

MINUTES

POSEY COUNTY AREA PLAN COMMISSION REGULAR MEETING

THE HOVEY HOUSE
330 WALNUT STREET
MT. VERNON, INDIANA 47620

MAY 13, 2021
6:00 P.M.

MEMBERS PRESENT: Mr. Mark Seib – President, Mr. Hans Schmitz – Vice President, Mr. Mike Baehl, Mr. Kevin Brown, Mr. Andy Hoehn, Mr. Randy Owens, Mr. Trent Van Haaften – Attorney, Mrs. Mindy Bourne –Executive Director, and Mrs. Becky Wolfe – Administrative Assistant.

MEMBERS ABSENT: Dr. Keith Spurgeon, Mr. Randy Thornburg, and Mr. Dave Pearce.

APPROVAL OF MINUTES: Kevin Brown made a motion in the affirmative to approve the minutes from the March 31, 2021 special meeting as emailed. Motion seconded by Mike Baehl. **(6-0) Yes. Motion carried.**

Kevin Brown made a motion in the affirmative to approve the minutes from the April 8, 2021 regular meeting as emailed. Motion seconded by Hans Schmitz **(6-0) Yes. Motion carried.**

REPLAT:

DOCKET NO: 21-02-S-APC
APPLICANT: Fred J. Kuester
OWNER: Jeremy C. Thiem & Kay E. Thiem
PREMISES: Lot 15 and Lot 16 in George C. Wiley Subdivision, Town of Poseyville, Northeast Quarter Section 19, Township 4 South, Range 12 West, Robb Township, Posey County, Indiana.
(Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Approval of Replat of Lot 15 & Lot 16 in George C. Wiley Subdivision, submitted by Owner: Jeremy C. Thiem & Kay E. Thiem, Surveyor: Fred J. Kuester. Owner is proposing the 2 Lots become 1 lot. More commonly known as 54 Endicott St., Poseyville, Posey County, Indiana.

Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. Mark Seib asked if there were any conflicts of interest. Hearing none, he asked if anyone was here to speak regarding this request.

JEREMY THIEM: 54 South Endicott St., Poseyville, Indiana. It has been a process of about a year now. We have checked all the boxes. Essentially, I have two lots. Lot 16 does not have a primary structure on it, so I can pretty much mow it, walk through it and look at it, but I can't build on it. So, I'm wanting to put a pool on it. So, that's the purpose.

MARK SEIB: Is there any discussion from the floor? Hearing none, we will open the public portion of this. Is there anyone here wishing to speak for or against this proposed rezoning, excuse me, a replat? Seeing and hearing none, we will close the public portion. Were there any letters or phone calls?

MINDY BOURNE: No emails, no phone calls and no letters.

MARK SEIB: Thank you very much. Now we will leave it up to the committee to take action as they see fit and have discussion.

A motion was made in the affirmative by Kevin Brown to approve the replat #21-02-S-APC. Motion was seconded by Mike Baehl. Mark Seib asked for any further discussion.

ANDY HOEHN: This says on the front of Lot 15 & 16. Should it be for 13 & 14?

MARK SEIB: OK, let's back it up here. It should be 15 & 16. Are you saying the paperwork is different? No, it's 15 & 16 on the aerial map.

ANDY HOEHN: The drawing says the replat of 15 & 16, unless I'm misreading something.

HANS SCHMITZ: Lots 13 & 14 are to the north of that.

MARK SEIB: Yes, 13 & 14 are north of that. He lives on 15, and 16 is the vacant one behind him, that he owns. OK Andy?

ANDY HOEHN: I'm good.

MARK SEIB: A motion has been made & second. Is there any further discussion? Any further discussion? Role call.

Role call vote (6-0) Yes. Motion carried.

MINDY BOURNE: Ok, so this replat has been approved. We will sign it, and then it will need to get recorded with the county Recorder's office. Are you going to do that? Or is your surveyor going to do that? The only version I have is this small one here. We can sign this one, but it's not been notarized or anything though. You will have to have all that filled in. I think you will probably have to get with your surveyor.

MARK SEIB: Fred should have known that. He'll need that.

MINDY BOURNE: Do you have a notarized one?

JEREMY THIEM: I thought I turned all of that in.

MINDY BOURNE: What I'm saying is that the plat we have isn't signed. Well, it's signed by the surveyor, but it's not signed by the owners. The survey seal is on it. The owners have not signed, nor has it been notarized. I guess we can sign this one.

ATTORNEY TRENT VAN HAAFTEN: In order to record a document, it needs to be notarized. This is something that once it goes to the recorder's office, it's pretty much like a deed, or to convey property.

