

**SPECIAL MEETING
CITY COUNCIL AND FAYETTE COUNTY BOARD
July 22, 2024 – 4:00 p.m.**

A special meeting between the Vandalia City Council and the Fayette County Board was called to order by Ricky Gottman, Mayor, at 4:00 p.m.

City Council Roll Call: Bowen, yea; Stunkel, yea; Lester, yea; Brosman, yea. Also present were Gottman, LaTisha Paslay, City Administrator and Ryan Connor, City Attorney. Lewey, Barker, and Hobler were absent. Hubler arrived to the meeting at 4:30 p.m.

Fayette County Board Roll Call: Jake Harris, yea; Merrill Collins, yea; Ashley Towler, yea; and Doug Knebel, yea.

Connor stated that he sent a couple of versions of a solar Ordinance to both the County Board and the City Council, as this needs to be addressed globally since a lot of solar projects are going to be on the horizon. Connor said the proposed Ordinance would split these into small and large projects. What needs to be decided is what districts are we going to allow solar projects to go where. Connor reviewed the definitions that were outlined in the proposed Ordinance. He said it was his thought that the Council was interested in regulating the small projects that go on residents' roofs and also regulating the larger scale systems. He asked does the City want to allow ground mounted small solar energy systems as an accessory use in zoning districts. The City needs to decide what works best. Gottman said pole mounted solar systems need to be addressed also. The ground mounted systems are confined to a backyard generally, unless granted a variance which should be on a very limited basis.

Lester asked if the proposed Ordinance addresses battery storage facilities. Connor said he does not believe it does for the small energy or residential systems. Connor said the proposed Ordinance does include those residents who are within the 1 ½ miles zoning.

Bowen said he knows that we have covered this, but what we have is people coming into rural areas. He did research on solar farms. He said these solar farms do not create any long-term jobs. He said the idea that we now have a solar farm on the western edge of town that is uglier than the cornfield that was there 2 years ago, I think bothers a lot of people. He said the solar farm near Sandoval has grown up, and if this Ordinance is going to focus on solar, I think we need to make it abundantly clear that whoever puts a solar farm in, at least within the confines of the City of Vandalia including the 1 ½ miles around it, they should care for it appropriately and it should not be a distraction to the residents and people coming into the community. This is addressed in the proposed solar Ordinance. Gottman stated that it needs to be added that neighbors on all four sides of the property need to be made aware.

Bowen asked about the vegetation and upkeep of the solar farm on Randolph and Main Street. Connor said that solar company is not unfamiliar with this type of plan. They have explained that they do want to be a good neighbor. Connor said if these companies are going to borrow and invest the type of money that gets them into these situations, they are used to doing this. Connor said he feels there will

be a lot of comprehensive and very good plans that will come before the Council. Connor said safety is the #1 priority. Gottman said the solar farm on Main and Randolph Streets have a glare off of them and a neighbor in that area cannot open her blinds due to the extreme glare from the solar panels. Connor said this Ordinance would provide certification that reflection angles for both fixed position and pivoting solar collectors taking into account seasonal sun angles so they do not directly glare into residential areas. Connor stated the County is under State statute that states what they are allowed to do. The City is governed by the City zoning code. He stated the City wants the maximum zoning control outside of State law and keeping the control local. Gottman said the Council will have a work session at a later date to work on the proposed solar Ordinance.

Gottman turned the conversation to extraterritorial jurisdiction. Connor directed the Council to 17.06.142 Large Solar Energy Systems – General Requirements (b) Special Use Permit/Site Plan Requirements. In this case, Birch Creek asked since a Special Use Permit was obtained from the County, do we need a second Special Use Permit from the City? Birch Creek is going to submit a Special Use Permit application to the Zoning Board for discussion on August 7. Connor said the solar company did not submit a Special Use Permit application because they were told incorrectly by the City's Zoning Official that one was not needed. Kadi Ledbetter asked so the fact that the City did it wrong, she has to suffer with solar panels around her home? Connor said no. What we have before us was a request to modify our Ordinance saying if the County allows it in the County, and it's within our 1 ½ miles, do they have to get an extra Special Use Permit? That was considered at a previous Zoning meeting. The solar company has agreed with Connor to seek, in the alternative, the Special Use Permit that they would have had to seek in the first instance. Connor said he was going to be hard pressed how a solar farm, that doesn't make any noise or otherwise do anything is going to impact the City's zoning scheme a mile away. Stunkel disagreed with that and said there are a lot of unknowns, and that's the biggest fear to everybody. He stated the government is supposed to protect the people and not control them, and it seems like Illinois wants to control us. Stunkel asked did the City make an error that affected the Ledbetter's? Connor said no. Stunkel said yes we did. Gottman said what happened is the Zoning Official did not tell the solar company correctly. Connor said, correct, and now they (the solar company) have sought the Special Use Permit. The City has the extraterritorial authority to zone property up to 1 ½ miles outside of the City's border. The City has an extra layer of Special Use Permitting for electric generation when you are zoned agricultural and within 1 ½ miles of the City. Gottman asked if the Zoning Board denies the request, what happens? Hubler said we would get sued. Connor said yes, that could happen but he didn't know that for sure because it has never happened. What we would have to see would be separate findings of fact from the City that refute those findings of fact if any, from the County, or a specific showing of how that special use is antagonistic to our zoning scheme in agriculture. Ledbetter said she thought they should worry about the citizens rather than the possibility of getting sued. She said this is affecting 6 houses, not just hers. She said she would not have built her house had the County notified her of the solar project. Connor said he does not mean to exclude people who live outside of the City, but he is paid by the City to represent the City's interests. The issue for the City to look at is how this impacts our zoning scheme. The only question before the City of Vandalia is, is this project that is going to be done antagonistic to the zoning scheme?

