cox said there are old fence lines back there. Wilson wanted to know if any of his boundary lines are marked with a sign that says they are leaving Mule Ridge property. Cox said every one of them has a reflective 2-inch tape and No Trespassing signs before they ever get to the lines and it was required by the Insurance Company. Wilson asked if Cox met the requirements of the Zoning Board. Langly said he had no idea, it was his understanding the Cox's attorney talked with Koma and Koma was the one who basically told them that a recreational area was a permitted use in agricultural and that is what the zoning ordinance says. That is as much as they know about it other than what the people said at the last meeting. They explained some procedures that would be necessary to be followed. Other than that he doesn't know anything about it. This was evidentially all handled with the Zoning Administrator, which would be the proper person to contact at the time. Langly said his decisions are the ones that you would normally appeal to with the BZA if you were unhappy with the decision of the zoning administrator. Did anyone file an appeal? Smith said no, none has filed an appeal. Michael Tindera asked if an administrative decision had ever been made or any evidence of it? Langly said it sounded like to him that there was one unless they were calling Mr. Spurr a liar. Tindera said Spurr has never indicated that there was one made in public so maybe he should do it now. Hawkins said this is exactly how a meeting gets out of control. He said they are taking their time to come here and meet with you, for you to direct questions to us and then we can give them to Cox and he said he is about ready to ask Wilson to open the floor and you can ask us questions and Cox can answer if he chooses to. Tindera apologized. Hawkins said you know how a meeting gets out of control. Tindera said you explain me your rules and he will obey them. Wilson said the floor was now open for questions. Tindera said Cox has given them some, started off by telling them about his great integrity and he also mentioned that they had a meeting with him so his question is an integrity question, did we discuss skeet shooting at that meeting? Cox said yes they discussed it; it was brought up Mr. Doug Orman, one of Tindera's cohorts and he said it would be nice to have skeet or trap shooting here. Cox said his response was; Tindera started to comment and Cox told him to give him a chance to answer. Hawkins said so the answer is yes they brought it up and Cox said yes they brought it up. Tindera said they did not bring it up and someone said yes they did. Hawkins said that was enough, it was brought up. There was some discussion back and forth about who brought it up. Wilson told them that was enough and let's keep some order here. Hawkins said we know the question was brought up and Cox answered it. That is about all we need to know. Tindera said the issue that he brings is, and there are several witnesses at that meeting, he said that he intended to have skeet shooting there. Hawkins said tonight he is saying in front of all these people that there will be no skeet shooting there. Tindera said, well I guess he has changed his mind and that is an integrity issue. Cox said he thinks he should, after last weeks go around, at least be able to answer the question. Hawkins said it got out of hand. Cox said he wanted to at least say that he had a skeet and trap hat on, Mr. Doug Orman said something about the skeet and trap that his dad was an avid trap shooter and so

forth, be nice to have a trap there and Cox said he responded, my response was, if you guys have this much problem with noise on a 4-wheeler, I would sure want to check with my neighbors before I opened a shooting range. Tindera asked if anyone from his group could comment on the recollection of that occurred. Hawkins said isn't the answer that he is not going to have it, isn't that what we go with. Hawkins said does it matter if he said or she said. Tindera said it does because you have to trust what he says, later on he is going to tell us he is going to observe boundaries, he is going to observe hours, your going to propose ordinances to control these kinds of things, so what he says and what he does and whether he follows up on them is integral to this whole process. Tindera said what it comes down to is can we trust you guys, can you trust us, and can we trust him, its very important. Hawkins said to Cox, there is no skeet shoot. Cox said there is no skeet shooting, no trap shooting, no proposed trap shooting and no proposed skeet shooting. Hawkins asked about the hours. Cox said the hours are clearly posted on the web; they are from 9 until 5. They were discussed in the meeting and when we are talking about integrity... Hawkins interrupted and said lets just keep going. Cox said those are the hours. Wilson asked how he polices his hours at 5. Cox said everyone's car leaves and if they don't then we obviously go to the woods to see if there has been an accident or somebody for reason is still in there. He said they have had no problems, everybody comes out and is gone by 5 p.m. Crouch said they haven't been adhered to already, he has heard them well after 5 p.m., in fact passed 6 p.m. Hawkins asked if we could set, if they are heard after 6 p.m., he said they checked with the Sheriff's Dept. and over the weekend there were no complaints filed with the Sheriff's Dept. Last week we heard about some trespassing, if there is trespassing he asked Cox, you know that rider could be arrested for trespassing and that he could be arrested for permitting the trespassing. Cox said he didn't know about him being arrested but he did know that there is, on his wall, if you trespass you will be prosecuted. He said he would support any neighbor that caught anyone trespassing wholeheartedly. Hawkins said, if they are riding after the designated hours then you understand and fully.... Cox said no, he may be riding after hours, he may be back in the woods making sure there is nobody in the woods or doing something in the woods, but there has not been one single paid person riding after 5 p.m. Hawkins said at 3:30 yesterday, and he said he is not taking sides, he is trying to be open minded, but at 3:30 yesterday he was by Mr. Rigger's house and he went back into the woods there and there is noise and if you haven't ridden there and if they don't shoot at you I guess you can go there. He said if you listen, there is noise. The noise issue is what Hawkins thinks it's all about. Hawkins said he thought if Cox was charging for people to ride horses there, or if they were walking there, or fishing there, there would be no issue. We wouldn't have half this place, anybody in here to be honest with you. Cox said he didn't doubt what he was saying. Hawkins said they would probably send you some flowers and thank you for coming. Hawkins said the thing is, the noise is the issue and he thinks the zoning board and everyone should know that is what we are dealing with. Hawkins said he thought if the noise would go away a lot of things could go away. Tindera said point of order, there is a second thing and that is where the proper procedure on zoning has been followed. That is a big deal to every one of us. Modesitt asked if the questions were to be posed to anyone or just Cox and the Hawkins said they are to be posed to the Commissioners and then he if wants to answer them he can. Modesitt asked if a certificate or anything was issued allowing him this use of the property by anyone in writing. He said he read in the paper, if it was accurate, that no one could ever find a form. Spurr said he would tell his part of it then everyone can hear that since that is what.. Cox hired me. Hawkins said wait a minute we need names for the record. Spurr said Cox hired him and one of the first things he did was call John Koma who was the building inspector and zoning administrator. Spurr told him what Cox wanted to do, it was his understanding at the time was that it was going to be park where there would horse trails, hiking trails, and ATV trails. Spurr asked Koma what permits they needed and what needs done to get this operational in the county. Koma said let me look into it. A few days later Koma called Spurr and he said he though the zoning was o.k. But he was going to get an opinion from their attorney but that it was currently subdivided and that it would definitely need to be taken from a subdivision back to acreage in order for

