

**MINUTES
JOINT MEETING OF
FOUNTAIN COUNTY COMMISSIONERS
FOUNTAIN COUNTY COUNCIL**

**May 13, 2024
6:00 P.M.**

The following members of the Fountain County Commissioners were present at the meeting: Tim Shumaker and Brenda Hardy. Andrew Hall was absent.

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

Brenda Hardy called the meeting to order for the Fountain County Commissioners.

Dudley Cruea called the meeting to order for the Fountain County Council.

The meeting was then turned over to Justin Nicol of Envoy. He introduced Michael Conly, Rachel Simmonds and Michael Bushong of Architura; Alex Barghout of Ameresco; Greg Balsano of Baker Tilly; and Rich Taylor of Envoy. He then turned the meeting over to Michael Conly.

Mr. Conly had a drawing of the proposed renovation project for the annex, which is to house employees during the renovation of the Courthouse. Dudley Cruea went over the motion that was made at the Council meeting on May 2, 2024. There was a motion to halt all work until the Council could meet with the Commissioners to discuss the projects. All invoices should be turned in by June 1, 2024. The motion was seconded and carried. The annex and highway garage came in much higher than expected.

Brenda Hardy said that the master plan included all the annex and the Courthouse. Money was set aside in the ARP Fund in the amount of \$1,000,000 for this. It was budgeted. The ARP committee submitted their recommendations to the Commissioners and Council and it was approved. Dudley Cruea said the money paid from the ARP fund had to be approved by both the Commissioners and Council. The project started out at \$800,000 to \$900,000 and was to pay for the full renovation. It has increased substantially since then. Brenda Hardy said that the building required an elevator and fire protection system to meet building codes. Dudley said they had an estimate for a 10,000 square foot building for \$2.6 million. Brenda said the annex is a little over 20,000 square feet. If you do the math, take off the ARP fund money the only difference is that we will be paying a little over a million dollars for double the space.

Michael Conly continued with his presentation. The Commissioners had hired them to do a master plan of the Courthouse and Annex. They have spent a lot of time interviewing employees to get their needs and preparing a plan. They have developed a plan for the annex and would like to share it with the Council. The reason for the plan is that during the renovation of the Courthouse they will have to remove the asbestos. They will have to remove all plumbing, mechanical and electrical systems to meet ADA standards. They don't dare leave people in the Courthouse during this kind of renovation. It is dangerous and a liability. It is not cost effective.

Rachel Simmonds went over the design plans. They tried to give each office the bare necessity temporary space during the renovation to meet their basis needs. An elevator will have to be installed to meet ADA approval.

The mechanical and electrical system will have to be redone. Michael Conly said that they could go into greater detail if they would like. He then turned the meeting over to Alex Barghout of Ameresco.

Mr. Barghout said that the mechanical and electrical systems were good for the building at that time. Since it is no long a restaurant, it needs to be repurposed. It has to be reworked and brought up to date for commercial grade use. To repurpose this building, new infrastructure will be required. The systems are not efficient. The air quality is not up to par for office space and doesn't provide fire ventilation. The electrical needs to be pulled out and new wiring done for power, data and fire protection systems. It has to be brought up to current standards for this type of use.

Rich Taylor of Envoy asked if they had any questions on the concept or use of the plans being presented. Kelly Carlson said basically the concept is for the renovation of the Courthouse. The cost alone is not affordable. We have school corporations losing students and will be raising taxes again next year. Originally, the annex was to be used for E 911, Coroner and possibly the Health Department. The purpose now is to move everyone out of the Courthouse to renovate it. Kelly asked if they knew what each project individually would cost. Rich Taylor said no as they would not know that answer until the projects were put out for bids. With the BOT process, we have some flexibility. Mr. Taylor said we need a project design to get bids. They can ask for a guaranteed max price with no change orders. They can negotiate with a shared savings, if delivered at a lower price. It will have a definite price and delivery date. They will not take ownership of the property. They will obtain a construction easement to do the improvements. The improvements will then be transferred to the owner through a contractual agreement. He said that he could do a full presentation to the Council at their meeting on the BOT process.

