

FILED  
August 23 2023  
INDIANA UTILITY  
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION )  
OF LONE OAK SOLAR ENERGY LLC )  
REQUESTING THE COMMISSION REASSERT )  
JURISDICTION, IN PART, PURSUANT TO )  
IND. CODE § 8-1-2.5-7 AND FIX REASONABLE )  
CONDITIONS FOR THE CONSTRUCTION )  
AND OPERATION OF LONE OAK'S SOLAR )  
FACILITY PURSUANT TO IND. CODE )  
§§ 8-1-2-61, 8-1-2-69, 8-1-2-101, 8-1-2-101.2, )  
8-1-2-115, 36-7-2-8 AND RELATED STATUTES )

CAUSE NO. 45883

IURC  
PETITIONER'S 2  
EXHIBIT NO. 9-12-23  
DATE REPORTER

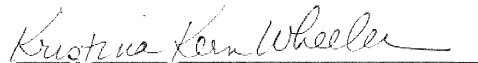
VERIFIED PRE-FILED REBUTTAL PHASE I TESTIMONY

OF

MICHAEL A. HILL

OFFICIAL  
EXHIBITS

Respectfully Submitted,



Kristina Kern Wheeler

Nikki Gray Shoultz

Bose McKinney & Evans LLP

111 Monument Circle, Suite 2700

Indianapolis, IN 46204

**VERIFIED PREFILED PHASE I REBUTTAL TESTIMONY OF MICHAEL A. HILL**

1 **Q1. PLEASE STATE YOUR NAME AND ON WHOSE BEHALF YOU ARE**  
2 **TESTIFYING.**

3 A. My name is Michael A. Hill, and I am testifying on behalf of Lone Oak Solar LLC  
4 (“Petitioner” or “Lone Oak”). My business address is One South Wacker Drive, Suite 1800,  
5 Chicago, Illinois 60606.

6 **Q2. ARE YOU THE SAME MICHAEL HILL THAT FILED PHASE I DIRECT**  
7 **TESTIMONY IN THIS CAUSE?**

8 A. Yes, I am. I am employed by Invenenergy LLC as Associate General Counsel, Permitting  
9 and Local Affairs.

10 **Q3. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 A. My rebuttal testimony responds to the Direct Testimony of Larry Strange, the Executive  
12 Director of the Madison County Plan Commission on behalf of Madison County  
13 (“County”).

14 **Q4. WHAT DOES MR. STRANGE TESTIFY ABOUT?**

15 A. Mr. Strange testifies regarding the history of the Madison County Solar Ordinance,<sup>1</sup> and  
16 he states that there have not been any amendments to that Ordinance since its enactment.  
17 Strange Direct, at p. 4, lns. 1-2.

18 **Q5. DOES MR. STRANGE PRESENT A COMPLETE PICTURE OF THE CURRENT**  
19 **STATUS OF SOLAR REGULATION BY THE COUNTY?**

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<sup>1</sup> The County’s Solar Ordinance (Ordinance No. 2017-BC-0-01) is included as Exhibit A to Lone Oak’s complaint in Cause No. 45793, which was included with the Petition in this Cause.

1 A. No, he does not. Utility-scale solar projects have been banned in Madison County for more  
2 than four (4) years. Mr. Stange does not address the County's actions after adoption of the  
3 Solar Ordinance in 2017, the timeline of which is as follows:

- 4 1. July 10, 2019 - Just six weeks after Lone Oak received its original zoning approval  
5 from the Board of Zoning Appeals ("BZA"), the County Commissioners approved  
6 Ordinance No. 2019-BC-O-04 (minutes included as Attachment MAH-1R<sup>2</sup>), which  
7 placed a six-month moratorium on Special Use Applications under Solar Ordinance  
8 for "large scale energy systems" with a project size of more than 50 acres, until  
9 approximately December 10, 2019.
- 10 2. November 25, 2019 - The County Commissioners voted to extend the County's  
11 large-scale solar moratorium to July 6, 2020. The minutes from this meeting are  
12 included as Attachment MAH-2R.<sup>3</sup>
- 13 3. July 20, 2020 - The County Commissioners received a recommendation in the form  
14 of a proposed ordinance from the County Plan Commission to extend the large-  
15 scale solar moratorium another 180-days, to approximately January 20, 2021. The  
16 Commissioners took no action, so it appears that per the discussion at that meeting,  
17 the Plan Commission's recommended ordinance became law automatically after  
18 90-days pursuant to Ind. Code § 36-7-4-606(b). The minutes from this meeting are  
19 included as Attachment MAH-3R.<sup>4</sup>

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<sup>2</sup> The video and minutes of the County Commissioners' meeting are also available here:

<http://madisoncoin.suiteonemedia.com/Web/Player.aspx?id=773&key=-1&mod=-1&mk=-1&nov=0>

<sup>3</sup> This Ordinance No. 2019-BC-O-10 is not available on the County's website, but the video and minutes of the County Commissioners' meeting are available here:

<http://madisoncoin.suiteonemedia.com/Web/Player.aspx?id=790&key=-1&mod=-1&mk=-1&nov=0>

<sup>4</sup> The Ordinance is not available on the County's website, but the video and minutes from the July 20, 2020 Commissioners meeting also can be found here:

<http://madisoncoin.suiteonemedia.com/Web/Player.aspx?id=992&key=-1&mod=-1&mk=-1&nov=0>

- 1           4. September 21, 2021 - The County Commissioners voted to extend the County's  
2           large-scale solar moratorium for another 180-days (to approximately April 2022).  
3           This Ordinance No. 2021-BC-O-13 is included as Attachment MAH-4R.
- 4           5. January 18, 2022 – The County Commissioners voted to extend the County's large-  
5           scale solar moratorium until December 31, 2022. This Ordinance No. 2022-BC-O-  
6           1 is included as Attachment MAH-5R.
- 7           6. December 19, 2022 – The County Commissioners voted to extend the County's  
8           large-scale solar moratorium for more than a year to December 31, 2023. This  
9           Ordinance No. 2022-BC-O-13 is included as Attachment MAH-6R.

10          In each of these moratorium ordinances, the County indicates an intention to approve a  
11          new solar ordinance. However, a new solar ordinance has never come to fruition.

12      **Q6.   WHAT EFFECT DOES MADISON COUNTY'S SOLAR MORATORIUM HAVE**  
13      **ON THE LONE OAK PROJECT?**

- 14      A. Even though the County enacted a moratorium on solar after it approved the Lone Oak  
15      project, that moratorium may not be lawfully applied to stop Lone Oak's development if  
16      the Commission finds the County's commercial operation deadline was unreasonable and  
17      void. Applying the moratorium to stop the Project's development would be akin to an *ex*  
18      *post facto* law that nullifies the regulatory scheme in effect at the time the County approved  
19      the project. If the Commission were to find that the County's Special Use Condition  
20      creating a December 31, 2023 commercial operations deadline for the project is reasonable,  
21      and this seemingly indefinite County solar moratorium continues, Lone Oak's current  
22      status as a "grandfathered" project which pre-dates the moratorium will no longer apply.

1 Lone Oak will not be permitted to file a new zoning application and begin the process  
2 anew. Thus, the Lone Oak project will be dead.