it to be used that way. Spurr said Koma mailed him a letter with a form and a map and instructions on how to fill out the form. Spurr filled it out and mailed it back, we were given notice of a meeting to attend, we showed up at the meeting, they read the form that was to take the area from lots back to acreage and they approved that. Spurr said maybe a month more went by and Koma faxed him a copy of a portion of the zoning ordinance then he called and went over it with him. Koma went line by line through it and he said it says its okay for a recreational park so you do not need to change the zoning in any way. Spurr said he faxed that to Cox, relayed what Koma had told him and then closed his file. Modesitt said his comment to that is, just based upon what Spurr just said, their ad says dirt bikes, snowmobiles, and that wasn't included in what you asked Koma. How do the people, how is their any way to police this? If there is nothing in writing and it doesn't spell out exactly what the specifics uses are going to be, that is why you having zoning laws to start with. Spurr said the question was put, what was his roll and that is my role. Modesitt said he understands and that is why he is arguing with the Commissioners. If you are going to just let somebody say ok on the phone or whatever, nothing in writing, how do you know what was said back and forth. How do the people get notice, they have an opportunity to appeal that or argue about that use. Modesitt said you might as well throw your zoning laws right out the window the, if you are going to allow that. Modesitt said from looking at the ordinance, clearly there are several violations of the ordinance even if you are going to try and argue that stretching the word recreational use includes all of this. Look at your ordinance as far as what is spelled out as agricultural; nothing even comes close to what this recreational use is, causing all kinds of noise, running all kinds of vehicles in there, selling tickets to get in. All that kind of thing. Modesitt said it's a sign violation of your ordinance, there are 3 signs out there, it says your allowed to have one name plate if its agricultural. It goes on, we don't have approval on the Indiana State Highway Commission, if there is vehicles lines up there to get in the entrance, to get in to the park, rather than just a residential drive. Modesitt said he is saying that it is their position that this needs to be started over. There needs to be a petition of rezoning started. He doesn't think there is anyway that it should be included that recreation use would constitute all these types of uses. The citizens haven't been given an opportunity to appeal whatever alleged decision was made because there was nothing in writing and nobody even knows exactly what was approved. Hawkins said that appeal would go to zoning and Smith said Area Plan. Modesitt said there needs to be a decision made first, in writing, or whatever, or something started so that we know, so then there are some boundaries as far as what property did he uses for is something was approved. Hawkins asked him if he could put down, this is what he asked for at the last meeting, the specifics of what your concerns. Modesitt said he told the group is, the first thing it was the proper procedure followed here, they don't think it was. So now if a petition gets filed to ask for rezoning or whatever then we get into what the complaints are and whether this rezoning should be approved or not which then comes in to someday complains, our boys #1, especially like a Botany woods or an adjacent neighbors. They live where they live because they like wildlife, they like woods, and they like quiet. All those kinds of things, this is going to have a major impact on that. He thinks it will affect their property values, someone who wants to live in Botany Woods, do they want be back with nature and in the woods and now you try to sell your house and find out all this noise is going on close by. He thinks that going to affect the valued. Modesitt said secondly, dust issues; there have been a couple of neighbors complain about all the dust. Property values, he already mentioned it, the road safety issues out there along the highway. We are running ads, Mr. Cox is a good business man, he wants to make money, he would love it if he could have 500 cars out there a day with ATV's. He is not limiting any of that. He is running ads on the Internet; he is posting signage, doing all those kinds of things. He wants to make money doing this. It is going to affect the neighbors that live by him and bought their properties, owned them previously and like the peace and tranquility of where they live. Cox asked how they knew if was going to affect them and Modesitt said it already is. Modesitt said the other thing would be the ambulance service. Everyone knows that ATV's are dangerous. The ambulance service is going to be called out there, trying to get back in the woods to get people out of

