

**PORTER COUNTY PLAN COMMISSION**  
**Special Meeting - April 5, 2023**

**LOCATION:** County Administrative Center, Ste 205   **TIME:** 5:30 p.m.  
155 Indiana Avenue, Valparaiso IN

**MEMBERS IN ATTENDANCE**

Barb Regnitz, Brian Damitz, Bob Gilliana, Greg Simms, Kevin Breitzke, Nikky Witkowski, Pam Mishler-Fish and Rick Burns. Luther Williams was absent. Also present was Robert Thompson, Kristy Marasco, Kelly Cadwell, and Attorney Scott McClure.

Rick Burns called the meeting to order and led the pledge of allegiance.

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**New Business:**

Applicant: Porter County Board of Commissioners  
Location: 155 Indiana Ave Valparaiso IN  
Request Recommendation from Plan Commission Subcommittee to repeal and/or revise Porter County Ordinance No. 20-11; Chapters 2, 5, 10 and 12 within the Porter County Unified Development Ordinance pertaining to Solar Energy Systems.

**Bob Thompson read the Rules of Conduct for a Public Hearing**

Attorney Scott McClure and Bob Gilliana presented.

Scott McClure – The Commissioners have asked the Plan Commission to take a look at the solar ordinance to see if it needs to be repealed and/or revised. The Subcommittee met. Bob Gilliana is going to provide the recommendation. He wants to be clear that at tonight’s meeting they are not here for any particular solar project. We are not here on any particular township. We are just discussing the actual Solar Ordinance as it stands and what should happen with that and the process or processes that should occur. Bob Gilliana will give the recommendation from the committee. Then there will be a Public Hearing. Hopefully the Public Hearing will be more general as it relates to solar.

Bob Gilliana – The Subcommittee met to discuss and review Ordinance 20-11 Solar Energy Systems. The Subcommittee is recommending to the Plan Commission to forward to the County Commissioners a recommendation to repeal and revise the current Ordinance. The recommendation is based on areas of the existing Ordinance that further research is needed within the existing Ordinance. The areas needing further research are:

Environmental concerns - research panel construction for recommendation on specific panel type that is not harmful to land and surrounding environment. And recommendation to study impact on wildlife including migratory birds.

Decommissioning agreement – requirement of a bond and to have bond renewed every five years. Review language and equipment removal requirements and disposal and recycling.

Setbacks and Landscaping requirements – Review requirements for project location to roads and residential structures.

Noise – maximum noise level allowed at parcel line to a residential structure.

Density and Site location within the unincorporated areas to residential growth areas and review of soil conditions to determine prime farmland.

Labor Agreement - Use of Local Labor.

The Subcommittee believes a revised ordinance could be ready for the Plan Commission to review by their August, 2023 meeting.

Scott McClure – The Subcommittee after all the input and their review, said the Ordinance may or may not be lacking in certain issues. These are the issues and areas they want to address.

Kevin Breitzke – He likes what he sees.

Nikky Witkowski – Is it they “could” have something by the August meeting. That is assuming it passes tonight and it passes the Commissioners?

Scott McClure – Yes.

Brian Damitz – He felt it was a good meeting. They were taking the public input and bring the ordinance up to par.

Barb Regnitz – The Subcommittee felt there were some vulnerabilities. They felt it was time to take a pause and review the Ordinance.

Scott McClure – Tonight the Plan Commission will give either a favorable or unfavorable recommendation on the Subcommittee’s recommendation to the Commissioners. If it is a positive recommendation to repeal and revise, the Commissioners will have two readings. When they come back with a revised Ordinance, there will be another Public Hearing.

### **Public Hearing**

Daniel Straka – Indiana Land and Liberty Coalition. The Coalition represents farmers, landowners and other stakeholders concerned about protecting their private property rights, building their communities through job creation and academic opportunity and being good stewards of the land. The current Ordinance in Porter County more than adequately balances the interests of participating and nonparticipating landowners. For that reason, he encourages the Board to leave the Ordinance as is without revision or amendment. They applaud the Plan Commission that passed the existing Ordinance unanimously for its proactive work to produce an ordinance with the economy, the environment and landowner rights all in mind. He hopes they will remain firm to that commitment. He offered himself and his team as a resource as the Board continues to learn about the benefits of utility scale solar in Porter County. He offered a Guidebook his team has put together with great examples of what works in communities across the State.