MARK SEIB: Jeremy, we have signed it. You can come and get it. With all the headaches you have gone through, that's why we are giving you more time.

MINDY BOURNE: I'll show you what we're saying here. We signed it, but see these blanks here. That's for the owners to sign and then your notary. It gets notarized. Your next step is to get it recorded. That will have to be taken care of before you can record it.

MARK SEIB: We would have had to sign it after this meeting. You still can take this up to the recorder and get it done the same day and then come get your permit.

MINDY BOURNE: I think that's his question. He wants to get his permit tomorrow. Is that what I'm hearing? I can still issue that permit without it being recorded because it was approved tonight. Here's a bigger one Jeremy, if you want to take this one. I would rather sign this one just because that one is so small. This one is not signed by you either. They will record this size, but this one will be better.

REZONING:

DOCKET NO: 21-05-RE-APC

APPLICANT: Mary E. Solada, Dentons Bingham Greenebaum LLP

OWNER: Kent G. & Melissa R. Rexing

PREMISES: The Northwest Quarter of the Northwest Quarter of Section 4, Township 7 South, Range 12 West, lying in Marrs Township, Posey County, Indiana. More commonly known as Davis Road, Mt. Vernon, Indiana. Containing 41.35 acres more or less. (Complete legal description is on file at the Posey County Area Plan Commission Office).

NATURE OF CASE: Petition to rezone property from R-1 (Residential Single-Family) Zoning District A (Agricultural) Zoning District under the Zoning Ordinance of the City of Mt. Vernon, Town of Cynthiana, Town of Poseyville and Unincorporated Posey County.

Mark Seib asked if anyone had any conflict of interest. None were heard. Mark Seib confirmed with Mindy Bourne that the applicant met all the requirements for notification per the statute. He then asked if anyone was here to speak regarding this application for rezoning.

MEGHAN BRIAN: I am counsel for the owners, Kent & Melissa Rexing. I have Mrs. Rexing here with me, so she can state her address, but my address is 1 Main St, Suite 600, Evansville, IN 47708.

MELISSA REXING: 3 West Stacer Road, Haubstadt, Indiana 47639.

MEGHAN BRIAN: With regard to docket number 21-05-RE-APC and this rezoning application, as I stated, I am representing the Rexings and Mrs. Rexing is here with me tonight. They are asking for a rezone of their approximately 41 acres along the east side of Davis Road, south of Barter Road. We are requesting to rezone this property from R-1, a residential designation, to an agricultural district. This property is surrounded on 3 sides by agricultural zoning districts already. So, our rezone to agricultural would be consistent with the predominant zoning of this area. All of this property, the 41 acres, has been used for agriculture purposes. I have spoke to Mrs. Rexing, and they've had the property since 2014. They've farmed it themselves since that time. It's had no other purpose. Prior to that, they have spoken to the owner that they purchased from, and he said that he had the property since 2008, and always had a tenant farmer on the property from that time. So, it has only been used for agricultural purposes in at least the last 13 years, and we believe it was prior to that for many years. We are not exactly sure why this was zoned as residential. It seems to be an anomaly. Rezoning this to A, would fall in line the area plan. The comprehensive plan recommends for use of this property. So, our request for rezone is consistent with the plan. They will continue to use this for all compatible uses authorized under the Area Plan Commission, and the Board of Zoning Appeals. We are not exactly sure why it was zoned as R-1, but now it should be properly rezoned to agricultural use, just like the other properties that are immediately surrounding it.

MARK SEIB: Does anyone have any questions from the committee? Do we have any emails, letters or texts?

MINDY BOURNE: No emails, no phone calls, and no letters.

MARK SEIB: At this time, we will open up the public portion. Is there anyone here wishing to speak for or against this proposed rezoning? If so, please come forward. Seeing and hearing none, we will close the public portion. Now we turn it over to the committee to have discussion among themselves & take action as they see fit.

A motion was made in the affirmative by Andy Hoehn to approve the rezoning of #21-05-RE-APC. Motion was seconded by Randy Owens. Mark Seib asked for any further discussion.

Roll call vote. (5-1) Yes. Motion carried.

The Proposed Findings of Fact were then read by Mindy Bourne. A motion was made in the affirmative by Andy Hoehn to approve the Findings of Fact for Rezoning #21-05-RE-APC. Motion was seconded by Hans Schmitz. **Roll call vote (6-0) Yes. Motion**

MINDY BOURNE: This rezoning now has to go onto the County Commissioners. They will hear this on Tuesday, at 9:00 am, here in this room. The date will be Tuesday, May 18 at 9:00 am.

