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Gibson County Board of Commissioners

Regular Session

August 18<sup>th</sup>, 2020

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The Gibson County Board of Commissioners met in Regular Session on August 18<sup>th</sup>, 2020, at 5:30 PM at the Toyota Events Center located at the Gibson County Fairgrounds.

**Members Present:** Included President Gerald Bledsoe, Vice-President Mary Key, Commissioner Stephen E. Bottoms, County Attorney James McDonald III, and County Auditor Sherri Smith.

This meeting was conducted with Social Distancing observed, a 250-person maximum in the building along with a required mask.

The Pledge of Allegiance to the Flag and Welcome were recited and led by President Bledsoe.

**Minutes:** The minutes from August 4<sup>th</sup>, 2020 regular meeting were read and approved through a motion by Commissioner Bottoms and seconded by Commissioner Key. With no further discussion, the Motion carried 3-0.

**Claims:**

County General - \$990,132.98

Courts - \$6,931.31

Highway - \$118,856.23

Sheriff - \$19,753.78

ACH - \$79,225.40

CAW-1 - \$12,876.70

CAW-2 ACH - \$25,000.00

CAW-3 - \$5,723.75

LIT Distributions ACH - \$530,904.66

WHEEL/SUR TAX Distributions - \$72,372.64

Fall Advance Property Tax Distributions - \$2,164,056.74

Miscellaneous Claims - \$7,177.44

Payroll for August 24, 2020 - \$352,186.27

Payroll Deductions - \$156,945.77

Pauper ACH Claims for 08/13/2020 - \$7,902.60

Additional Insurance Premium for July 2020 - \$748.60

Pauper Claims for 08/13/2020 - \$1,229.60

Commissioner Key made a motion to approve the claims and was seconded by Commissioner Bottoms. With no further discussion, the Motion carried 3-0.

### **Presentation of Treasurer's Report**

- Treasurer's Report Month Ending 7/31/2020 was acknowledged by the Commissioners.

### **Presentation of Clerk's Report**

- Clerk's Report was acknowledged by the Commissioners.

### **Department Reports:**

No Reports Given

### **Old Business:**

Public Hearing on Zoning – The Commissioners may consider the adoption, rejection or amendment to the proposed Gibson County Comprehensive Land Use Planning (Zoning) Ordinance. People were allowed 3 minutes to address the Commissioners.

Paul Smith – does not feel the APC Board listened to most of the people. He attended a meeting in which there were approximately 50 people against zoning versus the 5 persons that spoke in favor of zoning. He feels this cost a lot of money and it will take away from road upkeep. He does not feel Gibson County is interested in zoning.

Rita Stone –is concerned about preserving the effectiveness of the Doppler Radar System. In February 2017 her home was in direct path of a tornado; the forecast predicted the proximity to her location and time of arrival, which she attributes to the Doppler Radar. She feels the Doppler saved her and her families lives. She is concerned that a proposed wind farm will obscure the use of the doppler radar, putting a lot of lives at risk. She feels this proposed Ordinance will help protect the doppler radar.

Chad Sullivan – was present on behalf of the Coal Companies which employ thousands of people in Gibson County. They feel mining should be exempt from the Ordinance. The APC stated the reasons mining is not exempt is because mining is not closely regulated; coal mining hurts the Gibson County tax base; and the public should be allowed to be heard on new mining. He feels every one of these reasons are faulty as DNR already provides for public comment; reclaimed land can be home to very expensive homes, as proven in Warrick County; and mining has a long history in this County of improving the quality of life for not only the employees, but also all businesses that are supported by these mining employees. He feels Gibson County should want mining to continue to thrive. In order to support this quality of life in Gibson County, he strongly encouraged a no vote on this ordinance unless, mining is exempted.

Charles Shaw –expressed concern regarding a farm that has existed in Gibson County for 197 years. He feels they should be better informed about what is in the Ordinance.

Terry Marsh – is present on behalf of Gibson County Coal. He feels the Mining Industry has been ignored by the APC Board in their attempt to amend this Ordinance on behalf of the mining industry. He suggested this Ordinance be rejected.

Larry Michel –wonders if everyone is aware of the cost of this Ordinance.

Paul Waters – represents Gibson County Economic Development Coalition; they are in favor of this Ordinance.

Dave Hudnall – owns several properties in Gibson County. He is concerned about improper building due to no zoning or code regulations. He is in favor of this Ordinance.

Warren Fleetwood –wonders how this Ordinance can protect the citizens of Gibson County. He asked how many people were killed in a year due to lack of zoning. He has researched this, but no statistics were available. He asked the Commissioners to provide statistics. He feels the Ordinance is difficult to read including the first page which includes the purpose, of which is morals. He wonders what the morals are in the document. He feels there is no reference, or who will decide the morals. He does not feel this Ordinance is moral.