Paula Brown – Morgan Township. She is against erecting of solar panels. She is for the repeal. She read a social media statement by a resident in Wheatfield. NextEra is the company putting in the Duns Bridge solar project in Jasper County. Their presentation was wonderful. Not one of the things promised ever happened in the 2 ½ years. They are fighting to find out who is responsible for the ditches. They have manipulated the land so the farmers who still have farmland to farm, are going to be flooded. NextEra ruined Jasper County. It is said the land should sit vacant for 20 years so it can renew itself. If that is what you believe, then just quit farming. Rarely is an application put on her farmland. Paula went to Wheatfield and checked it out. The big complaint was NextEra had promised the moon and stars and nothing had been delivered. They have ruined the land with concrete footings. The farmers are now responsible to remove them at the end of the lease. Their heavy equipment has broken drain tiles. There is constant flooding. Security patrols 24/7. This is because there are shootings on the property. If you google the fines NextEra has paid you can tell they don’t care about the people because they have the money to pay. Matthew Johnson has long forgotten about Jasper County. He does not remember what he promised those people.

Larry Robbins – 271 S 150 E. For one acre there is 1,500 to 2,000 solar panels. He figures with this project there will be over 2 million panels. A report from California compares a natural gas plant and a solar farm that are 100 miles apart. The solar farm sits on 3,000 acres. The natural gas plant sits on 122 acres. Both produce the same amount of energy. NextEra has admitted the panels they use come from China.

Breanna Schrader – an Indianapolis attorney. She represents several landowner families including the Maxwells and Pattersons. She has three points to make. The respect that is due for private property rights. Owners have the right to use their land for whatever they want as long as it does not harm neighbors. There are signed contracts that have already been recorded in Porter County. Farmers decide how to be best stewards of their land. This is a way to keep land in a family.

Richard Busse – 291 S 150 E – This will affect property values. There are 100 homes right around this area. Why build so close to residences? He is in favor of repealing the Ordinance. He went over the schedule of previous meetings where COVID was in effect and the Governor was telling people to stay home. No one was here for meetings when votes were taken.

Arvid Merkner – 287 S 150 E. He did a COVID timeline. None of the meetings where solar was discussed were noticed to the public. The Ordinance process was flawed because of COVID and needs to be repealed or at least revised.

John Paduck – Morgan Twp on 150 East. There have been revisions by the property owner and NextEra where it was 40’ off his property and would not affect him that much. Nobody has answers so they have had to do research. The proposed solar farm is roughly 1,200 acres. There are 378 homes within on mile of this project. The inverters at 100’ away are 60 decibels of a constant humming. He compared this to if Aberdeen decided to get rid of the golf course and go green. People would move. Where he is they don’t have covenants. He is asking this Board to protect their rights and re-write the Ordinance.

Elena Shook – 316 S 150 E. This will cause a 15% to 30% devaluation of property. This is based on an appraiser’s opinion. Please repeal the Ordinance.

Matthew Johnson – NextEra. He stands behind the Duns Bridge project but he did not give that presentation. It is still an active construction site. They will do what is required at the end of construction. He has answered a lot of the misinformation that was heard at the first Public Hearing. Part of working with Mr. Paduck involves removing 400 acres from their project. They are committed to a maximum of 55 decibels. They will re-pave the roads. They have put up a significant amount of money to go to the schools. This will bring in tax dollars and jobs for the County. He is happy to provide factual information from other projects across the country.

Scott Lunt – 275 S 150 E. Suggested a moratorium until the Ordinance is re-written. He has not heard anything about changing the Ordinance to include that A1 zoning would require a special exception for solar. He also did not hear anything about stormwater management.

Seeing no one else wishing to address the Board, Rick Burns declared the Public Hearing closed.

### **Questions/Comments from the Board**

Kevin Breitzke – He would like to see making sure where agriculture tiles are, so none are perforated or obstructed.

Nikky Witkowski – She supports reviewing the Ordinance.

Greg Simms – He is happy to see a few more people at tonight’s meeting. He heard things they had not heard yet.

Pam Mishler-Fish – She has a concern regarding the sound to neighbors. She hopes this is looked at closely.

Brian Damitz – What are the panels made of? What about decommissioning? What if the next administration says they are not going to give money for solar power? That is why there are bonds. In the cleanup – where is it going?

Bob Gillianna - Thanks to the community and solar company for their comments and questions.

Barb Regnitz – The Subcommittee needed to be brought up to speed very quickly.

Rick Burns – Thanks to the Public for comments.

Kevin Breitzke – Will there be a construction agreement?

Scott McClure – If this goes to the Commissioners it is not a moratorium. So it is important this gets turned around quickly. When there is a project there are not construction hours.

**Motion:** Kevin Breitzke moved to repeal and revise the current Ordinance based on the Subcommittee report and forward that recommendation to the Commissioners. Brian Damitz seconded the motion and so approved with an 8-0 ballot vote.

The next Commissioner’s meeting is April 11<sup>th</sup> at 10:00 a.m.

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**Motion:** Nikky Witkowski moved to adjourn the meeting. Pam Mishler Fish seconded the motion and so approved by an 8-0 voice vote.

There being no further business, the April 5, 2023 meeting of the Plan Commission was adjourned.

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Rick Burns, President

Attest:

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Robert W. Thompson, AICP Director