

MINUTES
FOUNTAIN COUNTY COUNCIL
JULY 25, 2024
5:00 P.M.

The following Fountain County Council members were present at the meeting: Jim McKee, Tom Booe, Dudley Crucea, Kelly Carlson, Denise Crowder, Dale White and Jeff Fishero.

The Hearing on the Economic Revitalization Area and Tax Abatement was opened at 5:01 p.m.

Public Comment:

Nikki Shultz of Bose, McKinney & Evans (Attorney for Ranger Power/Crossroad Solar) She does not understand why they are here. They have gone through the process and have sent a letter to that effect. Crossroads is getting ready to start construction soon. She stated that any decisions to revoke/rescind the agreements would violate the contract and their vested rights. She understands the public sentiment toward solar. She asked that they look at the legal ramifications if the agreements are rescinded. She also stated that Colin Snow has worked with the County for years. She would have liked for the Council to come to them with their concerns. She hopes they are not the type of Council that will pull the rug from under the project.

Amber Roarks – Wabash Township

She sent an email to the Council with concerns over eminent domain with a blanket EDA and the articles associated with her email. She cited cases regarding this issue. They will use this process to get all the property needed for a project. She pleaded with the council to not open the door to this procedure. They can obtain more property by eminent domain because they have condemned the property. She asked that the Council please modify the agreement to only included the properties with solar leases. Don't open the door that could usher in eminent domain.

Bill Brewer – Wabash/Troy Township

The population of Fountain County is 16,500. He figures there is approximately 13,500 adult people in the county. He has been told that the council has before them a petition of about 3,000 against solar. That leaves 10,500 people that don't care either way or don't want to stand up here and get crucified on social media or just don't want to be a part of anything. You are letting 22% of the county to rule you. He has talked to some farmers. They do not want the rights of the ones that want it taken away. Kelly Carlson said it was the process in which they got to this point. Dudley said the decommissioning plan and road use agreement was signed 8 months after they voted in March of 2023. He says they were misled. They were told that all paperwork was signed. Bill Brewer said things could be fixed – fix them. Integrity means a lot. How can we justify it. We will lose lots of money. Tom Booe stated that they have to look at everything and want to make sure it is right. He would like to get it done and please everyone. We have to listen to everyone.

Wade Kilby – Wabash Township

He said unbeknownst to the public, the commissioners were working behind the scenes without public notification. They have also pulled the rug out from under him. There are too many representing solar and not enough elected officials representing the public.

Dane Maltzberger

He gave some statistics about the farming community. He asked for them to send out flyers asking county residents how they feel about the solar etc. The agreement should not be valid if we have been misled. If they didn't tell the truth maybe we should file a lawsuit. If things were omitted (intentional or not), it can be resubmitted again. Integrity matters. Take the steps to make it right.

Carol Owens – Troy Township

Tim Shumaker has told us that if we don't accept the agreement the money goes to the State. She asked the Council attorney what his thoughts are. Amber said the personal property will go to the state. They take a percentage and the rest comes into the

County to be distributed to the taxing units. The economic development money comes straight to the County. Carol asked the council attorney what his thoughts were on this situation. He stated he is only here to advise the council.

Angie Burke

She thanked the Council for working for the county. She asked that they not back down.

Rhonda Swisher

She has a deal with Ranger Power for 40 acres. If she had not made a deal with Ranger Power, she would probably have to sell her family's farmland. She can't afford to buy lime for the farm due to the cost of everything. The County is still getting tax dollars from her.

Colin Snow – Ranger Power

He handed out a packet to the Council. It included frequently asked questions, information from the Lugar Center, and information on the agreements. He also went through the history of the project with the Council. They have been very transparent in the process during the 5 years they have been doing this project. They have done their due diligence. It is very concerning that there is a change in the economics this close to construction. The agreement does not eliminate all taxes. They pay real estate taxes and it will lower the tax rate. He also finds it concerning that it puts it on the record for all future investment, solar or otherwise, interested in doing work in the County, that their agreement could be opened up and rescinded. Colin said if the Council had questions, he would have been happy to answer them.

(Taylor Powell left the meeting due to other commitments)

The Hearing was closed at 6:02 p.m.

Colin Snow then fielded questions from the Council.

Dudley stated that the county does not have a signed Economic Development agreement signed by Ranger Power. Nikki Shoultz will get a copy of it to the county. There is also a Road Use agreement that was presented that has just one commissioner's signature and the highway superintendent's signature. There is also a place for the zoning administrator approving the agreement and it is not signed. To their knowledge everything was filed correctly and will furnish the documents to the county.

Kelly Carlson asked if the decommissioning agreement was 125% of the project. Colin confirmed that it was 125% of the net decommissioning costs prior to construction. It is in place through the life of the project. It reassessed every five years of the project producing power.

