



# LAPORTE COUNTY PLAN COMMISSION

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Michael Polan  
Building Commissioner

## LA PORTE COUNTY PLAN COMMISSION MINUTES February 25<sup>th</sup>, 2025

MEMBERS PRESENT: Rita Beaty  
James Mills  
Harold Parker  
Eric Pointon  
John Matwyszyn  
Steve Hollifield  
James Pressel III  
John Waston  
John Carr

OTHERS PRESENT: Doug Biege, Attorney; Michael Polan, Recording Secretary; Ashley Kazmucha, Administrative Coordinator

### PLEDGE OF ALLEGIANCE

Rita Beaty asked for approval of the agenda for the February 25<sup>th</sup> meeting.

Eric Pointon made a motion to approve the agenda as presented.

John Watson seconded the approval of the agenda.

All Approved. Motion carries 9-0.

Rita Beaty asked for approval of the January 28<sup>th</sup>, 2025 minutes.

Steve Holifield made a motion to approve the minutes as presented.

Eric Pointon seconded.

All Approved. Motion carries 9-0.

### Petitions:

- Petitioners Dale A. Elkins and Samantha D. Elkins and Debra Baughman a/k/a Debra Kay Baughman represented by counsel David Ambers of David Ambers & Associates, P.C.** respectfully petition the Plan Commission to vacate unimproved Lilly Lane bordered on the north by Lot 3857 and on the south by Lots 4078 to 4081, being Lilly Lane from the west right of way line of Briar Lane extended south to the south right of way line of Lilly Lane and westerly to the west line of Lot 4081 extended north to the north right of way line of Lilly Lane pursuant to I.C. 36-7-4-711, located near 7853 N. Briar Ln. , New Carlisle, IN. Hudson Twp. Parcel 46-04-29-235-002.000-050. Exhibits attached hereto.

David Ambers stated he is here tonight on behalf of the Elkins and Baughman families. He was supposed to be a representative of Mrs. Baughman here, but Mr. Elkins hasn't made it so he isn't sure what is going on.

Dale Elkins stated he's right here.

David Ambers stated there he is. They are here seeking the vacation of this short portion of Lilly Lane. The paving stops right where the property begins. His clients want to make some improvements to their property and they can't do it without the right-of-way. Nobody else uses that right-of-way. It will be put back on the tax rolls as they have done with so many of those roadways out there in Hudson Lake that just were platted and never constructed. Rather than hold them up, he will see if they have any questions.

Rita Beaty stated she forgot to ask counsel if notice was adequate.

Attorney Biege stated notice is adequate.

Steve Holifield stated here on the map where East Lilly Lane ends, it is hash marked on the map, the pavement ends?

David Ambers stated yes.

Steve Holifield stated they just wanted to vacate that short portion.

David Ambers stated correct.

No remonstrators present.

Steve Holifield made a motion to approve Petitioners Dale A. Elkins and Samantha D. Elkins and Debra Baughman a/k/a Debra Kay Baughman represented by counsel David Ambers of David Ambers & Associates, P.C. to vacate unimproved Lilly Lane bordered on the north by Lot 3857 and on the south by Lots 4078 to 4081, being Lilly Lane from the west right of way line of Briar Lane extended south to the south right of way line of Lilly Lane and westerly to the west line of Lot 4081 extended north to the north right of way line of Lilly Lane pursuant to I.C. 36-7-4-711, located near 7853 N. Briar Ln. , New Carlisle, IN. Hudson Twp.

Eric Pointon seconded.

All Approved. Motion carries 9-0.

Rita Beaty asked for any old business.

Michael Polan stated last month they were updated about a case that they filed. The previous Plan Commission has denied a petition to rezone and the person was continuing to operate a transfer station. They went to court and got a judgment. The person has still continued to violate the judgment so now they are going for contempt of court.

Steve Holifield asked if this was the D&M?

Michael Polan stated no. This is Rodney Allen.

**New Business:**

**1. Consider use of Zoom for Plan Commission Meetings**

Rita Beaty asked for any discussion for consideration.

Steve Holifield stated as for the Commissioners, they got rid of it. One (1), it's a cost. It is costing money. Two (2), if this is that important to someone, they feel people should come to the meetings. They did this before covid reared its ugly head and as they see now, even though the fail safes were put into place, they are still somehow getting in to it. His recommendation would be to just discontinue it. If the petitioners or remonstrators, if it is that important to them, they can take a little bit of time and effort and come here. That's his opinion.

Rita Beaty stated they have had discussion to be just available for Board members in case, for this instance Harold was not able to be here because he is a member of other Boards that takes him away from the area sometimes. How do they feel about it just being for the Board? Is that how the others have done it.

