

**PORTER COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, AUGUST 21<sup>st</sup>, 2023**  
**5:30 P.M.**

**(The entire meeting is available to watch on the Porter County website.)**

The Regular meeting of the Porter County Board of Commissioners convened at 5:30 p.m. on Monday, August 21<sup>st</sup>, 2023 in the Commissioners' Chambers of the Administration Center.

Those present were: Commissioners Laura Blaney, Barb Regnitz, Jim Biggs and County Attorney Scott McClure; Executive Administrative Asst. Melanie Massey and Recording Secretary Kathy Merle.

**Call to Order/Pledge**

**Approval of Payroll – August 18<sup>th</sup>, 2023.**

**Approval of Claims – August 10<sup>th</sup> and August 17<sup>th</sup>, 2023.**

**Approval of Minutes for August 8<sup>th</sup>, 2023.**

Com. Regnitz, moved to approve the Consent Agenda, Com. Blaney, second, motion carried.

**ANNOUNCEMENTS**

**The Commissioner's meetings will be live streaming from now on. You can go to the Porter County website and click the on the link.**

**<https://www.youtube.com/@portercountygovernment5550/streams>**

**Correction - Seeking applications for the West Porter Township Fire Protection District Board. *You must be a resident of the West Porter Township Fire Protection District.* The applicant will complete the remainder of the term of Jack Weber which will end on December 31<sup>st</sup>, 2024. The deadline for applications is September 8<sup>th</sup> and the appointment will be made at the September 12<sup>th</sup>'s meeting. Only new applicants are needed.**

Com. Regnitz, We mistakenly said that the residency requirement for this position was Lake of the Four Season. That actually is not accurate. You must be a resident of the West Porter Township Fire Protection District. So we are opening this back up. Anyone who has already applied doesn't need to reapply but any new applicants will need to get your application in by September 8<sup>th</sup> and the appointment will be made at our next meeting on September 12<sup>th</sup>.

**COMMISSIONERS**

**Broadband Mailing of Postcards to Porter County Residence.**

Com. Biggs, Could I please have Jesse Butz, Director of the Porter County Library System come forward. Can you please explain why you are here today?

Mr. Butz, We just recently sent out a county-wide survey regarding Broadband Access. That survey went out to every single home and business. I think it was 74 or so thousand addresses that it went to. As people fill that out it will begin populating some information and some County software a Survey One, Two, Three that we will be able to share with the State of Indiana. OCRA to start with and then hopefully have a better idea of broadband access in Porter County and what we can do to improve that.

Com. Biggs, As you know the RDC, Redevelopment Commission in Porter County is working closely with your organization. We're trying to put it in hyper drive to get Broadband to as many homes as we can.

Mr. Butz, Yes it's a very tight deadline to have it back to the state. It's September 15th they have to have it received. We just started sending them out at the end of the week. We've

already got over 350 responses to the mailers. An additional 600 that went out from our online social media campaign. So it's doing very well really fast.

Com. Biggs, Thank you for sharing that with us. Do you have any questions?

Mr. Butz, No I don't. I appreciate your support on this.

Com. Biggs, Thank you. Have a nice evening.

### **ARPA Funding Ordinance - 1<sup>st</sup> Reading.**

Atty. McClure, This would be the County's 5<sup>th</sup> Proposed Investment of American Rescue Plan Funds from the American Rescue Plan Act of 2021. This is an ordinance ratifying Porter County's 5<sup>th</sup> Proposed Investment of American Rescue Plan Funds from the American Rescue Plan Act of 2021. This one adds specifically to one issue. It is the Porter County Parks Department Sunset Hill Project Band Shell for up to \$150,000.00.

### **PUBLIC HEARING OPENED**

Com. Biggs, Anyone wishing to speak in favor of this ordinance? Second call, anyone wishing to speak in favor of this ordinance? Third and final call, anyone wishing to speak in favor of this ordinance? Anyone wish to speak against this ordinance? Second, call anyone wish to speak against this ordinance? Third and final call, anyone wish to speak against this ordinance?

### **PUBLIC HEARING CLOSED**

Com. Regnitz, moved to approve the ARPA Ordinance for \$150,000.00 for the Sunset Hill Band Shell Project on 1<sup>st</sup> Reading. Com. Blaney, second, motion carried.

Com. Blaney, Is this part of a bigger pot of money?

Com. Biggs, They have raised I think \$125,000.00 or \$175,000.00 on their own. They believe with this donation they can finish out...it's not going to be as grand as what we see here in downtown Valpo but it's going to serve the same purpose. So this gets them to where they want to be. I think it's a great investment to that park up north.

### **GREATNEWS.LIFE – Upgraded Partnership Proposal to double the number of articles and will include 4 videos. Total Annual Cost \$15,350.00.**

Com. Regnitz, I am requesting that we upgrade our partnership with GREATNEWS.LIFE to double the number of articles from 12 to 24 and to also include a package that has four videos. I'm hoping that we can start doing little video vignettes that talk about the different departments and what county government is responsible for that we can play on those monitors while you're waiting for Commissioners' meeting to start.

Com. Blaney, The articles will be like they have been?

Com. Regnitz, I'm hoping that once we have those articles that we can also post them on our website and on our social media.

Com. Regnitz, moved to approve the upgrade with GREATNEWS.LIFE to double the number of articles and will include 4 videos. Total Annual Cost \$15,350.00. Com. Blaney, second, motion carried.

### **A&Z – Public Works/Highway Department design contract.**

Com. Regnitz, Scott do you want to give a quick recap and do we want somebody from A&Z to speak on this today?

Com. Biggs, No we don't.

Atty. McClure, This would be a proposed contract with A&Z Engineering for the architectural design of the Porter County Highway Dept. I don't know how much more you would like me to go into.

Com. Biggs, There is not much more to go into.

Com. Blaney, How much is it going to cost?

Com. Biggs, I think the agreed amount was...

Com. Regnitz, 7.4%.