MARK SEIB: It would be in your interest to be in attendance to answer to the Commissioners, any questions that they may have. Mindy will be there to present it for the Area Plan, and you will be there as well.

COMPLAINTS: 515 Locust Street, Mt. Vernon, IN

MINDY BOURNE: This has been an ongoing complaint. The last thing that we have here is the letter that Trent prepared. It was served by the Sheriff. We have a service date of 4/15/21. I have not heard anymore. Have you?

ATTORNEY TRENT VAN HAAFTEN: We have sent the letter to both the tenant as well as the owner of the property. I have not heard anything back from the tenant, Bridget Black. Lorilee Barnes, who owns the property called me. She did not receive the certified mail, but she had heard about it, so she called me. I walked her through the process. Her comment was that she thought that Bridget had taken care of it. I told her that she took care of it in a manner that is not satisfactory to the ordinance. Miss Barnes said that she would speak to the tenant, and that's the last I've heard. That was actually a couple of days after we mailed the letter.

MINDY BOURNE: So, I have an individual that works for my office who goes by & takes pictures of complaints. He did go by there, and he took some pictures, and it still shows they're parking on the gravel back there. These were May the 6th.

ANDY HOEHN: I've been by there, and it is on the rocks. Nothing has changed. Was there anything in your letter, Trent, that was indicative of a timeline?

ATTORNEY TRENT VAN HAAFTEN: I told them that their attendance was requested at tonight's meeting on May 13th at 6:00 pm. I also ordered, or instructed them to bring the property into compliance on or before May 12, 2021. Failure to appear at the May 13th meeting, or failure to bring the property into compliance would leave the APC with no further choice but to file an enforcement action in the Posey Superior Court. This is not a preferred step to take, but failure to address this issue would leave us with no other options. If they had any questions, to direct those to the Area Plan Commission, and please take the necessary action with the property, so that compliance to this matter does not end up with filing an enforcement against you.

MARK SEIB: For the record, is there anyone here to speak or represent for the tenant or the owner, for or against the property located at 515 Locust Street, Mt. Vernon, Indiana? Seeing no one come forward, we will assume they are not here. Trent, what would you recommend?

ATTORNEY TRENT VAN HAAFTEN: File an ordinance violation with the court. If they don't show up for court, it's up to us to demonstrate that they are in violation of the ordinance.

RANDY OWENS: Would this be filed against the landlord or renter, or both?

ATTORNEY TRENT VAN HAAFTEN: I've got to look at that a little closer. I think we just file against the tenant because there is no indication that the landlord is the one that did this. However, I do think that there is something that the landlord can do, since the landlord owns the property, they are ultimately responsible, so we could file against both.

Mark Seib asked for any further discussion. A motion was made by Andy Hoehn to move forward with the action. Motion was seconded by Mike Baehl. No further discussion.

Roll call vote. (6-0) Yes. Motion carried.

COMPLAINTS: 315 Pearl Street, Mt. Vernon, Indiana

MINDY BOURNE: This has been an ongoing one as well. At the last meeting, we tabled it because I thought the problem had been taken care of. It appeared that the fencing that they had put up, the new fencing, was a dog type fence. It has been confirmed that this is what the fencing is. I don't know of anything in our ordinance that says that you have to have a permit for a dog fence. They have it all fenced in. It is directly behind the home.

RANDY OWENS: They basically strung together a kennel and enclosed the entire back yard.

MINDY BOURNE: I haven't heard, the two individuals that filed the complaints, I have invited them to come to these meetings, and they have not attended. I haven't heard anymore. I know the neighbor has a fence as well. I know in the original complaint, they talked about the type of fencing that the neighbor used, as well as the trash. I told them that I couldn't address the trash, only the fence. It's hard to tell from the pictures, but I know what was replaced was the white fence, and they put up a dog style fence.

MARK SEIB: After reviewing the ordinance, you don't think that there is anything that dictates that it cannot be a dog fence? Are there any requirements for height?

MINDY BOURNE: Six foot would be the height, but not for the fence they had up, nor for this fence. That's what we're trying to say. I've never permitted a dog fence.

RANDY OWENS: We don't have an ordinance that limits the size of a dog kennel or Anything like that?

MINDY BOURNE: Not that I'm aware of.

MARK SEIB: I'm not exactly sure where to go from here. Any further discussion?

RANDY OWENS: If we don't have an ordinance, do we have any option to take?

ANDY HOEHN: If they put a fence up without a permit, then...

MARK SEIB: I think that was the original violation.

