

POSEY COUNTY COMMISSIONERS TUESDAY, NOVEMBER 17, 2020.

The Board of Commissioners met in a regularly scheduled meeting at the Hovey House, 330 Walnut Street, in Mt. Vernon on Tuesday, November 17, 2020.

Commissioner Randy Thornburg, Auditor Maegen Greenwell, and County Attorney Joe Harrison were in attendance. Commissioner Jay Price participated via teleconference, and Commissioner Carl Schmitz was absent.

R. Thornburg opened the meeting with the Pledge of Allegiance. The Commissioners were led in an opening prayer.

MINUTES

R. Thornburg made a motion to approve the minutes from the November 2, 2020, regular meeting; J. Price seconded. The motion carried with a vote of 2-0.

CLAIMS

J. Price made a motion to approve the claims as presented; R. Thornburg seconded. The motion carried with a vote of 2-0.

TREASURER'S REPORT

J. Price made a motion to approve the October Treasurer's report; R. Thornburg seconded. The motion carried with a vote of 2-0.

HEALTH DEPARTMENT UPDATE

Cheryl Reich, with the Posey County Health Department, gave the following update:

1076 Cases

173 Active Cases

13 Deaths

The County is currently in Orange.

R. Thornburg made a motion to approve a part-time health nurse contract with Donna Nix; J. Price seconded. The motion carried with a vote of 2-0.

YEARLY BIDS

R. Thornburg made a motion to allow the County Attorney to open the yearly bids; J. Price seconded. The motion carried with a vote of 2-0.

Mr. Harrsion stated the County received the following bids:

Wabash Valley Fuel

Ries Tire

Utility Pipe

Russells Excavating

Chastain Excavating

CivilCon

E3 Bridge

Mulzer x2

R. Thonrburg made a motion to take these bids under advisement to be awarded at the December 1st meeting; J. Price seconded. The motion carried with a vote of 2-0.

EMS PROPOSAL

Posey County EMS Director, Chris Neaveill, addressed the Commissioners regarding the need to purchase a new ambulance. Mr. Neaveill stated he has spoken with the Commissioners prior and had proposals turned in; however, the cost of the new ambulance will exceed the \$150,000.00 threshold to allow for proposals, and this will have to be a sealed bid process. Mr. Neaveill stated he will be drafting a notice for the newspaper to advertise for sealed bids. Mrs. Greenwell stated those bids will be opened at the December 15th Commissioners meeting.

WIND TURBINE ORDINANCE

R. Thornburg: I would like to make a motion to go with the Commissioner's language on that, which reads under section 1 amendment 2 section 153.134.02. Basically, what we are doing is adding the mitigation and consultation zones. It currently reads under proposed (unintelligible) or any other interference. No wind turbines shall be installed in the no-build zone. Basically, this motion is adding mitigation or consultation zone as determined by NOAA. Our attorney has prepared wording along with Erin Bauer, and I will make a motion to that effect.

Joe Harrison: You will have to have a public hearing on this also. That is set for today.

J. Price: I am not going to second this; I want to make a motion to table that vote until we are all three at the next meeting.

Joe Harrison: Why don't you go ahead and have a public meeting.