3 **Q7. HOW DO YOU VIEW THE COUNTY'S CONTINUING SOLAR MORATORIUM?**

4 A. While not styled as a permanent moratorium *per se*, repeated extensions of the moratorium  
5 year-after-year without any meaningful progress on a new County solar ordinance has the  
6 same effect as a permanent prohibition on utility-scale solar projects in Madison County.  
7 If the moratorium was lifted, the County would have to begin accepting Special Use  
8 applications from large commercial solar developers again under the 2017 Ordinance,  
9 which the County does not seem to be inclined to do. A zoning ordinance which  
10 permanently prevents a landowner from utilizing his property in a manner to which it is  
11 reasonably adapted is an unconstitutional confiscation of property without just  
12 compensation. *Metropolitan Dev. Comm'n of Marion County v. I. Ching, Inc.*, 460 N.E.2d  
13 1236, 1237 (Ind. Ct. App. 1984).

14 **Q8. DOES THIS CONCLUDE YOUR TESTIMONY?**

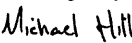
15 A. Yes.

4626944.2

Michael A. Hill Phase I Rebuttal Testimony  
Cause No. 45883

**VERIFICATION**

I affirm under the penalties of perjury that the foregoing Prefiled Verified Rebuttal Testimony is true to the best of my knowledge, information and belief as of the date here filed.

DocuSigned by:  
  
7C5ACB859C93426...  
Michael A. Hill

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served on the following on August 23, 2023, by electronic transmission.

Kevin D. Koons, Attorney No. 27915-49  
Adam R. Doerr, Attorney No. 31949-53  
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Kristina Kern Wheeler  
Bose McKinney & Evans LLP

Commissioner's Meeting Minutes  
July 10, 2019

**Prayer**

**Pledge**

**Present:** Mike Phipps, John Richwine, Kelly Gaskill

**Also Present:** County Attorney Johnathan Hughes, County Administrator Tim Westerfield, Deputy Auditor Kendra Gardner



**Approval of Minutes: June 24, 2019**

**Motion:** to approve minutes

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**



**Approval of Claims: July 10, 2019**

**Motion:** to approve claims 170891-171081, payroll claims, and Auditor discretionary claims as presented

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**



Johnathan Hughes, County Attorney, speaks on the contract for computers for the IT Department.

**Motion:** to approve

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**



Johnathan Hughes, County Attorney, speaks on the consideration of an Ordinance for a Moratorium on large scale solar energy facilities. It was approved on June 27, 2019, by the Planning Commission. If the Commissioners choose to modify it, it will go back to the Planning Commission for further review.

**Public Comment:**

- 1.) Jacob Shoaf, Madison County Resident, asks for the board to approve the Moratorium.
- 2.) Lee Walls, Madison County Resident, asks for the Moratorium to be modified to be open ended.
- 3.) Laura Arnold, President of Indiana Distributed Alliance, pleads with the Commissioner's to reach out and understand what is happening in the state of Indiana.
- 4.) Larry Hymes, Madison County Resident, asks for the Moratorium to be modified and extended longer than 180 days.
- 5.) Elizabeth Stansberry, Madison County Resident, asks for the Moratorium to be passed and to modified to a years time.
- 6.) Suzie Eichhorn, Madison County Resident, asks for the Moratorium to be modified to be open ended.
- 7.) Denise Spooner, Madison County Resident, asks for the Moratorium to be modified to be open ended.
- 8.) Katrina Hunter, Madison County Resident, talks about how her house was appraised and the appraiser told her it would never sell with the solar farm coming in.
- 9.) Paul Riker, Madison County Resident, talks about how the rules were not passed appropriately in the first place.

**Motion:** to approve Ordinance 2019-BC-O-04, an Ordinance placing a moratorium on special use applications for certain large scale energy systems and by title only



**Moved:** Mike Phipps  
**Seconded:** Kelly Gaskill  
**Motion Passed, unanimously**



Dave Benefiel, Madison County Council of Governments, presents an application for the 5311 transit funds grant.

**Motion:** to approve Resolution 2019-BC-10, a resolution for the application of transit funds for TRAM  
**Moved:** Mike Phipps  
**Seconded:** John Richwine  
**Motion Passed, unanimously**



Johnathan Hughes, County Attorney, presents an Ordinance for parking at Summer Lake Subdivision.

**Motion:** to introduce Ordinance 2019-BC-O-05, an ordinance concerning the traffic code penalties and designation of no parking zones for certain roads in Madison County Indiana related to Summerlake by title only  
**Moved:** Mike Phipps  
**Seconded:** Kelly Gaskill  
**Motion Passed, unanimously**



Joe Copeland, Madison County Engineer, speaks on the Community Crossings Matching Grant Fund application.

**Motion:** to sign letter as present  
**Moved:** John Richwine  
**Seconded:** Mike Phipps  
**Motion Passed, unanimously**

Joe Copeland, Madison County Engineer, requests approval for an agreement with Signal Construction Incorporated to maintain and do emergency work on the county's signal and flashing lights.

**Motion:** to approve  
**Moved:** John Richwine  
**Seconded:** Mike Phipps  
**Motion Passed, unanimously**

Joe Copeland, Madison County Engineer, requests approval to get a DNR Permit for bridge work on Bridge 610 on North C Street in Elwood.

**Motion:** to approve agreement with SJCA  
**Moved:** John Richwine  
**Seconded:** Mike Phipps  
**Motion Passed, unanimously**

Joe Copeland, Madison County Engineer, presents Amendment #1 to the Tiger Grant. This is being required by INDOT

**Motion:** to accept amendment  
**Moved:** Kelly Gaskill  
**Seconded:** Mike Phipps  
**Motion Passed, unanimously**



Rick Gardner, Madison County Auditor, asks the Board of Commissioners to table the contract so he can make some changes in the contract.

**Motion:** to table

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**



Rick Gardner, Madison County Auditor, asks for an ordinance to be passed to increase property transfer fees from \$5 to \$10 per parcel.

**Motion:** to suspend the rules regarding first reading

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**

**Motion:** to approve Ordinance 2019-BC-O-06, an ordinance of the Commissioners of Madison County Indiana establishing a \$10 fee for real property endorsements from the Madison County Auditor by title only

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**



Johnathan Hughes, County Attorney, speaks on the ratification of contract for Child Welfare Services Provider with DCS

**Motion:** to ratify contract with Child Welfare Services Provider with DCS

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**



Kelly Gaskill, President of the Board of Commissioners, informs the board that they were approved for a Drainage Board Coordinator Position.

**Motion:** to hire Todd Baldrige for the Drainage Board Coordinator Position

**Moved:** Kelly Gaskill

**Seconded:** Mike Phipps

**Ayes:** Kelly Gaskill, Mike Phipps **Opposed:** John Richwine

**Motion Passed**



Johnathan Hughes, County Attorney, informs the Board of Commissioners that there was some mistakes in Resolution 10 regarding names

**Motion:** to amend Resolution 10, 2 sections, Section 1 to replace Mike Phipps with President Kelly Gaskill and the signature line

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Motion Passed, unanimously**

**Public Comment:**

Jim Janes speaks on the computers that the County will be upgrading to.

