

**WESTFIELD TOWNSHIP  
BOARD OF ZONING COMMISSIONERS  
REGULAR MEETING  
May 12, 2009**

Chair Sturdevant called the regular monthly meeting of the Westfield Township Board of Zoning Commissioners to order at 7:35 p.m. Board members Anderson, Brewer and Sturdevant were in attendance. Alternate ZC member Kevin Primer sat in on the Board. Board members Miller and Kemp were absent. Other individuals in attendance were Ron Oiler, Tim Kratzer, Stan Scheetz, Gary Harris, and Lee Evans.

**GENERAL BUSINESS:**

Approval of April 14, 2009 meeting minutes

Mr. Anderson made a motion to approve the April 14, 2009 meeting minutes as amended. It was seconded by Ms. Brewer.

ROLL CALL-Anderson-yes, Brewer-yes, Sturdevant-yes.

**Public Comment**

Mr. Scheetz stated he just wanted to keep the Zoning Commission abreast of the events that are going on regarding the annexation. Mr. Scheetz handed out the letter written by Attorney Al Schrader that was sent to Seville to answer questions regarding zoning, JEDD's and CEDA's. Mr. Scheetz stated that if a JEDD is created the land must be commercial, industrial or business related. The land cannot be residential; and that land is residential. Part of the land in question, which is across the creek, is the land we have dealt with for the past 2 yrs. where the Trustees used the Township's Comprehensive Plan to defeat the requested zoning change.

Mr. Scheetz stated he was bringing this to the Commission's attention because representations are being made that the zoning would be changed to become part of a JEDD. This is all going on outside of these meetings of zoning and planning and the Comprehensive Plan. He added the Comp Plan is in process and that is why the Zoning Commission is waiting to go forward regarding any zoning changes until those results are in.

Mr. Scheetz also passed out the Goals and Objectives of the current Comp Plan which says, "no further expansion of industrial or commercial." This was one of the reasons used by the Trustees to deny the zoning change to a General Business District and/or the Local Commercial District he drafted last year. Mr. Scheetz reiterated if there was not something in the works for some type of zoning change by December, then he would be charged with responsibility to look at what the options are annexation or the possibility of creating another jurisdiction. Mr. Scheetz stated he was not here this evening to threaten he was here to keep the Commission abreast of the events that are taking place. He added Seville had its first reading on the proposed annexation and the second reading is next Monday. The final reading would be in June.

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Mr. Scheetz concluded that all these representations about CEDA's or JEDD's may make sense when the entity proposing them has something to offer. The Township does not provide utilities i.e. sewer or water or sell electricity. The Township has no jurisdiction over the creek; that follows under State and Federal regulations. The Village of Seville would be providing all the services that is why he requested the annexation. Mr. Scheetz stated his clients are already in the jurisdiction with their businesses i.e. Creco and Ohio Wholesale. Mr. Scheetz continued that if the Township does look at a CEDA or JEDD in the future, they should look west of the creek. It shouldn't be with the Village of Seville it should be with the Village of Westfield Center. The Village of Seville has made representation at 3 separate meetings that they have no interest in crossing the creek because they would have to have a lift station and provide sewer. The Township has an option with the Village of Westfield Center and an option for water with the County. Mr. Scheetz stated it made no sense to him why the overtures would be made first to Seville. The options should be with the Village of Westfield Center, the County and lastly Seville.

Chair Sturdevant stated the three ways a zoning change can be initiated is by the Trustees, the Commission or the landowner. At this time our Trustees have not voted to do that. Chair Sturdevant stated she was confused how the Trustees were moving ahead with a CEDA or a JEDD when it has not been proposed by them. Mr. Scheetz stated that the action of the Trustees is a last ditch effort to stop the annexation by posing another alternative. However the conditions of the land are not correct at this time regarding the zoning. The annexation attorney is lobbying with Guilford Township and the Village of Seville to reject the annexation so it could start all over again in relation to a CEDA or a JEDD.