there, those kinds of things too. Modesitt said he thinks the BZA has already established precedence, the pumpkin patch, where they required that they be rezoned and that is seasonal, not year round. Remember this business is going to be open all but 2 days a year. That is much less intrusive, the pumpkin patch, than what this operation would be. The BZA already requires that they had to rezone to get to that point. Hawkins asked if they were going to put this in writing so that they can give it to the APC. Modesitt said he would be glad to. Hawkins said, don't you think that is where you would start? Hawkins said we are going to get a meeting go where somebody said this and somebody said that and there is already been enough. Cox doesn't know what the fight is over; you don't know what it is over. Hawkins said he knows what its over, its over noise. When Terre Haute put the new Airport, they went through it, Indianapolis has gone through it. You can never be guarantee peace and quiet but if he has violated something we need to put in front of them what he violated. Modesitt said the only reference to noise is in an industry part of your ordinance. Read it and if you read that and then you think now we are even looking at that in industry as compared to this when your claim is agricultural and all this would be allowed there. Hawkins said just a few months ago we went through the Ethanol issue and we were well aware and people came with that concern to us. A new industry would draw the same complaint. Modesitt said it's an impossible fit to try and argue that this would fall within agriculture, if you read the entire ordinance. We are basically taking a position here tonight that is an improper use of the way it sits right now. Hawkins said then take it to the proper venue which is the BZA. Modesitt said honestly tonight he wasn't sure, all it said was Mule Ridge on the door and he didn't know what you were going to consider tonight, if a vote was going to be taken, what was going to happen so we all came just to make sure that everyone understands their concerns, where we are on this whole thing. Hawkins said we are trying to give the people a venue to have their case heard. Wilson said this is just an informational meeting; they were in the dark too as to what took place. Rick Smith said he has been told that they are going to put two ethanol plants in this county, is that true. Wilson said yes, there are two planned. Smith said you were talking about noise, what about the truck traffic running up and down 63, he said he lives 2 miles off of the highway and he can hear the trucks squealing their tires to stop at 63 & 163. Randy Riggen said the noise by his house is noisy now and as far as the highway goes, it was there when he moved there so he lives with that. The thing is that the noise has been there and its just hard, but the 4 wheelers are up and down the creek by his property. He said he knows the signs are up where the boundaries are, but you cant keep people from running up and down the creek. Hawkins asked Riggen if there was a question brought up at the meeting that he didn't bring up to them, he tried to make a list. Riggen said the only thing he said was that he thought for a survey to be legal was that the neighbors had to be notified. Cox said he didn't know, he bought it from a realtor and they took care of the surveying. Riggen said he was never notified, he saw the guys putting in the stakes. Cox told Riggen he could get it surveyed and if its wrong he will move it for them. Riggen said that is not really his issue because the main issue is noise and a survey wouldn't change that. Jim Britton said, one thing to consider, was something Hawkins said, was that Terre Haute has had problems with airports and noise issues, and ethanol plants and noise issues. Those particular items, though they are industrial, they do provide income, tax revenue, and jobs to the county. Mule Ridge supplies no jobs to the county. Hawkins asked him how he knows that. Britton asked Cox if he had a payroll. Hawkins asked Britton what if a person stops to fill their gas at \$4.00 a gallon at a gas station, that's providing some money coming in. You've got to have several little things to make money. If they stop at Green Acres to eat, there could be money come into the community. You can't say there is no money coming in to the community. Hawkins said Nelson has a nice nursery, people buy stuff, or they stop to get a haircut, whatever they do, if they spend their money here, he is drawing them into it. Someone said they are probably spending their money in Montezuma. Britton said he would guess that is where they are getting their fuel. Hawkins said he is just trying to make a point that Vermillion County will take anything it can get that will blend in with the neighborhood and if Cox, he would love for him to just go with horses. Tindera said he has spoken for this group a lot in these public meetings and he can

say that if it was horses we would not be here as a group. We are now a group of about 50 people, people who pay so that we can have good representation and you try to do that in a county like Vermillion County unless there is an issue that incenses people. That incensing is two fold, one is that improper procedure has been followed here and he is going to tell them about it in just a second because apparently it is just by passing people. We went and we put a petition in front of the BZA, we were cut off by Attorney Thomas, who remanded us to file an appeal, an appeal of what? There was no decision of record. This was an absolute absurd thing to ask to go do. Then we came to your Commissioners meeting and that was just by chance, to let you know what's going on. Tindera said in his opinion, regular APC or BZA authority who heard us should of taken it over as their own issue because no proper procedure had been followed. There is no evidence of record that anybody can produce that Koma made the decision. He has been invited to meetings, he was invited to this meeting, and he didn't want to come. Everyone knows what his reputation is. Hawkins interrupted Tindera and Tindera apologized but said he wasn't the first person who brought up integrity as an issue here. Hawkins said Modesitt is going to file exactly what the commission wants to look at. Tindera said why should we have to file anything when it was your job.... Hawkins said now wait a minute, do you want to dictate the commissioners job, tell us what our job was in this issue. Tindera said no. Hawkins said Mr. Spurr is saying different than what you are saying and Tindera said, he sure is and he would like for him to quote what he is saying, restate it. Spurr asked how many times does he have to say it. Tindera said just say it real clearly, was there an administrative decision made or not. Spurr said he called and Tindera interrupted and Spurr said if you want my answer then let me answer. Tindera said it's a yes or no answer. Spurr said you are trying to make me say something. Spurr said he called the Building Inspector who is the person you call about zoning and permits, he explained to him what needed to be done and asked what they needed to do. Smith mailed him a form and a letter that said fill out this form. We filled the form out and sent it in. We went before the board, the form got approved, and Smith mailed it back. Tindera said his question to him was it an administrative decision allowing the use for a recreational purposes for this property. Was an administrative decision made? Spurr said the building inspector..Tindera interrupted and said it is a yes or no answer. Spurr said the building inspector faxed him the section of the ordinance, went over it with him on the phone, and said the zoning was fine. What else do you do? Someone told Tindera that he might as well give up. Tindera said it's a yes or no answer, was an administrative decision allowing this purpose filed, do you know that, you were his attorney. Spurr said your adding the word filed, he said he did what the zoning administrator told him to do. Tindera asked if there was any evidence of it. Spurr said he is telling him what happened, he remembers what happened. Tindera said Spurr was his attorney and would know if there was any evidence of a decision being made. Spurr said he remembers what he did, he has the letters from Smith, she has a copy of the letter herself. Tindera said to Spurr that he was wiggling and Spurr said how am I wiggling? Wilson asked Modesitt if he would like to look at the letters Smith had. Britton asked if he could talk now. He said he has two questions to ask and some of the men are sitting right there and they are part of the BZA or APC or the Commissioners, these are directed at all of them and he said he would like a simple yes or no answer to these questions and then he has one statement to read and then we would hear no more from him. Britton said his questions are to each one of them, have any of you, either privately as an individual, please listen carefully, privately as an individual or as a governing body in any capacity past or present had a personal relationship or business arrangement of any nature with Mr. Cox? Yes or No. Dick Fultz, APC, said he has. Britton asked what the relationship was. Fultz said he knew his grandparents, kind of knew his parents. Britton asked if Fultz felt he has used his position in any way to direct Mr. Spurr or anyone from Mr. Cox's party in a direction of anything that could slide by.. Fultz said no he has not. Britton said he was just asking, not implying. Hawkins said, so are you saying there was something put in front of them then? He is saying nothing has ever been brought in front of them. Britton said no, he is not saying that, he is asking. He asked the Commissioners the same question, do you know Mr. Cox, and have you had any business dealings with