Ellie Kiesel –addresses property rights. She feels zoning is the answer to property rights being respected; keeping our community safe by protecting the Doppler; and the farmer's and their land being a priority in the community.

Josh Adler – a 36-year resident of Gibson County. He feels both sides want what is best for the community. Both sides feel fear, as pro-zone supporters are here to protect their homes and land from big business using the land for financial gain, while robbing the land of its resources and value. The safety of family and neighbors is worrisome if the Doppler Radar is compromised leaving us vulnerable during weather events. He feels if something is not done now, the door is wide open for those with more money and resources to move here and take over the area, at which point, could be too late. Today's windfarms could be tomorrow's refinery or something worse. He feels the county is a large target because Gibson County is 1 of the 12 counties without zoning in Indiana's total 92 counties. He wonders how zoning can be so bad if 80 Indiana counties are already zoned. He urged everyone to read the Ordinance for themselves in order to be educated on the situation. He feels the drafters of the Ordinance had the citizens best interest in mind.

Daniel Lefler –asked the APC Board the cost; no one answered the question. He feels that should be one of the first items addressed before approaching the topic. He feels a County Ordinance could fix the windmills locating in our county, rather than zoning. He feels zoning is a waste of taxpayer's money and ordinances should be used to protect the County's safety.

Les Kiesel – stated the zoning ordinance will provide right to farm protection; it will help preserve and protect agriculture. If zoning is passed the Doppler will be protected and continue to provide safety to the 400,000 people that depend on it. He does not feel a county ordinance is strong enough to protect the Doppler, as he cited a recent court case struck down because the

county did not have a comprehensive plan in place. He feels the Doppler Radar must be protected.

Kent Scheller –has heard from the no-zoning proponents that their freedoms are being taken away if zoning is enacted. He has read the document and does not feel this is true. He reminded everyone in the room that no one has absolute freedom, but they do have civil freedom. For the greater good, there are rules and guidelines against a lot of things. He feels this document is just that, a set of rules and guidelines, for the greater good. He feels if people feel otherwise, they might be mis-informed, and he encourages them to read the proposed ordinance. He feels this ordinance will provide protection to the freedoms everyone enjoys, a guideline for growth to our county. A guideline to prosperous business growth so our kids can stay here, work and raise their families.

Sharon Baumgart – lives in Vanderburgh County, but owns farm ground in Gibson County. She has heard of opposition among the citizens in Gibson County on zoning. She wanted to let everyone know that the Vanderburgh County zoning has in no way interfered with their ability to farm or earn a living. They have even built a house under Vanderburgh County's zoning and they were able to build what they wanted, without restrictions. Her main reason to attend this meeting was regarding the Doppler Radar. They have been affected 2 times by tornados. The most recent in 2011; without the doppler radar warning, she fears there may have been injuries or worse. She feels Gibson County should enact zoning regulations to ensure the radar is not subject to interference from wind turbines.

Mark Adler –thanked the Commissioners and the APC Board for all their efforts while working on this Ordinance; hard decisions have been made in this process to help protect the 34,000 citizens of the County plus the 400,000 residents affected by the Doppler Radar. He asked those questioning the cost of the Zoning Ordinance how much it will cost to dismantle the Doppler Radar, which, he has heard, was a \$45,000,000 project. He has also had a conversation with a Haubstadt area Farmer, whose land is encompassed within the Haubstadt Zoned Area, about the affects of zoning on his property. The Farmer has told Mr. Adler that the zoning did not affect him at all, the Farmer said, "It helped us more, in the long run, to have it."

Kent Mauer –thanked everyone's efforts over the last 12-months. He feels everyone, no matter what side you stand on, values safety and would like to be protected by the Doppler Radar. Everyone wants to maintain their property rights, but do not want to be dictated by outside industry and risk uncontrolled development without a voice. His understanding of the Comprehensive plan is 1) 97% of Indiana counties have zoning; the Gibson County plan is one of the least restrictive. 2) The plan goals are preservation of farmland, expand utilities, increase storm water drainage, roadway improvements, adding a county parks department, housing, and economic development. 3) There are no building codes, it does not prohibit any existing uses, it does not increase property taxes or assessments, it does not contradict our County land use ordinances. 4) it does not ban development. 5) Zoning is a legal tool for restricting the most offensive businesses to locate. (An example would be an animal confinement being built next to a subdivision.) He says there are 20 Indiana Counties that have enacted banning or restrictions to industrial turbines. Some of the things not in the document include: 1) how often they can be revised – he doesn't feel there will be a need to do many revisions, but they can be done. 2) cost

– his understanding is there will be ½ time director in charge. 3) the APC specifics of how they are appointed, term lengths, or who appoints them. Therefore, he feels if everyone can agree on a common of three, zoning is the only way to go.