Chair Sturdevant stated she has been at all the Trustee meetings and knew they did not take any action of that nature. She added that the Zoning Commission has not taken action to change zoning nor has anything been submitted by a property owner that she was aware of. Mr. Scheetz stated that was correct but the letters that have been distributed is that you (Zoning Commission) will make zoning changes. Chair Sturdevant stated she would bring this up at the next Trustees meeting and asked them what their intention is regarding changing the zoning.

Mr. Scheetz stated that Seville has no interest in crossing the creek. That might change if the County says we will put the sanitary sewer or we own the sanitary sewer if Seville will treat it because then the County would own the lift station. Mr. Scheetz continued that there were circumstances like that in Wadsworth north of Home Depot.

Ass't ZI Evans stated his understanding is that a JEDD or CEDA cannot be imposed upon a property owner. Mr. Scheetz stated that was correct. Ass't ZI Evans state that the Auditor a few months ago sent a letter out that there will not be any JEDD's or CEDA's without the Auditor being involved in the agreement for money trail purposes. Mr. Evans continued that if the property owners don't want a JEDD or CEDA, the Trustees can

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come up with anything they want but it is still up to the property owner to decide if he wants to participate. Mr. Scheetz stated his clients petitioned for an annexation; not a CEDA or a JEDD. Not one of his 5 clients is interested in a JEDD. If a JEDD was to be pursued the property owners would have to deal with Seville's zoning, Westfield Township's zoning and a JEDD board. His clients do not want to pursue that. Chair Sturdevant stated if something is being represented that it would be changed i.e. the zoning, then the Trustees need to initiate that proposal. Mr. Scheetz stated that is the information that is being relayed by the annexation attorney to the Mayor of Seville.

Secretary Ferencz stated that the letter by attorney Schrader stated that the Westfield Township Trustees rescinded the motion of cooperation regarding the annexation to Seville. However the action of the Board was one vote yes, one vote no and one abstention. Per Bill Thorne that vote means no action was taken by the Board of Trustees.

**COMP PLAN STEERING COMMITTEE UPDATE**

ZC member Brewer stated the Steering Committee came up with a draft survey. This will be looked at in detail at the next meeting. The map on the draft survey needed to be clarified as it was hard to read. There was also talk about the issue of a complete and accurate mailing list for the distribution of the surveys. It was also discussed how the surveys would be distributed and if more than one would be sent out per household. Chair Sturdevant stated the surveys that were going to be sent out were to be coded so it would be difficult to track if only one copy of a survey is sent to each household as there may be different opinions of those in the household. How would that be handled with only one survey being sent? Chair Sturdevant commented that regarding the survey, she with Ms. Brewer's help, would come up with a mailing list to be used for the survey. There is a map and information at the Fire Station that could be used to help compile the list. Chair Sturdevant continued that per her conversation with Chairman Likley if Mr. Majewski had to come up with the list, there would be an additional charge incurred by the Township.

Mr. Primer asked whatever transpired with getting a mailing list from the school? Chair Sturdevant stated it was discussed but as far as she knew it had not been pursued further. Chair Sturdevant stated there was also concern about the length of the survey and would people be willing to fill out a 4-page survey as currently proposed? Ms. Brewer stated that was brought up at the Steering Committee meeting and the draft survey was being revised and hopefully that issue would be resolved to some degree. Chair Sturdevant stated it was imperative to have a survey that people are willing to complete as the results of the survey would have a direct impact as to what direction the Zoning Commission would consider regarding zoning.

Chair Sturdevant stated there was a meeting scheduled in Seville on CEDA's and JEDD's that was held on April 27<sup>th</sup>. Ms. Detwiler from Medina County Economic Development made a presentation as well as individuals from the Watershed District. Most of the talk

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that evening was regarding floodplains. Medina County is one of the only counties in the country that has language that states if you develop in a floodplain; anything you disturb you must mitigate somewhere else. Seville has different floodplain language and it was questioned if they did not have the same regs as Medina County, would they open themselves up to liability?

**Proposed Windmill Language**

Chair Sturdevant stated an individual contacted the zoning inspectors about putting up a windmill. He wanted to be held ag exempt. Currently there is no language in the Zoning Resolution regarding Windmills.