Alex Barghout said it is a step-by-step process. What we are doing today is the first step. It is to go over design and to see if we need to make any changes. Kelly said she felt that the Commissioners were on one page and the Council on another. She thought they were doing a county highway garage first as it is a health hazard. Tim Shumaker said it could be done at the same time. Dudley wanted to know at what costs. Tim said this is why we need solar in the county. Dolphin can come into the county with or without the tax abatement. We are walking away from \$32 million. We could pay for all of these projects.

Rich Taylor said we start out with a program (placement of offices based on square footage); schematic design is completed (more defined drawings); design development (building systems costs are more known at this time); contingency and allowance; and construction documents. The contractor will know exactly what they need and what and how to bid on the project. The cost of engineer, architect and design is approximately 6-10% of the project cost. We are not close to the design at this time. The costs range from \$6.8 million to \$7.6 million just for the annex. What you don't do today will cost more next year. You can expect a 10% increase each year as per Mr. Taylor. Dudley reiterated that this was not discussed with the Council. He was only invited to one meeting. It should not be done behind the scenes. He thinks we need to wait until the new Commissioners come on board to make a decision. Mr. Taylor says that a BOT Committee could be formed. Envoy has some suggestions on who should be on the committee.

Brad Crain referred to Baker Tilly's estimate on the financial plan, the annex was \$4.5 million. He said it was a long way from \$6.8 million. Greg Balsano said that they just ran the number for illustration purposes only.

Jeff Fishero asked about the replacement of the roof. Michael Conly said if we replace the mechanical system on the roof and take down the chimney and cap it, it will void the warranty of a new roof. It will cost the county more in the long run.

Kelly asked if they had an estimate on how much it was going to cost to repair the crack in the floor in the Treasurer's office. Michael Conly said that it was addressed and an estimate was given. If we don't fix it, it is going fall through. It is a liability. Mr. Conly said the windows leak and the pipes are leaking, along with the radiators causing damage to the building and murals. Kelly said the courthouse is the icon of our county but the cost is so high. She does not want to put the burden on the taxpayers at this time. Mr. Taylor said that we could possibly look at LIT to help pay for some of the costs. This would keep the property tax rate down. Dudley said that we are still taking money out of the taxpayers' pockets. Costs are so high and the poverty level is high in our county.

Kelly asked if they had someone in mind for the highway garage. Brenda Hardy said Roger Azar.

Dudley Cruca asked if they had a cost estimate for the county highway garage. They have not been procured to do the county highway garage. Dudley said the City of Covington is doing a 12,000 square foot building with 8 bays for \$400,000. This price does not include the interior. Roger Azar, County Engineer, is proposing a pole barn. He is comfortable taking on this project. The estimate for the highway garage was initially \$7,000,000. His initial run at the costs was close to \$5,500,000. It would be lower engineering and no architectural fees. This price includes 3 buildings; garage/office space; fueling barn and storage. After talking to Jason, the price may be closer to \$3,500,000.

Dudley Cruca said we need to determine if we want to proceed with the projects. Tom Booe said that no one has asked the Council about the annex/courthouse project. He doesn't feel like we can spend that kind of money – more estimates are needed. He wants to fix the roof. Council doesn't want to fund annex. E-911 should be at the jail. They just increased salaries. He feels these things should have been discussed together as a whole. Brenda Hardy said they always had a council or two present at the work sessions. It was never the intent to keep it a secret. She reached out to Kelly Carlson and Jeff Fishero. Jeff has worked with Envoy in the past when he was on the school board. Brenda said the original architect sat on the design for over a year. Architura has worked on many historical buildings including courthouses.

Kelly Carlson said that she felt like E-911 and the coroner should be housed at or by the jail. The jail could have been built for less if we went with another company.

There was discussion in regards to the E-911 Interlocal Agreement with Warren County. We have spent close a little over \$740,000 for 2023. Warren County is paying \$325,000. They do not pay anything for the equipment. Brenda Hardy said that they decided to only negotiate the contract every two years.

Robert Bass said that when he was Sheriff a new jail could have been built for \$5.3 million but it was not done. We waited another 8 years to build a jail. He said the County faced a lawsuit every day because of the condition of the old jail. The new jail is not complete. The grinder should have been put in at the time it was built.

