Chair Jackson Bogan called the meeting to order.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the September 4, 2019 Ordinance Committee meeting. Greg Jones seconded, and the motion passed by unanimous voice vote.

II. SOLAR ENERGY:

An update on how solar energy companies are regulated by the IURC (Indiana Utility Regulatory Commission) – Zach Williams, Attorney

Zach Williams said as some background, if the IURC is going regulate a public utility, it is almost guaranteed they will be exempt from our local zoning ordinance. He said he and Staff researched what types of public utilities are going to be governed and what the IURC process looks like. At the most basic level, under statute, any company that is producing heat, light, water or power qualifies as a public utility. This becomes more complicated within the IURC process that allows them to make the decision for utility companies if they are going to decline to exercise jurisdiction. If they exercise the right to decline jurisdiction, the utility company will be subject to local zoning. Basically, if the IURC told the public utility that they were not going to regulate them, local ordinances would apply. The IURC process is a public hearing. Often smaller, private companies will decide that they do not want to be regulated by the IURC. They will then file a petition with the IURC indicating that under the normal rules they would be regulated as a public utility but, they believe the IURC should decline to exercise jurisdiction over them. That is a public process with filings and attorneys where the IURC vets each case to decide if it is going to decline jurisdiction. As part of this process, there are a couple different ways the IURC can decline jurisdiction. The first way is if it is for the public good. He said he pulled a couple of those decisions and it is seen that defining public good is the local effect on
zoning and community. The IURC does an analysis of compliance with zoning, permits and if this will cause distress on the community. If a company does not want to be regulated by the IURC, they will need to show that they are complying with all local regulations. The second way is through statutory revisions like alternative energy. Back in 2013, there was a group of solar companies that did not want to be regulated by the IURC. As part of the process, there was a statutory exception they wanted to fall under. When this petition was made, they indicated that they were complying with the permits, drainage and local zoning laws. Zach said that if we spend time writing our own zoning ordinance, anyone that is governed by the IURC will likely be exempt. Smaller, private companies that do not want to be governed by the IURC would likely be subject to our local zoning ordinance. For example, the recent developments in the changes in windfarm energy. There are several cases of local windfarm companies that have gone to the IURC to ask to decline jurisdiction. In return, the windfarm companies are invested in how a local ordinance is written. If an ordinance is written, by default, a public utility is probably going to be exempt however, there are going to be a lot of companies that do not want to be governed by the IURC. In those cases, those companies would be subject to local zoning ordinances if the IURC does not exert jurisdiction. This is the base level starting point to developing an ordinance for solar. The question is, do we have a need to develop solar ordinances? We never want to institute something that is not going to be useful for the community. In Tippecanoe County, it is a need if there will be developments in solar fields. Even if some entities will be exempt, there could potentially be many that are not if they choose to not be regulated by the IURC.

Rabita Foley presented a tool developed by APA, American Planning Association, and the US Department of Energy as a participatory planning exercise developed for communities. This exercise is developed in the form of a board game. It is a good tool to use in a community that is thinking about solar development. The purpose of this exercise is to get community members thinking about solar development options from a land use perspective. This exercise engages the community and the residents. The board for the game has land uses already established then participants must place push pins that represent different solar installations. Most of the pieces of the game are available for no cost as they can be printed in office. The push pins are the only pieces that need to be purchased. This exercise can be conducted with a large audience because each team consists of 10-15 individuals. According to the manual, the exercise takes up to two hours however, staff agrees it could take less than two hours because the game itself has an explanation of land uses and characters that would not be necessary in this case. Each member that is playing this game is assigned a character role to play. As the game proceeds, the game board will fill in with different sizes of pushpins that represent different solar installations. The game is divided into two rounds. The first round starts with setting a goal, selecting characters, and placing the pieces of different solar installations to meet the energy goal. Each of the installations are in kilowatt hours so the players must come up with different configurations to meet the energy goal. Once the goal is met, the second round begins. This round will be valuable for the community because there is a discussion on balancing community priorities. For example, players will discuss if they want to save agricultural land or save prime development areas and how that will impact solar development. The players will also discuss how different types of zoning will impact solar development planning. She said she would like feedback from the Committee as staff has set some dates in October to roll this out. Staff plans to invite stakeholders and community members to partake in the event to see if this is a valuable exercise for our community.

