

MINUTES
WHITLEY COUNTY PLAN COMMISSION
SPECIAL MEETING

May 5, 2022

6:00 p.m.

Whitley County Government Center
Lower Level, Meeting Room A/B

MEMBERS	PRESENT	ABSENT	STAFF
Dane Drew	X		Nathan Bilger
Brent Emerick	X		Brent Bockelman
Thor Hodges		X	
Mark Johnson	X		LEGAL COUNSEL
Kim Kurtz-Seslar	X		Elizabeth Deckard
George Schrupf		X	
Joe Wolf	X		NONVOTING ADVISOR
Doug Wright	X		John Woodmansee (absent)
<i>Vacant</i>			

AUDIENCE MEMBERS

The list of in-person and electronic guests is attached below.

CALL TO ORDER/ROLL CALL

Mr. Emerick called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.
Mr. Bockelman read the roll call with members present and absent listed above.

COMMISSION QUESTIONS

Mr. Emerick opened the floor to any questions from the Commission before the presentation.
Hearing nothing, he moved to the next item.

TY ADLEY, MARSHALL COUNTY

Mr. Bilger introduced Mr. Ty Adley, Executive Director in Marshall County, Indiana.

Mr. Adley presented to the Commission. He described the process that Marshall County went through in drawing up a solar code and development standards. He described the research that was done to gain a good understanding of the impact that was going to be approved. He provided reference materials used in this research. He discussed the task force that was formed to get a final ordinance together. He discussed the main concerns that were brought up in the task force meetings including health concerns, property value, components, loss of agriculture ground, decommissioning, and disposal. One major concern dealt with was the balance of property rights of property owner and neighboring properties.

Mr. Adley described the details of the Marshall County Solar Code Ordinance that was adopted in 2020. He explained that, unlike other communities that judge size by the amount of electricity generated, Marshall County measures size by area of panels. He explained that measure was chosen since the efficiency of electricity generation is changing as technology changes, but

square footage is a constant measure. Mr. Adley suggested that battery storage be addressed in the ordinance as an upcoming technology.

Continuing with the review of the Marshall County code, he stated that their buffering requirements use a “qualitative” instead “quantitative” method in order to allow flexibility in achieving the goal of a year-round screening. He explained that Marshall County’s code includes around two dozen development standards so that all parties can know what to expect when a project is proposed.

Decommissioning processes and bonds were discussed. Mr. Adley stated that bonds were required for drainage damage, road/infrastructure damage, and decommissioning.

Mr. Johnson asked if any solar facilities had been placed in Marshall County yet. Mr. Adley stated that there had not and described the timeline involved in the process before getting and application submitted. Soil testing and site analysis were discussed.

Ms. Kurtz-Seslar asked about fencing required in their ordinance. Mr. Adley explained that fencing was required, though operators would install it anyway. The height of panels was discussed, and he noted that the code included a minimum height to allow room for pollinator plants and maximum requirements in comparison to building heights.

Mr. Drew asked about liability insurance requirements. Mr. Adley stated that Marshall County did not have that in the ordinance, and they looked at that as a private matter between property owners and the developers.

Mr. Wolf discussed the difference between the electricity generated being used locally or going into the grid. Mr. Adley stated that they did not place any regulations on the electricity that would be produced, just as they do not regulate where other products produced in the area are shipped and sold to.

Mr. Johnson asked about the feasibility of long-term solar energy production and the ground that might be committed for solar energy. Mr. Bilger asked the audience for an estimate of the energy generated by acre of solar facility. It was stated that 5-10 acres per megawatt was a rough number. There was discussion of energy produced through solar panels and efficiency of different panels and the percentage of solar energy entering the grid.

Discussion was made on timeframe for the bonding for tiles located on the properties with a time of two years being suggested.

Ms. Kurtz-Seslar asked if the special designation by the State of Indiana impacted Marshall County. Mr. Adley stated that the adoption of their ordinance predated that legislation.

Discussion was made as the longevity of these projects and the need to look forward to the possible future impact out 30-50 years. Mr. Adley stated that the site could be valuable for new solar installations after the initial lease, so it may last even longer.

Mr. Emerick allowed for a 10-minute break to reconvene at 7:10.

Mr. Bilger discussed the information that was provided and posted on the website and the draft code that he prepared as a discussion starter. He reviewed the compared codes and definitions of Solar Energy Collection Systems (SECS). He reminded the Commission that the approval process was directed by the Commissioners, with a moderate approach being desired. He stated that the solar zoning would be an overlay district, a zoning district that overlays other underlying

zoning districts. It would be permissible over AG, AGP, IPM, IN, and PUD districts, with PUD being limited only the adopted standards. The overlay request would come to the Plan Commission first for a recommendation, to the Commissioners for approval, then Development Plan approval of the details. Details of requirements needed for the development plan were reviewed. Time frame of project abandonment was discussed and at expiration of this time frame, the overlay would be removed.

Ms. Kurtz-Seslar asked the role of the Plan Commission in looking at a decommissioning plan. Mr. Bilger explained that this part of the Development Plan would normally be handled by the Executive Committee but could be appealed to the Plan Commission.

Mr. Bilger discussed permitted uses and prohibited uses of the draft code, noting that solar concentrator facilities would be prohibited. Development standards were discussed regarding the overlay and underlying zones.

Mr. Bilger reviewed the suggested SECS setbacks for the solar ordinance. Discussion was made to the 40-foot setback of the underlying AG zone. There was discussion on the amount of total acreage affected by setbacks. Mr. Adley suggested that more setbacks could squeeze a project and end up being larger with larger setbacks in place. The comparison to the effect of squeezing a water balloon given as a visual. Different setbacks for different size projects was suggested as an option.

