



LAPORTE COUNTY PLAN COMMISSION

Government Complex, 5th Level
809 State Street, Suite 503 A
LaPorte, Indiana 46350-3391
(219) 326-6808, Ext. 2591, 2563 & 2221
Fax: (219) 362-5561

Michael Polan
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES May 28th, 2024

MEMBERS PRESENT: Anthony Hendricks Joe Haney
 Rita Beaty Eric Pointon
 Harold Parker John Watson
 Deb Vance John Carr
 Earl Cunningham

OTHERS PRESENT: Doug Biege, Attorney; Michael Polan, Recording Secretary (Zoom);
Ashley Kazmucha, Administrative Coordinator; Janet Cole,
Administrative Specialist; Mitch Bishop, County Planner

PLEDGE OF ALLEGIANCE

Joe Haney stated this evening for their agenda he would entertain a motion to entertain an update from the Solar Committee to add that to the agenda for this evening if anybody is amenable.

Earl Cunningham made a motion to add under New Business an update from the Solar Committee.

John Watson seconded.

All Approved. Motion carries 9-0.

Joe Haney asked for a motion to approve the agenda as amended.

Earl Cunningham made a motion to approve the agenda as amended.

Harold Parker seconded.

All Approved. Motion carries 9-0.

Joe Haney asked for a motion to approve the April 23rd minutes.

John Watson made a motion to approve the minutes as presented.

John Carr seconded.

All Approved. Motion carries 9-0.

Petitions

No Petitions were filed this month.

Old Business

No New Business listed on the agenda.

New Business:

1. Solar Committee Update

Joe Haney stated do they want to handle the update from the Solar Committee first? It's probably a good idea if everybody's fine with that. So, they met this past week on Solar Committee and he thinks they made a lot of good progress in finding some things that will respect everybody's rights and just kind of tightening up a little bit of the language and things like that they'd like to see. He will just start this out and then they can go with any other members of Solar Committee who would like to speak. Things like setting out and delineating some of the different setbacks as well as a bond for...

Member of the audience exclaims they cannot hear Joe Haney.

Joe Haney stated is this better? Okay, thank you. Sorry about that. So, he is just going to kind of start out on the Solar Committee and then they will let the other members speak if they have anything additional they'd like to add. So, tightening up some of the various things in our ordinance, delineating some of the setbacks a little bit better, as well as a bond for decommissioning to be carried out in perpetuity of the project, not just as it stands in the current one. As well as some other things like a performance bond for any screening, shrubberies, trees, things like that. Make sure that they're maintained over the life of the project. So, different things like that. Some sound concerns as well; some of the decibel levels and things like that. If there is some sound from the project that they have, they have that under control as well. He thinks it was one of their most productive meetings ever and they made a lot of good progress with that. He is looking forward to their attorneys working on that as well. He is more than happy to open up to the Board for any questions or comments or additional Solar Committee members that like to have anything to say.

Deb Vance stated she knows they also talked about people having an issue with having glare so that was one of the things they talked about. The electrical interference, she knows that was a big concern so they did bring that up as part of the conversation as well. They did talk about fencing and barriers and things like that.

Joe Haney stated thank you Ms. Vance. That's actually an excellent point. Yeah, so things like stray voltage and other issues that have been brought up to their concern as well, to make sure those get incorporated in. Mr. Biege, their attorney, was there as well.

Attorney Biege stated they are working on the changes now. They should have a red line version of it to the Planning Commission members next week or the week after.

Joe Haney stated excellent. Thank you so much. Does anybody have anything else to add about the Solar Committee or any questions or anything like that? All right. Well, very good. In that case, on to their discussion for a possible consideration of a solar moratorium. I'll open the floor up to any of the members up here who would like to speak. Ms. Beaty?

1. Discussion for Consideration of a Solar Moratorium

Rita Beaty stated she has a quick question. She is a little confused on the whole issue of the discussion for the moratorium coming back up on here tonight because last month, she knows she was via Zoom, but she thought she heard everything correctly, but she thought we removed it from the agenda and it was not going to come back on the Plan Commission Agenda.

Eric Pointon stated they tried to add it to the agenda last month, but it was never discussed.