Sallie Fahey said staff wants to engage the high school and Purdue students that were interested in alternative energy that came to the Ordinance meeting a few months ago. Staff also wants to invite Area Plan Commission members, city staffs, and county staffs because each of them would be involved in whatever regulations and permissions that come about for the zoning ordinance. The idea is to help everyone get on the same page with terminology regarding alternative energy. The exercise would create a common language for all participants. This exercise would help participants understand community tradeoffs, what is important to a community and how to balance these regarding solar energy. For example, balancing land uses like potential prime industrial sites being used for solar farms or agricultural land being used for solar farms. Staff did a trial run with the exercise and found these ideas to be prevalent and the exercise worth doing. There are two potential dates for public participation on either October 29th or October 30th. The October 29th date would be held in the Tippecanoe Room. Groups of people could be set up and the game board could be pinned to the pushpin walls.

Jackson Bogan asked if there would be several of the games going at once.
Sallie Fahey said yes, if there is a large enough group.

Jackson Bogan asked if the idea after the game is for staff to break down the information.

Sallie Fahey said each group would report what they felt was a good balance of how much energy could be generated, where the solar installations would be and what kind of priorities the community deemed important. This exercise can be done in the Tippecanoe Room on October 29th, at 5:30 p.m. If that does not work, it can be done at the Tippecanoe Public Library in a meeting room, but they do not have walls the boards could be pinned to. There must be a foam-core base for these boards to be pinned to. She asked the Committee if they believe this is a worthwhile activity to pursue; if so, is there a preference to either October 29th or 30th.

Jackson Bogan said he wanted to step back to clarify after Zach’s discussion, if we feel the need to proceed with an ordinance. He said he believes there should be an ordinance created. He asked for a vote by voice to move forward with creating ordinance that pertains to solar energy.

Carl Griffin moved that the Committee pursue zoning and ordinance classification for solar energy. Larry Leverenz seconded. The motion carried by unanimous voice vote.

Jackson Bogan said he thinks the game is a great idea. He said he liked the idea of asking the concerned citizens to participate.

Zach Williams asked if Ordinance Committee members should be present or to synthesize how the exercise goes then report back to the Committee.

Sallie Fahey said it would be beneficial to invite the Ordinance Committee members as well as the full Area Plan Commission. It would be advertised as a meeting, not a public hearing, so everyone learns the terminology and what is at stake regarding solar planning.

Jackson Bogan asked if October 29th is preferred so the Tippecanoe Room can be used.

Sallie Fahey said yes, it would make it easier for everyone.

Jackson Bogan said everyone should plan for October 29th.

Larry Leverenz asked what time it would be on October 29th.

Sallie Fahey said it would be at 5:30 p.m. until 7:30 p.m.

Jackson Bogan asked where the event will be posted.

Sallie Fahey said Staff has contact information from the previous Ordinance Committee meeting for all the students that attended as well as the leaders for the high school students and Purdue students. Emails will be sent to Lafayette and West Lafayette City staff to invite them as well. She said she is not interested in shutting anyone out of this event so if we receive some press from the event, the more the merrier.

Jerry Reynolds said October 30th would not have worked because it is the caucus for the Council.

Jackson Bogan said this will take place on October 29th at 5:30 p.m. in the Tippecanoe Room. Invites will be sent out via email to the entire Area Plan Commission and to those that were involved at the previous Ordinance meeting with a description of the event.

Sallie Fahey said snacks will also be provided. She said that there are twelve characters for each game, so RSVPs would be appreciated to prepare for a correct number of boards.
III. WEST LAFAYETTE DOWNTOWN PLAN:
An update on comments received regarding the proposed plan during September’s public comment period.