Ass't ZI Evans stated there is stimulus money available for Windmills. The State requires the height of a Windmill to be 100-ft. Ass't ZI Evans stated he asked the individual if he would be using the Windmill to power the barn or have a battery pack to store the energy produced. The individual stated no, he would be given a credit by the power company. Ass't Evans stated if there was only one meter and it was on the house then it could not be ag exempt. Ass't ZI Evans stated he and Kim Ferencz spoke with Bill Thorne who stated that Medina County was a suitable location for these structures and it would be prudent to get language in the code to address them.

Mr. Anderson asked where in Medina County are there windmills like this being used? Chair Sturdevant stated right now there weren't any and she contacted Planning Services and received information from them. The Pros. Office was unaware of the proposed language and has not had an opportunity to review it. Mr. Anderson stated in PA west of Breezewood, there were at least a ½ dozen such windmills in use. It was discussed as to what point does the level of power from a windmill change its classification as a public utility and remove it from authority under zoning? It was also discussed as to what the height requirements in regards to requiring it to be lit (FAA would probably regulate the lighting) and what would be the amount of land required to have such a structure? Chair Sturdevant stated she was in the process of gathering information from where her family lives as there was a huge windmill farm.

Chair Sturdevant continued that Planning Services has just received template language on Windmills and currently does not endorse any of the language at this time. Chair Sturdevant stated that Hinckley Township was currently working on this language and she would follow up with them as well. She also asked the Commission members to take the language home to review and the Commission would discuss the language at their next meeting accordingly.

**Zoning Text Errors**

Chair Sturdevant stated that previously it had been brought to the Commission's attention the error in Section 807 D. m. of the Zoning Resolution. This section which currently reads, "If applicable, an erosion control plan as required by Section 205 H." However

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Section 205 H. is Loudspeakers. Therefore the Commission proposed Section 807.D.m. to read, "If applicable, an erosion control plan as required by the Medina County Soil and Water District and or Medina County Storm Water Management."

Ms. Theken previously responded that The Medina County Soil and Water District does not require an erosion control plan; the Medina County Highway Engineer reviews storm water management issues. Check with them prior to including them in the Resolution under this Section. Chair Sturdevant stated she did contact the Engineer and they would be sending her what their procedures are. Therefore before this language is changed, the Commission should be in receipt of that information before the text change is proposed. Chair Sturdevant continued the other small grammatical errors in the zoning code would be addressed when the Commission sets a public hearing as well.

Chair Sturdevant continued that Ass't ZI Evans and Kim Ferencz drafted new wording for Section 907 Procedure for Variance and Administrative Appeals to separate and clarify the two different types of appeals. Secretary Ferencz explained the difference between an Administrative Appeal (appeal of the decision of the Administration i.e. Zoning Inspector) and a Variance Appeal (appeal to do something not permitted in the zoning code). There are different time constraints applicable to each and those have been broken out in the proposed language as well. Chair Sturdevant stated because a full Board was not present this evening, this item would be tabled until the Board's next meeting. All Commission members were in agreement.

**Proposed Signage Regulations and Text**

Chair Sturdevant stated she spoke to ZI Harris regarding the variance request for banners by Truckstops of America (T/A). T/A has a banner on a truck trailer and a banner covering the existing canopy for Country Pride. ZI Harris asked if the Commission wanted to consider banners in the signage code especially for the HC District. Chair Sturdevant stated banners were purposely left out of the proposed signage text because the Commission did not want banners but stated she would bring it before the Commission for discussion. Secretary Ferencz stated that the existing signage currently at T/A should be documented by the Zoning Inspector before the variance request is heard for T/A.

Ass't ZI Evans stated there were banners on the fence at Pilot as well. It was discussed that maybe banners could be addressed as temporary signage but notification required as to when such a sign would be erected and when it would be required to be removed. ZI Harris stated currently the signage language only permits a 20 sq. ft. temporary sign, which was not sufficient to be effective in the HC District. Chair Sturdevant stated our zoning code is not to be too restrictive and if variances for such signage become repetitive then the code should be looked at to be amended especially for the HC District. Enforcement of the code would be imperative by the Zoning Inspector. Chair Sturdevant

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stated the Commission should request from Bill Thorne formally how to handle this issue.