*Motion:* to adjourn

*Moved:* John Richwine

*Seconded:* Mike Phipps

*Motion Passed, unanimously*

*Next Regular Meeting July 22<sup>nd</sup>, 2019 at 7pm*

Commissioner's Meeting Minutes  
November 25<sup>th</sup>, 2019

*Prayer*

*Pledge*

**Present:** John Richwine, Mike Phipps, Kelly Gaskill

**Also Present:** County Attorney Jonathan Hughes, County Administrator Tim Westerfield, and Deputy Auditor Kendra Gardner

Play >>

**Approval of Minutes: November 4<sup>th</sup>, 2019**

**Motion:** to approve

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**

Play >>

**Approval of Claims: November 25<sup>th</sup>, 2019**

**Motion:** to approve claims as presented with payroll

**Moved:** John Richwine

**Seconded:** Kelly Gaskill

**Ayes:** John Richwine, Kelly Gaskill **Nays:** Mike Phipps

**Motion Passed**

Play >>

**Appointment: Public Defender Board**

**Motion:** to approve Rick Walker to the appointment on the Madison County Public Defender Board

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Motion Passed, unanimously**

Play >>

Brad Newman, Planning Director, approaches the Board of Commissioners about three parcels in Elwood that need to be demolished and have junk and debris removed. 2021 S R Street, two lots are owned by a David Wright and one is owned by a Brian Chambers.

**Motion:** Lots 4&5 unsafe properties to be removed, vehicles, junk and debris to be removed and to be leveled and then go back in the spring to seed it. 2021 S R Street owned by David Wright 48-04-22-200-130.000-026 and 48-04-22-200-131.000-026

**Moved:** John Richwine

**Seconded:** Kelly Gaskill

**Motion Passed, unanimously**

**Motion:** Lot 6 unsafe structures, trash and debris to be removed and for property to be leveled and seeded. 2021 S R Street owned by Brian Chambers 48-04-22-200-132.000-026

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Second withdrawn.**

**Amended Motion:** same as above but to include vehicles

**Moved:** John Richwine  
**Seconded:** Mike Phipps  
**Motion Passed, unanimously**

Play >>

Tim Westerfield, County Administrator, speaks to the Commissioners on the final plat for Springbrook Section 1B.

**Motion:** to sign final plat for Springbrook Section 1B

**Moved:** Kelly Gaskill

**Seconded:** Mike Phipps

**Motion Passed, unanimously**

Play >>

Joe Copeland, Madison County Engineer, approaches the Board of Commissioners with his recommendations on the annual bids.

**1.) Lead Free Gasoline- Petroleum Traders Corp. \$.3610 subject to escalation and de-escalation**

**Motion:** to approve Lead Free Gasoline to Petroleum Traders Corporation on the price subject to escalation and de-escalation

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**

**2.) Diesel Fuel- Petroleum Traders Corp. \$.5510 subject to escalation and de-escalation**

**Motion:** to be awarded to Petroleum Traders Corporation on the escalation and de-escalation price basis

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**

**3.) Liquid Asphalt- Asphalt Material Inc.**

**Motion:** to award the Liquid Asphalt bid to Asphalt Material Inc.

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**

**4.) Asphalt Pavement Materials & Misc.- Milestone Contractors LP and E&B Paving Inc. bid for hot mix. E&B Paving and Highway (out of Pennsylvania) bid for cold mix. Joe recommends all by availability and price.**

**Motion:** to award to all bidder's contingent upon specific product need and availability and proximity to the project that would include Milestone, E&B, Highway and again E&B on the cold mix

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**

**5.) Crushed Stone- Irving Materials Inc**

**Motion:** to award crushed stone bid to Irving Materials Inc

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**

**6.) Gravel and Sand- Irving Materials Inc**

**Motion:** to approve Irving Materials for the gravel and sand bid

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**

Play >>

Brad Newman, Planning Director, approaches the Board of Commissioners with a recommendation to extend the Moratorium on special use large scale energy systems.

**Motion:** to approve Ordinance 2019-BC-O-10 an ordinance extending the moratorium on special use applications on certain large-scale energy systems by title only

**Moved:** John Richwine

**Motion Failed**

**Motion:** to amend the original motion with changes in paragraph 7 to be 180 days, for the date to be July 6, 2020 in paragraph 8

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Ayes:** Mike Phipps, Kelly Gaskill **Nays:** John Richwine

**Motion Passed**

Play >>

Madison County Council of Governments John Lavine and Ralph Holmes gives updates on the Madison County Comprehensive Plan.

Play >>

Joe Copeland, Madison County Engineer, gives an update on the cost to maintain the bridges throughout Madison County.

Bridge 610 in Elwood. SJCA is doing some design work for the bridge.

**Motion:** to accept bid from SJCA for the purposing not to exceed the feel of \$11,240 and the bid from E&H Bridge and Grating Incorporated

**Moved:** Kelly Gaskill

**Seconded:** Mike Phipps

**Motion Passed, unanimously**

Joe Copeland requests permission to go forward with the Community Crossing Matching Grant

**Motion:** to approve the local roads and bridges matching agreement

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**

Bridge 144. Joe would like to move forward to get the design build moving to get things ready for next year.

**Motion:** that Joe be allowed to move forward with the process with RGI

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed, unanimously**

Play >>

Tim Westerfield, Madison County Administrator, approaches the Board of Commissioners with the 2020 Holiday Schedule for non-essential employees and essential employees.

**Motion:** to approve and to include July 3<sup>rd</sup> for non-essential employees

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Motion Passed, unanimously**

**Motion:** to approve essential personnel as presented

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Motion Passed, unanimously**

Jonathan Hughes discusses the Clerk's office wanting to close for December 26th, 2019.  
The Commissioners state that they defer to the Courts decision.

Play >>

**Motion:** to table the petition to have taxes removed for the City of Alexandria to December 9<sup>th</sup>.

**Moved:** Kelly Gaskill

**Seconded:** John Richwine

**Motion Passed, unanimously**

Play >> Sheriff Mellinger speaks to the Board of Commissioners.

**Motion:** to adjourn

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed, unanimously**

**Commissioner's Meeting Minutes**

July 20, 2020

**Present:** John Richwine, Mike Phipps, Kelly Gaskill

**Also Present:** Madison County Auditor Rick Gardner and Chief Deputy Auditor Todd Culp

**Prayer**

**Pledge**



**Motion:** to approve March 16, 2020 minutes

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed**

President Gaskill abstains from voting.



**Motion:** to approve March 09, 2020; March 23, 2020; April 13, 2020; April 27, 2020; June 15, 2020; June 22, 2020

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Motion Passed Unanimously**



Kelly Gaskill states they have turned in a claim today for Attorney for \$112,416.80. She states she would like that claim to be added as well as Health Dept. and Drainage claim.

**Motion:** Approval of Claims: 3 Auditor Discretionary claims, Claim: 181929-182037; 182337182494; Voided Check to the Herald Bulletin; Claims for the Health Dept, Drainage Board, & Commissioners

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Discussion Ensues**

Auditor Rick Gardner says the claim for the Attorney has not been audited yet and it was not supplied to the Commissioners 5 days in advance to the meeting, so it wouldn't be paid until it goes through the audit process.

Kelly Gaskill asks the Attorney for his legal opinion. He states that the law says it is okay for the Commissioners to approve the claim, the claim could still be audited but the appropriation would be encumbered tonight.



**Motion:** Approval of Claims: 3 Auditor Discretionary claims, Claim: 181929-182037; 182337-182494; Voided Check to the Herald Bulletin; Claims for the Health Dept, Drainage Board, &



Commissioners subject to audit.

