

## **POSEY COUNTY COMMISSIONERS TUESDAY, MARCH 2, 2021.**

The Board of Commissioners met in a regularly scheduled meeting at the Hovey House, 330 Walnut Street, in Mt. Vernon on Tuesday, March 2, 2021. Commissioners Bill Collins, Carl Schmitz, and Randy Thornburg; Auditor Maegen Greenwell and County Attorney Joe Harrison were in attendance.

B. Collins opened the meeting with the Pledge of Allegiance. Rick Sellers led the Commissioners in the opening prayer.

### **MINUTES**

C. Schmitz made a motion to approve the February 2, 2021 meeting minutes; R. Thornburg seconded. The motion carried with a vote of 3-0.

### **CLAIMS**

R. Thornburg made a motion to approve the claims as presented; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **TREASURER'S REPORT**

C. Schmitz made a motion to approve the January Treasurer's report; R. Thornburg seconded. The motion carried with a vote of 3-0.

### **CLERK'S REPORT**

R. Thornburg made a motion to approve the December and January Clerk's Report; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **HIGHWAY BIDS**

C. Schmitz made a motion to allow County Attorney Joe Harrison to open the bids received and handoff to Highway Superintendent Steve Schenk for review; R. Thornburg seconded. The motion carried with a vote of 3-0.

Mr. Harrsion stated the following bids were submitted:

E&B Paving section 7/8

Jerry David Enterprise Inc. section 7/8

J. H Rudolph section 7/8

R. Thornburg made a motion to take the bids under advisement until the March 16<sup>th</sup> Commissioners meeting; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **CHAPTER 153 AREA PLAN ZONING ORDINANCE**

R. Thornburg made a motion to reject the proposed changes sent to the Commissioners from Area Plan Commission; C. Schmitz seconded. The motion carried with a vote of 3-0.

R. Thornburg made a motion to approve the original language sent to the Area Plan Commission on September 18, 2020, in regards to Chapter 153 of the Posey County Code regarding Wind Turbines; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **REDEVELOPMENT COMMISSION APPOINTMENT**

C. Schmitz made a motion to appoint Barry Cox to the Posey County Redevelopment Commission; R. Thornburg seconded. The motion carried with a vote of 3-0.

### **REZONING REQUEST**

Mindy Bourne, Posey County Area Plan Director, addressed the Commissioners regarding a rezoning request for 3401 Highway 62 East. Mrs. Bourne stated this request is to rezone four acres from Agriculture to B3. Mrs. Bourne stated the parcel purchased currently is 11.636 total acres, with 7.62 acres already being zoned as B3; this request is to rezone the remaining four acres to B3. Mrs. Bourne stated the Area Plan Commission heard this request at the February 12<sup>th</sup>, 2021 meeting and passed with a vote of 8-0. Mrs. Bourne stated there were no remonstrators to speak for or against this project, and the intended use will be for a trucking business. Mrs. Bourne stated the applicant will still have to have a site review with Area Plan. R. Thornburg made a motion to approve this request; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **CLAIM PAYMENT ORDINANCE**

B. Collins stated this ordinance would allow the Auditor to pay claims on an emergency basis if needed. Mr. Collins stated the claims would then be approved at the next Commissioners meeting. Posey County Commissioner Attorney, Joe Harrison, stated this action is allowed according to IC code, as long as the Commissioners have an ordinance passed.

R. Thornburg made a motion to waive the second reading of this ordinance; C. Schmitz seconded. The motion carried with a vote of 3-0.

C. Schmitz made a motion to approve ordinance 2021-03-02-03 allowing emergency payment of claims; R. Thornburg seconded. The motion carried with a vote of 3-0.

### **COMMISSIONER TAX SALE**

Posey County Treasurer, Vicki Peerman, presented the Commissioners with a resolution to conduct the 2021 Commissioners sale. Mrs. Peerman stated she is providing the Commissioners with a list of the 46 properties currently on the sale list. Mrs. Peerman stated Mr. Harrsion has been given a copy of the resolution.

C. Schmitz made a motion to approve resolution 2021-03-02-04 to allow for the 2021 Commissioners tax sale; R. Thornburg seconded. The motion carried with a vote of 3-0.

Mrs. Peerman provided the Commissioners with an addendum to the original service agreement with SRI to conduct the sale. Mr. Harrsion stated this is a standard yearly addendum to the service agreement.

R. Thornburg made a motion to approve the addendum; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **GIS LIMITED USE AGREEMENT**

Posey County Auditor, Maegen Greenwell, stated the County received a GIS request for a usage agreement with the County and Transfinder, a bus route company working with the school district.

R. Thornburg made a motion to approve this request; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **LOCAL CONTROL OF LAND USE SUPPORT**

B. Collins stated the Commissioners would like to sign an ordinance expressing their opposition to Bill 1381. Mr. Collins stated this bill would take away local land use control and give it to the State. R. Thornburg stated our local representative did vote in favor of this bill. Mr. Thornbrgh urged local citizens to be involved and voice their opinions on this bill.

R. Thornburg made a motion to approve this ordinance; C. Schmitz seconded. The motion carried with a vote of 3-0.

### **REDEVELOPMENT AUTHORITY CREATION**

B. Collins stated the Commissioners need to create a Redevelopment Authority for Posey County in regards to the Western Bypass funding. Mr. Collins stated this board would control the bonds needed to finance the bypass. Mr. Harrison stated this board is appointed by the Commissioners and will meet several times a year. Mr. Thornburg asked how soon members need to be appointed? Mr. Harrsion stated all three should be appointed within the next month. Mr. Harrsion stated a lease rental agreement would need to be signed by that board. Mr. Harrsion stated the Commissioners would lease the bypass from the board until the bonds are paid in full and then given to the Commissioners. Mr. Harrsion stated this is similar to the situation to what the Commissioners have done with the Jail building.

Mr. Harrsion stated the Commissioners could waive the second reading if they wish to.

R. Thornburg made a motion to waive the second reading; C. Schmitz seconded. The motion carried with a vote of 3-0.

C. Schmitz made a motion to establish the Posey County Redevelopment Authority; R. Thornburg seconded. The motion carried with a vote of 3-0.

