

January 23, 2020
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 7:00 p.m. on Thursday, January 23, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Terri Barnhart, James Berger, Craig Cultice, David Hostetler, Matt Miller, Jack Roose, Dan Voreis, Bob Yoder and Stan Klotz. Plymouth Liaison, Fred Webster, Plan Director Ty Adley, and Lori Lowry Administrative Assistant were present along with interested parties.

The first item of business was the election of officers for the Marshall County Plan Commission for the year 2020.

President – Mr. David Hochstetler made a motion to nominate Stan Klotz as President of the Marshall County Plan Commission for 2020, seconded by Mr. Yoder. Motion carried by acclamation.

Vice President – Mr. James Berger made a motion to nominate Mr. David Hostetler as Vice-President of the Marshall County Plan Commission for the year 2020, seconded by Mr. Yoder. Motion carried by acclamation.

Secretary - Mr. Dan Voreis made a motion to nominate Mr. Yoder as the Secretary of the Marshall County Plan Commission for the year 2020, seconded by Mrs. Barnhart. Motion carried by acclamation.

Technical Review Committee - Mr. Dan Voreis made a motion to nominate Mrs. Barnhart, Mr. Roose, and Mr. Yoder as members of the Technical Review Committee for the Plan Commission for the year 2020, seconded by Mr. Berger. Motion carried by acclamation.

Alternates for the BZA - Mr. Craig Cultice made a motion to nominate Mr. Voreis, Mr. Yoder, Mrs. Barnhart, and Mr. Hostetler as alternates for the Marshall County Board of Zoning Appeals for the year 2020, seconded by Mr. Roose. Motion carried by acclamation.

Plymouth Plan Commission Liaison – Mr. Roose made a motion to nominate Mr. Stan Klotz to the Plymouth Plan Commission Liaison for the year 2020, seconded by Mr. Miller. Motion carried by acclamation

Board Attorney – Mr. Craig Cultice made a motion to nominate Mr. Derek Jones as Attorney for the Marshall County Plan Commission, seconded by Mrs. Barnhart. Motion carried by acclamation.

The second item of business was the review of the minutes from the November 21, 2019, meeting. **Mr. Voreis moved and Mr. Miller 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 per project and/or six thousand (6,000) 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.

1. Any construction which disturbs more than four-thousand (4,000) square feet **per project and/or six-thousand (6,000) square feet** of **cumulative** surface area 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 storm water as it goes down stream.

This cumulative effect over the course of time will cause additional issues downstream. We have 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 per project and/or six thousand (6,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control

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Ordinance.

Kankakee River Basin and Yellow River Basin Development Commission's mission statement "advances Northwest Indiana's safety, economic prosperity, and quality of its natural resources." A portion of their presentation was shown to the board showing the Kankakee River Basin.

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.

An example was given to explain the proposal.

Mr. Adley gave a recap of comments that were made at the Commissioner's Meeting. In response to some of the comments Mr. Adley gave the board a breakdown of permits and valuations over the past three years showing an increase in permit count and valuations.

Recommendation: TRC and Staff would recommend the revised proposal.

Mr. Yoder asked Mr. Cultice his thoughts on our county's drainage. Mr. Cultice explained that he is Marshall Counties representative on the W4 Kankakee Yellow River Basin Commission. Being on that board and listening to everyone down stream from Marshall County, we had it bad in 2018, they had it really bad downstream. It was so bad that the legislatures came in and disbanded the once KRBC that had 24 members and took it down to 8 members that included 1 member from DNR and 2 members from Illinois. They were able to appropriate 2.3 million dollars to start working on the basin and took assessments from ten cents an acre in the watershed to one dollar an acre. This is a serious situation that needs addressed. Anytime we can take hard surface area that is being graded and slow it down it protects our county drains and our taxpayers. We need to be good neighbors to our fellow counties downstream and do our part.

Mr. Voreis commented that he didn't see that much different from the first proposal to the second proposal.

Mr. Klotz asked if Mr. Cultice had the final say on drainage plans. Mr. Cultice responded yes.

Mr. Cultice explained to the board that they would like to backdate this proposal to the beginning of 2020. For one project of 4,000 square feet this proposal will kick in. But if the building has multiple structures under 4,000 and as soon as the total from 2020 forward reach 6,000, we will catch that and look to see if a drainage plan is needed.

Mr. Yoder explained that he knows well that when a person keeps adding impervious surface area it can even affect adjacent property owners. He knows of someone after a hard rain lost two acres of productive farm ground due to impervious surfaces.

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Mrs. Miller moved to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation. There being no one to speak for or against Mr. Roose moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Klotz stated, "On behalf of the Commissioner's discussion in their meeting our concern was that we have to be competitive with the neighboring counties. Some point we are not. Granted in some cases some don't have any rules. But if we are going to protect our tax base you need to encourage growth to get away from tax caps." Also expressed that nobody is in favor of letting people run wild, but at some point, we feels we have to be competitive.