R. Thornburg: Open the public hearing portion of the meeting.

Erin Bauer: POCO/GIBCO Wind. Commissioner Thornburg, I would encourage you to do just what you said, which is to go back to the language the Commissioners proposed and sent down to the Area Plan Commission. That language was sufficient to protect the citizens of Posey County. The language that the Area Plan Commission inserted once they got it, although I understand their attempt, I don't think that language goes far enough. It is my understanding that Trent Van Haften, a local attorney and their attorney, drafted a memo for the Area Plan Commissions review and I do believe the Commissioners received a memo. Trent Van Haften is a great attorney, and I have a great relationship with him, and I respect him, but I do not agree with the concern in the memo regarding the language in the ordinance. I think Mr. Van Haften's concern is putting a blanket prohibition in the mitigation and consultation zone will leave the ordinance open for attack. I do not believe that is the case. As Mr. Van Haften noticed in his memo reasonable zoning regulations are a proper exercise of the police power of the State. A zoning ordinance is presumed valid and any party attacking the ordinance must prove that classification or standard used in the ordinance are arbitrary, unreasonable, and bare no substantial to relationship to the health, safety, or welfare of the community. Indiana courts traditionally use a three-stage approach when examining if an ordinance violates the taking clause. They look at if the exercise of the police power used in implementing the ordinance justified, if so is there a rational relationship between the justifiable end and the means used and if yes, are the means, i.e., regulations reasonable. Here we have a comprehensive joint study conducted by the Department of Defense and other Federal agencies that, in detail, explains the dangers of the wind turbines and their clutter interference with the Nexrad radar. Obviously, putting in restrictions that the turbines not be erected in the mitigation and consultation zones would be a reasonable way to implement something to prevent dangers to the public. Here there would obviously be a rational relationship between the ordinance and the means used. We are actually relying on the Government's definition of what is dangerous. And so I believe that under any standard the ordinance that the Commissioners suggest would withhold a constitutional challenge. We have actually done some research, and we have seen that Counties all over Indiana have not only put in restrictions that we're proposing but have gone several steps farther. There are actually seven Counties that we could count that put in blanket prohibition of wind turbines all together, not just in the no-build, the consultation and mitigation zone, but blanket prohibitions. I provided a list of those counties, but again we counted seven. To my knowledge, there has not been an attack on those ordinances. Those ordinances stand today. So we're not proposing that we go that far and if those ordinances stand today, then obviously, I think we can justify an ordinance that goes a reasonable length to protect the Nexrad doppler radar. We also have other Counties that may not have put in blanket prohibition but that have put in restrictions that are substantially more stringent than what Posey County has in place. Again I detailed those Counties for you to my knowledge, there has not been an attack on those ordinances. Gibson County obviously is of utmost importance here because the Nexrad radar is situated in Gibson County. They have put in the ordinance that Commissioner Thornburg suggested stand here; they have passed the ordinance that says that wind turbines shall not be erected in the no-build, mitigation and consultation zone; if they have that ordinance, we need to be consistent, because if we are not consistent Gibson County is protecting its citizens but Posey County is undoing Gibson Counties work. Not only are the citizens of Posey County and Gibson County affected, but the citizens of Vanderburgh County would be affected as well. We cant trust that the developers would work with NOAA and the National Weather Service to do what is right. And that's the problem with the Area Plan Commission suggested language, they are really leaving to the developers to work with these entities to make sure mitigation strategies are implemented. We saw from the joint study from the Department of Defence that these developers are very

resistant to cooperation. They don't produce all the information that is relevant for the National Weather Service to make a suggestion as to mitigation strategies, and they are notorious for failing to cooperate even with the recent study done by the NTIA for Gibson County which we discussed at the last meeting I came to, there NTIA said I tried to follow up with RWE to get more information about this development so that we could talk about mitigation strategies, unfortunately, RWE would not respond and would not follow up. So we can't leave it to the developers, and the joint study shows that unfortunately once the wind turbines are erected if more information comes out that mitigation is necessary the harm is already done because the actual erection of the turbine is the problem. So the only thing to be done is to take it down and obviously that would cost a lot of money, and that is not the situation that we want to put ourselves in. I would strongly encourage the Commission to go back to the language it suggested before, send that back down to the Area Plan Commission and do what's right for the safety of the citizens of Posey County and surrounding Counties.

J. Price: Thank you Erin.

R. Thornburgh: anyone else that would like to speak

Earl Schroeder; have a runway in Marris Township. Let me tell you a little about what the Government does and doesn't do for you. When I built my runway, there are certain things you should do. They come down, and they inspect my runway, and their comments were that you could do whatever you want to do with your runway, we only make a suggestion, we have no authority to make you do anything. So I have a suspension they are going to run into that same situation with the wind towers, they will make a bunch of recommendations, but that has no teeth in it. I would say this is a good idea for the Commissioners to do it like they want it done and have it in writing and hopefully, people will have to abide by that because you can't go back and have the Government do it for you.