Erin Mauer – 18-months ago, citizens from Gibson and Posey County began looking for protection of safety through property rights from the wind turbine project. During this time, Posey County citizens learned the proposed wind turbine project would severely interfere with the Doppler Radar. Because the risk to the Doppler was so great, and the Commissioners told the group they had no authority over turbine placement, private citizens hired an attorney to determine the legal needs to restrict this placement. This group learned that case law did not support the use of safety ordinances for turbine placement. More recently, they also learned the Lawyer representing anti-zoning interests proposed that licensing could be entered into with the Turbine Company, which could potentially restrict the turbine placement, however APC Board deemed that the legal cases used to support licensing did not fit this situation. These cases centered on the operation of projects, rather than the location of the projects. Had this legal research yielded different results, and numerous examples of rural counties in Indiana using an alternate approach, instead of zoning, the problem would have been put to rest last year. There are 20 counties in Indiana using zoning to ban or restrict placement of turbines. She feels that it is clear -not only is zoning the only proven method to regulate turbine placement, but Gibson County is the only county with the authority to protect the Doppler Radar; which, she feels is a huge responsibility for the Commissioners. She feels other areas outside of this county are looking toward the Commissioners for this protection.

Commissioner Bottoms pointed out his appreciation of the APC. The Commissioners are not the Plan Commission's bosses; the APC is an independent group. He complimented the entire group on their work and diligence, including the President. He also explained that this is not a rushed item. This is the second round of review on this matter, and more hearings were held this 2<sup>nd</sup> time around. They Commissioners have listened to the public on this matter. He also wanted to mention the cost, which is in the budget and available for public view. Commissioner Bottoms originally worked with the Turbine Company, as he wanted development within the county. However, as more information came to light on these turbines, he quickly began to realize this might not be the kind of development the County needed regarding the threat to safety it posed in terms of the Doppler Radar. He explained that if they could have drafted an ordinance, rather than zoning, they would have done it long ago. However, numerous law firms informed them time and again, Indiana Code will not allow ordinances for land usage, as that is what zoning is intended. These issues have been well thought through. Commissioner Bottoms stated that numerous contacts, including NOAA, Congressmen, Senators, and State Legislators were made in order to try to seek protection of the Doppler. Some of them were quite amazed at the fact no one had the authority to help protect the Doppler. Protection of the Doppler is a local issue. There are other reasons the Zoning Ordinance should be looked at as well. The I-69 Corridor will be the gateway to this County, and it needs to be protected from unwanted businesses as well. The Commissioners must look at what is best for the County, not individuals.

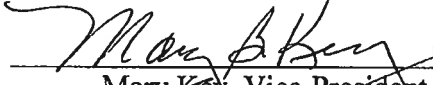
Commissioner Bottoms motioned to approve the Gibson County Comprehensive Land Use Planning (Zoning) Ordinance, seconded by Commissioner Key. Auditor Smith requested a hand vote. Commissioner Bledsoe spoke about the Doppler Radar and stated that he had been against

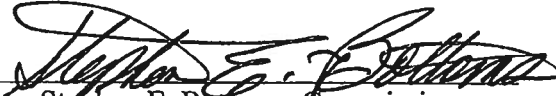
zoning his whole life. The first-time zoning was brought up to the Commissioners, he voted against it. This time around, however, the Doppler Radar came into play. He has looked at wind turbines in other states and in Indiana. He has found these turbines are very political, as the landowners with the turbines are happy, as it is a profitable situation for them, however municipalities are collecting less revenue, because the turbine companies usually receive short-lived abatements. In this County, he feels it comes down to safety. He told the audience that this County is not trying to keep turbines out, they are only trying to them out of the area that affects Doppler Radar. He referenced testimony of people staying safe because they received notification from the Doppler of impending storms. He feels the Doppler keeps this County safe, thus the reason he is voting in favor of this Ordinance. With no further discussion, the Motion carried 3-0.

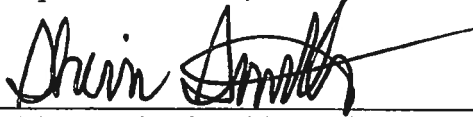
With no further business, Commissioner Bottoms motioned to adjourn the meeting, seconded by Commissioner Key. With no further discussion, the Motion carried 3-0.

Minutes from the August 18<sup>th</sup>, 2020 Meeting.

  
Gerald Bledsoe, President

  
Mary Key, Vice-President

  
Stephen E. Bottoms, Commissioner

  
ATTEST: Sherri Smith, Auditor