him. Britton said the second question is very similar so please listen carefully, this is a matter of record isn't it and Hawkins said yes. Britton said have any of you discussed Mule Ridge with anyone from the BZA or formed an opinion with past or present employees prior to the last BZA meeting? Britton read the question again. He asking them, before that meeting, the last meeting you had, have you talked to anyone in the Zoning Administrators Office about Mule Ridge. Fultz said he was in there when Mike came in, or rather Mike was in there when he came in, anyway, it was discussed then and he asked him about Cox and he just told him that he knew Cox and they were friends. Britton said if you are friends with Cox, and there is no fault in that, I don't think you should be part of the decision making process here and that is his opinion. Fultz said he hasn't been, there was no decision making....Britton said so you are saying there was no decision made and Fultz said now wait a minute, he said they had to do away with the subdivision and he sat on the board that night, that was his only involvement. Britton said there is nothing wrong with that, that was the only involvement, nothing concerning Mule Ridge. Britton said he has a statement to read, bear with him, it is 2 ½ pages long. Britton said he is here to speak on behalf of Mule Ridge Impact Group. By your own admission at last weeks Commissioners Meeting and the last BZA Meeting ,no one seemed to know anything about this open for business, until the open for business signs went up the day before at Mule Ridge. Who knows what Mr. Cox intends to do next with this property but right now he has a motorcross/race track on which he is selling ride time. ATV's, dirtbikes, snowmobiles in the winter, camping and concessions, all for sale 363 days a year according to Mr. Cox's website, www.muleridge.com. If you, and this includes you the governing body of the county don't make Mr. Cox validate the process tonight and I stress tonight, not at another meeting, you have the power, there is a quorum here, you open the door for similar or worse situations to arise. You will in effect be sending out a message to just bring your checkbook to Vermillion County and the highest bidder gets to build or do anything he chooses regardless of the law. It is my opinion, according to Britton, that our due process which it is your charge to protect has been violated, the tactics that have been used so far should send up red flags to every citizen of this county about the good ole boy legal maneuvers that have taken place. How do the tax paying citizens, the people who live and work here benefit from the nuisance of Mule Ridge in any way. Britton said, it seems to me Mr. Cox plans to profit by exploiting our rural setting for which it is part of the APC to keep Vermillion County a place for rural country living. He said, I plead to you do not a non resident taxpayer of this county make a mockery of your office by letting him run rough shot over you. We ask of you to see that Mr. Cox complies with all zoning procedures and that all transactions or executive decisions in the future made by the Zoning Administrators office be duly noted by a paper trail, so a record does exist not just he word of the applicant or his legal council. Do not let Mr. Cox compromise the process of checks and balances set forth by this body. Obviously current zoning laws and procedures haven't been met or followed in this case. The law applies equally to all of us regardless of our rank or stature in society. Mr. Cox has built a nice pole barn near what used to be his hay field, therefore his investment is not in vain. He has also the start of a nice fence that could be used for a typical farming practices and we will welcome him and his family to join the rest of the surrounding land owners in normal accepted farming and agricultural type operations. In the meantime, we ask you to decide tonight and shut down this illegal business now. Wilson asked Britton if he stated that Cox was a non-taxpayer and Tindera said a non-county taxpayer. Britton said a non-taxpaying resident, a non-resident taxpayer. Britton said he is a taxpayer and deserves the same consideration as anyone else, but he is a non-resident. Nelson said he wasn't really clear on Koma's job as a building inspector, does he have the authority of to ok a business by himself. Isn't there any checks and balances, we have one person, doesn't seem like this is quite right, you can come into an area and do whatever you want with just his approval. Larry Thomas said he was both the Building Inspector and Zoning Administrator. The zoning administrator and the Building Inspector were both Mr. Koma. The Zoning Administrator is the one who enforces the ordinance so that is why Mr. Spurr got in touch with Mr. Koma. Nelson said what he is asking is that one individual makes the decision for the

whole county if we want to but a business in. Thomas said if the Zoning Administrator makes a, what you believe to be a mistake, then your remedy is to appeal that decision to the BZA. The BZA then would have a hearing where both sides would have an opportunity to speak, make their decision. If either side is displeased with the decision, then they can go to circuit court. Modesitt said he thinks that is where part of the problem is, if that decision was made, nothing was ever put in writing, nobody knows what day it was made. If you're going appeal something, you need to know what you are appealing. That is a lot of the problem here. Modesitt said the paperwork he just reviewed it just says basically that Koma has asked that the subdivision be abolished and signed the paperwork and sent it in, that is all it pertains to. It doesn't speak at all to the use presently of the property. Spurr said he filled out what he got sent from the office and he resents the implication that there was some kind conspiracy, he called the guy from a phone and said what do I need to do to do this, they sent me a form, I filled the form out and sent it in. Spurr said, how would I know to do something that they don't say I need to do? Hawkins asked Modesitt if he was representing the group as a whole and Modesitt said yes. Hawkins said just for his information, he has only been in this office since January as a Commissioner, is there a step as a Commissioner that he can do tonight, is there something under the law that the Commissioners need to do. Modesitt said that it does say in the zoning ordinance that you guys have the right to ask for an injunction etc., the legal question is whether the BZA or the Commissioners have to act on that. Hawkins said an injunction is usually filed to protect something like a tree being cut down, that if you don't stop it, it will be cut down. Modesitt said or to stop something that is considered to be harmful or before it creates anymore harm, that type of thing. Tindera said his point is, I know your getting tired of me, but if you would answer the most important question of the night, if there was a decision made, an administrative decision, then Thomas was correct in mandating us to appeal it but if there was no decision made then a correct process has never been applied here. Apply it and you have precedence, the pumpkin patch is a great one. It operated, you may not know about the pumpkin patch because you are new to the business. The pumpkin patch use to operate under agricultural zoning, when it permitted camping and start asking people to pay, it had to be rezoned, it was rezoned B-2. Hawkins asked when he knew about the pumpkin patch and Tindera said because he does his homework and Hawkins said no, you did it last week at the meeting, you hear about it the same time we did and Tindera said no he knew about it before, he would swear to that. Someone said Tindera wasn't here when they were talking about that, he came in late. Tindera said if you apply B-2 zoning to the pumpkin patch then you have apply business zoning to this business because this business is much larger, charging much larger fee's, and is in much greater offense to the agricultural character of what it means to be agriculture. If you apply B-2 zoning to that you at least have to apply business zoning consideration to this business and if you do so then you have to take noise in to account and that means your considering industry issues because it is in your own ordinance. Lavonne Hill said she wanted to make a comment. Britton asked where she was from and she said Bloomingdale and Britton said is that in Park County. Hawkins told him that was enough and Britton said he just wanted to know where she was from. Hawkins told her to just state here name. Lavonne Hill said here question is, the original zoning before this even went up, was it or was it not already zoned recreational? Several people said no. She said ok, she was just asking. Hill said, being a weekend rider there and someone who has actually been on the property, you cant go a few minutes without seeing the owner or his son, or someone that is there, working there, out making sure we are following our boundaries, not going over the boundaries, wearing protective equipment and that everybody is following the rules. She said he has seen him stop people and tell them they will have to leave if they don't slow down. Hill said there are rules and they do make them follow them. Randy Rikken asked if it was an administrative decision to have the paperless decision. Hawkins said they was he understands it is that what he is hearing here is, they are saying that Koma said this and Koma said that and we know Cox hired Spurr and they came up to a conclusions but can someone produce a piece of paper, evidently not. Rikken asked if and administrative decision allowed this. Hawkins said that he thinks Koma can make that decision