Joe Haney stated it was. There was some concern about what restrictions they could or couldn't impose as a County and if one of those could or could not be a moratorium. He knows he has heard some different things from folks and that's why it's back on the agenda at least for talk and consideration. The thought somewhat that he would have is, and just to bounce this, pose this question to the rest of the Board or something to consider, for the timelines that they have for strengthening and tightening up their current ordinance, would it make sense to have a moratorium until they can get that done? Or are they going to be able to get that done in such a fashion that they'll get it done and passed quick enough that they don't need it. So, that's kind of just something that he knows there was some folks who did and didn't want to talk about it and weren't sure so he figured it'd give them all an opportunity to flesh that out and see what the temperature of the Board was.

Rita Beaty stated alright. She was just thinking that they'd give it back to the Commissioners so she just wanted a little explanation. So, thank you.

Joe Haney stated yes, thank you for that. The Commissioners did send it back to them for consideration at the last meeting or the meeting before that; one (1) of the meetings here in May. He doesn't remember if it was the first or second meeting in May the commissioners had, they sent it back to them for additional consideration. That's another reason, another one (1) of the reasons why we're back on for tonight.

Rita Beaty stated thank you.

Anthony Hendricks stated they should seek legal counsel for ground rules and what a potential consideration of solar moratorium would be considering Indiana IC code 36-7 when the Plan Commission makes recommendations to the Commissioners about how the Joint Zoning Ordinance is amended, whether it's a moratorium, whether it's changes or whatever it is. Could he guide them on what ground rules they are under legally?

Attorney Biege stated they have to follow the process, just like when they passed the Solar Ordinance, if they're going to consider anything, they still have to go through the noticing process,

the publication process, a public hearing, all right? So, just so the Board's aware, whether they do the amendment on the Solar Ordinance, he is assuming that they would agree on what they're going to change, but both processes are exactly the same. They take exactly the same amount of time. Whatever they're up here to do tonight, if they vote, they decide they want a moratorium, then they would essentially be instructing him to begin the process to get the notices done and set everything up for next month.

Anthony Hendricks asked if next month is long enough for notification and publication?

Attorney Biege stated that's a good point Tony. They have to understand that the notice statute is very specific, and he has to notice people within so many miles of the County, et cetera, et cetera. So, it's kind of a step-by-step process. He may not have it ready for next month. It might have to be a couple of months.

Rita Beaty asked if this is one (1) of those that they have to notify the whole County?

Attorney Biege stated yes, pretty much. He doesn't have to certify mail, though. They have to publish in there certain ways because the Solar Ordinance affects the entire County.

John Carr stated it sounds like they should just make the amendment instead of going through the moratorium.

Attorney Biege stated no, it's the same process for each.

John Carr stated he means if there is a change to make.

Joe Haney stated his follow questions to that would be that he was saying he thought he would have the red line version to the members of the commission here within the next week or two (2).

Attorney Biege stated yes.

Joe Haney stated so it would be possible to notice for the next upcoming meeting, public hearing for changing the Solar Ordinance. He would have everything ready for them to vote on, theoretically, at the next meeting and have it in their hands a week or two (2) early for them to review before the meeting?

Attorney Biege stated they could. His preference would be to get it to everyone and then have another meeting to make sure everybody's good with the language he used and see if they want to tweak anything and then he can get started on the notice process, but he thinks they should meet one (1) time before he starts noticing. He'd like to have a version that the Commission's approved that they can get online so people can look at it before the public meeting.

Eric Pointon stated so it could take several months.

Attorney Biege stated two (2) or three (3).

Harold Parker asked if they can set up Special Meetings in between to speed this up?

Attorney Biege stated yes.

Harold Parker stated if they're going to do this, they ought to do it. Or if they're going to do it next year they might as well tell the people no, they're not going to do it, right?

Attorney Biege stated right. They can set up a Special Meeting. He just needs time in between.

Harold Parker stated they can expel this as quick as they can so the people know what's happening. They are government, they're not anything else and they should, as government, get it done as fast as they can.

Attorney Biege stated they can certainly set up a Special Meeting, but they don't have any notice requirements to get together and review the changes. They can do that within two (2) days on meeting notice. It's the public hearing that he needs the leeway on because he needs to do all the noticing. If the President, after he distributes the red line, if the President wants to call a Special Meeting within a few days, they can do that. After that, he needs a little time to get all the noticing done.

Joe Haney stated thank you.