R. Thornburgh: anyone else in the audience have anything

R. Thornburgh: I have a couple of things I would like to say. Do we need to shut down the audience participation?

J. Harrison: yes

R. Thornburgh: The public portion of this meeting has now closed.

R. Thornburgh: I just want to go over a few points in the report. This is some of the top agencies in the United States, and I am sure that everyone knows it is millions of dollars invested in these reports. This is their summary:

The Nexrad radar is the key system that supports the tri-state agency efforts of the Department of Commerce, National Weather Department, The Department of Defence and the Department of Transportation, Federal Aviation Administration to track weather and make lives, property and military operational risk assessment decisions. Nexrad data also supports operations of other Government agencies, private industries and the public. Currently, there are 159 of these doppler radars in the United States. Thank God we have one in our area, I'm sure it saved countless lives. In this study, it states the rotating turbine blades can effect doppler radar in several ways, including radar database, the large nacells that hold the housing generator components, including generator, gearbox, drive train, brake assembly. That's the large item you see located on top. I know speaking, we have received a letter from RWE stating they are no longer interested in this area due to lack of wind speed and the County wishing to protect the doppler radar. This basically recommends you include the mitigation and consultation zones because of major interference out to the limits. I think it is 22.5 miles. That was my motion, and I did not get a second on it. We will be bringing that up at a later date. I concur with everything Erin stated. I know the Federal report states their position and mine. There is not much doubt in it. Protect the doplar radar and thousands of individuals in the northern part of the County and down in this area. That's what I think we need to do. But as for now it will be tabled until we have a full board.

R. Thornburgh: I make a motion to table at this time.

J. Price: I will second that.

The motion carried with a vote of 2-0.

WILSON CENTER LEASE AGREEMENT

Mr. Harrison stated this was for the COVID testing that took place a few months ago. Mr. Harrison stated this just needed to be in writing so that invoice could be paid.

J. Price made a motion to approve this agreement; R. Thornburg seconded. The motion carried with a vote of 2-0.

DEPARTMENT UPDATE

R. Thornburg gave the following Workforce Development update:

Current unemployment rate:

The United States 7.9%
Vanderburgh County 5.8%
Perry County 4.9%
Pike County 4.9%
Knox County 4.3%
Spencer County 4.2%
Warrick County 4.1%
Gibson County 4.0%
Dubois County 3.8%
Posey County 3.6%

Top Industries Unemployment:

Manufacturing 17.7%
Food Service 15.8%
Retail 11%
Administrative Waste Services 9.5%
Construction 7.9%

Top Industries Job Listing:

1. RN
2. Post Secondary Teachers
3. Maid/Housekeeping
4. Dispatch
5. Customer Service Representatives
6. Vocational Nurse
7. Post Production workers
8. Home Health Aide
9. Food Prep
10. Managers.

Posey County Highway Superintendent, Steve Schenk, informed the Commissioners that the department had paved a portion of Springfield Road using part of the Community Crossings grant funds. Mr. Schenk stated he has four drainage structures that need work completed; two small culverts, a bridge that has been rehabbed, and an aluminum box culvert that needs to be replaced. Mr. Schenk stated this would have to be a bid out the project. Mr. Schenk presented a quote from Civilcon to conduct a site survey, complete permitting, complete a hydraulic design, provide construction plans, and bid contract documents for an amount of \$22,000.00. Mr. Schenk provided the commissioners with a quote for the box in the amount of \$128,251.86.

R. Thornburg made a motion to approve these quotes; J . Price seconded. The motion carried with a vote of 2-0.

Mr. Schenk stated the department is done paving for the year.

Posey County Treasurer, Vicki Peerman, stated they are still opening mail.

Posey County Auditor, Maegen Greenwell, stated the wire necessary to allow for live streaming had been placed in the Hovey House, and cameras will be installed soon.

No other business was discussed and the meeting was adjourned.

Carl L. Schmitz

Carl Schmitz

Jay Price

Jay Price

Randy Thornburg

Randy Thornburg

Maegen L. Greenwell

Attest: Maegen L. Greenwell