MINDY BOURNE: The original violation was that they were using random materials to construct a fence, and no, they did not get a permit for that. But then after talking with a representative of the tenant, she said that the reason they put that up, was because they were having issues with the humane society, because the tenant has animals, and I guess they were running loose. So, the Humane Society said that they needed to put up something. I guess different people were going to try to contribute to help these people out and get them a fence. I told them that they have to get a permit for a fence. Anyway, I never heard anymore from anyone, and then this is what they put up. There is still some of the other material. I believe the white is theirs, but some of the other fence that you see, I don't know if that's theirs. I know that the neighbor has some sort of fencing as well.

HANS SCHMITZ: I guess I apologize for not having the foresight to look this up ahead of time, but do we have a legal definition a fence?

ATTORNEY TRENT VAN HAAFTEN: Well, under the screening law or fence section of the zoning ordinance, it lists what is required for you to use. It's interesting. It says it shall be constructed with customary fencing materials, which are compatible with the surrounding area. And shall be designed and arranged to provide visual separation of use, respective of vegetation. Examples of customarily used fencing materials are chain link fence with privacy slats, stockade type fencing material, or decorative brick walls. Previously used materials should not be used, except in the case of bricks. They must be constructed with bracing supports on the interior. That's the screening & fence area. The definition of customarily used fencing materials are chain link or stockade type material.

ANDY HOEHN: It almost seems like we are heading into a ... a neighborhood issue. I don't know that I would get involved in this right now, unless one of the other parties does something. I don't see this as worthy of an action.

RANDY OWENS: And we haven't received any further complaints?

MINDY BOURNE: When I sent my complaint letter to the property owner, I also sent the letter to the people that filed the complaint, telling them when this would be discussed. They've been invited to this public hearing, even the one several months ago, and they didn't attend or follow up to see the status.

MARK SEIB: Anyone else want to chime in?

ATTORNEY TRENT VAN HAAFTEN: I will chime in. The definition of a fence is an upright, freestanding structure, made of wood, masonry, vinyl, metal, or similar material, and designed to enclose, screen or separate areas. Fences may not be made from trash, inoperable junk vehicles, barrels or other materials not designed to be used as fencing. Don't make a perimeter by placing your junk vehicles.

MARK SEIB: Until we get more definition of the violation...

ATTORNEY TRENT VAN HAAFTEN: The original complaint was that different materials were being used to enclose the place, so there were changes made to a chain link material that's all around.

RANDY OWENS: Since it's made out of panels for a kennel, instead of fencing, then you can technically say that they don't need a permit. When you consider that the people that originally complained have never come forward again, I'm thinking that we take no action.

MIKE BAEHL: If it keeps the dogs from running loose...I guess animal control has been called several times before, so if this will actually work to keep their animals on their property and in their yard...

A motion was made by Andy Hoehn to take no action regarding the complaint. Motion was seconded by Mike Baehl.

Roll call vote. (6-0) Yes. Motion carried.

DIRECTOR'S REPORT: It is budget time for next year 2022, so I have to submit my budget by May 28th. I am requesting that I be able to work with the budget committee to compile my budget for 2022. Then get their approval so I can turn it in by May 28th, and I can bring it to the APC at the June 10th meeting for approval from the full board. Hans Schmitz made a motion to approve the recommendation of the director. Motion was seconded by Kevin Brown.

ANDY HOEHN: I would like to put a caveat in there that it's not requesting another head count, but maybe it's a part time direction that we would be going, but not a full time.

MARK SEIB: I think that the committee can discuss that, and decide if they want to accept that or not. Then it would be up to the full board as well. She still has to come back to the full board before.

ANDY HOEHN: Can it not be reversed?

MINDY BOURNE: I think I can make changes. Last year we did the budget the same way. Because due to timing, the board has to approve it, but they want it turned in by a certain day. I wasn't able to collaborate all of that.

MARK SEIB: I talked to Dave Pearce, and I was hoping that he would be here, too. They submitted it to the department heads through the process, and saying by the 28th, they needed to submit this. Well, all the other departments don't necessarily have a board to go through, like they do with this one. That's why it takes Mindy longer to get it approved. She has to go through the channels the correct and proper way. We're going to have to work on that in some way. We can get back to the way we were before, where it goes to the committee, then it gets presented at a board meeting, and then it's passed on & filed as the budget of the Area Plan.

RANDY OWENS: So, it would be a tentative budget, pending approval of the budget committee and the full board?

MARK SEIB: I assume, that's the way it could be addressed. That's how it was last year.

MINDY BOURNE: I will prepare the budget, and then send it to the budget committee. The budget committee will then make comments and I will turn it in based on the discussion I have with the budget committee. Then I will present it to the full board on June 10th.