under the present rules and he could do that for anyone, not just because it was Cox. Rikken asked if anything was in writing. Hawkins said he does know that Koma made decisions while he served at that capacity all over the county, not just this one instance; he did that with other cases. Rikken said, so it is paperless. Hawkins said somewhere it should be documented. Cox said he doesn't understand some of it either, whenever the Attorney faxed him a copy of the zoning, people saying its zones for that, he thought it clearly said for recreational use. Hawkins asked if he had that paper. Cox said it is in the County Zoning. Hawkins said somebody needs to produce something to us. Thomas said it is his understanding that in an agricultural area, under permitted use, it says recreational area. Now the question becomes obviously, what is a recreational area, he thinks that is what the dispute it. Cox said when he looked up recreational area on Indiana.gov, recreational, it says ATV parks, when you go to the Federal website, recreational areas, ATV parks so he thinks that would be a pretty generally accepted use for recreation. Hawkins asked Langly if it could get in front of his commission. Langly said it could get in front of the BZA but someone is going to have to bring it in front of us. Someone has to file something. Modesitt said that he thinks their position is that he should have to file something asking for the BZA to rule on his use. Modesitt said it is his understating that the first ATV in 1970, your zoning laws were actually adopted in July of 1970 so he doesn't think back then they anticipated there was going to be ATV's running all over an agricultural property. Troy Myers owner of the Badlands for 12 years and he said he is not zoned as recreational, he is zoned as heavy industry due to the noise and other things under a conditional program that they set up for my special circumstance. Myers said he has a personal vendetta here, look at the website, he has copied, he stole it from me, he lied to me. Hawkins said, so your not relatives and Myers said they are cousins. Jim Fortune said he owns 105 acres, probably one of the largest right next to his property and they are getting ready to sell. His wife and him have had it, the old Porter place right on the other side of 36. He said he wanted to congratulate them for having this meeting because you are going to get something done here. Fortune asked when they put electricity in and Hawkins said they could find out for him. Fortune said he should be able to tell us because a guy told him, 2 public service men told him today, that he told them when he put it in that was strictly going to be a club work and going to have gun shooting. Hawkins said they have stopped the gun shooting. Fortune said he didn't think everyone knew what was going in there at the time, we were all in the dark. Fortune said he lives right close to it and he didn't even know anything was going on until his neighbors came up and told him that they were already in. Fortune said he has built a few things in this county and every time he had to go through the steps, all of a sudden this gentleman comes over here to this county and comes in and in 10 minutes he is in. What is really going on here? Fortune said he wanted to thank them again and the one who really probably wanted him in didn't show up tonight. He thinks we should get this thing solved tonight. He said he understands that people knew nothing about it. Fortune said we were left in the dark; somebody had an agenda and didn't tell us, none of us. Someone said they were told it was going to be an equestrian recreational area. Fortune said he has 105 acres and is selling his property and is losing a lot of money on the deal and he doesn't think its fair. Fortune said this thing could continue on out, you don't know where it is going to stop. Fortune said he wants him to make money and he wants the kids to have fun. He said he lets people on his property to do these things; he carries insurance so they can do that, but he doesn't want it running through his back yard. He said he knows what they are going to say, that the kids have nothing to do and this is great for them but really its for 1 or 2 people. He said he trusts they will make the right decision and he back them in whatever they decided. Fortune said he thinks we have been back doored. Britton said he has 80 acres and Cox has a sizable piece of property, he merely owns 80 and he can hear, the noise is just as loud at his house as you can at Rikken's. Hawkins said he didn't mean to intentionally leave him out, he just wanted to get as close as he could. Britton said he probably only has about a \$400,000.00 investment there himself. Ernie Payton asked if this was advertised in any special way, what is taking place. He said they are all in the dark to what has really happened until they came to this meeting. Hawkins said it hasn't been proven that