Ryan O’Gara said Staff received less than half a dozen comments over the course of September including two comments from the previous month’s Ordinance Committee meeting. The Steering Committee met on September 26th to review the comments. Some of the comments were accepted and accommodated, others were not. The email comments and the Ordinance Committee comments have been consolidated into a word document. He said if there is interest in them, he can read through the document. The comments from the Ordinance Committee are in the minutes. Changes were made to the Tommy Johnston Park in Block 27 at Wood Street and Pierce Street. Mr. Teder was interested in ownership of the property. Ryan said the Steering Committee understood Mr. Teder’s concern but had to keep in mind the long-term vision of the plan. If spaces for parks are not designated, the city would have to rely on gifts from property owners unless the city goes out and acquires land. This plan is designed to provide a wish list of land the city would like to acquire. If this block is acquired for the park purpose, it would come later in the plan. The Steering Committee wanted to leave the city an opportunity to purchase this property further down the road. If not, included in the plan is another possible development scenario to leave the western portion of the block open for the Downtown Village mid-rise category. As a part of the planned development, a portion of that developed area would contribute to a partial expansion of Tommy Johnston Park. This would be developed with this park in mind. He said a planned development is probably the best way to do this because precise details for the area will be accounted for. The second scenario for Block 27 was changed in the plan.

The second set of comments from the Ordinance meeting was from Mr. Baiel. One of Mr. Baiel’s comments regarded the notion of historical buildings where all new buildings in the historical district would have to have a policy of deference. Ryan said that the Steering Committee discussed that this policy would not have any real applicability and would restrain development potential. There should be opportunities for development. There are specific buildings highlighted that have been catalogued to be protected by this policy.

The next comment from Mr. Baiel was on the grid system being too tight. The plan stresses repeatedly in Chapter 5 that this is a conceptual layout, not a pre-engineered design. The final alignments are subject to change. It may look tight, but this is the first run of creating a grid system. If this went through the planned development process, these final alignments would be thoroughly studied to ensure that there is adequate spacing of intersections. This grid is concept only, not set in stone.

In terms of affordable housing, that issue is brought up in the implementation strategy portion of the plan. It is going to be achieved through further study; it is a goal to accommodate affordable housing. What means it takes to accomplish that and what is considered affordable housing is something subject to further study. Affordable housing is important as the city and plan matures and develops. Multiple income levels can be represented within the downtown, so it does not become a fully gentrified area. He said he feels they have included that in the plan as a statement for further study by others. If this is something that is critical to City Council, further study could be initiated by creating definitions and the goals moving forward.

Mr. Baiel also had a comment on the Chauncey Hill Mall development. Ryan said the Chauncey Hill Mall site plan is included in Chapter 5. The plan describes the elements of the conceptual plan submitted by Trinitas Group. The elements of the plan are endorsed by staff however when it will be developed is unsure. The idea of having an open space common that these buildings would overlook is an appealing concept. This is the center of the plan, so it seems appropriate to have an open gathering space. The land use plan recommends all the downtown core areas be developed through the Planned Development process because the sites are high profile. This process will allow staff to heavily scrutinize all aspects of development.

Ryan O’Gara said Mr. Baiel also commented on the aesthetics of the buildings. There are multiple potential tools that the implementation strategies already created, first is the architectural review board with another tool being a very robust form-based overlay. These tools could work in concert but might be overkill; one of
the tools could get the job done. There are implementation strategies in the plan that speak to this. When the zoning stage comes next year, the architecture will be looked at extensively. This core area will have a unified theme and there will be a high bar for the architecture.

Carl Griffin asked what the maximum height for buildings would be in this area.

Ryan O’Gara said the downtown core designation is ten-story with a potential of up to the FAA ceiling in certain locations. In the block by block descriptions, it is made clear there are architectural transitions to the lower intensity areas. The highest profiles will be isolated to either the center or back of the site. Block descriptions detail more of how the heights are desired to look with appropriate transitions. Employing upper-story setbacks is a way to take a large structure and diminish it as it transitions into another part of town. This site will bump up against the historic structure policy. The Northwestern corner would be a critical piece to make sure that are some transitions into the three-story buildings. Whether this site is developed or split up to be sold, staff will look at the area as a whole regardless of how it develops.

Larry Leverenz asked when the changes to the plan will be available for the public.