HANS SCHMITZ: My department functions in a similar manner. We have an extension board that signs off on the budget. It's been all sorts of fun the last 3-4 years with all the changes and deadlines. What we can do, if we do not approve the budget as submitted at the next meeting. Then we can inform Mindy that when the defense time comes, and the council is really working on the fine tunings, we can ask that Mindy alter her budget at that time. I did the same thing last year, and actually asked for less than what I had originally requested.

MINDY BOURNE: They understand that it has to go through this board, and they've always been flexible on that part of it, so yes, it can be modified.

MARK SEIB: It's really not circumventing any of the due process. It's just the way we have to do it this go around with the deadline that they've mandated before the board. Is there any further discussion?

Roll call vote. (6-0) Yes. Motion passed.

MINDY BOURNE: The only other thing that I wanted to discuss with the board is about filing fees. In particular, the solar tier one project.

MARK SEIB: I guess what we've got here, and this has been discussed. I have talked to some of the committee members and I've talked to Trent and everybody else as well. This process of filing fees by the solar and wind, whenever they come to file, and we get a pretty good, large sum of money, it has to be filed per our instructions. Our fee for the wind and solar is ... Mindy is going to look it up.

MINDY BOURNE: The wind is \$20,000 plus \$1700 per megawatt of energy used. Solar is the same thing.

MARK SEIB: So, they both are the same, with either one of the projects. With this being a large project, that means it's a large check. We are doing some checking with northern Indiana, looking at those, and central Indiana, looking at some of the solar and a lot of it is wind. They haven't broken it down. They haven't adjusted the payment. The payment still stands, but they have broken down the timing of that payment. There's so much given at the time of application. Then so much is given at the time, right before the final. Then the final payment is right before they get their permit. With that being said, I think that is something that we ought to consider, and if we choose to make it just two payments, then that is up for discussion. I'm just giving you some information, as far as what has been seen in the some of the other Area Plans that has taken a large check that comes in. We're used to \$1000 being the big ticket item that comes in, not big numbers. Of course, all the money that we do get goes to the general fund of the county. It does not stay in Area Plan. It goes on to the county. So, I would like to have some discussion if we could, and maybe amending that for the solar & the wind.

ANDY HOEHN: I think that is generally a good idea. You can expect that. We give abatements a lot of time, and it's a similar kind of thing. It cushions the blow a little bit. I think three payments would be a reasonable request.

RANDY OWENS: And due to some unforeseen circumstance, their permit was denied, then would the other two payments be required?

MARK SEIB: The fee is not refundable. Also, in the ordinance, there is a clause that states if there are any expenses that have not been covered that we incur, then we can collect those as well. So, we have basically a two tier back up system to make sure that all of our expenses are taken care of in the process.

RANDY OWENS: So, even if the permit were denied, they still would have to make the other two payments?

MINDY BOURNE: It's the same permit. They would make the payments at different stages. They have to go through a preliminary and a final development plan. It's at different stages, say so much before submitting, then so much after the preliminary, and then so much after.

MARK SEIB: I guess, and Trent, correct me if I'm wrong, but the final payment before they get the permit, would be the only thing that would not be collected.

ATTORNEY TRENT VAN HAAFTEN: Possibly. There's not going to be a final decision until the final plan has been approved. There's a preliminary development plan, and then you will end up getting to the final development plan, and that's going to be the one that goes through the process of votes. I think one of the underlying purposes of the fee is there is going to be the occurrence of activities by the APC and others. So, make it kind of a 'pay as you go' situation, instead of all upfront.

RANDY OWENS: So, it could be structured so that two of the payments are received before the final development plan is approved?

ATTORNEY TRENT VAN HAAFTEN: Absolutely.

RANDY OWENS: And then after the approval of the final development plan, the final payment is received.

MARK SEIB: Before they get the permit.

ATTORNEY TRENT VAN HAAFTEN: We're not talking about amending the ordinance. We're talking about changing the rules of procedure, so we're not amending the ordinance at all. The method of payment is set up in your rules of procedure. The rules of procedures set out, like if I come in for a rezoning, or if I come in for something else, I'm going to pay a fee. You're just changing the APC rules of procedure as far as how those fees are paid.

Andy Hoehn made a motion that anytime we have permit fee in excess \$50,000, that we can allow the payment to be broken up to three payments of a third, a third, and a third. The first payment will be collected at the time the application is filed, the second payment will be taken before the final, and the third payment will be at the time the application is permitted. Randy Owens seconded the motion.

HANS SCHMITZ: The original motion said 'up to' three payment. Do we want to leave the 'up to' in there, in order for them to be able to pay it outright, then they can do so?