Tom Booe asked about the Performance Bond. He also said they did not get a signed agreement on how the county roads, drains etc. were going to be handled.

Nikki Shoultz stated that the crux of the issue is that the Council feels misled. She does not know whether it was in a public meeting or otherwise. The Commissioner's attorney, Rick Hall was at the public hearing. She does not remember there ever being a representation that the decommissioning or road use agreements had already been taken care of. They were never told that this was a predicate for the Economic Development agreement. They were relying on the legal counsel for the Commissioners.

Kelly Carlson asked questions about eminent domain. Colin said there is a shortfall in electricity. Indiana needs power to keep the lights on. Ranger Power is not a public utility; they are an independent power producer.

Kelly Carlson asked if you or their attorneys were involved in writing the solar ordinance? The first time he came to the County in 2019, they had just redone the ordinance. Someone (not sure who) had one line in it that said solar is a permitted use on ag land. Another Ranger developer worked with the county and county attorneys to build out that ordinance to increase the protections for neighbors and community in ways that met and exceeded some of the State recommendations.

Jeff Fishero asked if the technical reviews with Roger are complete. They need to finalize the drainage plan. There are appendices to the road use and decommissioning agreement. They have been working with the Highway Superintendent and the County attorney (Rick Hall).

Jim McKee stated that he did not see in the Plan Commission minutes where this happened. He is not refuting that they spoke with Commissioners or somebody like that. It is just not in the APC minutes.

Dudley Cruea said that Roger advised that on January 11, 2022 he asked for a complete drainage plan, a road plan, a completed wetlands delineation and other pertinent engineering submittals. We were told this was all submitted prior to March 2023. It took a year and a half to get answers and then another 13 months (June 6, 2024) of not answering. Can you give us an explanation of who is dragging their feet on answering these questions that Roger has asked. Colin said there was no drainage ordinance in Fountain County so we needed Roger's designation as to the rules to operate under so when we got those from him, we started working on it. We found that some of the questions that he had, we had to get very close to a final design. To do this, you must get a construction company who is going to build the project and contract with them. It can take a year or more and it is a very expensive process. You need some certainty that the project can go forward or it's not worth spending the money. We had the CSES permit in hand that gave us some certainty. It has only been basically the first of the year that we had plans final enough to be able to work with Roger. We did run into some delays on the County side. They would have liked to had this completed 3 months ago but it has been taking a while.

Jim McKee asked if Crossroads is a public utility. Nikki Shoultz explained that Crossroads went to the Indiana Utility Regulatory Commission. They received a certificate of territorial authority with a declination of jurisdiction. What that means that Crossroads is a public utility for the purpose of the IURC regulation. The IURC then declined to exercise its full jurisdiction over Crossroads; that is what Colin was alluding to when he said they were not a public utility. They not like Duke Energy. We don't serve the customers directly. The declination order specifically says Crossroads does not have eminent domain authority. Jim McKee said that eminent domain is still a concern for him, maybe not with Crossroads but with other companies.

Colin Snow then fielded questions from citizens attending the meeting.

Colin Snow wanted to know what brought the council to ask us to come here today. Dudley stated that they were told that the permit had been approved. We were told that the land use agreement and the decommissioning agreement had been approved. We were told it was the APC who was going to sign off on the permit and find out afterwards that is one person who is going to sign off on that permit, who is not a resident of the county. We found out in May at an APC meeting that the permit had not been approved. Colin said if something was misrepresented, he would have spoken up. What makes him more concerned is the permit you say was not signed and the ordinance they are asking questions about today, were in fact, in the county record. He has been to many public and private meetings and has always asked if there were questions and what he could help us with. I do not believe, we misrepresented anything to you. They have done their due diligence.

Kelly Carlson asked Colin if they had a permit. He said that they do have one. The Council has not seen or heard this.

Discussion was heard in regards to the surveyor being an elected official. Roger cannot serve as our surveyor because he is not elected or a county resident. Council does not know if the permit is legal if Roger signed it.

Kelly Carlson stated that they want to make sure things were done correctly. Colin agreed but a larger question about how it will affect future investors interest the County.

Dudley Cruea said there would be no decision made tonight as per legal counsel's recommendations. They will schedule an executive session to talk about the legal issues and the threat of a lawsuit.

Budget Hearings & Meetings:

- August 12 at 9:00 a.m.**
- August 20 at 6:00 p.m.**
- September 9 at 9:00 a.m.**
- September 17 at 6:00 p.m.**

**THE NEXT MEETING WILL BE
 MONDAY, AUGUST 12, 2024
 AT 9:00 A.M.**

A motion was made by Denise Crowder and seconded by Kelly Carlson to close the meeting.
 Vote: 7-0

ATTEST:

Corinne Chambers

Kelly L. Carlson

Paul W. Bose

Dale A. White

Denise Crowder

James W. Miller

John M. [Signature]