R. Thornburg nominated Josh Orem to the Posey County Redevelopment Authority; C. Schmitz seconded. The motion carried with a vote of 3-0.

B. Collins made a motion to table the remaining two appointments until the March 16<sup>th</sup> Commissioners meeting; R. Thornburg seconded. The motion carried with a vote of 3-0.

\*The following section of minutes were typed verbatim.

## SOLAR DISCUSSION

Maria Bulkley: For the record, my name is Maria Bulkley; I am an attorney with Kahn, Dees, Donovan & Kahn law firm at 501 Main Street, Evansville, Indiana. Today since we have greater room capacity, we have some of our clients with us. We represent, as you know, a group of landowners who have concerns about the Solar ordinance, as written, in light of the fact that there are some pretty big industrial solar projects coming to Posey County. I don't know if anyone wants to raise their hands; some of our group members are here, you see them, they have their yellow stickers on. Thank you for having us back to continue the discussion. We have a few things to update you on, and as you can probably see from the faces, even though we have masks on, people have been under quite a bit of stress and having a lot of concern and worry over the incoming project. So, I appreciate you having us back here, and we want to stay on your agenda for that reason. Just to being to reiterate, the group that we represent is pretty large. They would prefer that there not be industrial solar in Posey County, but that appears to be Nationwide a reality that we have to face that this could be a reality here. One point to continue to make is the particular location currently being proposed is undesirable, but should this project that is on the horizon, go ahead and come here; what we are doing is going ahead and asking for some ordinance amendments to elevate the landowners' concerns. I wanted to update you on our efforts in that regard. Last month we filed a formal application with the Area Plan Commission to consider amendments to the zoning ordinance. I did bring you a copy of the application so that you can see it. I did leave you a copy, Mr. Harrision; it is next to Mr. Collins if you want to pass that down. We did file a formal application; in the formal application, there are a couple of areas in a moment that I will talk about. The next thing I want to mention, the last time I was here, we provided you with a picture exhibit, and the picture exhibit was made by a group member, and it illustrated, a picture is worth a thousand words, in the picture you could see that some of the homes were completely surrounded by solar panels. That was a conceptual exhibit that we made based on what could happen, based on the current ordinance. It is the one I handed out with the blue solar panels on it. Last time when we were here, someone asked if there was a scale on it or whether it was drawn to scale. And it was, we thought, but we had some check it, in light of the question and put an accurate scale on it. I think that probably the most important page of this exhibit is we wanted to provide you with the updated one with the precise scale. If you look at page two, the page with the yellow arrows on it. As it stands with the current ordinance, you can see the yellow arrows pointing toward homes. The state of affairs, all of those blue, potentially fifteen-foot high solar panels could surround homes on three sides. So we were here saying, hey, this is why we're worried; this is why we want to see if we can work on amending the text of the ordinance. Because in some cases, landowner homes can be surrounded on three sides by solar panels as close as 100 feet to their homes, and the current ordinance doesn't have any kind of a green buffer in it. Which commonly an ordinance would. This is a conceptual exhibit. Now I have had something happen yesterday; I received a memo and preliminary site plan from Tansaska's attorney, so they sent us, I think a lot of people have this now, but they sent us a copy of this exhibit that I have put into the record which has the purple in it. So now we can see this isn't really an idea or a concept anymore; this is reality. We were able to confirm, looking at their exhibit, that in fact, people's homes are surrounded by multiple sides by solar panels, and they are pretty close to the houses. So that just brings us up to date on the background. So now it's not a conceptual thing to worry about.

Bill Collins: Have you checked this map against this map? Are all of these houses actually going to have panels around them? I know they said they may or may not.

Maria Bulkley: We just got this yesterday, I just sent it out to the group, and just as a spot check, and I don't want to put anyone on the spot, but Misty Bishop is here. I asked her to compare it to the conceptual site plan and find your house and tell me if you are surrounded by three sides. Unfortunately, I had to receive the bad news that, yes, her home is surrounded on three sides, and that's a sickening feeling, you don't know what's going to happen, we have a picture that shows what could happen and then okay this is what they are planning. That was a tough conversation. I wanted to give you a quick rundown of the things we are asking. We will be before the Area Plan at the March 11<sup>th</sup> meeting with those requests, so that's not very long from now. That's just next week—nine days from now. We would like to come back to you after that after we know more about what their recommendations will be. In short, what we are asking for is, we want to go back to the 1000 foot setback that was in the ordinance that was advertised in 2019 when this discussion was ripe and made public. In 2019 when the solar ordinance was being discussed,



there was a draft of the ordinance that was advertised in the newspaper, and in that draft, it said the set back would be 1000 feet from a non-participating landowner property line to the solar panel. Even though there was a green buffer discussed in the original, it ultimately was removed, and now it's a 100-foot setback and no green buffer. As you can see from what I provided you, I am going to move to another exhibit now; it's the exhibit that has the color on it; it's also in duplicate attached to a resolution that I have passed around. You can see that we're specifically asking for the 1000 foot setback to create more distance between potentially incoming solar panels and non-participating properties and homes. We also really need a double-lined tree buffer to create some visual screening. The next thing we are asking for is a rezoning requirement. I have received mixed feedback on that, not from our group; we want it. But from other people we've talked to, which seems surprising. If you were to take any other industry or business wanting to relocate into an agricultural area, they would have to rezone, and that is what we are asking for here, that if solar panels are going to be used for non-personal use, and now we know that Center Point is stating that they are going to buy the energy from this project, this is in fact, and industrial level utility project. We are simply asking that if a property is going to be used as industrial use, it be treated as any other industrial business, and they be required to go through a rezoning process. We will be talking with Area Plan about that on March 11<sup>th</sup>. The next thing we are asking for is a strengthened decommissioning bond. These solar panels are supposedly going to be here for 35 years; I probably won't be here in 35 years; some people will. Some people in the group who are more than likely not going to be here in 35 years have said we really want to do the best we can to make sure that if this happens to us if these solar panels come, that in 35 years they are decommissioned and taken down properly. In some jurisdictions, they have said we will dig up everything so many feet under the ground, but anything under that they are going to leave in the ground. We do not know what the financial situation will be 35 years from now or what the viability will be for a bonding company at that time. What we're asking Area Plan to do is consider some type of a cash reserve bond to guarantee a proper decommission job of these solar panels should they come here. This is, in short, what we are asking to protect the future generations.