Ryan O’Gara said APC Staff has internally submitted specific comments. There are adjustments being made to the discussion on flood plains. The APC flood plain manager wanted to add language concerning 500-year flood plain. The map will be updated to show that area as well. He said staff wanted to add descriptions to where the zone will be because it engulfs most of the Levee. The flood plain manager is recommending development policy to prepare for the larger regulatory flood. For example, no ground floor residential units or buildings that are over parking lots. FEMA is considering holding flood insurance for areas in the 500-year flood plain in the near future. Ryan said considering this is a future land use plan, it is a good idea to include possible future requirements. As soon as these changes to the plan are completed, it will be posted to the website. Since this is an amendment to the Comprehensive Plan, this will likely move to the November APC meeting if the Committee so chooses to move forward.

Jackson Bogan asked if staff will update the plan on the website, then hear the actual amendment at the November meeting.

Ryan O’Gara said that is correct. It would be heard at the full APC meeting.

Zach Williams clarified that Ryan was asking the Committee this evening to make a motion to recommend the plan amendment to the November APC meeting.

Ryan O’Gara said the plan after the September public comment period was to present the comments and changes at the October Ordinance meeting. He said there is no reason to hold the plan up any further unless the Committee sees delaying the plan as fit. Staff wants to make sure the Committee is satisfied with the plan before sending it to full APC.

Gary Schroeder said in the past, the final version of the plan is available for the public to comment on and then any negotiations can be handled at the Ordinance Committee. He asked if this is under a deadline for the end of the year. He said we have not seen the comments and the public has not had the opportunity to see the comments either.

Ryan O’Gara said he can show the committee the consolidated comments. He said the reasoning behind the public comment period and closing it was to do a final update to incorporate the comments. Changes have been made with the comments by the public and staff.

Gary Schroeder asked if staff gets everything into final form, if it would be possible to hear the amendment at the November Ordinance Committee meeting to allow further public comment.

Ryan O’Gara said for advertising purposes, that would kick everything back another month. The amendment would be seen at December APC and January City Council.
Kathy Lind said the amendment could be heard at the November Ordinance Committee meeting then, if recommended, heard at the November APC meeting.

Gary Schroeder said hopefully we get there but if we do not, it can be continued.

Ryan O’Gara said when the amendment comes back to Ordinance, the final version will be available, and any further questions or comments can be answered.

Jackson Bogan asked if there was any kind of deadline or a reason for the amendment to be pushed through immediately.

Ryan O’Gara said there is not a deadline as the Mayor and City Council have not required there to be one.

Carl Griffin asked for clarity on how this will proceed.

Sallie Fahey said we must have legal ads to the newspaper early so ads would be sent to the newspaper for the plan to be heard for adoption at the full APC at the November meeting. She said we would also bring the Committee the final version at the November Ordinance Committee meeting, two weeks before the APC meeting. She said if at Ordinance Committee, there are last minute comments needed to be added to the plan or after having a look at it in the final form if there are questions or comments still to be answered, the plan can then be continued to the December meeting.

Carl Griffin moved to hear the West Lafayette Downtown Plan at the November 6, 2019 Ordinance Committee meeting. Gary Schroeder seconded. The motion passed by unanimous voice vote.

Liz O’Neil, 206 Dehart Street, West Lafayette, IN 47906, said she went to the meeting at the West Lafayette Public Library at the end of August. She said there were many comments and concerns about traffic flow, pedestrian crossing, and population increase however, these comments were not presented this evening. She said the comments were legitimate concerns that should be addressed. She asked if all the people that commented should have emailed or called to submit their comments. She asked what the process is to submit comments.

Ryan O’Gara said there were two staff members present that the meeting in August that were categorizing each comment. The staff made lists with the questions and concerns to be addressed. He said the meeting had quite a few clarification questions that did not necessarily impact the plan. There were also conflicting comments made. For example, one person said there should be faster roads in the levee then another person said the whole Levee should be pedestrianized. He said in these types of instances, staff must make judgement calls on the most prudent course of action. There are also comments that cannot be reconciled. He said he can show the lists that staff made. He said there were a few people that he had given his business card to and asked to reach out to him with their comments but, never received anything.

Jackson Bogan asked if this is at the stage to put walking bridges and paths on the plan.

Ryan O’Gara said in the transportation section in Chapter 5, there are two pedestrian bridges laid out.

Jackson Bogan asked if laying out in the plan where people are going to be crossing roads and speed limits is possible at this point on the planning process.

Ryan O’Gara said those details will all come much later when a road project is started and road is engineered.