Separation standards were discussed. Mr. Bilger suggested a standard of 250 feet to the wall of an off-site dwelling in existence at the time of Development Plan approval based on the norm of comparison codes. Mr. Bilger asked if there were any concerns for separation for non-residential structures, such as churches and businesses. Mr. Adley recommended taking a plot of ground and illustrate the various setbacks to see what they would look like in a real-world application. Mr. Bilger stated that he would provide some sample areas to review at the next meeting. Mr. Wright stated that the setbacks should be provided to protect other uses than just residential.

Height standards were discussed. The draft code suggested a 25' maximum, with the minimum of 3' to allow for pollinators as done in Marshall County. Mr. Bilger stated that the 25' height standard could allow for better utilization of floodplain areas by allowing panels higher than the base flood elevation. There was discussion about the height and the tilt angle of the panel.

Buffering standards were discussed. Mr. Bilger stated that the suggested buffer requirement was identical to the buffering required for Industrial districts in the current code [§5.6 of the zoning code]. The standards of other counties were compared and discussed. The buffering would be in addition to any separations that would be put in place. Mr. Adley suggested thinking about what the buffers would look like from different distances, as a large setback might minimize the need for a large buffer and vice versa.

Standards for fencing were discussed. Mr. Bilger stated the County did not currently regulate fencing and since fencing could be required by other code standards, he did not suggest requiring it in the zoning code. In addition, future facilities might have different security and safety technology that fences wouldn't be necessary. He did state that were fencing would be provided, razor wire and electric fencing would be prohibited. He suggested that allowance also be made for ingress and egress of wildlife. Ways to achieve this were discussed and if this would be allowed with other fence regulations codes. Discussion of the terminology being changed from

“shall” to “should” be made. The option was also discussed of taking the wildlife part of the standard out altogether, with an apparent consensus that it was unnecessary.

Ground cover was discussed. The suggested perennial pollinators were the first option, and option two would be agriculture (agrivoltaics). This would promote agriculture in combination with the solar project. Discussion was made on encouraging this or not. Suggestion was made that this could be part of the public hearing discussion. It was suggested that the standards be the decision of the developer, with this option being left in place but details reviewed during the development plan stage.

Ms. Kurtz-Seslar asked if the insecticide restriction was needed and no herbicide restriction needed. Mr. Bilger stated that the restriction would be insecticide only due to the promotion of pollinators. Mr. Johnson asked if that also prohibited insecticide usage for agriculture on the property. It was pointed out the insecticide prohibition would only be for the pollinator ground cover option, not the agriculture option.

The standards suggested for cables were similar to the reference codes stating that all cables would be buried underground except where agriculture would dictate the need to be overhead. Power lines between the project and interconnection cannot be overhead.

Emergency and fire protection suggested were also similar to the reference codes. Signage with contact information, safety disconnect located near entrances, and an emergency response plan developed with local emergency services. Mr. Wolf and others questioned the sensibility of requiring a safety disconnect since that would mean fire departments would have to be within the facility.

Maintenance and repair and replacement of SECS was discussed. This included maintenance and upkeep of the facility in accordance with the Zoning Ordinance. Updated equipment should be permitted if the terms of the Development Plan were met, as Mr. Adley suggested maintaining investment in a site should be encouraged.

Mr. Bilger reviewed the proposed language about damage to waterways, drains, ditches, tiles, or other item to regulate drainage caused by the construction, installation or decommissioning of the SECS. Such damage would be repaired by the owners of the SECS completely and to the near original condition as to not impede the natural flow of water. Bonding was discussed, with Mr. Drew suggesting a two-year bond requirement from time of completion to identify problems, and additional time to repair.

Nuisance prevention was discussed. Noise levels and decibels not to exceed a level of fifty decibels at the wall of an existing dwelling located on and adjacent property. Mr. Bilger stated that 50 dB would be about the sound level of an office. Security light restrictions were also discussed. There was a mention from the audience that lighting is typically minimal; Mr. Bilger suggested that these standards would prevent glare for any lights that might be installed.

Continuing, temporary laydown/staging areas would not be less than 400 feet from any nonparticipating dwellings. Mr. Bilger suggested that this would not be as critical as with wind facilities since there would be more area within the solar facility but having some standard could prevent the nuisance. Parking would be prohibited along county roads for employees and equipment; this would be primarily during construction. Ms. Kurtz-Seslar asked about prohibiting interference of radio, tv, and military signals and suggested it as an additional

standard. Glare from the panels was discussed and possible anti-glare addition to the terminology.

Being about 8:10 P.M., Mr. Bilger suggested starting the next workshop with the decommissioning section.

Mr. Emerick opened the meeting up to public comment.

An audience member asked about the height of lighting and placement and if they followed the same restrictions and setbacks. Mr. Bilger confirmed that they would.

An audience member raised a question to the responsible parties for disconnect and deenergizing in an emergency and that emergency workers were not allowed in a substation during emergencies.

Another audience member suggested that solar facilities not be permitted to adjoin an off-site residential property on more than two sides.

ADJOURNMENT

Having no further comments, Mr. Emerick adjourned the meeting at 8:20 P.M.

GUEST LIST

1. Randy Merry1 Wake Road, Chicago, IL
2. Joan Null8099 S. 200 East
3. Larry Long2835 W. 800 South
4. Steve Eberly2741 E. Akers Road, Pine Village, IN
5. Daniel GoldstemChicago, IL
6. Ethan Sternberg.....Chicago, IL

GUEST LIST-ELECTRONIC

7. Robert Kehmeyer8411 S. 600 East
8. Judy Kehmeyer8375 S. 600 East
9. Kurt Kehmeyer.....8244 S. 600 East
10. John Meister.....5995 S. Woodstrail Dr.-57