Anthony Hendricks stated back to the moratorium, if they choose or the Plan Commission chooses to pass a moratorium and they forward it after they meet all the IC Code 36, whatever notification requirements they have, that means that they or the Commissioners approve a moratorium for solar, for every solar, including houses, any size solar. They have a moratorium on solar. Their roof, their house, next to their barn, five (5) acres, ten (10) acres, a thousand (1,000) acres; solar is now under a moratorium in LaPorte County if it goes to that direction.

Attorney Biege stated depending on what the Commission decides, but they haven't split any of it out. It's all combined.

Joe Haney asked would it be possible to do one (1) just for industrial solar or no, since it's all under the same? Or they could just do large scale solar because they are divided up into small scale and large scale, correct?

Attorney Biege stated he thinks so, yes.

Joe Haney stated yes. If that was the direction to choose, but then again, if they can get everything that they want passed for the Ordinance changes in the same amount of time, they might as well go with the ordinance change. That's just his thought. He doesn't want to impose on the Board one (1) way or another what direction they're ultimately going to go in. His personal thought would be if they can get the Ordinance passed quick enough, the changes passed quick enough that maybe they don't need to go through a moratorium, but the same time, if it's going to take them a couple extra months to get their JZO updated, maybe they should do a couple month moratorium in the interim until they can get that changed. And again, that's kind of why it's up for such broad discussion here

this evening. It's just to kind of get everybody's feelings on the matter and discuss it publicly here so everybody knows what page they're on.

Anthony Hendricks stated last month they instructed Doug to review the changes that Mitch Bishop sent to them in an email. Are those the same changes that the Solar Committee agreed to?

Joe Haney stated pretty close. Most of them were either the same or pretty close to what was in there. Mitch had a lot of great ideas.

Harold Paker stated that and they mirrored the State.

Joe Haney stated a few things they looked at they looked at some of the State as well.

Anthony Hendricks stated he doesn't want to put Mitch on the hot spot here.

Harold Parker stated that's alright, he looks good up there.

Anthony Hendricks stated his understanding is that if the LaPorte County, not this Plan Commission, but LaPorte County Commissioners decide to be a solar-friendly community, there are tax incentives to that that they do not get if we're not a solar-friendly community.

Joe Haney stated correct.

Anthony Hendricks stated those are sizeable.

Mitch Bishop stated it is a dollar per kilowatt hour (\$1/KWh). So, just for reference, RWE is said to produce eight hundred thousand (800,000 KWh) a year so that'd be eight hundred thousand dollars (\$800,000) times ten years as an incentive. So, an additional eight million (\$8,000,000), but that would be on top of the tax incentives generated from the use. If it remains thirty (30) years in agriculture, he believes it's two million dollars (\$2,000,000) it would generate. This is just talking about RWE. If it changes over and it becomes solar, then he believes it's over a hundred million dollars (\$100,000,000) in the same thirty (30) years. For Tony's question, it would be eight hundred thousand (\$800,000) a year for ten (10) years for eight million dollars (\$8,000,000).

Anthony Hendricks stated that is for the project that is in front of the Board of Zoning Appeals now.

Mitch Bishop stated yes.

Anthony Hendricks stated but any other project that is commercial, if LaPorte County was a solar-friendly community, they would receive that extra dollar per kilowatt hour (\$1/KWh).

Mitch Bishop stated yes. How it is written now is one dollar per kilowatt hour (\$1/KWh).

Harold Parker asked where that money is housed.

Mitch Bishop stated it's from the Feds to the State. He is not exactly sure. They have to apply for it.

Harold Parker asked if it will go into a general fund or will it be earmarked?

Mitch Bishop stated he is not sure.

Attorney Biege stated the funds have to be used in and around that project.

Harold Parker stated by it's housed in a General Fund.

Attorney Biege stated economic development and to assist in any. . .

John Watson stated it has to be used in the community it was generated.

Attorney Biege stated right.

Harold Parker stated it goes in a General Fund.

Mitch Bishop stated the language says in that area or adjacent to.

Mitch Bishop stated the last they want to do is take that money that's supposed to be up front and blow it.

Attorney Biege stated the State is going to create an agency that either approves or denies communities. They're going to monitor funds, but they're not set up yet so he couldn't ask any questions about how they intend to administer.

Mitch Bishop stated there is a website that has been created. They can review it. He can give links of what is up and what is existing.

Eric Pointon stated they have to also follow several rules as far as local, so much local work and all of that, correct, to get the funds in the building process.

Attorney Biege asked what does he mean by local work?