Mr. Primer asked if the code is being enforced and are fines being imposed for non-compliance? ZI Harris stated no. Most businesses take down signs once they are contacted that the sign is not permitted. Ass't ZI stated when T/A was contacted about the banners they took them down as well as Sponge Bob on top of Burger King. Ass't ZI Evans stated there was fine structure in the ORC. It would be up to the Trustees to set the fines. Chair Sturdevant stated she would address this issue with the Trustees.

Chair Sturdevant stated that according to Bill Thorne at the last training session, just because an individual or business was doing something illegal in terms of zoning and it was not addressed or caught, it could not be used as a defense by another individual or business to say that they don't have to comply either. This is important to remember.

Ass't ZI suggested when the signage code is passed it should be given to the businesses along with a fine schedule if issued by the Trustees to inform them of the language now in effect and the ramifications if they do not comply.

Mr. Primer asked about the sign up at McDonalds behind the drive-thru speaker advertising 3 Big Macs for \$5. Isn't that a banner? Trustee Kratzer stated when McDonalds was built that sign was part of their site plan. Just by changing the copy does not require a permit to be obtained by the Township.

Moving on, Secretary Ferencz stated she was unsure where to put the language, **“except otherwise permitted by law.”** proposed by the Pros. Office referenced in their letter which stated, “Throughout Section 406 and 407, there are numerous indications that the various signs need to be a certain distance from the right of way. This cannot be done with all signs since Courts have held that public right of ways are traditional forums for free speech and will generally allow temporary signs in the right of way. The Township would have to have a compelling interest to prohibit all signs in the public right of way. Importantly, aesthetics are not a compelling interest. I suggest putting language in the appropriate sections of the Sign Regulations indicated that Sections 401-407 **apply except otherwise permitted by law.”**

Chair Sturdevant stated that wording should be placed in the text wherever there is a reference to the road right of way and the location of the proposed sign. Regarding the matrix, a footer could be used to make reference to that wording.

Regarding off-site signage, Chair Sturdevant stated that Mr. Thorne said that proposed title could be construed as content based and may not be defensible. Therefore Section 406.B.4. should read, Temporary FreeStanding Sign (removal of the word Off-Site)

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Temporary signs shall be permitted with the permission of the private property owner, if in compliance with the following requirements:

- Do not exceed four (4) square feet in area.**
- a. Do not exceed three (3) feet in height.**
- b. Shall not be in place for more than twenty-four (24) consecutive hours.**
- c. Shall not be placed within the road right of way except as otherwise permitted by law.**
- d. Shall be placed on private property with permission from the property owner.**

The Commission was in agreement with making the proposed change by the Pros. Office. Due to a full Board not being present this evening, the Commission decided to table moving forward with the proposed signage text language and matrix and setting a public hearing.

**Misc.**

Chair Sturdevant stated that at the last Trustees meeting, Ass't ZI Evans handed in a letter of resignation. As far as she was aware there has not been any action by the Trustees. Chair Sturdevant stated that Ass't ZI Evans has been a benefit to this Board on numerous zoning issues and felt he was an asset to the Township and the community. Chair Sturdevant stated she would like to talk to the Board of Trustees; and possibly put it in writing, requesting the Trustees to speak with Ass't ZI Evans and see if he would be willing to take back that position. Chair Sturdevant stated she knew there were personality conflicts but did not think that should be an issue with him working in this capacity for the Township. Chair Sturdevant suggested that maybe Mr. Evans could report to someone where there isn't a conflict. Chair Sturdevant stated first and foremost the business of the Township and the people in this community who do a good job in moving the Township forward should be allowed to provide that service without harassment or arguments or personality conflicts getting in the way of that. Everybody needs to act in a professional manner towards everybody else employers and employees included.

ZC member Brewer agreed with Chair's Sturdevant's comments but asked if the Commission had the authority to do this? Chair Sturdevant stated that action on Mr. Evans resignation has been ignored by the Trustees. The day Ass't ZI Evans turned in his resignation, Kim Ferencz asked the Trustees to reconsider the resignation and the Trustees stated they were not taking action on the resignation at that time. Chair Sturdevant added when former Fire Chief Jack Snoddy turned in his resignation, they acted immediately and with Mr. Evans it seems like it is being ignored. Chair Sturdevant stated she did not feel it would be inappropriate for the Commission to make a statement at the Trustees meeting.