Jackson Bogan said as valid and concerning as these comments are, this is not the stage to take them into consideration.

Ryan O’Gara said these concerns would come at a later stage.
Larry Leverenz said this is a concept. It is important to understand that this plan is a starting point of a dream. That this is very conceptual; we are not looking at the details and specifics. When it comes to reality, it may look very different than what is in this plan.

Ryan O’Gara said these comprehensive plans and neighborhood plans are an opportunity to dream big and create multiple strategies that may not necessarily work together. Some of the ideas in these may not be implemented. It is policy not ordinance; there is no force of law behind the statement. In terms of land use strategies, staff will defend them if City Council adopts this plan. At the end of the day, staff creates recommendations. The power of zoning is in City Council hands. This is a conceptual plan in all aspects and recommendations; everything in the plan is subject to further study and analysis.

Gary Schroeder asked which part of the plan would be considered set in stone and which are considered conceptual. He asked if land use and zoning are the only certainties, how hard is it to revisit later as things develop.

Ryan O’Gara said as a policy document, the legislative bodies do not vote a certain way because the plan says so. They can ignore the plan in a rezone action. In a planned development negotiation, staff can be cavalier and enter a negotiation that clashes with the plan. There is nothing binding in the plan; this is a statement of policy. If this is adopted, amendments can be made to the plan.

Sallie Fahey said when it comes to zoning decisions and underlying adopted plans, the statute says the Plan Commission and legislatures should take the plan into account but, there does not need to one-to-one consistency between zoning and the plan. She said she wanted to speak on the street grid system because it the most revolutionary part of the plan. Right now, in this plan, it is conceptual and a goal. If it is adopted, the goal of creating a grid that would mirror downtown Lafayette the street grid layout would be policy. However, the next step will be to translate the Downtown Plan into the new Thoroughfare Plan. At the Thoroughfare design stage, things will be refined more. The Thoroughfare Plan will go through the same adoption process as the Downtown Plan because it is also an element of the Comprehensive Plan. Rubber hits the road is when the Thoroughfare Plan street design gets adopted as part of the subdivision ordinance. The chart in the Thoroughfare Plan is then duplicated and translated within the Subdivision Ordinance to become law. For example, if a developer is building a subdivision, they are obligated to build the roads that serve it. More and more, it will become required for developers to contribute to building the abutting roads because more of these roads are falling to local government. She said the development community should be helping improve the perimeter roads not just the new internal roads. There are two more steps with this plan before road construction and design standards would become requirements of development.

Jackson Bogan asked what the timeframe is on the Thoroughfare Plan.

Sallie Fahey said there is progress being made. The early progress draft form should be complete early next summer. It is at the stage now where the County Highway Department, the two city engineers, and the development departments are being heavily engaged. After that, it will quickly move into the subdivision ordinance phase, so they remain cohesive.

IV. CITIZEN COMMENT

Zachary Baiel, 124 Connolly Street, West Lafayette, IN 47906, said he is not sure everyone would view this plan as a pleasant dream. He said he is curious to what outside of the box thinking is implemented in the plan. He said it was discussed at the August meeting that the next step would be to create a zoning overlay that would have binding nature, where the proposal would not. He said it was mentioned that this would be a statement of policy that would become a reference. He said he thinks it is important that when the public hears that, it becomes concerning that some ideas are not mentioned unlike the New Chauncey Neighborhood Plan. It had a big dream of having a large urban park along the west side of the neighborhood that was still mentioned in the plan. Even though it was a pipedream, it was still included in the plan, so it can still be referenced. He said that the ability to reference something is important. He said it was good to see a few more people in the audience this evening however, to call what we had in September a public comment session is an overstatement if there are about half a dozen people that wrote comments. He said
in terms of getting more of the public engaged, excited and educated on these issues, it is not being done right. He said some cards were handed out to gain some community engagement. He said the information of those concerned should have been taken down to allow them to be engaged in this process and so staff could follow up. He said he will get information of those that want to be involved in the solar panel board game. He was unsure what kind of effort or courtesy was done for the fifty or so members at the August meeting. He said listening to Liz’s comments, he does not think everything was captured there. He said we understand that there was short staff, but the amount of public input for this type of plan has not been met. From the Steering Committee perspective, it is concerning that these meetings are closed to the public without recordings or minutes. It is impossible for the public to understand the dialogue about the comments submitted and listed. He said one thing to change is the disconnect of relaying comments from the public. He asked why the public could not engage the Steering Committee. That way the public can represent their ideas. He said for instance, his comments were not about deeming everything as historic buildings. The concern was with the downtown core; if a developer puts in a 10-story building, would other developers that want to build a smaller building be pressured not to build next to these large buildings. He asked if the development strategy is to get the larger buildings in first, that way all buildings will have to be large or will there be a policy of deference where a 3-story building be allowed. He asked will there be different sized buildings in these areas or will they all be near buildings of similar stature. He said his comment was questioning how the scenarios will be treated in the process because the plan does not directly speak on them.