Like I have talked to you before, I think it was just simply unknown in 2019. I think the County was being forward-thinking. Solar ordinances and wind ordinance are the way of the future, and we need to have one. I just don't think we had enough information, and it wasn't really known that a project of this size was coming. The project that is coming is 2500 to 3000 acres gobbling up prime farmland in our prime industrial potentially attracting corridor in Posey County. If we were to attract new business, that's likely where they would want to go. You have Astrazinic there, you have car dealerships there, so the location is a concern for residents and many business people that I have talked to that have said if the farmland is taken away, were an ancillary business, we sell things to the farmers. We're all going to be short on business if this happens. So there are a lot of concerns about the location, and like I said, whenever we did the solar ordinance in 2019, I don't think we knew that this massive project was creeping upon us, and now we know that in addition to Tanaska, there are several other solar companies coming, which leads me to my next point. I received a memo from Tanska's attorney yesterday, and it says in that memo that they did an analysis, and their project only accounts for 1.2% of farmland in Posey County. If that is accurate and their project is this big, 2500 to 3000 acres, that is really concerning because the other 98.8% of available agricultural land, farmland in Posey County is wide open for industrial solar to come in with ordinances that don't provide the protections that we need. I think the intent on stating that in the memo is, hey, this may be 2500 to 3000 acres but don't worry, it's not as big as you might have thought when compared to the rest of the available farmland in Posey County. I am just going to repeat myself here; that means the other 98% is just out there waiting to be sucked up by solar panels, with inadequate protections in our ordinance, at least in the eyes of the citizens. I just wanted to point that out; it just seems like we're at the tip of a really big iceberg if we don't go ahead and put some protections in place. In doing a little bit of research, I'm going to make one comment about this; we were looking at what happened in Madison County. Madison County, Indiana had a similar thing happen; they had a solar ordinance that really wasn't suited. I'm reading out of a memo drafted by Terri Hall. Terri Hall is the attorney that is working for Posey County on the side of drafting the solar ordinance. Back in this era, 2017, maybe 2019, is when she actually wrote this; she was talking about the history of solar plants in Indiana. It says in 2017, most large-scale solar plants in Indiana were around 10-25 acres, and that's when their solar ordinance was adopted. So what happened was kind of what's happening here, they really had no idea of the massive scale of industrial solar, and they had an ordinance that was sort of a starter ordinance, and the next thing you know, a project of more than five times what they ever anticipated came in, and they didn't have an adequate

ordinance. What we're doing here is trying to avoid the same situation. We're hoping to be on the front end of amending the ordinance to accommodate some of the landowner's concerns. So based on everything I've said and based on what we said last time we were here, we said we would appreciate it if the Commissioners would consider tabling any applications for solar projects until the Plan Commission has an opportunity to look at the pending ordinance amendments and give recommendations on whether what we have is match with the projects we know are coming. And to that end, we have passed around a resolution that we have drafted, its very short and simple and it's a resolution requesting that you place a stay on any solar project filings while the request are pending. It's my understanding, from conversations I had last month with Tanaska's attorney, that they intend to file their project in March with Area Plan Commission. I don't know if it has been filed yet; I check every few days. But what we would like for you to do is give us just a little bit more time to let the Area Plan Commission evaluate the zoning ordinance amendments that we sent and come back to you after the March 11<sup>th</sup> hearing to see what the recommendations were. Maybe the recommendations after evaluating is we like it the way it is; maybe the recommendations will be wait a minute; we do need a green buffer, that's what most people have. Also, wait a minute; we need more distance between solar panels and these homes, particularly where someone like Misty Bishop's house is surrounded on three sides. I really feel optimistic that when we meet with Area Plan Commission, we will be able to come up with some; we've proposed the amendments the way we proposed them, I do not know if they will adopt them the way we proposed, but I feel there has been a lot of positive feedback toward considering the amendments and considering in light of what now the actual information we have, what might work better for the residents and the community. With that, we respectfully request you take a look at the resolution we proposed, asking for a stay on a new application for industrial solar projects, at least until March 11<sup>th</sup>, until we can get the Area Plans recommendations, and hopefully, none of those would be considered approved, received until we have a chance to finish with the ordinance amendments.

Randy Thornburgh: Maria, to relieve some of you and the people you represent fears, I serve on the Area Plan Commission, and we are certainly looking at all of your recommendations. That's going to take time to work through them, but they are all being considered by the board, and there will be public meetings on that.

Maria Bulkley: Yes, the concern is that while that process is taking place, if the large-scale developer that we know of hurries up and files, they may be trying to get in under the less favorable provisions of the ordinance. So we are asking if you could place a stay on those filings. We aren't talking about a lot of time; we are going to be in front of the Plan Commission next week, were going to know pretty quickly if the ordinance amendments will be acceptable or not. I do not feel like we are making a huge ask; it's not very much time considering what's being asked is going to be here for 35 years. And really be destructive both from a land value standpoint and from the emotional standpoint from the people who are already here. So with that, I would ask that you give some consideration to putting that stay into place. It's not long-term, just to give us a little time to get us through the process. So we do not have any projects come in and slip in under the wire before we have a really solid approach on this. With that, I would renew my request that you adopt that resolution that I circulated.

Bill Collins: Is this something Joe that makes a difference? What effect would it have?

Joe Harrison: It certainly could. Area Plan is going to consider these proposals suggested on the 11<sup>th</sup>. That process will play out; there might be a recommendation that comes to the board out of that meeting at some point. That's usually where it goes. I've never heard of placing a stay.