Atty. McClure, \$857,500.00 based upon a projected construction cost of \$11,392,500.00. Almost \$11.5 million in projected construction costs.

Com. Biggs, Any other questions?

Com. Regnitz, moved to approve A&Z contract for the Public Works/Highway Dept. design, Com. Blaney, second, motion carried.

**Skillman – Construction Management Agreement for the Jail and Public Works/Highway Project.**

Com. Biggs, Is Scott Cherry here? Can you come up here? Can you briefly tell us what this particular agreement covers?

Mr. Cherry, Thank you. The contract I submitted is for the construction management of both the Highway Dept., the Public Works Dept. project and the Jail. It's in the same form as the project we did in the past. I think it was in 2020. The fee percent is exactly the same as it was then. The approach is to manage both projects with separate staffs. Usually in these kinds of agreements you establish a basis upon which the contract was made and later we come back and finalize it based on what the final scope was and the schedule. Working with your architects both for the Jail and for the Highway Dept. the method worked very well in the last projects we did. We're just excited to be working with you guys again.

Com. Biggs, We're excited to have aboard. It's well worth the investment. You are our eyes and ears making sure that everything's done as it is bid out.

Com. Regnitz, moved to approve the Skillman Construction Management Agreement for the Jail and Public Works/Highway Project, Com. Blaney, second, motion carried.

Com. Regnitz, We are missing one contract this evening for the Jail.

Com. Biggs, Yes, we were planning on getting a contract from DLZ for the work in the County Jail. Things didn't work out right so we are going to receive that later this week I believe. We will bring that forward at the very next Commissioners' meeting to address.

Mr. Cherry, Thank you.

**Sheriff's Residence Lease Bid Opening.**

Ms. Martin, We had one bid from A&Z Engineering.

Com. Biggs, I will read this. A&Z Engineering is please to submit a bid proposal of monthly rent of \$1,902.85 per month or \$22,834.20 per year. A&Z is in agreement with the terms as listed in the bid proposal notice as an acceptable rental term of three years. Am I correct, we only had one? How many times did you show that over there?

Com. Regnitz, A few times to a couple of different people. Other people came back a couple of times.

Com. Biggs No confirmed.

Com. Regnitz, Correct.

Com. Biggs, I will entertain a motion.

Atty. McClure, Why don't we take those under advisement, get the lease together and approve the lease.

Com. Biggs, All right.

Atty. McClure, Maybe not the one in two weeks but (Inaudible).

**SHERIFF JEFF BALON**

**Proposals from Auctioneers to hold the Sheriff's Auction on Friday, September 29<sup>th</sup>.**

- **Kraft Auction Service, LLC – 15.4% Buyer Premium & 3% Credit Card Fee**
- **Lestinsky Auctioneers, LLC – 10 % Buyer Premium & 4% Credit Card Fee**

Sheriff Balon, Gary would you please fill us in since you run it.

Major Gear, The buyer premium goes to whoever is buying a vehicle or whatever the item is. The county is not getting any cost to them. The 3% if they use a credit card also goes to the buyer also. There is no cost to the county. The same thing for Lestinsky. There is a difference. Kraft only wants to do an online auction this year. So that is something new to us. We are unfamiliar with it. We don't know what to do but if they do an online which they are going to do it's an extra 2% also. It's actually really 5% with Kraft and Lestinsky is only 4%.

Com. Biggs, And your recommendation is to approve both proposals.

Sheriff Balon, No I think this is going to be who we are going to go with. What we are leaning towards for this year is to go with Lestinsky based on what we know and what the past history has been. And sit down moving forward next year with Kraft and both of them to see where we can hammer out some other stuff and get more specific on costs and what that looks like.

Com. Regnitz, Are these numbers correct that Lestinsky actually is in total of 14% whereas Kraft would be 18.4% to the buyer?

Sheriff Balon, 15.

Com. Regnitz, Plus the 3%.

Sheriff Balon, No it's 3% then there is another 2%.

Com. Regnitz, That would be 20.4% versus the 14% for the...

Sheriff Balon, No it would be 14% compared to 15% is what we are talking about.

Com. Regnitz, I was adding the buyer premium and the credit card fee. That is how I got the 14.

Sheriff Balon, You have 10% buyer premium and 4% for the credit card fee under Lestinsky. Under Kraft it would be 10% you got the 3% plus another 2%.

Com. Regnitz, Okay.

Sheriff Balon, That is where it is different.

Com. Biggs, Your recommendation is to receive Lestinsky's proposal?

Sheriff Balon, Yes.

Com. Regnitz, moved to approve Lestinsky Auctioneers for the Sheriff's Auction on September 29<sup>th</sup>, Com. Blaney, second, motion carried.

**Axon Enterprises – An agreement for a 5 year renewal for Tasers in the amount of \$184,931.12.**

Com. Biggs, Everything is expensive these days.

Sheriff Balon, Unfortunately, yes. This is an ongoing contract that we've had for years with Axon. They pretty much have the market cornered with Tasers. This includes upgrades and things like that. It is just routine. Part of doing business but obviously we want to come to you with this permission to enter into this contract.

Com. Biggs, Sheriff does that replace all the Tasers?

Sheriff Balon, There is a rotation, yes.

Com. Biggs, Do the Jail officers carry any of these as well?

Sheriff Balon, They carry Tasers as well but Eric is not here but I believe that's not part of this contract.

Ms. Grskovich, It is in there. That is all one.

Sheriff Balon, This contract does include that.

Com. Biggs, Does that include any training that may be needed?

Sheriff Balon, We in-house train.

Com. Biggs, You in-house train.

Sheriff Balon, Yes.

Com. Regnitz, moved to approve Axon Enterprises for a 5 year renewal agreement for Tasers, Com. Blaney, second, motion carried.