Don Teder, 2110 S 9th Street, Lafayette, IN 47905, said he wanted to speak on block 27 which is part of the proposed park. He said labeling the land as a park destroys value and eminent domain would be better. He said he has been doing this for 20 years and has always been told not to attempt to build in neighborhoods to the north. If apartments are going to be built, build them south of State Street. He said he bought land south of State Street and is now being told that he cannot build there. He said he is trying to play within the rules and build south of State Street. He asked if he can’t build there, where should he build. He thanked the Committee for their time.

Gary Schroder said he does not disagree with Mr. Baiel about a project this large having not a lot of public input. Sometimes by the end, people are just hearing about the project. He said he thinks the Committee should have another meeting on November to present the final plan and allow the public to submit further comments.

Carl Griffin said at any point along this process, the Committee can say they do not want to send the plan on to the full APC.

Jackson Bogan said at the November 6, 2019 meeting, the entire plan with changes will be presented. The idea is that once the plan is heard, it could potentially be moved forward to the full APC. He said the Committee will welcome all public input at the November Ordinance meeting. He told Mr. Baiel that if he knew of others that would like to bring public input to please let them know.

Gary Schroeder clarified that in the past, the Ordinance Committee is the final reconciliation by all the people to make changes to the plan. He asked that if the entire plan would be published when the meeting is advertised.

Sallie Fahey said it is not required by statute.

Gary Schroeder asked even if the meeting was advertised and there are changes made to the plan, it could still be heard. He asked why it would need to be continued to the December meeting.

Sallie Fahey said there is a filing deadline which is 30 days prior to the APC meeting. The document that exists in draft form is what is filed for hearing. If there is a change to that, it would have to go before the full Area Plan Commission at the meeting. The Ordinance Committee can recommend to the Area Plan Commission to change the document. The amendment to the amendment would have to occur at the full APC meeting.
Zach Williams said he agrees that this is a timing issue. This Committee is charged with the idea of vetting new proposals to make sure they make sense before making a recommendation. This Committee does not decide, it makes a recommendation. If the Committee says no, it means it is not ready to be sent on to the full APC. However, when the Committee says yes, and it is sent to the full APC, it still must meet packet deadline to allow everyone to get the chance to prepare. The APC always has the ability to make an amendment on the floor. There have been circumstances where the APC kicks the case back to Committee to be further vetted. There are different ways this can be handled but, from a timing perspective, if there are going to be big changes made to the document, it probably means it will be continued to the December meeting so there is time to make changes to the packet. The plan can be pushed to the November APC with recommendations that certain amendments are made but that gets complicated. There are a few options on how this can be handled.

Gary Schroeder said in the past, the Committee has tweaked documents. He said he would not want to pass up that opportunity as the Committee hears new information as opposed to advertising it and not being able to make changes.

Jackson Bogan said he gets the feeling that the Committee is trying to push something too fast. He asked if we are trying to hit a specific deadline. He said he would like to recommend that the Committee do not advertise for the November APC meeting.

Gary Schroeder moved that the West Lafayette Downtown Plan not be advertised for the full APC meeting in November and be heard at the November Ordinance Committee meeting. Jerry Reynolds seconded. The motion passed by unanimous voice vote.

V. ADJOURNMENT

Jackson Bogan moved to adjourn.

The meeting adjourned at 5:49 p.m.

Respectfully Submitted,

Chyna R. Lynch
Recording Secretary

Reviewed By,

Sallie Fahey
Executive Director