you can't do it yet but that is what we are trying to find out. Payton said he thinks it's a mistake it not having it advertised what they were planning and he blames the planning commission. Bill Kautz, who lives south of Jim Fortune, on Sunday afternoons, he didn't call the sheriff because we were having these meetings and he thought it would be corrected. Kautz said the noise is so loud, even at a mile away, that they couldn't sit out on the patio and yesterday at noon, he said he drove down 63 and he stopped and counted 23 pickups in the parking lot, some of them hauling 3 or 4 SUV's, motorcycles. He said he said here at the last meeting and listen to a lady for 45 minutes trying to get permission to put a hair place in her home and what she had to go through to do this and do that. Kautz said he couldn't believe that this whole thing went through, and they are there, without anybody knowing or anybody having any opportunity to comment, and no one can find any paperwork, so is it there or is it not? Kautz said he thinks they are looking at some highly appraised value properties, very close. It might be a good idea to look at the tax records; there are a lot of nice homes in there, This is something that seriously needs to be looked at and discussed, start over. Web Crouch said he would like to ask the Commissioners, the BZA, and APC, all you folks, do any of you feel like proper procedure was used in this business getting started in an agricultural area? Does any one feel all the steps, all the checks and balances, every thing was gone through properly as set forth in this county as traditionally has been done. Everyone has guidelines, everyone has rules. Do you guys feel like, any of you, that this has been done right? Hawkins said he thinks Cox thinks that it was. Crouch said he is not asking those questions. Hawkins said he doesn't know, no one has put a piece of paper in front of him says it has and Crouch said exactly, that is... Hawkins said that doesn't mean 5 minutes from now or tomorrow somebody is not going to produce some paper. Cox said he got a fax. Hawkins said his crystal ball is broken. Crouch said they have went to the BZA, APC and now this special meeting, he appreciates it but we are being told the same thing, no one can produce anything. Milligan, from Dana, to follow up on his question, just procedurally if the Zoning Administrator, if somebody brings this question to the administrator, is it normal procedure if he finds it as a permitted use, is there ever a paper trail? He is not saying that is good or bad, he is just asking the question. So its normal procedure if the zoning administrator finds that it is within the permitted use in the zoning ordinance. There has never been or probably never should have been any paper trail. Milligan said he is not against anybody, he is just saying this is the way, that's normal course of business, is that right. Hawkins said that is not very good business. Someone said if you find in the past that it was a permitted use, he doesn't think you will find a paper trail. Milligan said for anybody that does anything, any industry or whatever, if they are zoned and a zoning administrator comes in and says that is within this permitted use, there is no paper trail, there never has been, whether it is right or wrong, that's the way it is being operating. He said he is not trying to offend you or anything, he is just saying to try and clarify what is going on. That is the normal course of business for us. Hawkins asked what the next step is, if they don't like what happened. Milligan said he is not an attorney but Thomas is very clear that if a business opens up and its against the, if they want to appeal what the Zoning Administrator said, they go to the BZA, they just file for an appeal with the BZA, that is there next step. Nobody has done anything necessarily wrong at this point; it's just that you have to file with the BZA within 30 days of it opening. That is how the procedure works. Hawkins asked Smith if that is what happens, Koma goes out there and says you meet all criteria and that's it, there are no papers. Smith said in the case of the Pumpkin Patch, Koma went out there and said in order to charge money in this recreational area; you have to get the zoning changed. He didn't write it down, but they came in and filed a petition to get the zoning changed. Hawkins said so a petition would site exactly what they wanted to change, and that is changing zoning. Smith said yes, the zoning is changed and then it came to the Commissioners. Hawkins asked if Cox should of filled out something and Smith said she couldn't make that call. Hawkins asked how we were supposed to know. Smith said that in a past case, Ellis had to because the Zoning Administrator said to. Thomas said the problem is that each case you have to look at differently and you don't know what Koma actually said. He may of said something to this one person and they decided they

needed to rezone, so they followed that procedure. It doesn't necessarily mean you're stuck with that on everything else because these are separate and that is pretty much the law on that. Hawkins said so this could of happened without a paper trail. Thomas said, as Milligan was saying, when it's a permitted use, how its zoned, he may not of had a paper trail for that, he could of just gave an answer, yes or no. Hawkins said so anyone wanting to do something may or may not have to fill out a paper, but it could happen, that he didn't fill a paper out. Thomas said he has never seen a paper. Wilson asked Smith when the board was notified of the zoning administrators decision. Smith said when the petition is filed for a change in zoning or for a special exception. Hawkins asked if he changed is zoning? Smith said no. Cox said he didn't have to change it, it was already zoned for that and Koma said it was, if it was not, why wouldn't he have come to Smith or you people and said Cox has something that is not legal out there and lets stop it boys, but he didn't do that and never has done that. These two men said that when Koma is in agreement with something, there is no paper trail, why would you have a paper trail for something that is permissible. Milligan said he wanted to finish this and say that he absolutely doesn't agree with everything that Koma does, he wants to make that quite clear to everyone, that he doesn't agree with everything he has done in the past or has done, he could of made a mistake, but there is a clear procedure then if he has evidentially, if he has or has not made a mistake then you need file with the BZA. Modesitt said the procedure doesn't provide due process under the law, first off Smith just said that they key element to the other rezoning was that they paid to get it, same thing here. So he is saying this one needs rezoned but this one doesn't. The thing is, how can you appeal from something, it would be like a judge making a decision in his mind, but if no one has anything or no one notifies them, how do you know when your appeal period starts and how do you know what your are appealing from? Your procedure violates due process under the law. Hawkins said, so are you going to file an appeal and Modesitt said he will do whatever his clients ask him to, they want to get this in front of the proper channels and have proper ruling on zoning etc. Modesitt asked if they could stop this in the mean time because no one can say if its legal or not legal, now, no one can. Hawkins said that they have explained what needs to be done for an injunction, there is nothing going to go away, your not going to loose the evidence. Cox has the right to counter file our injunction. Britton said this could be drug out for months, even years, and we have to tolerate it in the meanwhile, we are asking you for relief. Hawkins told him they have no authority. Modesitt said there are some things we could do but we don't, that could be challenged. Britton said he didn't understand it, who does have the authority and isn't there a forum sitting right here. Thomas said its not a regular designated meeting, its not a special meeting called by the board. Modesitt said the problem they have is if they are appealing something, if they are the ones who have to start the appeal it's almost like what is there stands as being legal and we don't think it is. Modesitt said he understands Cox's position, if he files for rezoning its almost like he is accepting that its an improper use. We feel that is should back to the beginning, equal, where no one is right at this point and let you guys go through a rule accordingly. Hawkins said there is all kind of injunctions and they still remain open sometimes. Fortune asked if he could start any business here in Vermillion County and he could sell...someone said no and Fortune said that is what Cox did. Fortune said he went by the rules and the rest of the people of Vermillion County went by the rules; let him go by the rules. Someone said its seems to him that this Cox was asked when he bought that property, what he had to do to make it legal and they told him there was two issues, the zoning was for a subdivision. Cox went out on the perception that if he got it rezoned, he was good to go. Is he the one that is in the wrong? He said what he has heard here tonight, and he has lived here all his life, is the reason that this county is not growing. Carol Busey said, so basically what you want us to do is call the police at 3 am when Cox is checking his property on 4-wheelers? She said 3 am is when she was woken up by 4-wheelers. Someone else said they have heard them at 3 or 4 am too. Busey said, are we supposed to call the cops and have you or whoever running around on 4-wheelers arrested or all the ones running around on our property and on roads when she cant even let her kids go out and play on our acreage because that is when you people are running around out riding, we are