Lester asked, for clarification regarding the Ledbetter situation, the County issued a Special Use Permit for the solar farm. So, the City has nothing to do with the 1 ½ miles; we are trying to determine if we

want to. Connor said what we are trying to determine is whether or not we needed to have an extra Special Use Permit hearing. Lester said but we have no power to require a permit? Connor said no. Lester said so all of that is the County currently. We (the City) have nothing to do with your situation. The County gave the solar company the Special Use Permit. So, we are trying to decide going forward if we want to have some influence, which I think we should. Connor said correct. Lester said so the City didn't do anything towards creating that situation. Connor said our Zoning Board is going to look at the appropriateness of the Special Use Permit from the City on August 7. Bowen said earlier you spoke to whether the solar farm being present within that 1 ½ miles adversely impacts the City, and that's the measure that we are obligated to consider; not whether we like it or not, not whether we think the Ledbetter's are getting a raw deal. It's whether or not it adversely impacts the City. Connor said that is 100% correct. The Zoning Board will have specific factors that they have to look at. He didn't think it was a big deal for the City in the solar realm to say if the County has approved you, you do not need an extra Special Use Permit from the City, because it simply does not have much of a chance to impact our zoning scheme, but under the Special Use Permit, what the Zoning Board will have to look at is how does this impact us? Obviously, the closer it is to the jurisdictional limit of Vandalia, the more potential impact it has. He said at the last meeting, he was more focused on where this project was in relation to the City of Vandalia, roadways, bodies of water, those types of things. I get that people want to talk about the visuals. Unfortunately, there is nothing in our code about people wanting to look at fields or solar panels. We did not promise people 1 ½ miles out from the City that they would not have to look at solar panels. We promised to take care of our zoning scheme, and up to the place that we could regulate, we would do that. You are going to be hard pressed to look at this and say, in what way does this impact the City because I have been looking really hard at it, and I do not see it. Stunkel said, if it happens to them, it could happen to somebody else. That's why I say we need to do something and stop it. Connor said it could happen to somebody else in the County and we would have to stop it if it's going to impact our zoning scheme. This parcel that we are talking about is an agriculturally zoned parcel a mile from the City. The only inquiry for us is how that impacts our zoning scheme and does the project qualify or not qualify under the factors for a Special Use Permit. Lester said does the County need to have a stronger zoning scenario for solar? Connor said they can't. Gottman said the County is governed by the State of Illinois. Lester asked if we passed an Ordinance pertaining to solar today, it would have no effect on the Ledbetter situation? Connor said he seriously doubts it. Lester said so there is nothing we can do going forward to keep that situation from happening again? Connor said the Solar Energy Act of 1977 prohibits schemes which hinder or prohibit access to solar energy. That's the big overarching global concept, then we are down to the minutia about can you point it at my house? Connor stated, for example, there is a solar farm and it is shooting light directly into a house that is in the City of Vandalia. That would impact our zoning setup. I have a residentially zoned property that is getting hit with an outside glare inside the City. That would be something that we would be like wow, now you are impacting our zoning setup because our residential property cannot continue to be residential because your solar farm is impacting us on the inside, but if it is facing a home in the County, that is not really impacting our zoning setup. It's impacting some people in the County. Lester asked, is there an argument in the County regarding our airport and line of approach to our airport and glare? Connor said what you will find with the project with Birch Creek, they have all of those reports in their Special Use Permit packet. It's quite comprehensive. All of the studies that we would have had them do, they have already been done.