ANDY HOEHN: I have no issue with that.

HANS SCHMITZ: I'm good either way. I just want to make sure that we capture the intent of the original motion.

MARK SEIB: If someone does make an application, and it does come through, and let's say that it gets to the second, and it's denied before the final, if there's any expenses that we have, then those can be collected.

ATTORNEY TRENT VAN HAAFTEN: If I may suggest, Andy, the motion will specifically amend Article 7, Section 3, which presently reads that applications within the jurisdiction of the APC, not initiated by the commission itself, shall be accompanied by a non-refundable filing fee, an amount established by the commission, ... I think that we should add the language that if the filing fee is in excess of \$50,000, then the filing fee can be paid in 3 payments. That being, one third at the time of filing, one third prior to the final, and one third prior to issuing the permit.

Roll call vote. (6-0) Yes. Motion passed.

APPROVAL OF PAYROLL & BILLS: A motion was made in the affirmative by Kevin Brown and seconded by Mike Baehl to approve payroll and bills. **Roll call vote (6-0). Motion carried.**

APPROVAL OF COLLECTIONS: A motion was made in the affirmative by Hans Schmitz and seconded by Kevin Brown to approve collections. **Roll call vote (6-0). Motion carried.**

CITIZENS CONCERNS: None

COMMITTEE CONCERNS: CAP ON SOLAR

ANDY HOEHN: I have something that I would like to address, something that has been going on at the state level, and they are pushing it our way. What you have is a tiered system that the state is considering, or may have even adopted, I'm not sure of where it's at, at the moment, but I know it's coming out in the north. If you look at the circles, the red circles, on the bottom right of each one, it's showing what the rate of assessment would be on solar. What you see is that the north is at 11,800, the center is 13,000, and good old Posey County in the south is 5,100. What that is going to do is it's going to drive solar companies down here, where they can pay a lower amount of taxes. We have allowed, I think a 300 megawatt system to continue forward, but I think what we need to do, as a county, to kind of preempt this from becoming an entire solar county, is to put a megawatt max on Posey County. I would propose 500 megawatt. We need to put something in writing, and that's where I would want to start, but we can negotiate from there.

KEVIN BROWN: Tenaska was 300 or 400?

ANDY HOEHN: I believe 300 was theirs. Rumor has it, and I can't confirm that there are other actions, or other people who have been approached in different areas, like Lynn Township, and other areas of Posey County for solar leases. I think that if they want to improve their megawatts on the ground that they have, say for instance, Tenaska gets approved, and they go in with 300, and solar gets better, then it goes to 700 on their same property. I don't have an issue with that. I'm saying with permitting, we do not permit more than 500 megawatts for solar in Posey County. That's our line.

KEVIN BROWN: I'd be more comfortable with 400.,

ANDY HOEHN: I'm just saying to throw a number out there. I don't know the legalities of this, I'm just throwing it out there for what if. Now, an interesting thing on this as well, is early on, we saw numbers on the comparison between what ag and solar would produce. This is clearly showing that solar is going to produce four times what ag is going to produce, which was somewhat erroneously represented with the proceedings that we've seen up to now. At 2400 acres at \$5100 would be \$12,240,000, and times 35 years would be \$428,400,000. That would be four times what ag would produce, so it is going to be something. They're going to take advantage of it.

RANDY OWENS: What is the mechanism for putting a cap on solar?

ATTORNEY TRENT VAN HAAFTEN: You start getting into land use issues, and whether you can limit the potential use of their land. It's easier to do something like limit where you can place an adult book store. Like, you can't do it within 1000 feet of a church or a school, and things like that. It becomes a little more questionable. I'm not saying that can't prohibit it, but it's questionable as to whether or not, just because somebody else got in first, and I own property elsewhere in the county, then I couldn't later take advantage of that, and have the opportunity to use my land in that same fashion. Again, I'm not saying that because I don't think that there is a clear answer to this now. It would be more about how you would structure it.

ANDY HOEHN: Isn't that along the lines on liquor stores? Or is there not a limit on liquor stores? And licenses?

ATTORNEY TRENT VAN HAAFTEN: Well, the state sets quotas for the issuances of liquor licenses. You can only have so many incorporated or unincorporated in an area within the state. That may be an interesting analogy, in terms of setting a quota. Now whether that can be done at the local level, versus at the state level, but that may be a good way to approach it. I can't sit here and tell you a definite answer because I think it's one of those things that will take a little bit more research to figure out how. My thought is that there is always a way around things. Like going back to the old times when the battle was over adult bookstores, and where you could put them. The courts finally said that it went more towards the health and welfare aspect, and you could limit those, to say that they couldn't be near certain places. Then you were smart enough, and some things,

you can't live within 1000 feet of a certain place. That means, in a two acre area in a city or county, that you couldn't live because of those limitations. It is something that we need to continue to look at and figure out. If the board wanted to pursue that, and figure out if there is a pathway for it.