supposed to call the cops on you. She said, so we just continually call the police until..Hawkins said yes, that is what you do if you feel someone is breaking the law. She said, ok so we just cram them full. Fortune said they only have 1 deputy running at 3 or 4 in the morning and Hawkins said we need more, your right. Hawkins said but you need to call them, any time someone is breaking the law you need to call the police, yes 911. Busey said what about the dead dogs that are showing up on her road too? Someone asked who was going to pick up the bills when the cops are called. Probably the taxpayers, the county. Payton asked what they were calling the cops for, the noise or because they are trespassing? He asked about the ambulance service, if someone gets hurt and then someone doesn't pay the bill because these people are from out of county and they don't care. Hawkins said the county doesn't pay anymore; we pay so much to the ambulance service every year. If 90 % don't pay their bills, it wont cost the county residents, it will cost the guy operating the ambulance service, it comes out of his pocket. Hawkins said and if call the police out there, you don't pay them anymore to go out there. They are paid anyway. Someone said that what upsets him is did Cox break the law, did we break the law, no, but morally it is not right. It is not right to the people that live in Vermillion County. We have a chance right here to stop it, not just pass the buck on and let lawyers decide it in court which is going to cost these people a lot of money, cant the board here make a decision, he would like to see one made. Hawkins said, okay we make a decision to stop Cox, tomorrow he files a process against us, suing us for making the decision without any authority, then we have to go out and hire another attorney to represent Vermillion County and then you are getting into your county taxpayers money. Someone asked if these guys were going to make a decision tonight? Hawkins said Modesitt is going to file an appeal and he is going to specific exactly what violations has been done, he is going to spell out and then he is going to go in front of the board. If we do something, he has every right in the world to counter sue us for what we did and Modesitt said there are very few venues that we can do tonight. Crouch said don't you think the county would be looking at a law suite, in regards to the pumpkin patch. He said if its zoned agricultural and he starts charging people to camp, so then now I have to rezone, get a lawyer, fill out the proper paperwork, go through the procedures as is set forth in this county. Say I do that, get zoned B-2, I send out the certified letters to the neighbors, they sign off, and everything is good. Costs me some money and time on that business but yet Cox has this property and doesn't do any of those procedures. One business has to do it but another one doesn't, a much smaller business by the way. If I were the pumpkin patch I would think that is discrimination. No one else has to follow procedures to start a business in an agricultural area, it doesn't make sense. Isn't the county, wouldn't they be liable, wouldn't someone have the right to file suit against you for not making him go under the same scrutiny as businesses prior to that, doing the same thing. Hawkins said that they said there is no paper trail on a lot of these transactions. It sounds like everything is handled a little bit different. Myers said he ran his business for 12 years; Cox came to him months back, my wife's 1st cousin, under the impression that we were all buddies and what not. Cox came in and Myers gave him willingly all his information, his rules, his insurance contacts, and there is only one in the country there is no way he would of found it if he hadn't of gave it to him. All this under false pretenses, Cox told him it was going to be an equestrian park, golf parks, and things. Myers said he wouldn't have given him that stuff if I had known, I am not stupid. We have all been snookered. Myers said he has been fighting the noise issues for 12 years, he has over 4,000 acres of a buffer zone around his property, and you can look at it from an aerial map. He has sold off over 26 acres to people who knew what was there and willing to accept noise. He said everything works because of the way it was set up and the way it was structured to begin with. Myers said they are zoned as a special contingency under heavy industry. Hawkins asked how many times has the ambulance service, how many bills are gong unpaid in Fountain County because of your park. He said about 12, that is the same as any business owner. Hawkins asked how many ambulance calls they got and Myers said as little as 7 runs per year and as many as 80. He said there average response time is 3 ½ minutes. Someone asked if this new ATV park would interfere with Myers park and he said that is why he is there, he is not stupid. Britton said he just heard Cox