### **AUDITOR - KAREN MARTIN**

#### **An Ordinance Establishing a Tax Management Assessment Non-Reverting Fund #1185 for the Hiring of a 3<sup>rd</sup> Party Auditor to Perform an Independent Reassessment for Personal Property – 2<sup>nd</sup> Reading.**

Ms. Martin, This has to do with any personal property that exceeds \$80,000.00 that would include steel mills and other businesses. We are using a third party to evaluate it. We had a company prior to and the Assessors were not happy with them. So we've decided to go back to TMA who we used before.

Com. Biggs, This is our second reading. The first reading was approved unanimously.

Com. Regnitz, moved to approve the Ordinance Establishing a Tax Management Assessment Non-Reverting Fund #1185 for the Hiring of a 3<sup>rd</sup> Party Auditor to Perform an Independent Reassessment for Personal Property on 2<sup>nd</sup> Reading, Com. Blaney, second, motion carried.

Com. Biggs, And correction we didn't vote on the first meeting because we're not suppose to.

Com. Blaney, We did.

Com. Biggs, We did? I'm sorry.

### **RECORDER - CHUCK HARRIS**

#### **Fidlar Technologies – A Bastion Software Service License Agreement for the recording production system in the amount of \$21,000.00 annually.**

Mr. Harris, This is basically a new contract. We know this contract needs to be reviewed by Scott. It will take us off of the Porter County servers and going on to the servers with our software vendor. We will be able to work more directly with them. It does offer a lot more robust options because they are a bigger company. That is something we looked into. We talked to Lee in IT. He agrees with this. I believe I sent all of you a support letter from Lee. That is just something we would like to see if we could get your approval on.

Com. Regnitz, moved to approve the Bastion Software Service License Agreement with Fidlar Technologies, Com. Blaney, second, motion carried.

### **MEMORIAL OPERA HOUSE – NATALIE KLOBUCHAR, INTERIM DIRECTOR**

#### **Form 144 – A request to pay the Interim Director \$55,000.00.**

Com. Biggs, Will she be here roughly 30 days in this position?  
Com. Blaney, Until we hire somebody.

Com. Blaney, moved to approve the request to pay the Interim Director \$55,000.00 per year, Com. Regnitz, second, motion carried.

**FACILITIES – DANIEL SULLIVAN, DIRECTOR**

**F.E. Moran Fire Protection – A proposal for annual inspections of Porter County Government Buildings in the amount of \$35,865.00.**

Mr. Sullivan, Good afternoon Commissioners. To correct the wording a little bit on the agenda this is not a request for the inspection of the facilities. This is a result of the inspection that was done earlier this year. They come across and figure out what needs to be fixed and corrected. Some periodic testing that has not been done. They noticed that during the test. These are the corrections of the deficiencies found during that test in all 18 or so buildings the county owns.

Com. Biggs, Let's be clear this is not for an annual inspection.

Mr. Sullivan, Correct. This is for if they find a bad pull station that didn't work. Or we haven't done our inspections of our fire department connections for instance, pressure testing things like that.

Com. Blaney, Could end up costing us more?

Mr. Sullivan, This is the itemized cost of everything they need to do.

Com. Biggs, Does that include fire suppression?

Mr. Sullivan, Yes fire alarm and fire suppression sprinklers.

Com. Regnitz, moved to approve the F.E. Moran Fire Protection contract, Com. Blaney, second, motion carried.

**DEVELOPMENT & STORM WATER MNGMNT. – BOB THOMPSON, DIRECTOR**

**An Ordinance Establishing a Non-Reverting Fund for the Receipt of Monsanto Company Class Action Settlement Agreement Funds – 2<sup>nd</sup> Reading.**

Com. Biggs, Bob just give us a little background on this.

Mr. Thompson, I am going to ask Mike Novotney to give a description on this.

Mr. Novotney, The former Monsanto Company had a number of legal actions filed against them across the country. Those legal actions were consolidated into a class action lawsuit that was settled some years ago. We were party to that class action lawsuit. The settlement funds have been dispersed. This ordinance establishes the funds that we need to create to deposit those funds. It is just over \$1 million. Those funds are to be used for restoration remediation of water bodies affected by PCB pollution and Monsanto's role in the distribution manufacturer disposal handling of those industrial chemicals. This is just to create and receipt those funds. We will work with the Stormwater Board on exactly how those funds will be used for those purposes.

Com. Biggs, I'm sure you guys already have your eyes on some projects that we could use those funds on.

Mr. Novotney, Relatively speaking it is a very small amount of money but we do have some ideas how to most effectively use those funds.

Com. Biggs, It's a shame. You've got a million dollars. It's the time we live in.

Com. Regnitz, moved to approve an Ordinance Establishing a Non-Reverting Fund for the Receipt of Monsanto Company Class Action Settlement Agreement Funds on 2<sup>nd</sup> Reading, Com. Blaney, second, motion carried.

## **Malden Solar Project Application Update.**

Com. Biggs, We are going skip the update on the Malden Solar Project application. I just felt like we didn't get this advertised in time to get people in front of us to listen to it. We'll do that at another meeting. Bob and Mike hang on a second. Do you folks come here to hear that?

Audience, Yes.

Com. Biggs, Come on up. I'm not sure this is what you think it is but nevertheless if you want to hear it we will hear it. Go ahead Bob.