Eric Pointon stated he was talking to Mr. Bohacek a couple weeks ago, a month ago, he thinks he told him, they've cracked down on some of these outfits because they say they're using local work, but they have to turn in time sheets and all of this and then they know exactly where all the money's going. That's how they know that it's too much outside work. They're allowed a certain percentage, and he doesn't remember what that is. There's a lot of stipulations, he feels, that go along with that, the money.

Attorney Biege stated yes.

Eric Pointon stated also, last week at the BZA meeting, he heard there were numbers thrown out about how much money it's going to generate. Actually, Mr. Schultz was sitting next to Doug, so he texted him. He said, why doesn't he get up there and tell them they don't know how much it's

actually going to generate, because like Doug said, the State doesn't have the committee in place. They don't know exactly what the funds are going to be yet. The County only gets to assess the panels, the fences and the shrubbery, and the building he believes they're putting up. The State sets the numbers on everything else. So, they don't exactly know what all these numbers are going to be. He is in favor of moratorium, because if it's going to take two (2), three (3), four (4) months before they can make an amendment, there's still a lot of unanswered questions on both sides. If they don't all agree on what even happens within the next three to four (3 – 4) months, two (2), three (3) months, whatever, and then it's another month and another month. He does know there's two (2) other solar projects that have been presented in the County. He doesn't know if they're still alive or dead, but if they go to the courthouse, there's recorded leases on several other pieces as well.

Anthony Hendricks asked if the Plan Commission proceed on two (2) tracks because they have public notifications and State requirements for anything they do, whether it's changing the Solar Ordinance and updating it or asking for a moratorium. Can they proceed on both tracks at the same time and potentially they would be here in July?

Attorney Biege stated they can certainly proceed on both tracks.

Anthony Hendricks stated it's the same notification whether the Plan Commission recommends a moratorium or the Plan Commission recommends changes to the JZO with the stipulations in the Solar Ordinance.

Attorney Biege stated yes, he can notice both simultaneously.

Joe Haney stated that may give them some more options.

Rita Beaty stated good idea.

Attorney Biege stated the only trick on the moratorium, there's one (1) difference, he should be clear. He doesn't know what they want yet. So, they have to tell him what the moratorium is going to be because in order to give notice, he needs to show the language of the moratorium. Does that make sense?

Anthony Hendricks stated he thinks the Board is looking at a potential vote on the moratorium discussion on the Large-Scale Solar.

Anthony Hendricks made a motion to instruct the Plan Commission Attorney to proceed on both tracks and the changes that the Solar Committee has forwarded to the Plan Commission and a potential moratorium on Large-Scale Solar with notifications per IC Code 36-7.

Eric Pointon stated he would like to add to that. He would guess they would want a time frame. He would say at least six (6) months because after an election they may have new Commissioners and it would be their problem on what they do now. It could potentially be their problem.

Anthony Hendricks asked if that is something that they have to say. He doesn't think any of the other counties have said the length of the moratorium.

Attorney Biege stated he doesn't think they have to have a length on it.

Eric Pointon stated it doesn't have to be just whenever they take it off.

Attorney Biege stated yes. He is looking at this just like a zoning code change. When they do a zoning code change, they don't have an end date to it so he doesn't think they're required to put an end date on it. Anecdotally, it's his hope that they can get this ordinance tightened up as quickly as possible. Hopefully they can and have this move forward again. Obviously, once they pass, their JZO is a document that can be amended at any time so if they need to do more to it later, at some other point, they could always do that as well. He thinks there's a number of good suggestions that they had from their County Planner, as well as what they've done in the Solar Committee and they need to get those through as quick as possible as well. They will give themselves some breathing room for both.

Attorney Biege stated that he would recommend after he is able to get this out to everybody, and again, they're working on it, he would recommend a Special Meeting. The President can set a Special Meeting so that way he knows what their final is on the zone code changes.

Joe Haney stated he would ask all the Plan Commission members to keep an eye out on their emails. They'll try and find a date that works.

Ashley Kazmucha stated to check with her first because she wants to make sure they get notice accurate before the meeting and the paper can get it in.

Deb Vance stated she wants to verify for her own knowledge, they are working on both notices, but that does not affect the one (1) they have currently on the table, correct?

Attorney Biege stated correct.

Harold Parker stated they had some legal work to do too, though, didn't they? They found some holes in their paperwork.