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Rich Taylor asked the Council and Commissioners to look at the package that Baker Tilly submitted at the joint meeting at the annex. He said they went over a general program and game plan for this project. He said they figure out what you are willing to spend. What amount are you willing to bond based on your sources and uses? How that will impact the taxpayer and decide that first. Now you have a menu of various options on what you can spend that money on. You will have general idea of what some of those costs are. Now you can have what is called a value engineer the design down to a number that you are willing to live with. On a design bid build project, you won't know cost until the you get the bid.

Dudley Cruea said the Council has discussed it and they can't afford this project and want to put it on hold until the first of the year when there are new commissioners. He asked if there a motion to do this. Tim said to wait there is going to be a solar discussion with Baker Tilly next that will bring some different news into the room about finances. They (Dolphin Solar) are coming regardless. Brenda said the Commissioners have only done what the Council asked them to do. They have worked with these companies to see what it is going to cost to do these different projects. That's it. There is a price tag for their work. Denise Crowder said they did approve a Master Plan to get some numbers so the council would an idea on the cost so we could do it gradually. There was a motion to pay Envoy but stated that they did not sign a blank check. They want communication from the Commissioners so they could do it gradually. The last 5 minutes of the joint meeting at the annex when they saw the cost to the taxpayer, they immediately said no. Stop we can't do this yet. They did not want that for the taxpayers. She felt like at that point the commissioners went off on their own. It kept going and kept going. Brenda Hardy said nothing was relayed to them to tell these people to stop working. Denise said the council has talked about it at their meetings. Denise said she does not come to all of the Commissioner's meeting but she does watch them. She said if the Commissioners are not coming or watching their meetings, it is not on the council. They are here to do what the citizens want and that is her job as a council member. She will vote and make a decision on what the people want. Not what she wants. Tim said they should actually do what is best for the entire county.

Brad Crain asked based on the square footage would it be cheaper to build a new building or remodel. Rich Taylor said it would be more but it would be a more efficient and cost less in the long run.

Jeff Fishero said there are needs for the Courthouse. It needs a new roof and windows. E-911 is in a hole. It is terrible. It is a historical building and in the near future we will have to do some work on it. Kelly said there is falling plaster up by the court. A plumber said that he is finding it difficult to repair the leaky lines. Jeff wants to tell the citizens that they have to work on it. Rich Taylor said these issues did not happen over-night. Deferred maintenance is only going to exponentially cost more and more to the taxpayer. There was a discussion on air quality in the building. Ameresco has done a study on the mechanical and electrical systems of the courthouse. They are not efficient and do not dehumidify the building. Dudley said the public needs to be informed in a public meeting. Brenda Hardy said that we are out of space in the Courthouse and it is a concern.

Tom Creek said that any property owner should know that you must stop the deterioration. It does not have to be a big deal. If the roof needs fixed – fix it. If the chimney needs to come down – take it down.

Dudley stated that we all agreed we needed more room and was the reason for buying Maple Corner. However, it was going to be a million-dollar

project. Brenda Hardy said none of them knew they were going to have to have an elevator or a fire protection system. They were not hiding anything. They didn't know until it was brought to their attention. Denise said it is a beautiful plan but when you learn those things, you should step back and regroup. Maybe this is not the best idea and figure out something different. Brenda Hardy said this is all they had. No one had any other ideas. Dudley said that they had an estimate for a new building for \$2.6 million but the land was given to the City of Covington.

Jeff Fishero inquired about possible grants for the rehabilitation of the Courthouse since it was a historical building. There may be an efficiency grant available for mechanical renovations as per Alex Barghout. Rich Taylor said with grant money you must be careful because of Davis Bacon wages as it could raise the project 30%.

Dale White said he is here to help solve problems and to come up with solutions. He appreciates the work the Commissioners have done. We are not to leave the things worse off than we found them. We should make things better for our citizens than when we first arrived. He thinks we should re-evaluate and relook at things. Can we have some more discussions, throw some more people in the mix and keep moving forward. There are no perfect solutions.