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

***Motion Passed***

John Richwine opposed

Rick Gardner clarifies that the 3 new claims that had not been audited yet, will be on the Aug. 6 Docket.

John Richwine claims he has not supported the redistricting challenge and that is the main reason for his "No" vote.



Attorney addresses questions about the redistricting case. There is a lawsuit pending in Hamilton County. Each person was sued individually along with Auditor, clerk, and election board. The lawsuit challenged election ordinance and whether it was enforceable. On January 2<sup>nd</sup> Board approved proceeding. The plaintiffs got a wrongful injunction. The only question pending is who will pay attorney fees: the taxpayers of the county or the people who brought the lawsuit. The law says the people who brought the suit have to pay for it. Attorney states he is willing to negotiate a reduced amount for other non-redistricts work. He says there are 14 or 15 pending lawsuits that the county is involved in.



Mike Phipps mentions the additional invoices included: Leeman's case, General matters, COVID-19 response, drainage board, help with other department heads. Invoices go back to March.



**Old Business:**

***2020 Ordinance Concerning Gifts and Ethics***

President Gaskill has a draft of ordinance. Lawyer clarifies the ordinance is not ready for introduction. The point of the ordinance is to decide what to do with it: Have public meetings? Discuss with dept heads?

Mike Phipps suggested to come up with a draft to send to elected officials and begin distribution and get feedback and then move forward.

John Richwine asks about enforceability issues.

Attorney says the purpose is to set a policy of ethics. If an official doesn't abide, it would be an ordinance violation and potentially a code violation which would be enforceable. He mentions a number of counties have a policy of ethics.

President Gaskill agrees that a draft should be distributed to all elected officials within 30 days to get feedback. She will have Rhonda send it out to see elected officials' opinion.



**New Business:**

**2020 Ordinance Concerning Bad Debt Write-Off**

President Gaskill states Sheriff has requested ordinance for bad debt write-off.

State Board of Accounts has mentioned to Sheriff that commissary accounts have showed debts are sitting on books that need written off.

**Motion:** To introduce Ordinance# 2020-BC-0-7 by title only concerning Bad Debt Write-Off

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion passed unanimously**

Ordinance will be on Old Business for next meeting, has not been adopted.



**Tia Baker Assistant Director MCC1C-Community Corrections grant letter**

Needing to ratify President Gaskill's approval to show board has given her authority. Under COVID orders, Board gave Kelly certain authority, under Governor's public health emergency, to sign things. Bringing it to board to ratify.

**Motion:** Ratify President Gaskill's Approval

**Moved:** Mike Phipps

**Seconded:** John Richwine

**Motion Passed Unanimously**



**Jim Eichhorn Recycling Center Director-Budget 2020-2021**

Jim Eichhorn not present, spoke with council previously.

**Motion:** To Approve Recycling Center Budget for 2021

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed Unanimously**



**Brad Newman Planning Director- Planning Commission Recommendation**

Ordinance Amending Text of Madison County Land Use and Development Code

Due to previous public hearing and discussion done by planning commission, the ordinances do not require introduction and second vote. Brad Newman pointed out, the 3' page, bottom of the page was an error.

**Motion:** To pass Ordinance# 2020-BC-0-8 by title only, amending text of Madison County land use and development code, deleting errors "Add f" and corrected date

**Moved:** John Richwine  
**Seconded:** Mike Phipps  
**Motion Passed Unanimously**



**Ordinance Extending Moratorium on Special Use Applications for Certain Large-Scale Energy Systems**

Attorney states on the Solar Moratorium, if no actions are taken within 90 days of it being presented, it will go into law. Attorney suggests having it on the agenda and deciding how to proceed. Same ordinances they've seen before, this ordinance would extend it another 6 months to January 7, 2021. Mike Phipps states that even without the moratorium, there can still be large scale solar projects by Invenergy because they are not impacted. Brad Newman states that is correct. The two applications that were previously approved are null and void of the moratorium. This is for any additional applications that take place. This moratorium is for large scale solar farms larger than 50 acres.

Mike Phipps asks if a future BZA could approve any additional acreage to be included with the present ones. He also asks if this allows one developer a monopoly on large-scale solar projects in the county. Brad Newman states the moratorium only establishes the precedent that no other large-scale developing company could apply for a large-scale solar farm while the moratorium is in place. If a new zoning ordinance is not adopted and the moratorium ends, then the old ordinance is utilized, at that time any new company could come in and apply for a large-scale solar farm. The rules would be based on the ordinance adopted in January 2017 unless a new solar ordinance is written.

**No Motion:** Issue will continue onto next agenda to be considered and discussed again.



**Scott Harless Highway Department Director- Leases**

Scott states they billed a sign truck for about \$85,000, but they got a Ford 550 with no bed on it. The second one is for 3 new mowers and tractors; and swapping out tandems that have gotten 100,000 miles. This is equipment the county already received.

Attorney asks to clarify if the total equipment cost would be less than what's presented in lease document. Scott clarifies that one of the loans has been paid off.

Per attorney the resolution authorizes up to a total amount of \$538,036 and gives the president and auditor the authority to sign everything they need to execute the lease.

Attorney states the first item is just a letter that verifies the county did receive the items, and it authorizes Star Bank to make the payment on behalf of the county.

**Motion:** Approve Letter that states the county has received service bed, and the amount was to be paid to W.A. Jones from Star Bank

**Moved:** John Richwine  
**Seconded:** Kelly Gaskill  
**Motion Passed Unanimously**



Second item is new municipal lease and option agreement to refinance equipment. Total equipment cost \$538,036 as Mr. Harless and Rick have indicated. The resolution is still appropriated for that maximum principal amount. A attorney states that as long as the total amount is less than that, then they can sign any documents whenever they come in.

**Motion:** To pass Resolution# 2020-BC-R-09 by Title only

**Moved:** John Richwine  
**Seconded:** Kelly Gaskill

**Motion Passed Unanimously**

Scott said he is going to try to hire 3 new part-time people.

Kelly Gaskill and Rick Gardner agree to go to Star and sign the documents.



**Joe Copeland Engineer-Pavement markings carry over contract, Community Crossings Grant, IDEM closure, Traffic signs and posts, and Agreement for Bridge 107 on 200 E North of SR 232**

**Pavement Markings Carry Over Contract**

Joe states striping has agreed to hold the same price for another year. He has been holding this price since 2015. Company is Accurate Striping Inc.

**Motion:** To pass resolution 2020-BC-R-10; Resolution pertaining to the striping roads pursuant to previous agreement from 2015

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed Unanimously**



**Community Crossings Grant**

Joe states the State came out and was going to take applications this month—July 6th through the end of the month. The State has postponed that, and plans to bring it up in September and see when they will make applications available.

Joe is getting ready to submit for 2 projects: One is for 50% of the replacement cost for bridge 88 on 425 E, north of 600 N. The other is for asphalt resurfacing projects. Joe said he will be asking for the full \$1,000,000.

**Motion:** To approve letter for Community Crossings Grant

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed Unanimously**



**IDEM Closure**

County received letter from IDEM about leaking underground storage tanks at the highway.

Sample of underground soils has been completed and they have shown where the leaking is.