Mr. Thompson, This is a report on the application. On August 17<sup>th</sup>, 2023 a letter was sent to NextEra Energy Resources in response to the application submitted on April 4<sup>th</sup>, 2023 to the Porter County Planning Commission by Malden Solar, LLC. The department has made the official zoning determination that Malden Solar's application is not complete and fails to contain all of the information required by the repealed Porter County Ordinance Number 20-11 Solar Energy Systems and the Porter County Unified Development Ordinance. I have made the official zoning determination under the UDO and the repealed Ordinance 20-11 that Malden's Solar's application is incomplete because it does not comply with the application requirements of these ordinances. The letter that was sent on August 17<sup>th</sup> details the items that are incomplete to Malden Solar. This is a matter of public record. If somebody wants to see it the Commissioners at their April 13<sup>th</sup>, 2023 meeting repealed Ordinance 2011 Solar Energy Systems the repeal was with Ordinance 23-06. Since Malden Solar's application is incomplete any new development plan application will need to comply with any new ordinance adopted by the County Commissioners. Malden Solar may also apply for use variance or per Indiana Code appeal my decision within 30 days. And this would be in front of the Board of Zoning Appeals. This was the first application under Ordinance 20-11 Solar Energy Systems. The application was significantly larger than any other application filed with this department and I felt independent legal counsel was needed. Atty. Robert Eherenman was retained in late June early July. Atty. Eherenman was out most of July and upon his return I was out on a planned vacation in early July. Atty. Eherenman and I agreed that within my return from vacation that we will have the review completed within two to three weeks upon my return. The review was completed within two weeks with the letter going out on August 17<sup>th</sup>, 2023.

Com. Biggs, So it has gone out.

Mr. Thompson, It has gone out.

Com. Biggs, I think there was some confusion you know due to a an article that was in one of the local newspapers that the Commissioners had sent this letter and voted to reject the application which is not correct.

Mr. Thompson, No the application was submitted to the Porter County Planning Commission and that is the board that I represent. And it's within the department that I had.

Com. Biggs, As a matter of fact I didn't see the letter until a copy of the letter was sent to me on I believe Sunday. So I had not even seen it. So you can imagine my surprise when I read about it in the newspaper on was it Saturday or Friday, Saturday or Friday. It was very disappointing but I'm not blaming you. I'm just saying as President of the Board of Commissioners to have a letter like that go out and not be told that it's going out and what the contents entails it's extremely frustrating on my part. Again I'm not blaming you. I know the rules that were set in front of you and those were not to share that with anybody. It is what it is.

Mr. Thompson, Yes I'm following the instructions...

Com. Regnitz, Do you just want to explain what the directions, the directive of Atty. Eherenman and what he had advised you in terms of your communication strategy. Do you just want to explain that?

Mr. Thompson, I cannot explain that on the advice from Atty. Eherenman. That is attorney client privileges.

Com. Biggs, We know that this subject matter having dealt with it over the last seven months or so extremely sensitive. And it's really going to be a responsibility in our part moving forward that we do everything correctly and that is including dealing with the general public on

this. That's what I ask that we all do here. Once that's lost it's lost. It's very difficult to ever get back. That's why we have to be extremely careful what we do with our information and how we use it.

Mr. Thompson, Atty. Eherenman is on top of that with me and I'm following his legal advice.

Com. Biggs, I think you did too. I think you followed it to the letter.

Com. Regnitz, That is what I was actually asking you Bob. The fact that he gave you certain very specific directions on your communication.

Mr. Thompson, Yes.

Com. Biggs, I appreciate that but I'm just saying moving forward this has been very extremely controversial subject.

Com. Blaney, And the letter also became public record. When it was sent.

Com. Biggs, I just don't expect to read it first in the newspaper before I get it as President of the Board of Commissioners. I don't think that is asking too much. It's a very reasonable request as a matter of fact. And again I'll say it one last time. This has been extremely controversial and rightfully so. It's a big deal. If we all do our jobs as we know how we should do them everybody is going to be fine. Not everybody may walk away from this happy but we are going to do it according to the letter of the law and according to our protocols in this building. Period. I don't have anything else. Do you have any questions?

Mr. Thompson, I do not. Thank you.

#### **MORGAN TWP. FIRE DEPT. – ADAM WALLACE**

**A request for permission to close 325 S to 400 S on State Rd. 49 for the Annual Malden Labor Day Parade on Monday, September 4<sup>th</sup> from 12-12:30. The Porter County Sheriff's Department will assist with traffic control.**

Com. Blaney, moved to approve the Malden Labor Day Parade request, Com. Regnitz, motion carried.

#### **CITIZEN COMMENTS**

Mr. Merkner, My name is Arvid Merkner. Our home is in Morgan Township. I want to begin by thanking you for the opportunity to be heard this evening. Our purpose in being here is to discuss the origin and passage of Porter County Solar Ordinance 20-11. Although it's been repealed questions remain as to how this was allowed to happen. We hope to answer some of those questions this evening. Tonight we'd like to share with you some of what we've learned with you and with those in the public who are also looking for answers. Ultimately it will be up to each of you to determine what the truth is. As many of you know all this started in 2019. I'd like to give you a little background information. The minutes from the Commissioner's meetings for 2019 did not have any discussion about solar. Just to repeat that from January 2019 through December 2019 solar was never discussed in the Board of Commissioners meetings. So Commissioners Biggs and Regnitz have been provided, you've been provided a binder that contains a group of emails and these are entitled In Your Own Words. These emails came from several information requests under the access to public records act commonly referred to as FOIA. The email search that was done captured information from August 1<sup>st</sup>, 2019 through April 30<sup>th</sup> of 2020. That's a nine month period of time. The first time that any email contained the word solar was on Sunday, October 13 2019. So for the entire month of August the entire month of September and half of October there was no mention of solar on any emails from the people I FOIAed. An email on Sunday, October 13<sup>th</sup>, 2019 containing the word solar appears to be the beginning of the solar related activity for Porter County. The emails presented tonight are a small sample. Please read the entire document online and come to your own conclusions. Let's begin with the first email that appeared containing the search word solar that I used. So on Sunday, October 13<sup>th</sup>, 2019 Debbie Good sent an email to Jeff Good around midnight. She thanks him for returning her phone call and writes about a high school presentation by NextEra. She says NextEra would speak to the students after talking to the Plan Commission. She leaves the contact information for NextEra's project manager in the email. Just 12 hours later on Monday, October 14<sup>th</sup>, 2019 and just before noon Jeff Good forwards that email to Mr. Thompson, Ms. Blaney and Mr. McClure without instructions. Normal instructions might include