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ZC member Anderson stated Trustee Kratzer was present this evening, why not ask him what he thinks? Trustee Kratzer stated he did not see an issue if the Commission asked the Trustees to address the resignation of Ass't ZI Evans and reconsider that resignation. He added, like it was stated this evening, the Trustees scheduled an emergency meeting and accepted former Fire Chief Snoddy's resignation within 3 hrs. of it being made. It was a 2 to 1 vote and an interim Fire Chief was appointed by a 2 to 1 vote as well. Trustee Kratzer stated he realized there was a difference as former Fire Chief Snoddy was in charge of emergency services, but in his opinion Jack Snoddy should have been contacted and talked to by the Chair before action was taken. The following Wednesday Mr. Evans turned in his resignation. The reason for Mr. Evans resignation in his opinion was the EPA wanted to put up an air quality site on Ballash Rd. They asked permission of the Park District, which owned the property. They then contacted the Zoning Inspectors and per the code it required a variance because they wanted to put up a trailer and a permanent structure (fence) around the trailer. The Zoning Inspectors told them they needed to go before the BZA for a variance. Mr. James from the Park District requested that the Trustees vote to overlook the zoning regulations. The Park District was not looking for the variance, it was the Federal EPA. Technically schools and parks and federal and state agencies are not required to get zoning permits but are to try to comply with the zoning code. If they don't they must come before the Trustees and explain why. Trustee Kratzer continued that the EPA cried foul with the Park District and in turn the Park District came to a special meeting of the Trustees. Mr. Evans asked a legitimate question as to how Mr. James knew about this meeting? Mr. James stated that he and Trustee Sims spoke and she recommended he come to the meeting. Mr. James then bypassed the Zoning Inspectors and pled his case to the Trustees. Trustee Kratzer stated in his opinion, Mr. James should have contacted the Zoning Inspectors first and this process could have been discussed with them first and they could have directed Mr. James and/or the EPA accordingly. Mr. Evans felt why have zoning inspectors if they are going to be overstepped and the Trustees circumvent the system? Trustee Kratzer stated this was his opinion. Trustee Kratzer stated what was fact is that the Trustees have not acted on Mr. Evans resignation. Trustee Sims was very adamant after Kim Ferencz made her statement at the end of the Trustee meeting about strong personalities needing to be set aside and requesting the reconsideration of Mr. Evans resignation. Trustee Sims was agitated and stated she wanted respect. Again Trustee Kratzer stated this was his opinion.

Regarding Chair Sturdevant's suggestion that the Commission draft a letter and ask for the Trustees acknowledgement of the situation and hopefully reconsideration of the resignation, Trustee Kratzer stated he personally saw nothing wrong with the Commission doing that if the members were in agreement to do so.

Ass't ZI Evans stated a week prior to the special Trustees meeting, Trustee Sims asked him what was going on with the Park District and this project. Ass't ZI Evans stated he e-mailed the prints he was given by the contractor to all of the Trustees. Ass't ZI Evans stated he told Trustee Sims the proposed fence was too tall and they wanted to put up a



temporary trailer which is not permitted so variances would need to be obtained. Trustee Sims stated she wanted to know what was going on because she got a phone call from the Park District. Ass't ZI Evans asked for the number stating he would call them to which Trustee Sims stated she would take care of it. Ass't ZI Evans stated he told her not to overstep her bounds because it should be the zoning inspectors that should follow up with the Park District. The next thing Mr. James was at the special Trustees meeting stating this location may become permanent for air quality monitoring in 2 yrs. and then they would consider putting some tree screening. Ass't ZI Evans stated this should have been discussed prior especially before they pushing their drive in and then came to the Township telling us what they wanted to do. Ass't ZI Evans stated that is where he had issues. The Park District had 100 acres and they did not have to put the deck structure 100-ft. from the road. There should have been discussion as to what and where the Park District and/or EPA were doing and where they wanted to locate the structures. This has been a pattern with Trustee Sims and that is why he resigned.