Mr. Hostetler made a motion to approve 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 per project and/or six thousand (6,000) square feet of cumulative surface area must comply with the Marshall County Drainage and Sediment Control Ordinance, seconded by Mrs. Barnhart. Motion carried with a voice vote 8-0-1 with Mr. Klotz abstaining.

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.

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. In addition to those recent concern has been whether solar farms should be aloud on agricultural properties or should be limited to commercial or industrial locations. As well as concerns of contamination from the panels. This was discussed earlier in that the amount of hazardous material located in the panels is quite insignificant and disposable in landfills based on the information that was provided.

The SOL Smart initiative assisted in identifying areas for improvement within the existing solar ordinance for deficiencies. Based out of the interest in Marshall County for Solar Farms, there was minimal guidance for installations larger than approximately 10 acres for the Board of Zoning Appeals to make decisions with appropriate conditions. Mr. Adley presented Exhibit A showing the original proposal along with corrections made by a law group as directed and additional corrections by staff were color coded. Much of the corrections were changes in terminology and insignificant.

Fiscal impact studies were done in McLean County, IL and Kendall County, IL and a brief synopsis was shared that no consistent negative impact has occurred to adjacent properties and could be attributed to proximity to the adjacent solar farm. Impact was identified as none by six different county assessors.

Recommendation: TRC and Staff recommend approval, but agree that there should be further discussion at the Plan Commission.

Mr. Yoder had a concern about the buffer between property lines adjacent to the solar farm. With there being gaps and no plants planted he feels the adjacent property owner should have the right to plant plants in that 75' buffer.

Mr. Klotz stated that after a discussion with the other Commissioner's they would like to see a moratorium put on these solar farms. There are some serious issues mostly surrounding decommissioning. New information came forward Tuesday morning showing these companies can come and mortgage your ground against these projects. They have the right to level it, bull doze it, strip mine it and basically anything they want. The Commissioner's want to make sure the ground is put back where it was. Another important question was whether it would be farmable again. He felt there are leases out there so we need to move forward on this and send to the Plan Commission for their recommendation.

When asked the time frame the commissioner's wanted for the moratorium, he stated 1 year and it would be for solar farms of ten acres plus.

Mr. Adley asked if there is guidance on what is insufficient in the ordinance as proposed. Mr. Klotz responded that it's primarily decommissioning but there are some questions where they would like additional legal counsel advice.

When asked what the specific definition of moratorium was it was explained that no permits would be allowed for a specific time period.

There was a discussion on decommissioning and the unknowns. Other discussion was what would be allowed through their contracts to the ground. Mr. Adley explained that uses would have to receive approval as such. The only thing that would be approved by the Board of Zoning Appeals would be the solar farm itself. Any additional potential uses that would pop up in relation to leases that are signed by the property owner doesn't make a difference. It's only for the specific use that is associated with that approval. The BZA wouldn't give a blanket approval for any and all projects.

Mr. Roose stated that he can understand the decommissioning concern and compared the wind farms to the solar farms and doesn't feel the solar farm decommissioning would be near as burdensome as all the cement that went in to hold the wind towers. There wasn't anyone that could guarantee the decommissioning on wind farms back then and there still doesn't seem to be anyone who can guarantee the decommissioning on the solar farms either. Would support the moratorium for awhile.

Mr. Berger moved and Mr. Miller seconded the motion to open the public hearing. Motion carried by acclamation.