IDEM now wants an "Expanded Vapor Intrusion" study. Afraid the fumes of the underground contamination could come up through the floors of the buildings. After that is completed, an "Environmental Restrictive Covenant" must be recorded with the deed. So that if anybody tries to sell the property, this will show there is contamination in the ground. The consultant is Heartland Environmental Associates and he estimated the cost of the study would be between \$4500 and \$5000. Joe hopes to have agreement in next meeting.



**Traffic Signs and Posts**

Joe is seeking approval to spend \$15,000 on traffic signs and posts. Joe says if the county can buy multiple at a time, it would be cheaper per post. The budget is \$75,000 at the highway for signs.

**No Motion**



**Agreement For Bridge 107 on 200 E north of SR 232**

It is for deck replacement. Construction and inspection come with federal aid 80:20. The scoring showed United Consulting is getting the project. They have submitted the contract to INDOT, INDOT has approved it, now it has come back for signatures. The total contract amount including environmental and right-of-way engineering is \$258,150.

Attorney states from a legal standpoint, it is okay to sign off.

**Motion:** To approve contract with United Consulting

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed Unanimously**



**Tom Ecker Emergency Management Director- Update on Date Collected for the CARES Act**

Tom states they have submitted and are reviewing 6 different applications of the CARES Act. The first 3 had been reviewed by Tom and Attorney and are in process of being sent down for payment. They are still on schedule for an 8-10 day turn around to get the checks once they are reviewed by the Auditor's office. The other 3 are being worked on and they total \$148,551.21 for all 6 applications. \$1,474,340.04 is the total amount of money that have been requested or will be requested. Out of the \$4.2million budget allotted for Madison County and Townships emergency service, there is a balance of \$2,725,659.97. Tom states they have taken out of the CARES Act and are applying to the FEMA PA Act, because they can get more out of the PA Act as opposed to the CARES Act. The State on the CARES Act through the IFA, will allow \$0.18 per mile. The mobile command unit was used by the Health Department for 2 weeks. They ran a diesel engine truck for 9 hours a day and was driven about 4 miles that day. By use of the FEMA PA, they will receive an hourly rate of \$86/hour. So, it is better to go through the FEMA PA Act for the mileage and use of equipment opposed to the CARES Act. They've been using a forklift truck from the county highway garage for several months unloading PPE and they will get an hourly rate for the usage. That amounts to \$9,146.20 as of today. The FEMA PA has not given an end date. The CARES Act end date is December 31st and claims must be invoiced and paid by that date. So by December 15th, all invoices have to be turned into the state. The State was awarded \$300 Million for the CARES Act and they are not sending back whatever is not spent. So the target date needs to be the 1<sup>st</sup> of November to get the majority of the money spent so the funds are not missed out on. Some other projects that have been requested and have been approved by the state include: laptop computers for all the Sheriff's Dept that allow sanitization of screens with wet wipes and eliminate cross-contamination between users; the jail requesting additional radios to reduce cross contamination; additional concrete being poured in storage barn for PPE storage to make use of forklift truck easier; jail asking for cameras for areas where they hold people in 14 day quarantine; UAV purchase; IT Dept requested new phone systems to enable working from home; Health Dept. requesting mobile testing lab for COVID testing; two new vehicles for transporting PPE (technically four. Health Dept has 2 used vehicles with leases coming up in September. Tom says they will buy the 2 used ones, and Stephenie will buy 2 new ones).

All of the requests over \$75,000 will have to be bid.



John Richwine asks the total of everything they're asking for. Tom says that amount is the \$1,474,340.04 figure. Leaves a balance of \$2.7 Million left over. John Richwine asks if Tom has been checking with Township governments to make sure they have ordered everything they will need to prepare ahead. Tom says Union Township is the only one so far. However, most of the figures that have not been accounted for yet will only include PPE and sanitation supplies — no big-ticket items. APD, Lapel, and Pendleton police depts have already purchased their computers. Attorney notes that the computer purchase will be a more sizeable expense since there are more employees in public safety. Similar to the election services software, typically you have to bid things out. However, this is the only manufacturer that makes this specific type of computer that is compatible with all the software the county uses, as well as, has the ability to be sanitized with wet wipes. If this is what is needed, a purchase can be made without any additional bidding processes. A determination would just need to be made—a Motion would be helpful—to authorize the purchase of the computers. Attorney then suggests the Board of Commissioners make a motion to start a bidding process on the Mobile Testing Unit for the Health Department to utilize for testing, as well as, COVID-19 vaccinations whenever a vaccine is made available. The last item big-ticket item is the radios for the jail would have to match the current system. Currently the jail uses Motorola. Sheriff Mellinger says he believes there is a State-set price for Motorola products. If this correct, a bidding process would not be necessary. The County could purchase the radios at the state price, or less.



Lisa Cannon says when the computers were priced out, they priced out everything down to the wiring through the headset. The current computers don't have cameras. These new computers would enable video meetings through Bluetooth and video. They also have driver's license scanners and thermal printers that print tickets. Currently they have 65 units for Sheriffs Dept, EOC, Administration at the dispatch center, and 11 additional that would be used for dispatch specific if they have to social distance or work outside of the Dispatch. The total price for the 65 units is \$348,140. The additional 11 units come to \$44,517. Attorney states the purpose of the motion is to seek reimbursement for the expenses. He says he wants to see if the IFA wants the county to spend the money and the reimburse for the costs, or if the IFA would just give the county the funds to spend. There is a process under the CARES Act that enables the IFA to expend the capital to purchase these items instead of the County expending the capital. Attorney says he didn't think there was an appropriation item for the purchase, so the funds would have to be appropriated by the council. The motion is simply to move forward to try to get the funds from the IFA.



Rick Gardner asks how quickly the amount would be approved for the computers. The Attorney states there is a standing comment that the IFA would approve the process. In terms of getting the money, it looks like it would take 2-4 weeks to get the funds. Rick asks if they would get the amount approved in time for the next council meeting. Attorney states he wants the Council to play their part in the process. He in no way wants to usurp the council.



**Motion:** To allow Tom & Lisa to purchase 76 computers from Vacom, as Vacom is the only manufacturer of the computer needed, the amount not to exceed \$400,000, subject to funding

from CARES Act Fund  
**Moved:** John Richwine  
**Seconded:** Kelly Gaskill  
**Motion Passed Unanimously**



John Richwine says he would like to give approval to Cameras, Radios, Concrete pad, the phones, and UAV. Lisa explains the KUWL licensing from CISCO allows the county to put soft phones onto people's devices opposed to having to "break the system" to allow phone transfers.



**Motion:** To allow purchase of Cameras, Radios, Concrete Pad, the KUWL Phone licensing, and UAV subject to payment from CARES Act  
**Moved:** John Richwine  
**Seconded:** Kelly Gaskill  
**Motion Passed Unanimously**



**Motion:** To purchase 2 trucks out of lease from the Health department as well as order 2 new vehicles subject to undergoing bidding process and subject to money coming from CARES Act  
**Moved:** John Richwine  
**Seconded:** Kelly Gaskill  
**Motion Passed Unanimously**



Stephenie Grimes explains Mobile Health Unit. The Unit would allow testing and vaccinations around the county. It would operate as a mobile health department. They range from \$275,000 to about \$450,000. The most expensive unit is custom built for the county. The cheaper ones would need to be customized and would require more money being put into it. There is one particular vendor that will do all of the customization for the more expensive unit. The Attorney states that since the county is asking for Federal money, it would be better if a short RFP process would be sent out to get quotes. Once the bids are in, the Health Dept would select which provider to work with.