Maria Bulkley: In Vanderburgh County, because I haven't heard of one here, there were several similar situations like along the University Corridor, there were instances where, and I can provide some of those examples, where similar request we're made to just hold off on something for a short time while something else got corrected. I think what we're asking is if you would consider doing this, its just a very short stay, just a halt letting the project come in, then we could avoid the result of a project coming in under the ordinance as written, especially since we just heard from Mr. Thornburgh that the Plan Commission is giving consideration to our request. Really it's just until March 11<sup>th</sup>; yes, the process will take a little longer than that, but it would just seem very fair to let that process work and not let somebody come in from; I don't know where they are from, Texas, or wherever, come into our County under an ordinance that seems pretty clearly needing a little adjustment to protect these landowners. It is just unfair not to let us

have that chance and let them slip their application in; if you would just pass that resolution, then they would have to wait just a little longer until the Plan Commission could give you recommendations on what works. I don't think it's a big ask in terms of; it's not a time or labor-intensive request being made of you, but it's very meaningful to the residents. I think you can look around the room at their faces. I mean, this is very horrifying to think if you don't do this, this project could slip in under the wire before you fix it. And they are stuck with it for 35 years. All you have to do is make a motion.

Randy Thornburg: I think the normal process, as I stated earlier, the Area Plan Commission had an executive session on the very topic you talked about, so I feel comfortable nothing is going to be slid in. I support your version of this situation; I understand everyone has their own opinions, but I feel confident that Area Plan is going to address those issues.

Maria Bulkley: I guess this is a question for Mr. Harrison. If we don't issue a stay, and I don't mean to put you on the spot, so if this is something, we can answer. If Tanaska files, like I've been told they will do in March to put their project before the Area Plan Commission before the ordinance is amended if it is to be amended, then do they fall under the old ordinance where they get to enjoy the 100-foot setbacks, say from Misty's property, or is it at the time of construction if by then we have a different ordinance. Is it at the time of application or at the time of construction?

Joe Harrison: It is my understanding it is at the time of application is filed. But have you had any discussions with their attorney?

Maria Bulkley: yes. Not very many, but some. She said that they are willing to; it was in a memo she wrote me yesterday, she offered to talk to today. She said they are willing to forgo abatement on parcels that are around someone's house. That really doesn't help most people, and she said they are considering voluntarily giving 250 feet from their houses. What was originally put forth in 2019 when the ordinance was being discussed, and what people put their head on their pillows at night were thinking was happening was 1000 feet. That feels a lot better than 100 feet or 250 feet. That's not very far away.

Joe Harrison: So you're saying she said they are going to have a 250-foot setback even though the ordinance says 100?

Maria Bulkley: yes, that's in their memo. But there is no obligation, just that they are considering doing that.

Joe Harrison: Even with proposed legislation?

Maria Bulkley: Yes, I do understand the proposed legislation, but I think we are all hopeful in including...

Joe Harrison: Do you know what that is?

Maria Bulkley: I think it's 100 feet.

Joe Harrison: I think it's 150 feet.

Maria Bulkley: Yes, I think it's pretty light and so

Joe Harrison: So they are proposing 250 feet.

Maria Bulkley: Well, I mean, that's a voluntary thing; it wouldn't be in the ordinance. It would just be we might do that.

Joe Harrison: Well, no, that's not how that works.

Maria Bulkley: I think it is how it works. Unless they are proposing an ordinance amendment or putting it in writing.

Joe Harrison: Yes.



Maria Bulkley: I haven't been offered anything like that. But still, I would say, with the perspective of the landowner, 250 feet, having 15 foot high solar panels on three sides of your house with no trees, no green buffer, it's just you and the solar panels for miles, that's not what we want. I think most all solar ordinances have a green buffer in them, and I really believe the Plan Commission is going to..

Joe Harrison: Did she talk to you about that?

Maria Bulkeley: No, she didn't.

Joe Harrison: Did you say you were going to talk to her?

Maria Bulkley: She sends an email offering to talk sometime today before 2. I will probably get back by noon; I have several things to do here in Posey County today. There's a lot of talking, but not a lot of acting.

Joe Harrison: You might want to talk to her.

Maria Bulkley: I will, but what we're asking is, I think you are confirming, if they file their application today, and there is no stay placed on projects coming in, then they get to come in under the old ordinance of 100 foot. That's what they get to do, so we're asking you to make sure by passing that resolution that they not get to do that. I am here representing these landowners; these are their heartfelt concerns. I can't beg you to do it; I guess I can beg you to do it. I don't know; maybe I do beg of you not to let this happen to these people.

Joe Harrison: Again, that legislation is pending before the General Assembly, it passed the House.

Maria Bulkley: I understand it passed the House. I talked to the Lieutenant Governor about that. I told her we did not like this. So even if it passes the Senate, if the Governor doesn't sign it, I'm not saying he will or he won't. Not even this body wants that legislation to pass.

Joe Harrison: No, that's what I was going to say. They just passed a resolution stating they are opposed to it. But that legislation does say it passed the House; if we will pass something that more restrictive than what that legislation says, it's invalid.

Maria Bulkley: Why are we going over here, though. All of us are collectively saying that is a terrible piece of legislation. And we're all going to beat it down.

Joe Harrison: I am just saying that it's out there.

Maria Bulkeley: Yes, it's another demon that is out there that we intend to beat to death. All of us, we are all in this together. None of us want this legislation; that is horrible legislation. I can't get distracted, I am here today, and I can only deal with the reality that is in front of me today. The reality in front of me today is that if you don't issue a stay, Misty's house and they file their project today, Misty's house could be surrounded on three sides. She's just an example, by solar panels without even a tree from blocking them, 100 feet from her house. That is crazy, that is unfair, that is taking. I'm sorry I can't get distracted by what's going on at the State House; I feel confident that this board is behind shutting down that legislation. There are communities all over our State that are fighting those fights. This is my fight, to fight for these people here. That is not my fight; this is. I am in front of you right now, asking you to protect these people. Pass that resolution, it would take you one motion, one second, and we're done, and we can deal with those ordinance amendments on the 11<sup>th</sup>, come right back to you, set things right, and then Tanaska can come in here on a level and fair playing field, and I will renew my request one more time. I am asking that you reconsider and pass that resolution. We just heard that waiting until the 11<sup>th</sup>, and they file something between now and when that ordinance is fixed, these people are dead in the water. It's up to you if you are going to do that to them or not.

