

November 21, 2019
Regular Meeting of the
Marshall County Plan Commission
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Plan Commission meeting to order at 7:30 p.m. on Tuesday, November 21, 2019, in Room 203 of the Marshall County Building. Present were: Commission Members Terri Barnhart, James Berger, Craig Cultice, David Hostetler, Jack Roose, Dan Voreis, Bob Yoder and Stan Klotz. Plan Director Ty Adley was present along with interested parties. Member absent was Mr. Miller.

The first item of business was the review of the minutes from the September 26, 2019, meeting. **Mr. Cultice moved and Mrs. Barnhart seconded the motion to approve the minutes as written. The motion passed by acclamation.**

The second item of business was 19-PC-13 Marshall County Plan Commission(EROSION CONTROL)– Amend Article 6.040.J. (Surface Water) to read as “Any construction which disturbs more than four-thousand (4,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control Ordinance.”

The Planning Commission proposed to the board to add the following to the existing ordinance.

Soil Erosion

6.040J (Surface Water)

Environmental Standards

J. Surface Water

It shall be the responsibility of the owner of any lot or parcel of land developed for any use other than for agriculture cultivation to provide for adequate surface water drainage.

Any construction which disturbs more than four-thousand (4,000) square feet of ***cumulative*** surface area ***g*** must comply with the Marshall County Drainage and Sediment Control Ordinance.

Currently under the existing development standards you are allowed to build multiple structures on a property as long as each structure is under 4,000 square feet while not having to submit a drainage plan to accommodate surface run off as well as being able to

retain in on the property.

In the past people build structure or cut back the size to meet the less than 4,000 sq ft to eliminate the need for a drainage plan. While cutting back the size to meet this threshold it still has an effect on the stormwater as it goes down stream.

This cumulative effect over the course of time will cause additional issues downstream. We've already seen flooding issues. If something is not done about this the flooding issues will only get worse.

The proposed revision states that any construction which disturbs more than four-thousand (4,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control Ordinance. At any point in time whenever they meet the 4,000 sq ft threshold whether it's 2/2,000 square foot buildings or 1/ 4,000 sq ft building. Once the 4,000 sq ft threshold is met a drainage plan will be required at that time.

Mr. Cultice, Marshall County Survey, agreed that this proposal is a good thing.

It was clarified that once this is approved everything prior to that date is exempt.

It was asked if the 4,000 sq ft was just buildings. Mr. Adley responded by saying it would be anything in association with the construction, hard surface drives included.

Mrs. Barnhart moved to open for public hearing, seconded by Mr. Cultice. Motion carried by acclamation.

1. Ralph Booker – 9110 Cedar Rd., Plymouth – Requested clarification if everything was grandfathered. Mr. Adley stated that the wording change clarifies this is cumulative. Gave the example in 2020 you could build a 2,000 square foot barn and in 2025 you could request to build another 2,000 sq ft barn, at that point you would be required to provide a drainage plan. As it reads today it's based on the project rather than the total effect on the property. Mr. Booker commented that he, Mr. Fisher, and Mr. Cultice discussed whether they should include what was already present.

Mr. Hostetler moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Hard surface is described as the house, driveway, shed, pole barn. Anything other than grass and tilled fields.

Mr. DeWitt, Marshall County Building Commissioner, submitted a letter stating he has advocated for many years using the total aggregate square footage in determining the need for an erosion control plan. By observations during inspections it shows many cases that multiple buildings adding up to 4,000 square feet are more detrimental than one single building. With various roof pitches, velocity and volume of water coming off the roofs has a

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more devastating effect on the environment than a singular 4,000 sq foot building. This will help eliminate many problems during and after construction projects.

Mr. Hostetler made a motion to approve 19-PC-13 EROSION CONTROL – Amend Article 6.040.J. (Surface Water) to read as “Any construction which disturbs more than four-thousand (4,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control Ordinance, “ with a favorable recommendation to the Marshall County Commissioners, seconded by Mrs. Barnhart. Motion carried with a voice vote 7-0-1 with Mr. Klotz abstaining as he will be voting in the Commissioner’s meeting.

The third item of business was 19-PC-14 Marshall County Plan Commission (SOLAR) – Various articles within the Marshall County Zoning Ordinance are proposed to be revised as it pertains to the SOL Smart Initiative as well as requirements for Solar Farms.

Mr. Adley presented the solar energy systems presentation discussing the educational aspects with solar research and solar ordinances.

The breakdown included: Ordinance Revision Parts, Typical Concerns, Marshall County Ordinance Context, American Planning Association, Solar Impacts, Additional Standards and Research, Ordinance Modeling, and Marshall County Existing/Proposed Ordinance.

A recap of the typical concerns was: noise, resale, value of property assessment, agricultural preservation, cost to remove, decommissioning, and hazardous materials. During the research that was done by a private company as referenced in the Madison County Project did solar projects all through Illinois and Indiana and came back with negligible information that there is no change.

Agricultural preservation and decommissioning – After talking with a couple of local insurance agencies they proposed three different types of bonds that will be discussed a little later on.

Taxing and assessment – Your residences will continue to be assessed as a residence and the solar units will be assessed under the commercial and industrial rates.

Mr. Yoder asked if there are stipulations where the noise generators are placed on the property due to noise issues. Noise generation was a big issue during the windfarm discussions. Mr. Adley said that it’s possible to require a specific setback on the inverters.