**Motion:** To send out RFP for Mobile Health Department Unit, and receive the RFPs no later than August 14th  
**Moved:** John Richwine  
**Seconded:** Mike Phipps  
**Motion Passed Unanimously**

John Richwine asks that after the RFP process, the final decision come back to, and be made by the Board of Commissioners.



Stephenie states the COVID screener that sits at the front door of the courthouse has been paid through the professional services line. She also said she's most certainly going to need to contract with additional clinical staff. When they first started testing, they were seeing about

80 people in a week. That number has increased to roughly 50 per day. The State Health Dept. has proposed all local health departments to take on a testing capable. They want Local Health Depts to test several evenings out of the week, and at least 3 Saturdays. Stephenie says currently, the Madison County health department added 2 evenings out of the week to do testing and they have added a couple Saturdays out of the month between July and August. In order to sustain that and to keep up with the demand, she is going to have to contractually hire more clinical staff. She says there is grant through the state that she is hoping to interface with her current operation. Regardless of the state grant money, she is going to need to hire more staff. Currently they are using Local Health Maintenance Fund to fund a lot of their activities to be reimbursed through the CARES Act.



Stephenie says she has requested a hazard stipend for Health Dept Employees to be reimbursed by CARES Act. Stephenie says that the counties around us have a dramatically higher number of COVID cases than we do. She is asking for a \$1,000 Stipend for essential workers and \$3,000 stipend for hazard workers. The CARES Act has a payroll reimbursement for expenses outside of normal expenses. This would require an amendment to the Salary Ordinance and would need to go before the County Council. John Richwine states that it is important to look at the different jobs through the county and verify, who would qualify for these stipends and how much should they be approved for. Tom states that the CARES Act talks about Hazard Pay that is directly related to COVID response. John Richwine suggests that before the issue is brought up to the council, they find out who all would qualify for the Hazard pay first. Attorney suggests that department heads reach out to Tom and let him know who they think would qualify for the hazard pay, and Tom can decide if they fall within the restraints that the CARES Act allows for hazard pay.



**Scott Mellinger-Sheriff**

Scott says that a new Magnetometer is needed at the Courts at the Flagship, and it fits the criteria for reimbursement through the CARES Act. The units range from \$80,000-\$100,000 in cost.

**Motion:** RFP For Magnetometer Dependent on Cares Act Funding

**Moved:** John Richwine

**Seconded:** Mike Phipps

**Motion Passed Unanimously**



**Brent Jensen- Central Dispatch Director**

Brent says the First Net Video Project was published recently without giving them an editorial review. Brent has received some positive National exposure from that video project about the software they implemented back in March.



**MOU Therapy Dogs International**

Brent has turned in copy of shot records and liability insurance. Attorney states he was okay with Commissioners signing off agreement.

**Motion:** To approve MOU Therapy Dogs International Agreement

**Moved:** John Richwine



*Seconded:* Mike Phipps

***Motion Passed Unanimously***



**AU Service Agreement**

Brent states Dispatch had a grant with the State 911 Board that was to pay for two additional call taking positions at the dispatch center. They were waiting to build up that fund because it has been a 60:40 grant, however this year, the State 911 board has taken over service charges from the counties. That will give them roughly \$140,000 credit with ATT due to prepaying the loan back in 2015 or 2016. Brent says they are able to use that \$140,000 credit as their 40% match for the 2 additional phone positions that will come to a lump sum of \$79,200. That will roll over to addendum #3 for two portable call-taking positions for \$58,620. They would use the 60% reimbursement and leftover credit money from ATT to pay for everything. Attorney states that since the ATT credit would cover all of these costs, he wasn't sure an appropriation was needed, but that could be added to a conversation with the council. Brent said there would be roughly \$8,400 left over in the ATT credit. He is looking into upgrading the copper lines to fiber-based lines to give redundancy and flexibility. •

***Motion:*** To approve Addendum #2 & #3 with 911 Service Agreement

***Moved:*** John Richwine

***Seconded:*** Mike Phipps

***Motion Passed Unanimously***



**Professional Service Agreement With COG**

Brent says with the lack of fairs and festivals this year, there is unused "public education" money. They believe a good use of some of that money would be for a website for public education, information, and recruiting. The contract amount equaled \$3,000.

***Motion:*** To Approved Agreement with COG to build website

***Moved:*** Mike Phipps

***Seconded:*** John Richwine

***Motion Passed Unanimously***



**Scott Mellinger Sheriff- Jail Infrastructure Issues**

5 <sup>1</sup>/<sub>2</sub> years ago, the population at the jail was steady at 200, just under capacity. By January 2016, they were averaging 250 inmates a day, which was about 43 above capacity. Each year since then, the average number of inmates has risen. In 2019, they averaged upwards of 275 inmates a day—and some days was over 300. With COVID, the courts have been more lenient with releasing inmates, so the average has been way down. The jail was built in 1984. The jail is overpopulated. Whenever they can, they file charges against inmates for damaging county

property, however 90% they cannot prove who damaged the property. The plumbing needs repair several times a week in several different areas. The A/C and heating is not working properly. They are using 1 boiler in its full capacity and using an original boiler as a backup for the heating. Sheriff says the county spent a lot of money 2 years ago to repair broken condensers for the A/C. When the north elevator breaks down, it cripples them. Sheriff says the elevator contractor who worked on the courthouse elevator told him the jail elevator is on its last leg. The maintenance staff is doing everything they can to keep the building going. However, currently the jail is unsafe for staff and offenders. The cells/doors don't operate properly and having to shut down cells increases stress amongst inmates which increases fights. There is also a high turnover rate amongst the staff. Roughly at 15%, and is by far, associated with the condition of the facility. Sheriff Mellinger says he is aware that the feasibility study was not moved ahead due to the gift ordinance. Sheriff said that the Commissioners said as soon as the County Council has a funding plan, that the Commissioners would consider a planning process. Then he goes on to say that the County Council said as soon as the Commissioners have a building plan, the Council would start looking at a funding process. Sheriff implores the Commissioners to do whatever they can to start the process of jail planning



#### **Discussing of County Properties Having Certain Value**

Attorney brings up proposal previous County Administrator Tim Westerfield brought up concerning sale of county properties. Attorney has deeds for 2 parcels for Commissioners to sign. The parcels were sold for \$300 each to Tracey Lane. Ms. Lane indicated 5 other parcels she is interested in: 48-05-13-302-026.000-021; 48-05-13-302-025.000-021; 48-05-13-302-024.000-021; 48-05-13-302-036.000-021; 48-05-13-302-037.000-021. These properties have an assessed value of less than \$6,000 and were previously apart of a public right-of-way. The BOC has authority to dispose of these properties without having it appraised. Just by letting surrounding property owners know you're interested in selling it. This process can be done by: 1) Deciding it is not economically justifiable to sell property with an appraisal; 2) The cost of maintaining likely exceeds the cost of fair market value; or 3) The highest and best use of the parcel is sale to an abutting land owner. Attorney believes in this instance, all 3 would apply.