Bill Collins: Commissioners, anyone want to act on this?

Randy Thornburg: Area Plan still has, and as I stated early, are seriously looking at everything you have proposed. It was seriously discussed yesterday, and it is an ongoing situation, everything you had in there will be addressed.

Maria Bulkeley: I really appreciate that, but if you don't put a stay on it right now, everything you are doing on the 11<sup>th</sup> only matters to future applications; it doesn't help anyone out in the situation where Tanaska files right now. So Mr. Thornburg, I very much appreciate it; I know the residents are too, of the time and consideration for this on the 11<sup>th</sup>, but we have an exposure period going on right now, and if that application gets filed by Tanaska right now, if Mr. Harrison's analysis is correct, and it usually is. Then they are getting a free pass to come in and stick their 15 feet high panels on top of Misty's house without even a tree. Like they said in the memo yesterday, that's only 1.2% of the farmland in Posey County; if the rest of those developers come in and file, you've got 99% of your farmland open to this kind of damage. All you have to do is pass that resolution that says we're calling a short halt on applications coming in, specifically the one being proposed by Posey County development before you have time to complete your review. That is all we're asking for; it's not a big request; it's very little effort on your part to just make a motion to say we're going to hold off on letting anyone sneak in under the current ordinance while we are talking about this. I will once again ask you to pass that resolution.

Bill Collins: I guess with no motion we will move forward.

Maria Bulkley: Can I have a reason why not. I just think the people want to know we're here for a discussion, and I feel like I'm the only one talking. It's on the agenda as a discussion.

Randy Thornburg: Is it realistic for them to file between now and

Joe Harrison: I have no idea.

Maria Bulkeley: Yes, they said they are filing. Yesterday they filed and made public their site plan.

Randy Thornburg: I thought it was a little longer process than that.

Maria Bulkeley: I will attest on the record before God and all these people that their attorney told me they are filing in March, and yesterday they put out a statement about that fact. She told me they were filing in March. Everyone knows that. They have made no secret of that; they have Center Point putting out press releases that they are buying all that energy from them. They are filing, and if you don't stop this, they are going to sneak in under this old ordinance and harm these people. You can stop this. You can do this; why would you not.

Randy Thornburg: I will make a motion to approve this resolution of a stay.

Bill Collins: How long of a stay are you proposing? We can't just say we're putting a stay on it.

Randy Thornburg: I just want to make sure our citizens are protected, and we have time to work through this situation.

Maria Bulkley: What if we revisited at the next Commissioners meeting, following the Area Plan. Maybe we can reconsider it each time; I would like for it to be until the ordinance is completed. But if your more comfortable, maybe we can at least get it until the Plan Commission recommendations are in, so then we will know. I think that would be at least a first step. Our motion is to put the stay into effect and don't lift it until your ready, but if you'd be more comfortable doing it until you know what those recommendations are, then we could renew it at that time if we knew if were appropriate. That might be a step that I think we would be at least be bandaid; it would at least provide a little protection for the people. I see that Mindy Bourne is here; she might know if they have filed anything yet.

Mindy Bourne: They have not filed anything yet.

Maria Bulkley: So we have a chance. We have a chance to stop this from happening to these people, and I beg you to do it. Look at them.



Carl Schmitz: When is the Area Plan meeting in April?

Maria Bulkley: Well, we're actually meeting in March, though.

Carl Schmitz: Yes, but you can't get anything on the agenda anymore for that meeting.

Maria Bulkley: We're already on the agenda.

Mindy Bourne: I think what he's trying to say is the deadline for the meeting is always the month prior. So the April meeting is the second Thursday, so the filing deadline for the April meeting will be next Thursday. Now keep in mind, solar projects may not come on the agenda that quickly, though because there is a lot of stuff I have to review for the solar applications, it's not like a rezoning or special use; those are usually put on the agenda for the following month. Solar is going to be a whole other deal.

Maria Bulkley: It sounds like to get the benefit of the ordinance as written without your adjustment, the Plan Commission, all they have to do is file their project. According to Mr. Harrison, my understanding is if they come down and file this afternoon, they are under the old ordinance.

Joe Harrison: That's for someone else to decide. That's just my thought.

Maria Bulkley: I understand, but I think you are usually right. That is terrifying to these people, all you have to do is issue a stay, if you want it to be a short one, just so you can get some feedback from Area Plan Commission that would at least prevent this from happening to your residents. All you have to do is make a motion today, second it, pass it, and it gives us a little relief to these folks. Please.

Bill Collins: Okay, we have a motion.

Randy Thornburg: I will renew my motion to place a stay on applications until we get those recommendations from Area Plan Commission.

Maria Bulkley: And we will come back and see if we need to keep it up?

Randy Thornburg: Yes.

Maria Bulkley: Okay.

Bill Collins: Is there a second?

Maria Bulkley: It's a thirty-five-year problem for these people that we could prevent with a few weeks. That's all we're talking about.

Since I still have the floor, are there any of my landowners that want to come up and add anything?

Misty Bishop: My name is Misty Bishop; I live at 8520 Lower Mt. Vernon Road. As Maria has said, this is going to surround my house, 100 feet on three sides. My children play outside every day; it's something I would have to look at every day, my family will look at every day. I am 37 years old; 35 years is the rest of my lifespan. We have put our heart and soul into this house; it's where my business is, my salon is there, I have customers that come here every day. It is just heartbreaking to think this is going to affect us so negatively, our whole County, to be honest with you, in my opinion. I don't think this is a good thing. I just beg of you, please give it a little more thought, give us a little more protection surrounded us, trees, a little more of a setback, anything. If you could please give that to us today, it would be so greatly appreciated. Take just a little more time to get this ordinance in check because it needs to be.

Bill Collins: Have you spoken with the solar people about making any adjustments to their setbacks.