mutter something about having 30 days to file an appeal a zoning decision after a business opens, and that his long sense expired is what he just said. Is that true, do we have a legal leg to stand on or have we been drawn into a process that's made that time limit expire? Somebody said it wasn't made pubic. Thomas said normally once a decision is made by a board or an administrator, you would have 30 days from the time that they make their decision to appeal that. Obviously in this situation you didn't know, he would think that's why the APC and BZA had their meeting, so you would have 30 days from when that meeting to place. He said he thinks that how it is, he asked Smith if that was how it was in the meeting minutes. Smith said she didn't recall, she knew that he told them they could file and appeal. Modesitt said the problem is when did they know what he was using it for but what was ok'd. We still don't know. Did they ok dirtbikes, snowmobiles? We need to know specifically what is ok if we are going to appeal something. Someone said things change and everyone has problems with zoning ordinances. There are a lot of things that have changed in the last 30 years when these ordinances were written. You have to look at what it says you can do for permitted uses in areas. If it's a permitted use then it's arguable sometimes because things have changed within 30 years. Does it fall under the definition of recreational area or does it not. Tindera said the code says, public parks, playgrounds, recreation areas, golf courses, and country clubs. It does it in the same clause; the intent seems to be clear by language. You don't have to be a genius. He said, by the way, he is incorrect about researching recreational vehicles. He has been on the legal websites, it's an issue that's open to debate but the issue is, with regards to noise. He asked Thomas if any of those things were noisy. Thomas said, that is why you have council here. All he is doing is telling them what procedures we think you have to follow. Smith asked Thomas to explain to them the requirements of the appeal. Someone asked if Koma was still employed here and has any one ever contacted him to try and find out what he o.k'd. Modesitt said they want a time frame in order to file the appeal. Wilson said we called the meeting because we were in the dark as to what was going on and so was the board. Should there have been a paper trail, yes. Wilson said he personally doesn't think it was done right. Wilson said the BZA and APC were here tonight as the Commissioners guest so they can't act on anything. Wilson said he didn't know if they had the authority to do anything about it. If we did he would suggest starting over but then he could file an injunction. Someone said there is a meeting in 3 days and they are on the agenda again. Smith said in order to file and administrative appeal, they appeal has to be on file 15 days before the meeting at which the appeal will be heard and it has to be advertised 10 days before. Wilson said, so they need to act quickly. Smith said they can't file an appeal for Thursday but they can for the June meeting. Modesitt said, so we are appealing an administrative decision, correct. Everyone agreed. Someone asked if we could Koma here to discuss this, is there any way to get this individual to say whether or not he made a decision. Wilson said they could ask. Wilson said he would recommend to the board that they require a paper trail for anything. Smith said a lot of times there is one. Tindera said the INDOT is interested in this issue as a limited use highway; this is going to jeopardize public safety. We intend to really talk to the INDOT about our feelings that this is a limited access highway. The approach from Highway 36, as you crest over that hill, if there are 3 trailers, trucks with multiple vehicles, if they are in that passing lane, you are going to see some sweet accidents there. He thinks the INDOT would have to make some serious modifications there. He said Dept of Environmental Management has been contacted, we are asking them to look at this because Cox has flood plain on his property. When it comes down to it, it is about whether proper procedure has been followed. He doesn't know how people feel about it here, but he is fighting mad. He is confused, what are we appealing here and no one can tell us. Noise is an issue, when Fortune held up his drawing, he has 9 lots across from Cox's property, there are going to be worth snot. In cases that are of record, if property values are harmed, people are brought to bear. People who make these decisions can be brought to bear, and people who give vague answers to specific questions in public can be brought to bear. Bill Streacker, who lives a half a mile due west of Randy Rikken, he said about 2 weeks when the park opened he thought he was going to take kids down for a mule ride, but it turns out it was ATV's. He said

there is nothing wrong with it but in out in his woods what he is hearing is not just a stock ATV or recreational vehicle, he thinks they are getting some souped up 4-wheelers in that park. Normally he doesn't here, but there are times when I can. It is invading my privacy. Diana Crouch for anyone who goes and enjoys that type of thing and people do, she understands that, however at the end of the day, they go home, they don't hear it anymore. The ones that are left are still going, its miserable. They had them last year running up and down the gravel roads beside our house. She said it's horrible, you can't sit in your back yard, and dust is an issue. There is no privacy. You can't even have a conversation. This is a major thing for these people. She said she feels sorry for this lady back here with her children, that's horrible. Crouch said she has had nightmares since our last meeting. Something needs to be done. People go, they ride, they have fun, they go home and we are left with the mess and the noise and trash, not to mention the men urinating with in full view of 36. Hawkins said, again, that is a police call. Hawkins asked, what are we accomplishing here, he said he understands. Crouch said when she has a car load of little kids that she is transporting back and forth to church and I have to distract them, its ridiculous. It is disgusting. Hawkins said he understands. Payton said if we don't stop it now, who knows what he put in there down the road, maybe he will put in a shooting range, who is going to stop him. Maybe he wants to build a racetrack, what is going to keep him from doing that. Hawkins said yes, we need to get a better policy in place because these things could happen. He said and people who live next to railroad tracks, like himself, with the gas prices the trains are going to pick up and we are going to hear a lot more trains. Tindera said but you bought your house when you knew the tracks were there and Hawkins said he knows, but its just part of life. Someone said, why don't we set a date that this has to be done at a certain time and not drag this thing out forever, say a week to get it stopped, a week for the board to make a decision. You guys can do it. Wilson told them they had 30 days to file, and 15 days to advertise. Smith said they have to appeal 15 days before the next meeting. They need to file by May 30th. Cox said that they stated in the last meeting that they had 30 days from the time they were notified, they notified Smith, in the office, Smith called me and set up a meeting with them. Smith said that is a question for Thomas. Cox said he is just talking about what Smith told him. Cox said Smith said in the meeting that they have 30 days to do it, that 30 days has come and gone, so why do we have more 30 days. If they were interested in filing the procedure 2 or 3 weeks ago, why now. Someone said they have been in here for the last two weeks. Wilson said they didn't know about it, didn't know what was going on. Someone said, you can't deny us due process. Cox said everyone was told at the last planning meeting. There Impact study man was there at the meeting, he asked specifically, what does he need to do, Thomas told him that he had so many days from the time he found out and quoted the days, the times and so forth. That 30 days has come and gone and nobody has done anything and it just drags on and on. If they wanted to file, why didn't they file, they were told by Smith, they were told by Thomas that that was proper procedure, the very same people that are here today are the same people that were there then, with the same statements and questions. Cox said, so when you say they didn't know, well yes they did, these are the very same people. Someone asked what the exact date of that meeting was and someone said April 10th. There was some discussion as to when the 30 days should of started and ended. Modesitt said they should have due process, the right to appeal. Someone told them they need to file within the next two days. Tindera said that may be, but we have been asking in public, and he hopes it gets recorded on every public venue, we have been asking for evidence of a decision ever being made, oral or otherwise, and we will appeal it. Nobody has given us that, not even the Attorney of record can remember specifically if a decision was made by the administrator. How can we appeal anything? There is no record, oral or written, so why should we appeal something that doesn't exist. Wilson said, just file your appeal based on tonight's decision. Cox can file counter file if he wants. Cox said he wanted to go on record that he heard from the Board, the Attorney, and Smith, that the 30 days started when they first found out about it and that would be the day they were in her office and she called me and asked me if I would meet with them. That was the 4th day of the month, when Smith called him. Modesitt said Cox wants to deny them their due process. Cox

said he has rights too. Cox said they were told by Thomas to file and appeal, they had 30 days, why should they get 60 days. Wilson told them they had until the 10th to file their appeal.

Wilson made a motion to adjourn, seconded by Hawkins

Adjourn

Read in full and approved by the Vermillion County Commissioners on the 5th day of June 2007.

Tim Wilson

Harry Crossley

Kim Hawkins

Attest: _____
Sherrie A. Koma, Auditor