please review an advise or your comments please or please handle. Again no instructions were given on that on that Friday, October 18<sup>th</sup> just four days after receiving Jeff Good's email Mr. Thompson has called NextEra into setting up meetings. He writes to Ms. Blaney, Mr. McClure and Mr. Novotney

he writes Laura I reached out this morning to a Hunter Armstrong with NextEra to set up a meeting. Hunter has been talking with local farmers about constructing a large solar farm in the South part of the county. Hunter wants to meet with the Commissioners to see if they are favorable to such a project and I wanted to reach out to you first since you sit on the Plan Commission and it's in your district. So Ms. Blaney was part of this from the very beginning. Mr. Thompson writes to Ms. Blaney it's in your district but no one's met with NextEra and they already know where the solar park is going and apparently this doesn't raise any red flags for Jeff Good, Ms. Blaney, Mr. Thompson or Mr. McClure. In a second email also on that Friday, October 18<sup>th</sup> Mr. Thompson is asking NextEra for some direction. Mr. Thompson writes the NextEra I have an email out to the County Commissioners about a meeting with you and the project. I will let you know what day will work. I also wanted to reach out so you had my email address and to ask you to point me in a direction of a county or community that has what you consider to be a favorable ordinance for solar energy and solar farms. NextEra sends Mr. Thompson a copy of the ordinance from Jasper County quoting "they have an ordinance that is safe and able for development". Mr. Thompson sets up their first meeting for November 7<sup>th</sup>, 2019 at 10 A.M with NextEra. Attending is Ms. Blaney, Mr. McClure, Mr. Thompson, Michael Novotney and Ms. Marasco from Porter County. The NextEra group includes Hunter Armstrong, Zachary Melda and Kim Dickey. It appears that Mr. Thompson asked NextEra to provide him with some documents because on November 8<sup>th</sup>, 2019 Zachary Melda from NextEra writes to Mr. Thompson and he says it was very nice was very nice speaking with you and the Porter County team yesterday. I have enclosed the Economic Development agreement, Road Use agreement and Decommissioning agreement we did for the Bluff Point Wind Energy Project as you requested. We would be very interested in drafting a similar agreement with Porter County on a solar center as we move forward with the project. Additionally, I have attached the Jasper County solar ordinance that was recently approved the Dunns Bridge site last February 2019. Happy to discuss further and look forward to continuing our partnership on this venture. Ten minutes after receiving that email from NextEra Mr. Thompson forwards it to Ms. Blaney, Mr. McClure, Mr. Novotney and Ms. Marasco so Ms. Blaney who attended the first NextEra meeting the day before now has that Economic Development agreement, Road Use agreement and Decommissioning agreement that NextEra sent to Mr. Thompson. She still made no effort to update the public. On December 9<sup>th</sup> Mr. Thompson writes to Mr. McClure. Towards the end of the email he writes not sure if the Solar Company is keeping in touch with the Commissioners and please note this plural.

I may send the draft ordinance to the company we met with. At this point Mr. Biggs is still not on any of the emails and to me this email appears to make it clear that Porter County is pursuing NextEra and not the other way around. It's been 56 days since this started and still no effort from Ms. Blaney to get the public input. This is a county-wide ordinance and Com. Biggs still has not been informed. This is the time period when COVID started. So on January 13<sup>th</sup>, 2020 Mr. Thompson does in fact send a preliminary draft of the solar ordinance to NextEra. It appears that NextEra did not ask for a copy but Mr. Thompson sent it to them anyway. Mr. Thompson also asked NextEra for their comments. So Mr. Thompson writes Hunter and Zach from NextEra, it's been a while since we had our meeting in Porter County and our discussion about a solar farm.

I attached a very preliminary draft of the proposed ordinance for the county and wanted to see if you had some comments. If you're still interested in the solar farm here. This is still going through the review with staff here and also our attorneys. It has not been scheduled for hearings as of yet. If you have any questions let me know. Any comments just forward them on to me. NextEra's response comes on January 17<sup>th</sup>, 2020 and NextEra says we are taking a look at it and should have some comments to you sometime next week. So NextEra sees a copy of the ordinance before Com. Biggs. It's now been 91 days since the start of this and there is still no effort by Ms. Blaney to inform the public or get their input. January 27<sup>th</sup> NextEra does send their comments to Mr. Thompson regarding the draft ordinance they received. They list two concerns. One of them being that essentially we would not be able to secure zoning compliance certificate without a power purchase agreement. Usually this can be listed as a condition of approval. Would the county be willing to take this approach further on? Overall we view this to be a friendly ordinance and look forward to working with Porter County to create a final version. At this point the final version is being written. It's now been 105 days since this began. Ms. Blaney still has not asked for public input from the people that she represents. In addition Com. Biggs still doesn't know what's going on behind his back. Also on January 27<sup>th</sup>, 2020 Mr. Thompson emails Mr. McClure and Ms. Marasco discussing NextEra's concern about public hearings. Mr. Thompson writes my bid question is with the Development

Plan process. Do we state going to the Plan Commission or just keep it simple and go to the Development Review Committee? I was thinking Development Review Committee since the Board of Zoning Appeals will hold a public hearing with special exception. I'm sure they would be concerned with the hearing in front of the Plan Commission. On February 12<sup>th</sup>, 2020 the Plan