Lester said, in getting to the Ledbetter's concerns, then, there is absolutely nothing the County or the City can do. Connor said I seriously doubt it. Lester said so this is a Representative or Senator situation.

Brad Ledbetter stated he gets what Connor is saying about it's not pouring stuff out into a river or anything like that, but he said something I think the Council needs to consider is, if this town is ever going to grow, it is going to be West. If it's nothing but solar panels, these ugly monstrosities, past Wal-Mart, you can't put anything there or build anything. You will be stuck. Then the City will just die. So just think about that. He said give yourself a buffer zone or something. Lester said, if I am understanding this right, we do not have much say. Connor said the City's comprehensive plan doesn't talk about solar energy at all. Gottman said the comprehensive plan does address growing West. Lester said how can we stop persons within the 1 ½ miles from being surrounded by solar panels. Connor said start annexing property, bringing water and sewer to them, and then we can regulate them like we do anything else.

Lester asked, what does the County have to say about the whole situation? Collins stated number one, it is unfortunate. The only thing that we have been able to do so far is put together a Fayette County map that shows all of the Special Use Permits for solar power that have been granted and where they are located in the County. When we get that completed, it will be added to. He received 2 phone calls today from companies wanting information about installing these community solar farms. People will have the ability to go on the County website and look at that map to see where those projects are going to be located. Collins said we are not going to be able to stop them. He said they could stop it if the laws would change but right now, our hands are tied. He found out today about a project in Flora that got halfway done and the project went bankrupt. He said with the County Ordinance if something goes haywire and the project cannot be completed, the money is already there to take it back and return it to the way it was in the beginning. Collins said you need the Ordinance to put in place the protections of the ground to return it to its original use. He said the City definitely needs to have an Ordinance in place. He stated the people in the County are protected as much as possible and the County will continue to look for ways to make that information more available. What has happened with the Ledbetter's breaks my heart. Connor said the only thing we can do is follow the rules that we have in place. That is the only consideration. It is not a matter of what we like or don't like. It's the factors that we must analyze, and you are telling this body, that for projects to take place in the County, you have an Ordinance in place that requires the imposition of these requirements right now. So Birch Creek, the developer of the project we are talking about with the Ledbetter's, that project is bonded in a way that if financing falls through and only half of the solar panels are up, there is sufficient and adequate funding to replace things the way it was. The City can say we want to have an extra layer of protection for extraterritorial projects, outside the City within 1 ½ miles. The next question would be what would we want our extraterritorial jurisdiction questions to look like as part of our comprehensive Ordinance. Are we satisfied with their bond or do we want a higher bond? For those projects that the County is already doing, they are going to look very similar. He said if I could go back in time would we have told them yes, you have to apply for a Special Use Permit? Yes, I would have liked to have done that prior to all of this, but that doesn't change the fact that they can do that at any time, including right now, and they are doing it on the 7th. We could not have stopped them from asking for a Special Use Permit, and the only way you can stop them from getting a Special Use Permit is, (referring to the City Municipal Code, Section 17.20.040 – Criteria for Reviewing Applications (A through I)), the Board of Zoning Appeals is going to have to go through and ask at the end of the day, does this impact our zoning scheme according

to these factors? That should be the only question before the Zoning Board of Appeals with regard to that particular project. The more important thing is the thing that is in front of you which is going to be our issue with all of these projects for years to come, which is modifying our zoning code so that inside the City of Vandalla and sometimes when it is close enough to our 1 ½ miles to impact the City, the question is if it impacts our zoning can the impact of it be mitigated in some way like we do for all kinds of projects like when somebody needs a variance in their back yard. If I had to do it over again with the Donato project, there would be vegetative screening and angling requirements. It does not mean necessarily that they were not going to get a Special Use Permit for that ground or if we denied it and we did it unjustifiably so, they would have sued us anyway. I am not sitting here worrying about who is going to sue us or not sue us, that happens as a natural consequence of what we do or don't do. The real question is did we do it right? Did we go through the process correctly? That is what I want to continue to encourage everybody to look at, is did we go through the process correctly? I think the County went through their process correctly and we were then asked do we have to go through this process again? That question was put to the Planning Commission and it hasn't been ruled on yet. I am not sure you are ever going to care because the company said they would go through the process on the 7th. If the Planning Commission comes back and recommends it, and says we do not really need that extra layer within that 1 ½ miles; but remember, the Planning Commission is just an advisory panel. The Zoning Board, however, is the final decision maker. They will make that decision on the 7th and that's their decision. Gottman said that decision would be final and would not come back to the Council. Connor said if they deny the Special Use Permit, maybe the company sues us. If they grant the Special Use Permit, perhaps the Ledbetter's will sue us. I don't know. The only question I care about is their analysis under 17.20.040, which is the same thing we do for every Special Use application. Connor said what I want all of you to understand is the better question about this comprehensive zoning Ordinance. If you are looking at it from the Building Official's perspective, looking at whether or not these particular projects qualify as electric generators or not, how does a residential project inside the City sitting on somebody's roof not qualify if this project out here does? It is an open and legitimate question. Gottman said we have the same thing on Jefferson Street, where they are going to put that fenced in area for CTI, which has been approved. Connor said, correct. That project is arguably as offensive if not more. But again, that was an approved project, and there was not much we could do to stop that either.