Chair Sturdevant stated Ass't ZI Evans has been an asset to the Zoning Commission. Mr. Evans interjected that he liked doing what he was doing. Chair Sturdevant stated any member who does not want to participate in the submission of a letter to the Trustees does not have to. She added she would put the names of those who are in support and those who oppose and their comments if they would like as well.

Alternate ZC member Primer asked if the Trustees had a time frame that they were going to act on Lee's resignation one way or another? Trustee Kratzer interjected he did not know. He added he thought it would have been addressed at the last Trustees meeting but it was not even on the agenda. Chair Sturdevant stated she asked Trustee Likley about it and he said he forgot to put it on the agenda.

ZC member Primer stated he was in support of the letter Chair Sturdevant was proposing. Mr. Anderson concurred. Chair Sturdevant stated she would contact ZC member Kemp and Miller and see if they were willing to participate as well. Chair Sturdevant stated she would draft a letter and forward it to the members accordingly for comment and present it to the Trustees.

ZI Harris asked what kind of message does the action of the Trustees over the Park District send to the school district because they are in the same situation as the County that they don't really have to come before the Township for a variance? Chair Sturdevant agreed since the last time the school district came before the Commission and we told them they were not prepared as there were various items missing from their site plan and they would have to come back for future approvals. Ass't ZI Evans stated Bill Thorne stated technically the school district does not have to come before the Township but did have to try to comply with the zoning code. Ass't ZI Evans stated the requirement of the school district to come before the Township the first time was a health, safety and welfare issue because of how close they were putting their retention pond to the road.

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ZI Harris stated the school contacted him and said they wanted to set up a variance hearing. Now we have not heard anything. He added he was sure they heard what happened with the Park District. ZI Harris stated he felt the school district should go through the process. The Township does not charge them a fee. Chair Sturdevant stated the procedure should be consistent. ZI Harris stated just because the Trustees waive the fee but pay the BZA members to hear their requests should not play into that decision.

Trustee Kratzer stated during his 16 yrs. as Trustee except for the last two years; the Trustees have always had any government entity come before the Township for a site plan review. That even included the Sanitary Engineer's regarding their proposed water plant. They decided to buy Westfield Water Plant so they did not end up building what they proposed but that was not the issue. We are not requiring the Park District to go through the process so why should the school? They are a governmental entity. They have to try to comply with zoning if they can but if they can't they do not have to come before the Board. This has become frustrating.

### **Review of By-Laws**

Chair Sturdevant passed out what the Trustees approved for the calling of their meetings (Open Meeting Policy). The Commission made the appropriate changes that would be applicable to the Commission. Secretary Ferencz would make those corrections accordingly. The Commission should then be able to adopt the By-Laws at their next meeting when a full Board was present

### **Announcements**

- Planning Services Zoning Workshop on Zoning Enforcement-May 13, 2009 at 6:30 p.m.
- Comp Plan Steering Committee Meeting-May 14, 2009 at 7:00 p.m.
- Next Regularly Scheduled Zoning Commission Meeting: June 9, 2009 at 7:30 p.m.

Alternate ZC member Primer asked if Mr. Evans was still acting as Ass't Zoning Inspector with his resignation pending before the Board of Trustees? Ass't ZI Evans stated yes he was still fulfilling his duties as Ass't ZI.

Trustee Kratzer stated he knew the summer months were coming up but if the Commission needed to schedule additional meetings as to not to get backlogged, they should feel free to do so. Chair Sturdevant stated she felt the Commission was o.k. at this time but once the community survey is completed it may be prudent as well as needed to set extra meetings.

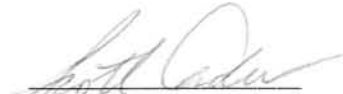
Having no further business by the Commission, Mr. Anderson made a motion to adjourn. It was seconded by Mr. Primer. All members were in favor. The meeting was officially adjourned at 9:25 p.m.


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Respectfully Submitted,

Kim Ferencz, Westfield Township Zoning Commission Secretary.

  
Heather Sturdevant

  
Scott Anderson

  
Sue Brewer

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Kevin Primer