Commission will vote on this in just two weeks. It's been 121 days since this has begun. Four months and still no community input or discussion with Ms. Blaney or Jeff Good. Mr. Thompson writes to Mr. McClure again discussing public hearing and scrutiny and this is regarding a St. Joseph County ordinance that was provided. Was also noting in their ordinance that large systems were permitted uses in A1 and Industrial Zone parcels. Do not think I want to go that far but was thinking why go to the Board of Zoning appeals for special exception when Plan Commission can review the same requirements and some for the final approval with a Development Plan. Further on he writes just trying to move the applications along and if it's an industrial area or in the middle of an agricultural area why put them through two hearings. February 24<sup>th</sup>, 2020 Mr. Thompson sends the solar ordinance to the Plan Commission members at about 4 pm. It appears that this is the first time they've seen this ordinance. These 8 Plan Commission members have just one day to read, understand, ask questions, get answers and discuss before having to vote on February 26<sup>th</sup>. The Plan Commission members are full-time employees elsewhere. There was a staff report that came with the ordinance and it states, please note that a Development Plan approval at the Plan Commission is at a public meeting but it is not a public hearing with notification. It's now been 133 days and once again the public was not notified and Ms. Blaney never sought any public input at this point. At this point COVID has been going on for two and a half months. I have an email from a director level county employee to 60 people that's 60 informing them that the county building is being closed and it reads because of COVID-19 outbreak Porter County government is attempting to remain in business with all offices in operation and in service although the building will be closed to the public beginning Tuesday at noon March 16<sup>th</sup> through Sunday, March 29<sup>th</sup>. Let me read that again although the building will be closed to the public beginning Tuesday at noon March 16<sup>th</sup>. The first reading of the new ordinance was the next day March 17<sup>th</sup> to what looked like an empty room and in a building that looks like it was close to the public. Just so that you're aware Atty. McClure was cc'd on that email and never challenged or corrected it. Apparently there was no error and nothing to correct. Additionally the second reading was done on zoom and this meeting was also not offered to the public. It's now been 154 days since this began. That's over five months and still no effort by Ms. Blaney to inform the public or get public input. On April 15<sup>th</sup> the day after the solar ordinance was passed Mr. Thompson emailed NextEra and he writes I wanted to pass along the final version of the Porter County solar ordinance that was approved by the Commissioners on Tuesday, April 14<sup>th</sup> since the last version I sent you the requirement for special exception within Agriculture and Industrial districts was removed. As for the power plant purchase agreement question you had I still left in the commitment letter from a power company but I understand your point very well. We figure that if you were at the Development Plan process you are making a big commitment and yes we will work with you. At the construction permit release or zoning compliance you come forth with letters of commitment we can work with you. Further on he writes please note that on page nine the ordinance states that a Development Plan is not subject to a public hearing unless you are requesting waivers from our solar ordinance. A Development Plan before the Plan Commission is at a public meeting but it is not advertised nor notice is sent out for public hearing. Large developments as defined in the ordinance are sent to the Plan Commission for approval instead of our staff committees. It's now been 184 days since this began and still there's been no effort to get public input before passing this. During this entire process three other solar companies approached Porter County. They were Swanson Solar, Midwest Solar and Apex Energy. It appears that all three were never heard from again. In responding to Apex Energy Mr. Thompson writes it was this office that authored the solar energy ordinance recently adapted. As with all development inquiries the Commissioners will send them to this office for meetings and reviews first and then we will report back to the Commissioners. The problem is that NextEra did not have a Development Plan inquiry that the Commissioners sent to the Plan Commission. Mr. Thompson did not follow his own procedures that he gave to Apex Energy. Nor did Mr. Thompson report back to all of the Commissioners and again why was Com. Biggs left out? To wrap this up so four years after this began we're finally beginning to understand what happened and to assess the damage that's been done to our community. In my opinion the damage that's been done by this corrupted process is just stunning. It's turned neighbor against neighbor. It's ended long-standing friendships. It's caused people to sell their homes and to leave the area but what is especially disturbing is that it's destroyed the trust and the confidence of the people in the County's government. What is equally disturbing is that Mr. Thompson, Ms. Blaney and Mr. McClure are oblivious to it. They have no idea the damage they've done. Going forward from today everything that they touch in County government will be viewed with suspicion and distrust. And in my opinion deservedly so. Three of the people responsible for this mess still employed by the county. No one's been held accountable for their actions and they're free to do it all again. I've read in the newspaper that NextEra's application is being denied. Everyone should know that this isn't the end of the process but this is just the next step. This fight continues but just moves to the courtroom. My final comment is don't take my word for it take their words and read the emails for yourself. Thank you for your time and consideration.

Com. Biggs, Would anybody from the Board like to address what was just presented? Probably two to two and a half months ago Mr. Merkner contacted me. This was evidently after you had FOIA'd your first volley of FOIA request. I knew you had done them the Commissioners we were receiving the emails on the request from Mr. McClure. It was my understanding and correct me if I'm mistaken that you initially reached out to me because you noticed that I was not in any of these emails and was I aware of it. And I had told you no. You know me as much as anybody was at a loss for words to Mr. Merkner. It kind of looks like I was duped. I should have known that these conversations were taking place in the background. I had absolutely no idea. So I have no explanation for it. I'm wondering...this was important to know. I had walked into the president's position at the first of the year and as you remember that was about the time that there was a lot of discussion about solar farms possibly coming into South County and specifically the Malden area. So as Board President I made the decision to hold a meeting out at the Expo Center for the residents. Invited NextEra also to be there to answer any questions. And at this time folks I don't know any of this stuff. I haven't been told yet. I think out of all of this is what angers me the most is that I took it upon ourselves, brought the Commissioners in front of the public and had no idea that all of these conversations with NextEra had taken place. I could have been walking into a bees nest with that. Had one of you know it and made it known at that meeting. I can't tell you how embarrassed I am over that because I pride myself on the job that I do up here. I don't ask much. I just asked to be communicated with and treated fairly. And treat me the way I treat you. So when I'm hearing this you did he FOIA? Why did he FOIA Jim Biggs? I understand your comment was and the article in the Post Tribune was that because of the first volley of the emails that you received I wasn't on any of them. And it was from that first volley that you created your second list of who you were going to FOIA. I went ahead and FOIA'd my emails and out of a reference of 28,577 emails I had the words solar and the words NextEra pulled out of 28,577 emails 11 appeared. None of them had the word NextEra on them and none of them addressed any kind of solar farm or any kind of application that might have been on the precipice of being applied here. They had to do with solar stop signs. I wasn't surprised because I knew that I had not. It wasn't until after we passed the ordinance in March of 2020 I believe actually more than a year later that NextEra reached out to me. I had started seeing things appear in the paper where they were doing presentations to like the local Chambers. So I'll be honest with you my first impression of reading those articles was boy they they gave the name the Malden Solar Project. I thought well that's pretty arrogant. It hasn't even even come in here yet. Little did I know it had? Little did I know it was already in the room? It is absolutely inexcusable that I didn't know. There's no reason that I shouldn't have been told. It looks like a lot of things I agree. It looks like a lot of things. In my little speech earlier about there's one thing you don't want to lose up here ever and that's the public's trust. Once you lose that you're done, you're done. You can't lose that.