Gottman asked can we have separate fees for homeowner's use and commercial use? Connor said yes. Gottman said he thinks there should be two different fees. Connor said your Special Use Permit fee is open to modifying as the Council wants. Gottman asked what the County charges and felt that the City should be equal to or better than. Collins said a Special Use Permit fee is \$15,000.00 for the application, plus \$300.00 per megawatt. Collins said there is also a construction permit which has to go through the State and Ameren or Southwestern or whoever they are going to be putting this in with. They have to go through all of those people and this takes years. After that, there is an additional \$6,000.00 +\$2,000.00 per megawatt. Some of these projects are bringing in an excess of \$250,000 for just the permit. Bowen said I think that's a really good point, not only what you brought up but what did they pay per acre? Collins said it ranges from \$1200.00 to \$1700.00 per acre per year. Collins said the solar companies are leasing the farmland. Bowen said so it is exceptionally lucrative. Knebel said these are companies that are investment banks, pension funds that are investing in this. If you are going to put anywhere from \$15 to in some cases \$100,000,000, if you look at the solar farm in Ramsey, those are \$100,000,000. A \$100,000.00 fee is nothing to a solar company. Gottman asked what the Council thinks about charging

the same fee as the County does. Stunkel said it should be consistent. Collins said the County does not have a residential fee. Gottman said the City would have a residential fee. Bowen said our residential fee should be as reasonable as we can make it. Connor said his recommendation would be to stay in the meaty part of the curb in terms of where other municipalities are. Counties operate under a different Statute. We do not want to be an outlier in any sense, so matching the County, etc., we can scale our fees to be consistent with our sister municipalities but in no sense do we want to be an outlier. Gottman asked, why not? The County is getting it. Collins said you are going to be seeing smaller projects, 30 acres or less, in all likelihood, and that is where the difference is. When I'm talking about the bigger bucks, those are 600+ acres. We have 3 of those right now. Collins said 50 years from now, we will tear them all out. Bowen said my cousin is a site superintendent. The last 15 years he has been doing windmills. Guess what happened 2 years ago? They stopped doing windmills and now they are doing solar farms. The whole thing shifted from wind to solar, literally overnight.

Bowen asked what do we need to do at this point? Gottman said there will be a work session for the proposed solar Ordinance on August 12 at 5 p.m.

Connor said one of the reasons the City didn't come out swinging in terms of solar is because it had not been an issue until now. This has been batted around at IML for 5 years but it certainly is in our backyard now.

Harris left the meeting at 5 p.m.

Gottman moved on to the former Evans Public Library building. The City did say they would purchase the building for \$225,000. He has been in the building since it has been vacated. There is asbestos underneath the carpet. Gottman obtained an estimate to remove asbestos from Triple A out of Pana who does most of the work in this area. The cost is about \$50,000. Lester addressed the HVAC. He stated it would cost approximately \$75,000 to install forced air since it currently is a single pipe system.

A committee has been organized to further study the purchase of the library building. Those on the committee will be Jake Harris, Ronnie Stevens, Merrill Collins, Pat Click, Brenda Mathis, Gottman, Jeff Ray, Ryan Connor, Andy Lester, Bret Brosman, the entire 911 Board and 911 Coordinator Kevin Jenne. Gottman will work with Harris to schedule a meeting date. Jenne is working on cost estimates.

Kadi Ledbetter stated there have been interviews that Collins has done on the radio stating that the setbacks for solar farms is 500 feet, which she stated is not correct. The correct setback is 150 feet. Lester asked have there been any conversations between the Ledbetters and the solar company? Collins said yes, there have been. They have offered to do everything they could, whether it be trees or shrubs or fencing. They have offered to work with them in any way they could. Ledbetter said this situation could have been avoided had the County called the landowners. I would not be in this mess. Trust me, I would not have built there. It's really easy to look up who owns the land. My dad owned it. You could have called him and I would have never built there and this never would have been a conversation.