KEVIN BROWN: Are there other counties that have done that?

MARK SEIB: I asked Terry about that, and I asked if she knew of any, and she did not. Plus, she is looking, and hasn't come across any. Now, she was going to reach further out to find out if any of that language has been done before, but her current knowledge is no.

KEVIN BROWN: But legally, can't we as a board, pursue that?

ATTORNEY TRENT VAN HAAFTEN: Legally you can pursue anything. If it's something that the board wants to explore further, then absolutely. It's like anything. Figure out if this is possible. Then get the answer. From a lawyer's standpoint, yes, it is, but here is your risk. Same thing with the windmill discussion. You can do this, but you are opening yourself up to possibly an argument, so do you want to pursue that? It's definitely something to explore.

MARK SEIB: So then, with that being said, I have contacted Center Point, and I have asked them what the transmission line per volt. They have not gotten back yet. They said that it would take a couple of days and they would get back to me. Well. It hasn't happened yet. I was with the thinking that if the transmission line is 500 or 600, then there's the limit right there that's put into play. Just trying to find another way of looking at the restrictions, and we may not have to do anything to limit it. I will be back in touch with them tomorrow.

EARL SCHROEDER: Marrs Township, I would like to make a comment. As a solar panel user, I have some solar panels up on a pole barn, and there's no way on this green earth that the solar panels that I have up there, because already, the same number of solar panels that I have, have tripled in output if I would be buying today. I think somewhere in your whole discussion, you need to do something about that, but maybe it's self-limiting, like you say. If Vectren, I'm going to call them Vectren, if they have all the money in the world, they can run new lines and carry twice the stuff as there are now, and they'd be silly not to do that. They probably already have the capability of running more wires, in with that bunch of wire that is already going up there. You are going to be remiss if you don't pick up what's going to happen in 35 years with these solar panels. I don't think we have seen anything close to the capabilities of what they can come up with. Like I said, mine has been up about 3 years, and they have about tripled in capability. I'm thinking that I need to go out and look for better panels. Mine's outdated, and it's only been 3 years. I just wanted to bring that up for your consideration, that you need to think, like if I give you a brand new car, and you're not going to get a brand new car in 35 years. That's a simple comparison. We're just on the very edge of what solar is going to do. I can tell you that.

MARK SEIB: I think what Andy has presented to us, with the assessed value on solar, it has shown that we could have a lot of activity going on, because it is definitely a bargain for them to come down here, compared to... I was in hopes that with the legislation that went through the state that it was going to be set the same as what ag is, or universal, and that they would have done that with this, but obviously not. I think it's worth checking into. I think it's worth exploring. I guess that's my two cents. It's up to the rest of you. If you feel that way, then we will direct the attorneys, and anything else that you can find to give us some direction to start the process. Terry has already started the process, but I'm just saying, to go ahead and start putting the language together.

ANDY HOEHN: I think that's an imperative thing to do. The timing is pretty well on, as well.

MARK SEIB: It's going to take an ordinance. Any further discussion?

A motion was made by Andy Hoehn to proceed. The motion was seconded by Randy Owens. **Motion Carried.**

ANDY HOEHN: Another thing that came up through the solar discussion, is that it is true, the school playgrounds do not have fences around them, except St. Mathews. I know out at Marrs, you can walk around their track. I think that we need to require at least a four foot fence around playgrounds within a two year time frame, or allow a period of time to get that done. You could have some wacko on that playground in a heartbeat, so could a dog, a coyote, or a bobcat.

MARK SEIB: Are you saying around their property?

ANDY HOEHN: No, around the playground.

MARK SEIB: At North Elementary, close to where I'm at, it has a fence around it. South Terrace now has a fence around their playground. Are you wanting to make this an ordinance for the county, to require that?

ANDY HOEHN: I would, within a period of time.

RANDY OWENS: Maybe before we do that, maybe we ought to reach out to them. Maybe it's already on their long-range plan. I don't think we should act until we know what their plans are, and we should give them a heads up of what we're planning. I think before have a motion to set an ordinance, I think we ought to do a little homework.

ANDY HOEHN: So, no one, or no animal can get in. I did talk to Joe Rutledge, and it is on their agenda, but they all decided that since it was a financial thing. I think it's something that has been overlooked.