President Kelly Gaskill states she would like to table the discussion. She states she would like to see what an easement was for. Also, she said that she researched the abutting properties and didn't see where Ms. Tracey Lane was a property owner of any of the abutting properties.

**Motion:** To Table Sale of County Owner Properties

**Moved:** Kelly Gaskill

**Seconded:** Mike Phipps

**Motion Passed Unanimously**



John Richwine clarifies differences between Governor's order and Madison County Commissioners' Order. John states in his opinion, the courthouse should be open to the public. The Attorney states the BOC can decide how they want to proceed with the building. Kelly Gaskill asks Kevin Allen about their procedures at the door. Kevin states that certain offices allow the public while other offices are open by appointment only. He said that it causes lines to backup because security has to call different offices to verify appointments. Attorney states that Stage 4 and Stage 4.5 both say that county and local governments can decide their policies with their buildings. Kelly Gaskill says she doesn't think the Board of Commissioners should make the decision for different Office Holders' offices to only take appointments or to be open.

**Motion:** To Leave Courthouse in Stage 1 Status of Appointment Only and to Revisit at the next meeting

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

Motion Passed Unanimously



Miscellaneous:

**Al Epperly- Maintenance**

Al states he is going before the County Council to request more funds. He said he has spent 54% of his budget in 4 different accounts that he uses for the jail already this year. He has had to let "less important" things go while he has put more money towards more important things. Al said they had to unexpectedly replace 2 roofs. There are also jail cells that aren't operating because the doors don't work. He is replacing 2 out of the 3. There are also 12 sliders that don't work properly. He said that the officers can't tell if some of the doors are open or closed due to the misalignment. He says that of course the prisoners mistreat things, but things also have excess wear due to the technology being from 1984. The plumbing mechanisms leak all the time. Al said his account for repair and maintenance of all 10 buildings is down to \$9,724 to get through the rest of the year.

**Motion:** To Adjourn

**Moved:** Mike Phipps

**Seconded:** Kelly Gaskill

**Motion Passed Unanimously**

**ORDINANCE NO. 2021-BC-O- 13**

**AN ORDINANCE PLACING A MORATORIUM ON SPECIAL USE APPLICATIONS  
FOR CERTAIN LARGE-SCALE ENERGY SYSTEMS**

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**WHEREAS**, the Madison County Board of Commissioners ("Board of Commissioners") has adopted, pursuant to I.C. 36-7-4-602, a Zoning Ordinance, which specifies the intent, permitted uses, special uses, development standards, and other requirements concerning various land use districts in Madison County; and,

**WHEREAS**, on January 17, 2017, the Board of Commissioners adopted Ordinance 2017-BC-O-01 (attached hereto), which amended the Zoning Ordinance to include definitions and development standards for Solar Energy System Standards (Section 6.29 of the Zoning Ordinance); and,

**WHEREAS**, Ordinance 2017-BC-O-01 permits Large-Scale Solar Energy Systems in Madison County upon the issuance of a Special Use permit by the Madison County Board of Zoning Appeals; and,

**WHEREAS**, since the adoption of Ordinance 2017-BC-O-01, the Madison County Board of Zoning Appeals has adjudicated multiple Special Use Applications for Large-Scale Solar Energy Systems; and,

**WHEREAS**, in light of a recent Large-Scale Solar Energy Special Use Application, and the strong probability that additional commercial solar energy system providers will pursue solar sites within Madison County, the Board of Commissioners has determined that Ordinance 2017-BC-O-01 may be ill suited to address the public health, safety, and welfare concerns potentially implicated by future Special Use Applications for Large-Scale Energy Systems which exceed fifty (50) acres of total project size; and,

**WHEREAS**, Madison County, by and through the Madison County Planning Department, Plan Commission, and Board of Commissioners, is anticipating approving a new Ordinance to govern Large-Scale Energy Systems in Madison County, necessitating the pause in applications for these Large-Scale Energy Systems to prevent non-uniformity in the short-term and long-term future; and,

**WHEREAS**, the Board of Commissioners therefore desire to place a temporary moratorium on Special Use applications for Large-Scale Energy Systems, in order that the Madison County Plan Commission further study solar energy and solar energy systems and prepare proposed amendments to the Zoning Ordinance to address the effects of Large-Scale Energy Systems that exceed fifty (50) acres of total project size within Madison County.

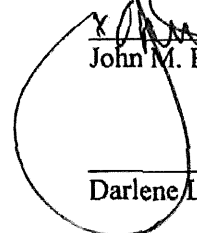
**NOW THEREFORE BE IT ORDAINED**, that a one hundred eighty (180) day moratorium shall immediately go into effect, prohibiting any Special Use Applications for Large-Scale Energy Systems which project size exceeds fifty (50) acres, as the term "Large-Scale Energy Systems is defined by Ordinance 2017-BC-O-01; and,

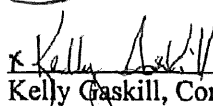
**BE IT FURTHER ORDAINED**, that all provisions of Ordinance 2017-BC-O-01 which are not implicated by this Ordinance shall remain in full force and effect throughout the moratorium.

**THIS ORDINANCE HAVING BEEN APPROVED AND ADOPTED** by the Madison County Board of Commissioners on this 21st day of September, 2021.

BOARD OF COMMISSIONERS OF  
MADISON COUNTY, INDIANA

  
\_\_\_\_\_  
John M. Richwine, President

  
\_\_\_\_\_  
Darlene Likens, Commissioner

  
\_\_\_\_\_  
Kelly Gaskill, Commissioner

Attest

\_\_\_\_\_  
Rick G. Gardner, Auditor

JEFFREY K. GRAHAM/#26380-29  
GRAHAM, FARRER & WILSON, P.C.  
Attorneys at Law  
1601 S. Anderson Street, PO Box 494  
Elwood, IN 46036  
Telephone: (765) 552-9878

**ORDINANCE NO. 2022-BC-O- 01**

**AN ORDINANCE EXTENDING A MORATORIUM ON SPECIAL USE  
APPLICATIONS FOR CERTAIN LARGE-SCALE ENERGY SYSTEMS**

---

**WHEREAS**, the Madison County Board of Commissioners ("Board of Commissioners") has adopted, pursuant to I.C. 36-7-4-602, a Zoning Ordinance, which specifies the intent, permitted uses, special uses, development standards, and other requirements concerning various land use districts in Madison County; and,

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**WHEREAS**, Ordinance 2017-BC-O-01 permits Large-Scale Solar Energy Systems in Madison County upon the issuance of a Special Use permit by the Madison County Board of Zoning Appeals; and,

**WHEREAS**, since the adoption of Ordinance 2017-BC-O-01, the Madison County Board of Zoning Appeals has adjudicated multiple Special Use Applications for Large-Scale Solar Energy Systems; and,

**WHEREAS**, in light of a recent Large-Scale Solar Energy Special Use Application, and the strong probability that additional commercial solar energy system providers will pursue solar sites within Madison County, the Board of Commissioners has determined that Ordinance 2017-BC-O-01 may be ill suited to address the public health, safety, and welfare concerns potentially implicated by future Special Use Applications for Large-Scale Energy Systems which exceed fifty (50) acres of total project size; and,

**WHEREAS**, Madison County, by and through the Madison County Planning Department, Plan Commission, and Board of Commissioners, is anticipating approving a new Ordinance to govern Large-Scale Energy Systems in Madison County, necessitating the pause in applications for these Large-Scale Energy Systems to prevent non-uniformity in the short-term and long-term future; and,

**WHEREAS**, the Board of Commissioners therefore desire to place a temporary moratorium on Special Use applications for Large-Scale Energy Systems, in order that the Madison County Plan Commission further study solar energy and solar energy systems and prepare proposed amendments to the Zoning Ordinance to address the effects of Large-Scale Energy Systems that exceed fifty (50) acres of total project size within Madison County.