Knebel said this application was in 2022, so the process takes a while. He said the County is trying to make the process better. Back to Connor's comment, you guys (the City) have an Ordinance that you can

control. We have a State statute. All we can do is try to make sure the application checks all of the boxes to give as much protection as we can. All of that stuff (setback, etc.) is dictated by Statute. We do not have any authority to do anything about that.

Zac Ledbetter said he is worried about contamination if panels break and the effect of that on groundwater. He has worked on a solar farm in Virden, Illinois for a year, and they told us to be very careful with these panels, and if you see any glass on the ground to make sure it was picked up as they contain lead in them around the perimeter of the glass. So, if there are broken panels out there, which, when I worked at the solar farm, there were broken panels everywhere. Throughout the year, the lead was seeping through the ground into the groundwater that we drink which could possibly cause health risks. He said that is what I am really worried about, is 15 years later having lead poisoning. Who is going to help me then? Kadi Ledbetter said not only are the solar panels ugly, we all have well water out there. I will have to live out there for decades and who knows what my health is going to be. I am surrounded, 150'. There is only one side of my house that I will not have solar panels, so how can anybody promise we are going to be healthy in 30 years. She said she asked the solar company can you promise that and they said no. You should be worried about the citizens. Lester said our hands are tied. Connor said we are investing 10s of millions of dollars into the things that our residents require. Gottman said I know there are 2 solar farms going out by the Lake. Lester said there is nothing we can do to stop it. Connor said I hate to suggest it, but maybe consider moving into the City of Vandalia. Gottman said this is the first I have heard about lead issues. Kadi Ledbetter said the value of her house is decreasing. I have asked many people would you buy my house? No. Zac Ledbetter said the solar company told them that the solar panels would not diminish the property values.

Lester asked so have you been in contact with the State Representatives and Senators? That's where it is going to have to go it sounds like. Lester said 150' is not far enough. Kadi Ledbetter said that's what the County approved. Ledbetter said to Collins you keep telling everybody it's 500' to which Collins disagreed. Todd Stapleton from the radio station who did the interviews with Collins, stated that yes, in fact Collins has stated 500'. Collins said if I am wrong, then I apologize. Collins said it is 150' around residential areas. The unfortunate part of that scenario is it could have been 50' because that's the minimum. That house wasn't there when the permit was issued. It was an acre of ground.

Connor said I know at some point this is going to get brought up, so I might as well say it now. If the City was to stop this project, we shut it down and say no Special Use Permit, one of the things that Birch Creek is going to tell you is what they told the County, was there is an estimated tax revenue that will be generated in the County of approximately \$101,000.00 a year and that figure is intended to continue for the life of a project which is approximately 40 years. You may end up interacting with some lawmakers, that if they approve the project and we stop the project, there may be some interaction between those two. There is more going on than simply do you like it, do we not like it. You have 1 landowner who is leasing property. You have a company that's making by their account approximately \$20,000,000. Our application may be different but I assume they will look very similar. Gottman asked, what is a life worth? Connor said asking about lead, that's a tremendous thing that we can do or know or mitigate whatever potential risks there might be. I know the corollary to that would be obviously a project on our Lake would be very different than a project that only tangentially may impact our scheme. Whether it impacts things in the County is a different question. Gottman said if it is out by our Lake, then it will

impact us. He said there is one getting ready to go up out there, is his understanding. Collins said the permit was issued 6 years ago, about 30 acres. Lester said so Ryan, you are indicating that if we were to pass an Ordinance affecting the 1 ½ miles, we could have some influence on their situation. Connor said it would certainly be the subject that would come up at a Special Use Permit hearing or if the Applicant, once they do approach us, and I do not have any knowledge of that particular project, but once the Applicant approaches us, it certainly would be part of our process in ascertaining where this is. Gottman said back to Russ's point, if it is more than 1 ½ miles, we won't have any say. Connor said correct. Gottman said but our Lake is our drinking water so I will look at the County. What are you going to do if they want to put it around our Lake? Knebel said whoever is going to put that in, in this case Birch Creek, is going to say show us evidence that this creates health issues. I am not disputing it. These things are going up all across the country. Where is there any evidence that these create health risks? Gottman said it's too new. Bowen said he searched groundwater contamination caused by solar farms and he found several articles. Collins said one of the big problems in earlier solar panels was there was lithium inside. Those are no longer manufactured. The current solar panels do not contain that particular product. It was part of the film underneath the top glass.

With there being nothing further to discuss, motion was made by Hubler and seconded by Stunkel to adjourn the meeting. The meeting adjourned at 5:24 p.m.

Respectfully submitted,



Carla Huhn
City Clerk