Attorney Biege stated no, they tabled it. Since they are going under the current Zoning Ordinance, there are some conditions that he is going to recommend they attach to the grant if they grant it. And they need a Road Use Agreement and a Decommissioning Agreement and the County Commissioners approve those agreements. So, he's not sure where the County Commissioners are on that yet but he doesn't know if they're going to be approved. If they're approved, they'll just make them a condition on any grant at the BZA. They're handling it like they handled a battery facility a few years ago. It's brand new, so he's looking to make sure they got everything. He thinks it's too much to hit them in one (1) meeting. He's also waiting to find out if any of the individual BZA members want him to add any conditions to any potential grant.

Joe Haney stated very good. Commissioner Mrozinski was the one (1) Commissioner Gramarossa tasked with going over the Road Use Agreement. He doesn't know if they came to an agreement, but he knows there was a meeting at the end of last week. He hasn't heard anything back on it yet.

Harold Parker asked if anybody has said anything about transmission line or how they are going to get electricity here to there?

Attorney Biege stated no. There has been no conversation that he knows of that he has been involved in.

John Watson stated they will have to put in substations. They will put in substations underneath.

Harold Parker stated they will still need to connect to transmission lines to whatever they go to. They built one (1) in Plymouth three (3) or four (4) years ago for the wind right next to the existing power line. He was just wondering if they shouldn't keep an eye out. He knows that would be the only thing that would really bother neighbors, a bunch of poles. Especially in LaPorte with all the irrigation stuff. If they have to bury it or. . .

Joe Haney stated to the best of his knowledge, a lot of the project is going to be right underneath those transmission lines already.

Attorney Biege stated he wants to remind them though that it is irrelevant to this Plan Commission.

Harold Parker stated it is still knowledge that should be known.

Rita Beaty stated Mr. President, she would like to call the question.

Harold Parker stated that's right, but that is through the BZA.

Harold Parker asked if they ever got an agreement to hook into the big power lines. Do they have an agreement?

Attorney Biege stated he doesn't know.

Joe Haney stated that would be for NIPSCO and Federal. . .

Harold Parker stated that is not NIPSCO; the one (1) they are under is Michigan.

John Watson stated they have a contract with both. Isn't that what she said?

Harold Parker stated he doesn't know what she said. They kind of got way sided when she didn't have all the paperwork done right,

Joe Haney stated they've got a request to call the question. So, if there's no other comments directly related to the question in front of them, he'll call for the Vote.

Ashley Kazmucha read the roll.

Joe Haney stated aye.

Harold Parker stated aye.

John Carr stated nay.

Deb Vance stated aye.

John Watson stated nay.

Anthony Hendricks stated aye.

Rita Beaty stated aye.

Earl Cunningham stated aye.

Eric Pointon stated aye.

Approved. Motion carries 7-2.

Anthony Hendricks asked if they could bring up some old business.

Joe Haney stated yes.

Anthony Hendricks stated just an update from Mitch Bishop again; he would like to put him on the hot seat. He was looking at the grant. Did they get a grant for the updated Comprehensive Plan?

Mitch Bishop stated he received the grant through Federal Highway and NIRPC for the Comprehensive Plan update. It covers eighty percent (80%) of the cost. So, he believes tomorrow he is at the Council meeting for the matching funds, the thirty-six thousand dollars (\$36,000). It covered a hundred and forty-four thousand dollars (\$144,000). He needs thirty-six thousand dollars (\$36,000) in matching funds. It's fiscal 2025 money so the money won't be available until probably September. So, they're probably looking at October to realistically start that process of updating their Comprehensive Plan. Just to give them a time frame.

Anthony Hendricks stated thank you for that work.

Rita Beaty stated thanks Mitch.

Mitch Bishop stated they're welcome.

Joe Haney asked for any other business.

Earl Cunningham stated they would probably be remiss so he should handle it.

Joe Haney stated their thoughts and prayers go out to their Building Commissioner Mr. Polan. He has had some surgeries this week and they wish him the best and a speedy recovery.

Ashley Kazmucha stated he is on the Zoom, by the way. He can hear them.

Joe Haney stated rest up Mike and feel better soon.


Rita Beaty made a motion to adjourn.

Eric Pointon seconded.

There being no further business before the Plan Commission, meeting adjourned at 6:37 p.m.



Joe Haney, President



Michael Polan, Recording Sec.