Michael Hunt

He is a manufacturing engineer. He manages properties. The first thing he does is to get estimates/quotes from at least 3 different people. He then brings it together collectively and they discuss the options. They then make the best choice for the company. He is just asking that they make the best choice. We elect you to make those choices – listen to us.

Melisa Coon

When teaching you know you learn if it doesn't work you do something else. What about putting up a new Courthouse out there?

Kelly Carlson

She would like to know how much it would cost to add on to the jail for the E-911 center.

Rich Taylor handed out his card. He said their goal was to provide you with the costs and options to what they were assigned. Obviously, you don't want to move forward with the annex but at least it gives you some information about all three projects.

SOLAR PROJECTS

Greg Balsano of Baker Tilly handed out the financial analysis they prepared for the proposed Dolphin Solar Project for Phase I and II. Phase I is a \$645,441,344 project with 450 megawatts. They are estimating an assessed value of this project to be \$235,849,817. Of that \$235,849,817 value they are estimating that \$35.8 million of that is land value. That portion of the value is not abatable. Without a tax abatement in an 11-year time frame, the company will pay about \$44.5 million. With a 10-year abatement 100% property tax abatement the company would pay about \$9.7 million. That is a \$34.7 million savings. The state sets a maximum levy and the levy can only go up so much each year. Last year it was 4% increase in the levy. With an abatement on a project, there are typically economic development payments. The payments are traditionally set up as a 10-year tax abatement and an amount based on the number of megawatts, based on the market at that time. The payment is provided to

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the counties to use as they see fit. The Economic Development payment is new money available to the county. Baker Tilly compared a 10 year 10% to a 10-year declining tax abatement. It would generate approximately \$21.7 million back to the county for the Phase I project. Greg reiterated that it was only an estimate based on conversations with the company. During the abatement there will be property tax rate deductions. The company has shown estimates of a \$13 million payment over 7 years. The project will cover 4 townships. It is broken down with Davis at 37%; Logan at 29%; Shawnee at 31% and Richland at 4%. Greg then gave estimate on how much each townships tax would decrease. Dudley asked if they were figuring the increases in the school tax due to their debt. Greg said no. They only take into consideration what is known today. If you live in those townships, you will see the most benefits to lower taxing rates. Phase II project is approximately a \$337,500,000 investment. Kelly Carlson wanted to know the difference between Phase I and Phase II. Wayne Delong of Dolphin Solar said that it is a 700-megawatt project and cannot be built at one time. The construction timeline will be 24 to 36 months. The first Phase is 450-megawatt project. The second phase is a 250-megawatt project. Mr. Delong wanted to recognize that they did withdraw their proposed EDA agreement.

Greg said Phase II is a 250-megawatt project. It would generate \$22.5 million of new assessment value. That is about \$17,378,520 in land assessed value that cannot be abated with an Economic development payment of \$11,209,060.

Rick Hall – Barnes & Thornburg

He represents the county on the solar project and helped with the one that was approved prior. He echoes what Greg said. It is really a decision of whether you want cash or you just want property tax reductions. If you elect to have the cash in the economic development payment, the county would enter into an agreement with the solar company. They would make sure that there would be minimum assessed value in the agreement. If it fell below, they would have to make a makeup payment on the difference. He is here to protect the county. They will make sure you get the best benefit.

Wayne Delong

The solar panels are assembled in Texas and last approximately 20 years. Ninety percent of the panels are recyclable. The panels are considered an e-waste just like your cell phones. There will be a decommissioning agreement along with a statement in regards to restoring the site to the state it was in or better with their contract. They are the developer not the owner/operator of the project. There will be a separate entity. If they go bankrupt there will be a decommissioning bond. They have had an application for a permit in since February. He said they will move forward with the project with or without a tax abatement, once the permit is approved.

Tim Shumaker asked Mr. Delong to repeat so everyone could hear that you guys are coming with or without the tax abatement. Mr. Delong confirmed the statement. The project is moving forward regardless of the county's desire to leverage the economics of the project. They submitted the EDA agreement on February 9 and had not heard from the county and then withdrew their proposed agreement. If the county would like, they would consider refileing it. They would be open to conversation on this matter.