Ashley Kazmucha stated yes. It's not released publicly so nobody else would be able to get to it.

Eric Pointon stated he liked that.

Steve Holifield asked if she can guarantee that the public will not be in.

Ashley Kazmucha stated that if somebody gained access to it at that point, it's because one (1) of them gave it out.

Steve Holifield stated the Council yesterday was wanting to do theirs. They're working on something where it's only for the Elected Officials and the Department Heads to use.

Ashley Kazmucha stated that is how they do it for the BZA. They haven't had any issues with them because the only people that get the link are the Board members.

Steve Holifield stated this would prohibit private individuals from coming in the Zoom.

Ashley Kazmucha stated the only way they could get it is from one (1) of them.

Steve Holifield stated okay.

Eric Pointon made a motion that the Zoom only be allowed for Board Members.

Steve Holifield seconded.

Steve Holifield stated the Commission was looking at voting and being on Zoom. Is there an Ordinance in the State that says they can't vote if they are on Zoom?

Attorney Biege stated to let him look real quick. He has the statute right there.

Rita Beaty stated for some of the others, they have to see them and they are present. They can't just be a still picture on there.

Attorney Biege stated the distinction is that all the votes have to be taken by roll call vote and they need to have fifty percent (50%) of the members present here. He can draft a resolution that tracks the Ordinance, but the short answer is that they can vote by Zoom, but it has to be roll call.

Steve Holifield stated it has to be a roll call vote, not just aye.

Attorney Biege stated right.

Steve Holifield stated okay.

James Pressel III asked if it going to be the same thing as Council where they can only miss twenty percent (20%) of the meetings? That kind of thing in there?

Attorney Biege stated yes. It is in the statute, but he thinks Randy wanted to tighten it up a little bit more than the statute.

James Pressel III stated they changed theirs to only allow Zoom use one (1) time per member.

Attorney Biege stated yes.

All Approved. Motion carries 9-0.

## **2. Discussion for Consideration of a Solar Moratorium/Update from Solar Committee**

Rita Beaty stated she would like to start with the update from the Solar Committee, if possible, please.

Steve Holifield stated they met earlier this month and they talked and looked at some different ideas from around the State. He went through all ninety-two (92) counties and their ordinances. He put down some things that other counties have done. They are doing it. He thinks the people in this County want the Ordinance tightened up. Other counties are doing this. That's the paper he sent them. He thinks there are twelve (12) things on there. There was one (1) he talked about today with Matt Reardon from Economic Development. He would like to see an Economic Development Agreement added to that Ordinance also where they pay a substantial amount up front so that they have some skin in the game and they don't just bow out. He sent this to the members of the

Committee and never heard anything back about anything wanting to be changed or anything else so he would guess they were happy with it too.

Rita Beaty asked if there is any other discussion on the update.

James Pressel III asked on the update or in general on the solar.

Rita Beaty stated on the Ordinance.

James Pressel III stated he just wanted to make everybody aware that they need to keep in mind that they are pretty close to the Solar Ready for Indiana. Changing the Ordinance and tightening it up is going to make that a little more difficult to achieve.

Steve Holifield stated the way he read that is that they have to be no more restrictive than the State and quite frankly, the State's Ordinance is very, very loose. Also, he found out that the dollar per kilowatt is not the solar companies paying that. They're using their tax dollars from the State to pay for that so all they are doing is handwashing the hand of the other, tax dollars going out and back in. That's all it's doing. The way he understands it, maybe Doug can help him, but to be solar ready they can be no more restrictive than the State and they are already more restrictive than the State.

Attorney Biege stated yes. Not very much. They are pretty close to the State. He hasn't looked at it in a little while, but he would say there are three (3) or four (4) things to which they could tweak and they would be Solar Ready. The information he got was federal money.

Steve Holifield stated he knows they are getting federal tax dollars and credits, but the way he understood it at the State House was the dollar per kilowatt is from the State.

Attorney Biege stated he got a different word on it.

Eric Pointon stated the way James Pressel III's father told him that it was federal money and as soon as it gets allocated, like the project is approved, then they allocate those funds and it gets sent to the State and then the State pays them. So, it's still federal dollars, but it gets sent to the State before it gets sent to us. Then the way the money is supposed to be allocated is it is supposed to stay in the general area of that project and he thinks Economic Development can use the funds as well.

Attorney Biege stated as long as it is in the area where the solar is, yes. It has to be administered by a State Office which is not established yet.

Eric Pointon stated yes.

Steve Holifield stated it may not have to be established if they cut the funding for federal. That's where they also added in that they do not want any money generated from any of these solar projects to go to the General Fund because then it will be lost forever. They want this to be earmarked for specific projects in the areas around where the panels are being put in.