MARK SEIB: Do we want to send a letter to the school boards, asking them to reply or have some conversation on this?

ANDY HOEHN: If that is what the board wants to do. That's not a bad place to start. We're going into the summer, so there's time for them to deal with it.

A motion was made by Andy HoeHN to send a letter. Randy Owens seconded the motion.

HANS SCHMITZ: What about private schools, and churches and daycares? Churches and daycares also have public playgrounds. So, if we act as a board, this could potentially affect a lot of public playgrounds, not just the schools.

RANDY OWENS: My church in Evansville had a playground and a daycare, and in order to be certified, we had to have a fence around it. A good daycare should be fenced in.

MINDY BOURNE: I used to sit on the Children's Learning Center board, and it's a state thing. That's something that the state says that they must have.

RANDY OWENS: Do we have the authority to mandate private schools?

ATTORNEY TRENT VAN HAAFTEN: You have the authority to govern land use.

RANDY OWENS: I have to ask for clarification. Based on our conversation, would it just go to the public school corporations, or all schools in Posey County?

ANDY HOEHN: I'm initially requesting the public schools. I think we start there.

Motion Carries.

MARK SEIB: We will send the letters and see where it goes.

ANDY HOEHN: I got pulled into a discussion yesterday. Someone was trying to put Solar on the ground. Where are we on that?

MARK SEIB: I guess we have had a gentleman who was wanting to put solar on top of the roof of his shed. He found out that he had more solar panels than he had shed space.

MINDY BOURNE: What I know, is that he wanted to put it on the ground, so I gave him the process for that, but he came and got a permit yesterday to put them on the building.

MARK SEIB: When he originally started, he wanted to put them on the roof. That's what he told me. Then he found out that he could put them on the ground, but after he found out that he could put them on the ground, he found out that he could not maintain

the set back for that because he was too close to the adjacent property. Which then triggers the process of going through a variance and everything with the BZA. Since that time, with our ordinance, if he puts up a shed, then he's allowed to put the panels on that & he wouldn't have any issues. So, I'm not exactly sure how all of the numbers worked out, but he did get a permit for a shed.

MINDY BOURNE: Yes, he did get a permit for a building, and he is putting the panels on the roof.

MARK SEIB: Now he is putting them on the roof in order to meet the requirements.

ATTORNEY TRENT VAN HAAFTEN: I think one of the issues that I want to bring to your attention, sometimes there are unintended consequences when you pass a law, and what he was looking at falls within the Tier 3 category. If you put them up on the roof, it's fine. Once you start placing them on the ground, it falls into the Tier 3 category, which is not a big project, but a lot of places would be easier or more convenient, to put them out in your yard somewhere, as opposed to the roof of your house or your barn. When you go to Tier 3, you are required to do the final development plan, which requires you to contact emergency management association, the sheriff, and go through all the hoops. Which, is understandable if you have a big project, but maybe not so understandable if you have a smaller project. His was a situation where he is just putting it behind his house, so it was inside, or less than 100 feet from the property line. Our advice to him was, you can get around that because since he was partial owner of that piece of property, he could just get his mother & sister to sign off as applicant on the project. So the property line issue went away. It is something that I think you are going to have to look at, in terms of Tier 3 projects because how cumbersome do you want to make it? You may have the same amount of panels that you want to put in your back yard, that you can put on your roof. Well, if you have to jump through all the extra hoops to put them in your yard, then throw them on the roof, and you don't have to jump through those hoops. It's just one of those things, with any law that is passed. Sometimes there are those unintended consequences. I'm assuming that's what you're referring to.

ANDY HOEHN: That whole thing should be no different than putting in a barn, with set backs and all that.

ATTORNEY TRENT VAN HAAFTEN: It is interesting because I think about where we live, in an area to the east, maybe my neighbor doesn't like those, so I have to jump through the hoops, but it's not a big deal, it's just one of those policy things that you are going to have to think about. It's very clear on the bigger projects.

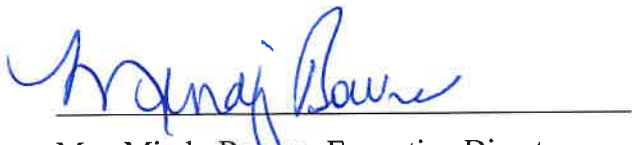
RANDY OWENS: Can you email me the most current solar ordinance?

MINDY BOURNE: It is on the county website. Go under ordinances.

ADJOURNMENT: Hans Schmitz made a motion to adjourn the meeting at 7:31 p.m.
Kevin Brown seconded the motion.



Mr. Mark Seib – President



Mrs. Mindy Bourne, Executive Director