**NOW THEREFORE BE IT ORDAINED**, that moratorium shall immediately go into


effect, prohibiting any Special Use Applications for Large-Scale Energy Systems which project size exceeds fifty (50) acres, as the term "Large-Scale Energy Systems is defined by Ordinance 2017-BC-O-01; and,

**BE IT FURTHER ORDAINED**, that this moratorium shall remain effective until either (1) December 31, 2022 or (2) this body adopts a replacement ordinance governing Large-Scale Energy Systems in Madison County, whichever occurs sooner; and,

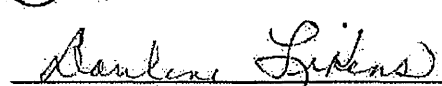
**BE IT FURTHER ORDAINED**, that all provisions of Ordinance 2017-BC-O-01 which are not implicated by this Ordinance shall remain in full force and effect throughout the moratorium.

**THIS ORDINANCE HAVING BEEN APPROVED AND ADOPTED** by the Madison County Board of Commissioners on this 18<sup>th</sup> day of JANUARY, 2022.

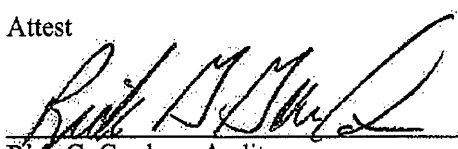
BOARD OF COMMISSIONERS OF  
MADISON COUNTY, INDIANA

  
John M. Richwine, President

  
Kelly Gaskill, Commissioner

  
Darlene Likens, Commissioner

Attest

  
Rick G. Gardner, Auditor

JEFFREY K. GRAHAM/#26380-29  
GRAHAM, FARRER & WILSON, P.C.  
Attorneys at Law  
1601 S. Anderson Street, PO Box 494  
Elwood, IN 46036  
Telephone: (765) 552-9878

**CERTIFICATION OF PROPOSED AMENDMENT TO THE  
ZONING ORDINANCE OF MADISON COUNTY, INDIANA, CONTAINED IN  
THE MADISON COUNTY LAND USE AND DEVELOPMENT CODE**

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The Madison County Plan Commission hereby certifies with a **FAVORABLE** recommendation the Amendment attached hereto to the Madison County Zoning Ordinance contained in the Madison County Land Use and Development Code.

SO CERTIFIED THIS 11<sup>th</sup> DAY of January, 2022.

MADISON COUNTY PLAN COMMISSION

BY: /s/ Wesley Likens

WESLEY LIKENS, President

JEFFREY K. GRAHAM/#26380-29  
GRAHAM, FARRER & WILSON, P.C.  
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1601 S. Anderson Street, PO Box 494  
Elwood, IN 46036  
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**ORDINANCE NO. 2022-BC-O- 13**

**AN ORDINANCE EXTENDING A MORATORIUM ON SPECIAL USE  
APPLICATIONS FOR CERTAIN LARGE-SCALE ENERGY SYSTEMS**

---

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**WHEREAS**, since the adoption of Ordinance 2017-BC-O-01, the Madison County Board of Zoning Appeals has adjudicated multiple Special Use Applications for Large-Scale Solar Energy Systems; and,

**WHEREAS**, in light of a recent Large-Scale Solar Energy Special Use Application, and the strong probability that additional commercial solar energy system providers will pursue solar sites within Madison County, the Board of Commissioners has determined that Ordinance 2017-BC-O-01 may be ill suited to address the public health, safety, and welfare concerns potentially implicated by future Special Use Applications for Large-Scale Energy Systems which exceed fifty (50) acres of total project size; and,

**WHEREAS**, Madison County, by and through the Madison County Planning Department, Plan Commission, and Board of Commissioners, is anticipating approving a new Ordinance to govern Large-Scale Energy Systems in Madison County, necessitating the pause in applications for these Large-Scale Energy Systems to prevent non-uniformity in the short-term and long-term future; and,

**WHEREAS**, the Board of Commissioners have therefore previously placed a temporary moratorium on Special Use applications for Large-Scale Energy Systems, in order that the Madison County Plan Commission further study solar energy and solar energy systems and prepare proposed amendments to the Zoning Ordinance to address the effects of Large-Scale Energy Systems that exceed fifty (50) acres of total project size within Madison County.

**WHEREAS**, the Board of Commissioners have determined that the current moratorium on large scale solar farms, currently set to expire on December 31, 2022, pursuant to Ordinance 22-BC-O-01 should be extended.

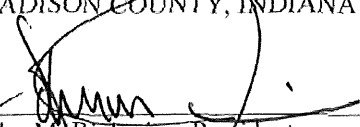
**NOW THEREFORE BE IT ORDAINED**, that the current moratorium shall be extended, prohibiting any Special Use Applications for Large-Scale Energy Systems which project size exceeds fifty (50) acres, as the term "Large-Scale Energy Systems is defined by Ordinance 2017-BC-O-01; and,


**BE IT FURTHER ORDAINED**, that this moratorium shall remain effective until either (1) December 31, 2023 or (2) this body adopts a replacement ordinance governing Large-Scale Energy Systems in Madison County, whichever occurs sooner; and,

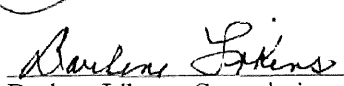
**BE IT FURTHER ORDAINED**, that all provisions of Ordinance 2017-BC-O-01 which are not implicated by this Ordinance shall remain in full force and effect throughout the moratorium.

**THIS ORDINANCE HAVING BEEN APPROVED AND ADOPTED** by the Madison County Board of Commissioners on this 19 day of December, 2022.

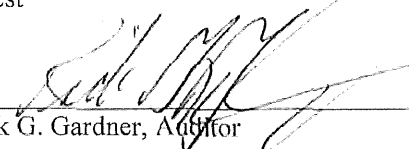
BOARD OF COMMISSIONERS OF  
MADISON COUNTY, INDIANA

  
John M. Richwine, President

  
Kelly Gaskill, Commissioner

  
Darlene Likens, Commissioner

Attest

  
Rick G. Gardner, Auditor

JEFFREY K. GRAHAM/#26380-29  
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Elwood, IN 46036  
Telephone: (765) 552-9878


**CERTIFICATION OF PROPOSED AMENDMENT TO THE  
ZONING ORDINANCE OF MADISON COUNTY, INDIANA, CONTAINED IN  
THE MADISON COUNTY LAND USE AND DEVELOPMENT CODE**

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The Madison County Plan Commission hereby certifies with a **FAVORABLE** /  
**UNFAVORABLE** / **NEUTRAL** recommendation the Amendment attached hereto to the Madison  
County Zoning Ordinance contained in the Madison County Land Use and Development Code.

SO CERTIFIED THIS 19 day of December, 2022.

MADISON COUNTY PLAN COMMISSION

BY:   
WESLEY LIKENS, President

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