Rita Beaty stated their next step then from the updates they have come up with, where do they go from here?

Attorney Biege stated he probably wasn't clear. He usually sits in on the Committee's so as these ideas come in, he can comment on enforceability and whether they are legal or not. He would suggest they have another Committee meeting and go over these bullet points so they can discuss what challenges they may receive to the Ordinance. There are a couple things he feels are unconstitutional. Maybe they can tweak to make it constitutional, okay?

Steve Holifield stated these are already in other county's ordinances.

Attorney Biege stated that doesn't mean they're not going to get challenged, okay. He would suggest they have another Committee meeting. He doesn't have enough information to draft from here so he wants to have a conversation so he understands and that way they can present the Plan Commission with a draft. After they have a draft, if they think that is acceptable, then they set it for a Public Hearing.

Steve Holifield stated a Public Hearing then after that.

Attorney Biege stated yes.

Steve Holifield stated he will get with him and the Committee tomorrow and they will figure a calendar date to get together.

Attorney Biege stated okay.

Rita Beaty stated the next discussion is on the Solar Moratorium. Before they actually start on that just to set her mind at ease and maybe a few other here that are newer on the Commission, Doug can he brief them on a moratorium. What is it about? What can they do and what they can't do to keep the taxpayers from being in trouble. She remembers that was a whole discussion before the new Board got here that they were discussing about the moratorium that they didn't want to be in any lawsuits over it.

Attorney Biege stated there is no law that allows or disallows a moratorium. So, if they were going to impose a moratorium, let's say forever, he thinks that would be challenged and it would fail. So, if a moratorium is going to be effective, there needs to be a time limit and that time limit would be the amount of time they believe that any changes to the Solar Ordinance would take place and get done. So, six to nine (6 – 9) months, it just depends. The law says they only have to have one (1) hearing, not six (6). If the Committee meets, he is going to need some time to get a new draft. He doesn't know if he can get that done before next meeting, but then the following meeting everybody can look over, comment, and discuss and then he may have more drafting to do so then they are our three to four (3 – 4) months.

Steve Holifield stated so they are ninety (90) days out minimum.

Attorney Biege stated yes, but they should be ready by then. So, if they are going to do it, he says just do a hundred and eighty (180) days just to make sure they are safe because they have gone back and forth, he doesn't know how many drafts, on the Solar Ordinance.

Steve Holifield stated the research that he found of all the counties is that there are at least thirty-two (32) that have them. There are more county's that are doing them and looking into having them because everybody's eyes are starting up now to these projects. The minimum he found was six (6) months. The maximum that he found was two (2) years. So, if they go with six (6) months and they get close to having it again, they could always extend it correct.

Attorney Biege stated that is right, but he thinks one (1) consideration would be how long has the Commission been looking at this issue. They were one (1) of the first out there looking at a solar ordinance. They intentionally left it on the calendar for a year or so, just to see what kind of comments they got, but they know how it goes; until something goes in, nobody cares.

Steve Holifield stated yes, until RWE snuck in.

Attorney Biege stated yes, but they have already been at this for a couple years so they need to take that into consideration on how long if they get challenged. That wouldn't apply to anything that has been approved so far. That would be for any start up requests.

Steve Holifield stated if they pass this here tonight, it goes to the Commissioners and they either approve it or like last time they did nothing, but did tell the Plan Commission what to do.

Attorney Biege stated yes. The statute says they can approve it, deny it, or send it back to the Plan Commission with instruction and comment so they know why they denied it.

Steve Holifield stated they did none of the above.

Attorney Biege stated none of the above. Yes.

Steve Holifield stated he had talked with DiMartino and that is why he suggested they just start the process all over again here.

Attorney Biege stated he thinks it would be cleaner. Although there is no timeline on this because there is no law on it, there is still a level or reasonableness. This thing has been sitting for a while.

Steve Holifield stated so anymore discussion. Sorry about that.

Rita Beaty stated no, you're fine. So, a moratorium would be feasible for the time frame Doug just discussed until they get the Ordinance in place that they would like. That's basically what they are saying. Okay. Thank you. Any more discussion?

Steve Holifield made a favorable recommendation for a Solar Moratorium be imposed for six (6) months.

Eric Pointon seconded.

All Approved. Motion carries 9-0.

Rita Beaty asked for any other new business.

Rita Beaty stated she thanks everybody for coming this evening. She is sorry for the extra entertainment that they were entitled to this evening. Hopefully they will have that all taken care of with Ashley taking care of that for them.

Eric Pointon made a motion to adjourn.

Steve Holifield seconded.

There being no further business before the Plan Commission, meeting adjourned at 6:20 p.m.

  
Rita Beaty, President

  
Michael Pblan, Recording Sec.