Dudley Cruea wanted to know who signs the contract between Geenex and the county on the decommissioning and road use. Roger Azar said he does not sign the contract. He reviews the agreement to make sure it meets the requirements of the county. A video of the road before the construction and

a video of the road after the project is completed will be required. Any damage to property must be fixed by them or bonded. Roger is reviewing the decommissioning agreement. He was not satisfied with what was proposed. He did not feel it protected the county. He has talked with Rick Hall. The attorneys are renegotiating the agreement.

Rick Hall said the Commissioners sign all of the contracts as the legislative body. If a tax abatement is involved the Council will sign that agreement.

Rick Hall stated that they would want the same from Geenex that was required of Ranger Power on the road use and decommissioning agreements.

Tom Creek asked if the whole project could be stopped. Rick Hall stated that there are two parts to the process. The main rules governing their ability to build falls under the county's zoning plan. The county may not agree with this choice now but their zoning plan provided for solar. There are certain conditions that have to be made if they want a solar project. What we are discussing tonight is their request to receive a tax abatement on the project. The project will continue through process regardless of the decision on the tax abatement.

Forest Tague asked why did they include all of the four townships in the agreement as it was larger than the foot print of the project. Mr. Delong said the county would have requested a smaller area; they would have been open to it as this was just a starting point.

Attorney for Geenex stated that the ERA is an enabling map saying that anything within this geographic fence could be abated if Dolphin places infrastructure on that site. Nothing about Dolphin affects anyone who doesn't have Dolphin infrastructure on their property. It also doesn't restrict the property owner from obtaining an abatement for some other improvement that they may make on their property. If the county wanted to shrink the area, he does not think his client (Geenex) would be against this as it was just a starting point. Forest Tague said that he is a property owner in that area and they are saying that his property is undesirable, which will lower his property value but his tax assessment went up. These two are in direct conflict of each other. Mr. Hall said an ERA will not lower his assessment on his property. The statutory piece of law that regulates whether a property can have an abatement on it and the language that was used in the resolution is borrowed and directly quoted from Indiana statute. In order to achieve a legal abatement, we need to mirror the language in the statute so there is no question later on as to whether that property actually qualified as land that could be abated. It is a procedural step and not a judgmental step or any type of narrative on any property specifically within that area. It is simply utilizing Indiana state code to articulate what is required for a property to be legally within the abatement. Mr. Tague asked if there was anything in that code that the state or some other organization can come in at a later time and say this is already in the ERA and has less value and they can take it.

Rick Hall answered by saying that you can debate what impact solar panels have on nearby property. There is information for both sides on the internet. But in terms of abatement designation, it's not going to affect your property. It has nothing to do with the character of your home or your farm. The language is needed under the statute in order to provide payment. Mr. Hall said he knows it sounds counterintuitive. Some of the language in there is not the most pleasant but the courts have upheld the challenges to do an ERA in a rural agricultural community.

Denise Crowder stated that an ERA does not impact lenders but the solar panels will impact it.

Kelly Carlson would like to know at what level of government decided that solar panels is considered agricultural and they stated that it is a zoning issue at the local level. If a permit is not issued to any solar company, can they still come here? Rick Hall said that they have to have a permit but they could challenge. He doesn't know the grounds or circumstances because he does not know how our zoning ordinance reads. They can challenge if they own property but have to have a permit. The permit for Dolphin is in the process of being approved.

Angie Burke asked Rick Hall what he does to represent the county. He represents the county with the road use agreement, decommissioning agreement and terms of an EDA agreement.

Roger Azar said that the permit has been filed. Once the requirements are met, he will have to accept the permit as it goes with the current zoning ordinance. His hands are tied by the zoning ordinance. He follows the rules and once they are met there is nothing he can do.

Dudley Cruea asked if the permit has not been approved and the ordinance is changed, they don't fall under the changed ordinance. Also, if the plan commission would vote on a moratorium recommendation and it is approved by the Commissioners, does that stop the permit from being approved? Rick Hall said he thought it's an open legal question. They should be able to continue with the permitting process.