Com. Blaney, So did you two include me on all emails now?

Com. Biggs, Laura look I include you in any business that comes up here much less an ordinance. Absolutely you're included.

Com. Blaney, How about the Highway Project. I got all the emails?

Com. Biggs, You got any email that I received. I don't know if I mean if that's your response you didn't let me know because you don't think I always let you know something.

Com. Blaney, That's not my response. I'm just...

Com. Biggs, Well if that's your response then what's your response to them then. Why didn't they know?

Com. Blaney, All of the meetings were noticed the way they need to be. The meetings were noticed. We always let the public.....

Audience, Interruption (Inaudible)

Com. Biggs, As the President of the Porter County Board of Commissioners I understand I understand why you're angry. And as the President of Porter County Board of Commissioners and because I was also included into what went on here I'm going to do something about it. I need time to digest the content of these emails and who was involved but I'm going to do something about it. I promise you that. I don't have anything else.

Ms. Tolevski, Hi my name is Susie Tolevski. I'm from Porter County. I have some questions for Com. Blaney. Com, Blaney could you please answer the question for everyone here why did you again exclude Com. Biggs from all the emails?

Com. Blaney, I don't think I initiated any emails he wasn't on. I probably hit reply all.

Ms. Tolevski, I mean literally I reviewed um like probably several hundred emails. I know there's thousands of them. I did not have time to review all of them. He was not on there. It's you uh Scott McClure, uh Robert Thompson and I saw some from Novotney. I saw from some from NextEra. I didn't see any and there and this gentleman testified to the fact that there are thousands like 75,000. I mean I didn't have time to look at all of them. So why was Com. Biggs not on those emails, on any of these emails that for months and months and months. I mean this gentleman just testified that this went on obviously for you know about six months or so. So why was he not included?

Com. Blaney, Jeff Good was the President at the time (Interrupted by Ms. Tolveski). Jeff Good was the President and I was the South County Commissioners. So that's what the first email said and I'm sure that is how it continued.

Ms. Tolveski, That is not answering the question why Com. Biggs was excluded as it continued. There is no indication there that anybody said oh let's add Com. Biggs onto these emails so he is aware of what's going on as you guys were uh discussing this via email and obviously I mean I assume you guys discussed this um you know uh through other communication means. Maybe in person over the phone whatever. So why did you not....this is the second time you've done this. We saw this with the ARPA funds last year that you excluded Com. Biggs. This is literally the second time you're excluding him so we'd like an explanation why? I mean he represents a third of the county so what is your beef with him? Why are you excluding him?

Com. Blaney, I don't have an answer for that. I don't think any of the emails I sent directly were excluding of Com. Biggs.

Ms. Tolveski, Like literally they are. Like what do you mean you sent directly?

Com. Blaney, Emails that I initiated.

Ms. Tolevski, There is a website with all the uh emails.

Com. Blaney, From me directly?

Ms. Tolevski, There's a whole bunch of emails okay on there. We looked through a lot of them. He is not on there. I mean Mr. Merkner here just went through this. I mean this is like clear as day. This is again the second time you've done this. So this is like a pattern. Your pattern in practice of excluding him so he's like completely ignorant of what's going on and you don't have a good answer. You seem to be the type of person who thinks they get away with all this and people aren't going to notice it when the people aren't going to show up and call you to account. I told you once before you are not the queen of Porter County. You are responsible and accountable to the people. So you cannot answer this question?

Com. Blaney, What do you want me to answer he voted on it too. He had it before we voted.

Ms. Tolevski, We're talking about months and months and months where you excluded him. You excluded the public too which is even more important. Why did you exclude the public?

Com. Blaney, The public was noticed.

Audience, In a Lake County newspaper.

Com. Blaney, In a Lake County newspaper. The Post Tribune doesn't even have different versions of the paper anymore.

Ms. Tolevski, Okay what's clear that people didn't know because obviously all these people are showing up and they're very very angry. You know the other thing I kind of would like to ask the County Attorney I mean why did you never include Com. Biggs? You were on all these emails too.

Atty. McClure, That's true.

Ms. Tolevski, So what's your answer?

Atty. McClure, As an employee of this board I do what I am told to do.

Ms. Tolevski, So what were you told to do? Were you told to exclude him?

Atty. McClure, No of course not he wasn't told to exclude him but are there...(Interrupted by Ms. Tolevski)

Ms. Tolevski, You're you're saying...

Atty. McClure, Let me finish. For emails in which I start off and I don't include Mr. Biggs.

Ms. Tolevski, Hundreds if not thousands. I never saw his name. I saw your name repeatedly.

Atty. McClure, As a cc to the emails. I get a lot of emails.

Ms. Tolevski, Not just a CC you were in a dialogue.

Atty. McClure, I was drafting emails.

Ms. Tolevski, There were a bunch of emails there the emails back and forth back and forth. You were on there. Nowhere did you say should we include uh Com. Biggs. Nowhere did you CC Com. Biggs. Nowhere. You're the County Attorney. Why did you exclude Com. Biggs?

Atty. McClure, I don't believe that I did.

Ms. Tolevski, You literally did. We have your emails. We have them. We have her emails. Both of you did this along with Com. Good together. And uh this guy uh Thompson. And you guys deliberately excluded him. This is the second time we've caught her doing this. Laura you're shameless.