Misty Bishop: I have not, and I do not trust them. I really think we need the ordinance to protect us, I do not think these companies have any care for what they are doing, or they wouldn't have it so close to us. My goal is just to get our ordinance set to protect us and future residents of Posey County.

Randy Thornburg: Again, I feel comfortable that Area Plan will be addressing those major concerns, I assure you.

Maria Bulkley: I think you are correct, Mr. Thornburg, based on the feedback we have gotten. I feel comfortable the Area Plan Commission is going to address the concerns, the problem is if there is a filing that is made between today and when that happens, Misty will have to live with these, the solar company can come in and do to her exactly what we have described. Because those protections are not in place. If you will pass the resolution saying, developers don't file anything, just for time for the Area Plan Commission to see if they are going to give us some recommendations on how to fix this. That would be a saving grace to these residents. They could rest easy knowing that you are going to do that on March 11<sup>th</sup>. Otherwise, I don't know if any of you have had a legal problem or some type of personal problem, but the not knowing and the anxiety is so harmful. So, if you would give this to the people, just temporarily, until we can see what will happen with the ordinance, it would be a great relief. So they could just at least relax for a few weeks. They have been torn up for months; this would just give them a period where they would not feel racked every day. So I will ask you again, can you give a second to Mr. Thornburg's motion, just to temporarily table this. To give this a little time, a little break, some peace of mind. Until we can get to the period that Randy is talking about, it's just nine days. When is your next Commissioner's meeting after today?

Bill Collins: Two weeks from today.

Maria Bulkley: So it's a two-week stay.

Bill Collins: I think that I can't second it, just because we're going to have a public hearing next week and between the Council and the Commissioners were going to listen to what they have to say. If we're not happy with it, what they are asking will not be approved, and if it is not approved, they will not be coming in.

Maria Bulkley: Would that be the abatement? The joint meeting? I was trying to get an agenda for the joint meeting, and there was no one available. I think the only thing on that agenda was whether they would get the tax abatement.

Joe Harrison: That is one of the items on the agenda at 10:00 am. The public hearing for the abatement. There might also be an Economic Development Agreement that will be considered at that time or some other time. But the Commissioners are there to listen to the Council as well.

Maria Bulkley: So, my understanding is that it is mainly for the tax abatement process. But again, this doesn't fix the problem that if they file before then, they get the benefit of the lesser restrictive ordinance, and so we are just trying to stop the gap until we can get the Plan Commissions' recommendations. It is literally a two-week stay.

Jenna Richardt: With Posey County Economic Development. I just want to say at this time; we have not had the most up-to-date EDA put in front of you to make a decision on. That will come at Tuesday's meeting. Until then, you will not know what restrictions that Tanaska is willing to put in place, voluntarily, that will be written and agreed on prior to making this decision. So, Mr. Thornburg said, I think Area Plan is taking under this under advisement very seriously, and I don't think this was slipped in under the cracks. We have had a lot of discussions around this ordinance in the last two years. And overall, until you see that EDA, I don't think this is something you need to stall on. There will be a lot in that EDA regarding setbacks and screening. That will be more restrictive to the ordinance. Thanks.

Maria Bulkley: In response to that, if this is all going to turn out to be rainbows and unicorns in a few weeks, if those unicorns are in this agreement that no one will let me see, because it is not signed and not ready. I get it; that's the process, they don't have to let me see the Economic Development Agreement until it is signed, and sometimes those are all written up, and we don't get to see them until they are ready to be signed that is a strategy. If what I'm being told, what's

in that agreement is rainbows and unicorns, then there should be no problem with issuing a couple of weeks' stay. If no one is planning on filing anything to hurt these people, then it should be any problem to issue a temporary stay. The potential applicant isn't harmed if they are going to give us the world anyway. No one has told me they were going to give us anything. I don't have anything except that memo. So again, I am going to renew my request.

Randy Thornburg: My motion is on the floor and needs a second.

Carl Schmitz: My problem with it right now is if we are going to have the joint meeting and get all the paperwork first, they aren't going to file before that meeting anyway. Which would be on the 9<sup>th</sup>; let's see what they are proposing, because if we pass this resolution, we put it all on the table, and who knows what's going to become of it.

Maria Bulkley: Because if they file before the 9<sup>th</sup>, just their general application with Area Plan Commission, then they can voluntarily do whatever they want, but they would have the right to do exactly what we don't want them to do. Okay, we are having these meeting on the 9<sup>th</sup> and the 11<sup>th</sup>, that's good, in the meantime, you're are saying great, we're having these meetings on the 9<sup>th</sup> and 11<sup>th</sup>, that's good, but in the meantime, don't file, you're just saying no one file anything until we can have our meetings on the 9<sup>th</sup> and 11<sup>th</sup>. That's all we're really asking. It would give the people who are here so much peace of mind. If you're saying they weren't going to file anything between now and the ordinance change anyway, then we're not hurting anything anyway. Were is the applicant? They aren't here, were here.

Jerry Chastain Jr.: I live on Darnell School Road. That ordinance has changed since last September. It has Carl's name and Heather Allyn's name from 1000 feet down to 100 feet with no screening. You guys work for us, not for Tanaska, for Tanaska to tell you guys what you're going to do. You are supposed to protect your citizens; that's what needs to be done. If they come in before this, we are in big trouble. I can't believe you guys cant figure that out.

Carl Schmitz: At the time we changed us being farmers, we were looking at around the edge of the field, you've waisted 1000 feet.

Jerry Chastain Jr: Carl, you cant farm under that. I've got that over there; I'll show you; it's the silliest thing ever written in my life. You don't farm under a solar panel or around it. We need a stay on this. It's two weeks; I can't believe you can't do this for us. Anyone else wants to come up and talk; you better come up.

Greg Lewis: Posey County resident. I am not a big political nut, but I feel like there is a big problem going on here. Someone is not honest up here at this table. I have to agree with him; you guys work for us, not Tanaska. I am just learning about this about a month ago; I drove down in my neighborhood and seen these signs. This has been slid in here, in the night, too quick, and I don't like it. I am just a little pee-on out here, and I can't do a whole lot, but I can voice my opinion. But it's terrible. I don't know. I know Bill a little bit, I know Mr. Thornburg a little bit, I don't know you guys very well, I don't know, you might know me, I've been around for forever, I've been in business. I've got a problem, and we just need some help from you guys. That's all I have to say.