1. Dennis Thornton – 590 Juniper Rd., Bremen – Past board member that has a concern

- with the health issues pertaining to the decommissioning.
2. Ed Allen – 15315 Thorn Rd., Culver – Questioned what benefit solar farms will be to Marshall County. Believes it will be a detriment to his property values. Has read a copy of a lease and recommended the board read one as well. Has a concern about glare and if it sits inactive for 12 months he’s looking at a “waste land”. Believes the bonds that have been talked about will not cover the decommissioning, the county will raise taxes so he will have to pay for it. Hopes that this board will stop solar farms like it did wind farms. If a committee is formed to discuss solar farms, he would be willing to be on the committee.
 3. Debbie VanDeMark – 14750 Tulip Rd., Culver – Is a farmer that was asked to put their land in this lease process. There are currently 1272 acres that have signed up for this project. Has a concern that many people in the area were not aware of the solar farm proposal. Doesn’t believe that property values have stayed the same once a solar farm was put up. Possibly because of the newness. Some are failing and being abandoned. This is supported by grant money. If the grant money stops, what’s going to happen to it? Has been very concerned. Also questions whether these solar farms should be on agricultural ground.
 4. Adam Thada – 10650 Park Lane, Plymouth – Came to offer any sort assistance after putting up solar panels at Ancilla Domini. There are approximately 1,300 panels with about a 1-million-dollar investment. This was a well thought out plan as they wanted to make sure it worked. The solar radiation over the course of a year is pretty consistent even though it varies from day to day. Appreciates that the board is taking time to look at the data and studies brought to the situation rather than opinions. They’ve used two separate companies that used stainless steel posts. These systems are manufactured to last 40 years. The specific panels are not supported by any concrete. Decommissioning would only involve pulling out the steel posts. Ancilla was extremely happy to see very low impact construction practices. In response to the glare, the closest largest solar panel farm is located on the ground of the Indianapolis airport. He would seriously doubt that glare would be an issue that close to an international airport. Takes Mr. Klotz’s comment to heart about protecting the tax base with tax caps. These solar farms do represent a substantial investment. If these solar farms aren’t going to be in Marshall County they will be in a neighboring county. Grew up in Crawfordsville and there was a coal plant right across the street. Grew up with coal dust on his window sill. Has young kids and hopes that they will have some other energy source than having to breathe coal dust.
 5. Don Heckford – 15539 Thorn Rd., Culver – Believes that there are going to be a lot of people effected by these solar farms. Has a concern about property values. Also questions whether these types of operations should be on a commercially zoned property rather than agricultural/residential. Urges the board consider this moratorium.
 6. Joe Allen – 15321 Thorn Rd., Culver – As a homeowner has a concern the lack of communication. Doesn’t understand the benefit of these solar panels to Marshall County. Had questions concerning where the power is going, the tax issues, and grants. Supports the moratorium.

Mr. Roose commented back to Mr. Allen’s concerns. The Plan Commission knew that

we had no control over large wind farms. Plus, the power companies knew that we didn't have any structure in place for such. This board has no intent to withhold any information. Items are dealt with as they come up.

Mr. Adley explained to everyone that what the board is trying to accomplish is a framework that assists the Board of Zoning Appeals in making qualified decisions efficiently and effectively.

Fred Webster – City of Plymouth Liaison stated that Plymouth is struggling with the solar energy ordinance as well. He understands that there are many locations NIPSCO, AEP and Duke that serve electric patrons are being replaced with solar and wind energy. Personally, has installed solar panels on his garage. Five years ago, the cost of the solar panels were three times the cost that they are today.

It was asked that the board clarify moratorium. Mr. Klotz explained that moratorium means that there would be a hold on all all solar farm permits of ten acres and more. Less than ten acres would continue to fall under the existing ordinance unless the board decides different.

Mr. Roose moved to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

When asked what the payback on solar was Mr. Thada commented that there are many variables, but Ancilla's is approximately eight years.

Mr. Roose made a motion of approval of 19-PC-14 MARSHALL COUNTY PLAN COMMISSION (Solar) – Request for a moratorium on a solar farm ten (10) acres or more for one (1) year as a favorable recommendation to the Marshall County Commissioners to allow the Commissioner's time to discover and investigate the decommissioning process on solar farms with the following stipulation be added to the proposed ordinance; Motion withdrawn

Mr. Hochstetler made a motion to approve 19-PC-14 MARSHALL COUNTY PLAN COMMISSION (Solar) – Request for a moratorium on solar farms/ten (10) acres or more for one (1) year/365 days as a favorable recommendation to the Marshall County Commissioners to allow the Commissioner's time to discover and investigate the decommissioning process on solar farms, seconded by Mr. Roose. Motion carried with a voice vote 8-0-1 with Mr. Klotz abstaining.

Mr. Yoder brought up that he still has a concern about neighboring property owners to a solar farm should have the ability to have some sort of a visual barrier around the solar field.

Mr. Voreis made a motion to approve 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, seconded by Mrs. Barnhart. Motion withdrawn

Mr. Roose made a motion to approve 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 the following stipulation:

- 1. Trees and/or shrubs shall be planted as a buffer in the perimeter of the entire solar farm project**

seconded by Mr. Yoder. Motion carried with a voice vote 9-0.

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

Pending the approval of the proposed solar ordinance restricting of fees is necessary.

Micro-less than 120 square feet	\$40
Small – 120 -1750 square feet	\$80
Medium – 1751 to 43,560 square feet	\$150
Large – 43,561 to 435,600 square feet	\$250
Farm – 435,601 square feet or more	\$20/acre

** Measurements are in panel square feet

When describing acres in relation to solar acres solar is based on the surface area of the panels. Much of the board had concern of the description “acres”. Defining acres in regards to permitting description is necessary to be completely understood. The terminology “square feet” and “panel acres” were proposed. The pricing is based completely on the panels not buffers or pollinators. How other counties price their solar farms range from square feet to kilowatt hours.

Mr. Roose made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation. There being no one to speak for or against Mr. Hostetler moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Roose made a motion to approve 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 and make a favorable recommendation to the Marshall County Commissioner’s with the following amendment:

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- 1. Large 43,560 to 43,561**
- 2. Farm 435,600 to 435,601**

Seconded by Mr. Voreis. Motion carried with a voice vote 9-0.

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