Com. Blaney, No I'm not.

Ms. Tolevski, You know I think I can speak for a lot of people here you should resign your position because it's literally a full-time job monitoring you okay and watching you. And people have to keep coming out and calling you to account. You don't follow the standard practices that should be followed. You just think you can do what you want to do.

Com. Biggs, Susie if you have a question ask your question.

Ms. Tolevski, Well she won't answer the question. She never told me why. She doesn't want to include that. Why does she think she can get away with this nobody knows? And honestly she makes you look very bad. I don't know if you realize that.

Com. Biggs, I'm a big boy and I'll take care of that.

Ms. Tolevski, Look at all these people that that are upset because their property values are affected. Because they're the way they live their lives where they chose to live is being affected. If you're going to do something like this this monumental. This is big. Wouldn't you go and consult with your constituents go and have some meetings with them and put out public notices. She does not care. The way you can judge whether somebody what they really feel is how they behave. She has behaved badly repeatedly. Laura Blaney should resign from the Board of Commissioners of Porter County. I hope that you will do what is right because you are destroying basically the confidence that we have in this board Laura. That's what you're doing. So I hope you will enlighten yourself and mull this over a little bit.

Com. Biggs, Unless there's something new you got to be tone deaf if you don't hear the message. So I would appreciate not going over. You pay for at least that.

Com. Regnitz, Can I just say something? One of the things that I'm hoping that we can do better is and I know that Com. Blaney mentioned that whatever the meeting was noticed but I don't believe that anybody understood what it meant. Or they even knew to look at notices. The meeting that we had on February 27th at the Expo Center I wish that meeting would have been held before this ordinance was ever prepared so that people really understood what it meant when you talked about bringing solar into the county. I'm hoping that in the future we can do a better job when we are about to entertain the idea of an ordinance that is so substantive like that particular ordinance that we can notice it such that you know what this means and how it could affect you. And so that you can come prepared and you can explore those ideas with us to make sure that we don't have anything like this happen again. I was not around when any of this happened and so I can't judge anybody's motivations or anything at that time. I'm not even going to attempt to. I'm just hoping that in the future we can do a much better job and I promise you. And you can reach out to me and I will do the best I can. I'm sure that I'll make mistakes too but I promise you I will always be doing the best job that I possibly can to keep you informed. Thank you.

Ms. Brown, My name is Paula Brown and I live in Morgan Township. We know that in 2022 the Senate Bill 411 is now a voluntary bill. It is not a mandated bill by the legislature down in Indianapolis. And the reason that it's not a mandatory bill is because it failed miserably in the Indiana Senate because at the end of the day residents of Indiana don't want this. There are many counties now in Indiana that are opting out of being a solar county. We have attempted to speak to all the Commissioners in the last four months with our concerns going forward after this bill was repealed. Com. Regnitz and Com. Biggs thank you for responding to the emails in the open door meetings. We would like to have had you Com. Blaney involved in this process but you chose differently. Com. Regnitz you are on the solar planning committee and have readily received our information that have been informative talks and emails such as to why solar panels do not work. We have hundreds of videos to prove the same. I don't know what it's going to take to make people realize this is not the answer. Certainly not in the cornfields of Indiana. It has played out that they are not working much anywhere. So please we ask you don't let our County be the next Jasper or Stark County that has ruined their rural landscape for the solar companies only to line their pockets with tens of millions and subsidies. At this point we do not have a solar ordinance and I speak on behalf of the concerned citizens of Morgan Township and those directly affected and opposed to the Malden Solar Industrial Project that we are asking for Porter County to not move forward with the solar ordinance. We ask that you sit on the sidelines under this voluntary Bill to observe other counties. Take notices to the reason so many counties are backing out of these contracts or not developing the solar ordinance to begin with because it has proven time and time again across this nation that this process does not work and these counties are left in devastation. Why can't we take a wait and see? Why don't we sit back and watch? The only one that stands to lose from this is NextEra. We humbly ask all of you to continue to work for the citizens of Porter County. I guarantee you that if we move forward with a solar ordinance this will be proven to be the worst decision as Commissioners you will ever make for your constituents. Thank you for your time.

Com. Biggs, Is there anyone else that would like to speak?

Ms. Morris, Natalie Morris. I was very surprised when I saw the newspaper article on Sunday and what it said. The only reason I'm coming up here is because I'm just surprised that the newspaper reporter could get a copy of the letter that was going to NextEra before you did. I want to say that throughout this whole thing you have always been very supportive to me and very helpful. I've been very upset about this whole thing because it's going to be across the street from me which you don't seem to care about because you're my Commissioner and you won't even return my phone calls. So I want to thank you. The reason I'm up here is because I want to thank you and that's it. I feel very badly that that letter you could give it to a reporter but you couldn't give it to Com. Biggs. Thank you for your time.

Com. Biggs, Thank you.

Ms. Hunter, I am Cindy hunter in Porter County Pleasant Township. I just wanted to say that I have reached out to Laura Blaney. I asked her to talk to Vince Urbana down in Jasper County. I live two miles from the solar and we farm in that area but it was just the idea that she never did get back with me. I even text to ask her if she had spoken to them and she never got back with me. I reached out to you and I think I told you on the email that I had reached out to her and she never said anything. I just want to say thank you because we really don't want it in Porter County.

Com. Biggs, You're welcome. Is there anyone else that would like to speak? Well thank you for taking the time. You know in situations such as this I want to be clear that I speak for myself. I hear you so thank you and have a safe drive home.

With no further business, the meeting was adjourned at 6:49 p.m.

BOARD OF COMMISSIONERS  
PORTER COUNTY, INDIANA

\_\_\_\_\_  
Jim Biggs

\_\_\_\_\_  
Barb Regnitz

\_\_\_\_\_  
Laura Blaney

Attest: \_\_\_\_\_  
Karen Martin, Auditor