The proposed solar ordinance for Marshall County was presented. Discussed were Indiana Codes, Marshall County’s existing ordinances, and the Comprehensive Plan.

A series of bonds and/or demonstration of financial assurance are proposed to be required.

- i. Bond or financial surety that will cover the reconstruction of public infrastructure due to construction activity related to the solar installation that will be approved in association with the traffic management plan. (Road bonds fairly easy to achieve)

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- ii. Bond or financial surety that will cover damage to the drainage infrastructure that may be damaged during construction process beginning once construction has been completed. (Private tiles for drainage fairly easy to achieve)
- iii. Bond or financial surety that will cover the decommissioning of the solar facility as described in the decommissioning plan. (A lifetime bond – unless there is substantial economic backing and a history of a stable company you won't find a bond that will last 20-30 years. Bonding companies see a 3-5-year time frame as a substantially long time to bond someone for.)

The wording allows Marshall County to require a bond or a surety.

A question was raised on who had the final authority of the bonds/surety for the decommissioning of the solar farms. Mr. Adley stated that it would be the Board of Zoning Appeals.

Mr. Yoder felt that the BZA should make a recommendation to the Marshall County Commissioners to make the final determination since they are the elected officials running the government.

A comparison was made of bonds for subdivision roads which are held by the Planning Commission. Failure to decommission a facility/developmental standard is a violation and is pursued through the Planning Commission which is by part the Board of Zoning Appeals.

Mrs. Barnhart moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

1. Ralph Booker – 9110 Cedar Rd., - Requested a copy of the proposal. Questioned if the County has proposed this Solar Farm to the other communities. Believes it has the same effect on drainage and county roads to the two-mile zones. Also questioned the breakdown between large scale and farms. Mr. Adley stated their intent was to simplify the classification system.
2. Debbie Vandemark – 14750 Tulip Rd., Culver – Been approached by two different companies to use her farm for solar. Her neighbors have been signing leases. She has a copy of a lease. Hasn't been interested in having a solar farm. Understand there is a study saying it doesn't reduce property values, but doesn't understand how they can figure that with solar being so new. The contracts that have been seen show a 25-year renewable lease paying \$850 per acre/per year. Concerns of hers is the decommissioning if the company goes belly up, possibility of more pollution than coal, humming noises, assessment and companies have put into contracts for the solar company to obtain mineral rights.

Mrs. Barnhart moved to close the public hearing, seconded by Hostetler. Motion carried by acclamation.

The board asked for a clarification of obtaining mineral rights. Mr. Adley explained that there

are two aspects to the question. First, the ordinance proposal is the framework for the BZA to consider when approving or not solar farms. Second, is a contractual concern for the public. The county has minimal authority when it comes to contractual concerns. With regard to mining that would have to receive the appropriate approvals from the county as necessary.

Decommissioning is a very big concern of the board. Automatic renewal and escrow were considered. Leaving it open whether bond or surety that covers this cost allows the Planning Commission and BZA while working with the Commissioner's and anyone else necessary to deem that funding type.

During discussion a concern was that the County Commissioners as well as the Council should have a role in the bonding procedure. The Plan Director explained that a County Commissioner as well as a Council representative is a part of the Planning Commission/BZA which is their representation.

Once a solar farm is approved when upgrading it or adding a panel will require a permit which also will require a review.

Three changes were suggested to the proposed ordinance:

1. Reevaluation of the bonding financial surety the board agreed that a 3-year renewal is the best option over a 5 year.
2. Section 5 (ii) 2 years to 5 years
3. Reapply for a permit for upgrades as it is a new structure/new development

Mr. Roose made a motion of approval of 19-PC-14 MARSHALL COUNTY PLAN COMMISSION (Solar) – Various articles within the Marshall County Zoning Ordinance are proposed to be revised as it pertains to the SOL Smart Initiative as well as requirements for Solar Farms with a favorable recommendation to the Marshall County Commissioners with the following stipulation be added to the proposed ordinance;

- 1. Reevaluation of the bonding financial surety the board agreed that a 3-year renewal is the best option over a 5 year.**
 - 2. Section 5 (ii) 2 years to 5 years**
 - 3. Reapply for a permit for upgrades as it is a new structure/new development**
- seconded by Mr. Hostetler. Motion carried with a voice vote 7-0-1 with Mr. Klotz abstaining as he will be voting at the Commissioner's Meeting.**

The fourth item of business was 19-PC-15 Marshall County Plan Commission (Fee Ordinance) – In order to accommodate the proposed Solar Ordinance evolution, the Fee Ordinance will need to follow suit.

Solar Permits (current)

Micro-less than 120 square feet	\$40
Small – 120 -1750 square feet	\$80
Medium – 1751 to 40,000 square feet	\$150
Large – 40,001 square feet or above	\$250

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Meeting Time Discussion

The board discussed the Plan Commission's meeting time. It was brought up that some would like the meeting time to be earlier.

Mr. Roose made a motion to move the meeting time from 7:30pm to 6:00pm. Much of the board spoke that it would really push them to get to the meeting at 6:00. Motion withdrawn.

Mr. Berger made the motion to move the meeting time from 7:30 pm to 7:00 pm, seconded by Mr. Yoder. Motion carried 7-1 with Mr. Hostetler against.

The Plan Commission and Building Department sent out a letter to all the current contractors explaining the permitting process and registration process. Nothing has changed it was just a reminder of what is required to help with the fluidity of the permitting process.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Bob Yoder