Jim McKee said our zoning ordinance for solar is very weak. We have become a target for solar companies. It should go to the planning commission and then they would send their suggestion to the Commissioners for approval. It should not go to an unelected official for approval.

Denise Crowder said if the moratorium would be recommended to the Commissioners, it would have to go to the Commissioners for approval. It is her understanding there are two acting Commissioners. We don't have 3 to vote on it. Brenda has not voted on anything because she is involved too much. Tim said she abstained from votes for Ranger Power but will vote. Dudley said it will be at least 10 days to caucus in a new Commissioner because notices have not been sent.

Jason Brothers stated that 2 members on the Plan Commission have ties with the Solar. Also, they are in violation as it states that an elected official cannot have 2 lucrative positions. It is addressed in Article 2 Section 9.

Clint Kilby

He read the article about lucrative offices. Their attorney is coming. The law specifically prohibits it. We can't have a county engineer that gets appointed as county surveyor who gets appoint to a plan commission/ordinance administrator. You can't have all of these jobs. It just isn't legal. Roger Azar said he is not appointed. He is a contractor.

Ashley Fruits

She thought they had already voted on a moratorium at the last council meeting. Dudley Cruea explained it was just on the ERA and tax abatements for one year.

Tim Shumaker

The County could possibly receive \$32 million from Dolphin solar with an EDA. We would pay for these projects. If you add Ranger Power on there, it would be a total of \$40 million. He gets it that you don't like solar. As

elected officials, we were trying to find a way to get these projects done without raising tax dollars. This was the answer. Kelly Carlson asked about the wind ordinance. Tim said they listened to residents and made it incredibly difficult for wind. They tried to do the best they could. Kelly said the community has expressed they don't want solar. You did it for one renewable energy after listening to 30 citizens but you won't do it for another renewable energy when you have had hundreds express their dissatisfaction with solar.

Tim Shumaker said all the Plan Commission did back then was to do the best they could to give land owners rights because we really took the rights away with wind. That's what we tried to do and he said he would not apologize for it.

Geenex's attorney stated that traditionally when a permit is filed it is under the current ordinance at that time. Throwing new rules at someone is not something that is traditionally allowed but more research could be done to look into it.

Tom Booe asked Geenex how much land was leased for their project. The total acres leased is 6,600 but only 4,500 acres will hold solar panels. The rest is for setbacks, fencing and barriers.

Tina Holmes said the APC meets tomorrow so they can recommend a moratorium to the Commissioners at their next Commissioner's meeting. Tina said that she talked with Brenda Hardy and she said she was fine with the moratorium and wished people would ask her questions. Brenda stated that people have not gone to the APC to bring anything to the Commissioners to vote on. Brenda said that she would consider a moratorium.

Derek May

He said that he has been attending the meetings. How do the Commissioners plan to vote on the moratorium. Tim will not go for a one-year moratorium. Brenda Hardy is not sure how she will vote, if she votes.

Angie Burke

She feels like the zoning is being used against the citizens. It is supposed to protect the citizens.

Melissa Coon made the statement that you can eat corn but not solar panels.

Jerry Quirk

The last time he was at a meeting like this was in 1978. The extension agent had requested a computer. It was in the basement and it was packed. The moral of the story was that the Commissioners and Council thought the majority of the people were for it and went with it. They listened to their constituents.

He has done extensive research on the One World agenda 2130. He read some highlights as to what will happen. He feels this is happening now. They want to control everything. He thought this was a perfect time to talk about it.

**PLAN COMMISSION MEETING
TUESDAY, MAY 14, 2024
AT 6:00 P.M.**

**COMMISSIONER MEETING
MONDAY, MAY 20, 2024
at 6:00 pm.**

**COUNCIL MEETING
MONDAY, JUNE 10, 2024
9:00 A.M.**

A motion was made by Tim Shumaker and seconded by Brenda Hardy to close the Commissioner meeting. Vote: 2-0

A motion was made by Jeff Fishero and seconded by Tom Booe to close the Council meeting. Vote: 7-0

Commissioners:

Brenda Hardy

Tim Shumaker

Council:

ATTEST:

Correen Chambers