Jerry Chastaine: My name is Jerry Chastain, Darnell School Road. I want to voice my opinion on this. The concern I have is the ordinance is one thing; then it got changed to another. We understand that happens from time to time. But, what we are asking for is not unreasonable. A little bit of distance and some trees to help protect citizens of this County, the taxpayers. I think it speaks to the crowd in here tonight, where the support level is coming from, to ultimately give a little so the people can sleep at night. I've got 80-year-old women stopping in my shop, crying on Sunday afternoon because they are worried about what's going on, no one is talking. All we know is that it's not imaginary now, guys; it's coming, and it's coming quick. If we don't do something now to protect the citizens, there will be a lot of outrage—thousands of people.

Bill Collins: We will hear one more citizen.

Paul Herrenbruck: My name is Pual Herrenbruck; I am 75 years old and have lived in this County all my life. I have given this County my life. I am for the solar farm. The reason I am for it, its because it will be good for our County. It's going to give this County, all the people, more money than they have had in a long, long time. As far as a 1000 foot setback, if these people



want this spread all over Posey County, then give them the 1000 foot setback. On a 100 foot setback, on a 40 acres, it brings it down to 28 acres that you will have solar panels on. That's with just a 100-foot setback, and these people until they hear what Tanaska has to propose. We have been having shareholder meetings on the phone, and these people haven't even had the chance, haven't taken the opportunity; now I apologize for that because I have a message to one of them that they need to be here. They will be here because they aren't trying to push anything. In other words, this hasn't even sprouted yet; it hasn't even got off to a good start. These people are going to highly oppose something that would help every citizen in Posey County. They can cry about losing sleep over this if they think other people don't lose sleep over this. I'm losing a lot of sleep. I'm telling you, we are not here today to decide if this is going to go or not. But this company, I wouldn't even talk to them if I didn't have trust in them. They have done everything, this far, that they have told me they were going to do. They are not a fly-by-night company, and now you have Center Point Energy hooked up with them. They have agreed to purchase the power from the solar panels. I don't know how many people in this room know, but Center Point has a short period of time to do upgrades to their power generation, and this is part of the plan. That power plant up there is going to either be modified big time or shut down one of these days. This is what the County is coming to, so you can either say they can get this kicked out for the time being; this may not fly, but I'm telling you that two to three to four years from now, someone will be back, and it won't be in the same form it is today, it'll be mandatory, and people aren't going to have the choice to how close the solar panels are to their homes. I've sent a few text out to tell these people about eminent domain, and they keep kicking it back to me that Tanaska doesn't have eminent domain. I know that Tanaska doesn't, but the power plant does. For the good of the community, like a State highway, they have the power of an eminent domain. There are several of us in this room who have experienced eminent domain, I have a power line that diagonally cuts 13 acres of property of mine on Boberg Road from the southeast corner to the northwest corner, diagonally, and it isn't good for anything except for a powerline and agriculture. That's it; we can't build houses on it like we originally had planned. I hear them arguing about this stay, and you gentleman have tried to make them understand that they stay wouldn't make a difference anyway. I say let's let it lay. There is another meeting next week, and let's let the process roll; in other words, I've got one of these site maps from FedEx yesterday, and I don't even see where what is being said is going to happen. It's going to be much different than what they are saying. Thank you, gentlemen; you can tell I'm pretty worked up.

Maria Bulkley: Okay, that guy was not from my group, and I thought we were getting one more from my group. I have J.D Hoehn from my group that would like to speak next.

Bill Collins: Okay, one more, then we have to cut it off.

J. D. Hoehn: My name is J. D Hoehn, a resident of Posey County. I don't even have a house in this proposed thing; I don't have a dog in this fight right now. But, I am just so confused after listening to this; why can we not just wait. We are asking for two weeks, if they slide in right now, we all agree that they can, and that's as good as their word. They can come up to 100 feet. Why can we not wait two weeks, until this meeting and we can for sure protect ourselves. Just that time period, if they apply within the next weeks, we all understand this is 2500 acres; we know there are other companies, it'll protect the other companies, but what about the 2500 acres? If we change the ordinance, that protects future stuff. If they could apply for a permit in the next few weeks and we are not protected and say we did change the ordinance, that's not doing anything for that. It'll protect some of the other companies on the 98 whatever percentage of the ground, but for that other 1%, it seems to me to be totally reasonable just to wait. Just second this and wait a little bit. If nothing happens, then so be it, but at least we know we were not getting taken advantage of while we were debating what the actual ordinance should be. This isn't even about me; this is about a lot of people that this is affecting. I have a lot of family out there, and it blows my mind that, in my head, it's so simple, and I don't know why it's not. Can you give me a reason why someone is not going to second this? I guess I just don't understand. If they are not going to apply in the next two weeks, what's the harm in postponing it. If we feel that confident that it is not going to happen, then what's the issue. If nothing else, just for us to feel better about it.

Bill Collins: Okay, I think we have heard from everyone; we don't want to get people just repeating things.

Maria Bulkley: He did ask a question I think we all want to know the answer to, if your feeling confident they aren't going to file, or when they do file, it will be comporting more to your ordinance, then we really don't see the harm in doing it. We do also want to mention, I pulled up my email from yesterday, and at 1:55, I emailed Mary Solida again, and I've been asking this question, "do you know the date on which your clients intend to file their project with the Area Plan Commission, thanks?" There was some other stuff in here; I said, "of note, some homes are surrounded on three sides; perhaps this could be remedied while you are in the preliminary stage." I didn't even get a response. I sent that to her, and I sent it to Megan Bryan, who is an attorney in her office. I know they got my email; also, after the last Council meeting, I saw Heather Allyn was here, and I think she was going to try to find out when they were going to file. I had followed up with her sometime between the last meeting and now, and she didn't know either when they were going to file. She is here; maybe she has an answer.

Heather Allyn: I do not have a date, but there lots of things they have to do before they file.  
(inaudible) I have specifically asked for a date, and they did not have one.

Maria Bulkley: The teleconference I had with Mary Solida in February, she told me they were filing in March. So, like I said, when I asked her yesterday, she did not respond; she completely ignored me. So again, we are asking if you could halt any filings until your next date, and we can revisit. I am going to have to ask one more time; I know you probably don't want me to keep asking, but I have a job to do, and it's a hard one. I can not leave here, and look at these people and not try my best, and just ask you to give them this very short little time period. Where they can rest and know nothing is going sneak in. The fox isn't going to get in the hen house. It is literally a very short time of a few weeks. I'm going to ask you again; I think there was a motion still alive.

Randy Thornburg: I made the motion; I don't think it's an unreasonable request.

Maria Bulkley: We just don't want a fox in the hen house in the next couple of weeks.

Carl Schmitz: I am going to second Randy's motion, but I would like to amend it to a 10-day stay.

Maria Bulkley: Can we look at your calendar to see when your meeting is.

Carl Schmitz: That would be until the 12<sup>th</sup> of March.

Maria Bulkley: Okay, that would be until Friday, and your Commissioners meeting is the 16<sup>th</sup>?

Carl Schmitz: Area Plan meets the 11<sup>th</sup>.

Maria Bulkley: May I ask, and I don't mean to be disrespectful, could we do it until the 16<sup>th</sup> at your next meeting, so it doesn't die off before your next meeting?

Carl Schmitz: If they file after the 12<sup>th</sup>, it'll hit next month's Area Plan agenda, so it'll be in May.

Maria Bulkley: All they have to do is get a file mark on the application to get the old ordinance. So, if you give me this stay until the 12<sup>th</sup>, but they file on the 13<sup>th</sup>, 14<sup>th</sup>, or 15<sup>th</sup>, and you don't meet again until the 16<sup>th</sup>, then I am dead again. We'd like it to be indefinite, but we take it if you do it to your next meeting.

Randy Thornburg: Ill make that motion until the 16<sup>th</sup>.

Maria Bulkley: yes, your next meeting, and I would like to be on that agenda again to see where we are at. Mr. Schmtiz, did that make sense? I was trying to get to your next meeting and not leave a gap.

Carl Schmitz: I think you've got the 13<sup>th</sup> and 14<sup>th</sup>, and the courthouse is not going to be open.

Maria Bulkley: Could you stretch us to the 16<sup>th</sup>? So they don't file on the 15<sup>th</sup> and kill us. That way, we will be back in front of you on the 16<sup>th</sup>.

Carl Schmitz: I would like to see what comes out of the 9<sup>th</sup> and the 11<sup>th</sup> first.

Maria Bulkley: I understand. But we won't be in front of you again until the 16<sup>th</sup>. So if they file on the 15<sup>th</sup>, we have the same problem. With all due respect, do you think you could give us just that one more day?

Carl Schmitz: Through the 15<sup>th</sup>. Because the morning of the 16<sup>th</sup>, we will be in here, and they will not be filing that morning because we will be at the meeting.

Maria Bulkley: They could go to Mindy's office and file, but I will take that.

Bill Collins: I have a motion and a second to put a stay in place through the 15<sup>th</sup> of March. Any discussion? All those in favor:

C. Schmitz: Aye

R. Thornburg: Aye

B. Collins: Aye

Bill Collins: Motion carries.

Maria Bulkley: Thank you, I really appreciate your time.

### **WESSLER ENGINEERING**

Jim Kovak, with Wessler Engineering, addressed the Commissioners regarding the Wadesville Sewer project. Mr. Kovak stated while doing some research for this project with the various County offices; there has come to light the need to work on a few rights of way issues in that area. Mr. Kovak is requesting the Commissioners permission to allow the County Attorney to work with both the Sewer District's attorney and Mr. Kovak to work on a three-way agreement that says we can continue to study right of way issues. C. Schmitz made a motion to approve this request; R. Thornburg seconded. The motion carried with a vote of 3-0.

### **DEPARTMENT UPDATES**

B. Collins read the following February Animal Control Report:

25 Complaints

4 Animals Picked up

2 Bite Reports

Posey County Sheriff, Tom Latham, gave the following inmate report:

14 DOC Inmates

35 Vanderburgh County Inmates

65 Posey County Inmates

115 Total

\$28,875.00 turned in from Vanderburgh County in February.

R. Thornburg asked if Sheriff Latham had an update on the radio situation. Mr. Thornburg stated he had spoken with Jason, and they are going to perform tests on a few of the towers but are unable to get to them at this time due to inclement weather. Sheriff Latham stated he didn't have much of an update; they still are not functioning as they should.

Posey County EMS Director, Chris Neaveill, informed the Commissioners he is in the process of hiring two new hires, and he will be fully staffed, and he is working on reorganizing his part-time staff.

Mr. Neaveill stated he had spoken with the Commissioners regarding the Homebound Hoosiers Vaccine program that would allow EMS to collect a fee for the service if it is used. Mr. Neaveill stated he is not sure how often this program would even be used, and billing would be to medicare and Medicaid, so no patients would be paying out of pocket for the service. Mr. Neaveill stated they would only be billing insurance companies.

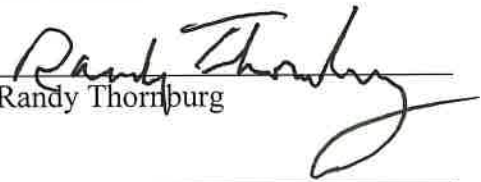
R. Thornburg made a motion to approve this request; C. Schmitz seconded. The motion carried with a vote of 3-0.

Posey County Auditor, Maegen Greenwell, stated the new time clock system would be launching on March 29<sup>th</sup>. Mrs. Greenwell stated there would be communication with department heads in the next few days regarding a test site that they can use to practice on.



No further business was discussed, and the meeting adjourned.

  
Bill Collins

  
Randy Thornburg

\_\_\_\_\_  
Carl Schmitz

  
Attest: Maegen L. Greenwell