



DELAWARE COUNTY COUNCIL MEETING
February 27th, 2024 | Public Hearing 10:31am
DELAWARE COUNTY COMMISSIONERS' COURTROOM

Call to Order

Pledge of Allegiance

Roll Call

Present: Councilmember Flanagan, Councilmember Hughes, Councilmember Kantz, Councilmember Mochal, Councilmember Piper, Councilmember Webb, Councilmember Whitehead, Auditor Mr. Ed Carroll, Attorney, Mr. Ben Freeman

Questions from the public may be directed to CountyCouncilDIST@co.delaware.in.us

Agenda Posted

Approval of Agenda

MOTION: Councilmember Flanagan made a motion for approval of the agenda.

SECOND: Councilmember Whitehead

YEAS; Councilmember Flanagan, Councilmember Hughes, Councilmember Kantz, Councilmember Mochal, Councilmember Piper, Councilmember Webb, Councilmember Whitehead

Solar Project Updates

Mr. Ben Friedall chief commercial officer with Clean Shift Energy stated Hawthorne Solar developed in 2019 and they alluded to the electrical study process until we knew we had a viable location. Once we knew we had a viable project and a location based on all of the fundamental factors, analysis, and risks we took on, we then initiated our outreach to the community in 2021. At that time there was a solar ordinance in place and they reached out to the economic development to pursue a tax abatement of some form. The project is located in Delaware Township near the Muncie Dragway. It is slated to be a 75 to 83-megawatt alternating current project which is governed by our interconnection agreement with AEP and PJM Independent System Operator. The moratorium expired at the end of last year and there is now an ordinance that is live and active. They have been working with county planning and their consultants and we're looking forward to scheduling a more formal detailed meeting with them so that we can know more clearly and understand how the ordinance will apply and all of the procedures and practices associated with the ZBA.

Councilmember Hughes ask to explain their timetable. Such as when would you expect to seek a special use permit from the county BZA and if that was to be approved, then when would you be looking at commencing construction?

Mr. Ben Friedall stated the ZBA requires certain notice to the community at two levels. They are waiting on Kylene Swackhamer, ZBA, and their consultants to inform us precisely how all of that is going to work. We'd like to move as quickly as we possibly can but we have to do that thoughtfully.

Councilmember Hughes asked based on what you know, do you think that your company will be able to comply with the current design standards under the comprehensive zoning ordinance based on the design of your project?

Mr. Friedall stated that based on how the ordinance is applied to our project is feedback from the planning office. There are some embedded flexibilities in the ordinance itself, so they can continue to work with the land partners that we have associated with the project to refine our project design.

Councilmember Hughes asked roughly how many acres would be involved or the range of acreage?

Mr. Friedall stated they have roughly 700 acres for the project.

Councilmember Hughes commented that Hawthorne's tax abatement that was approved was for personal property only not for the land and asked if there are any agreements with the County Commissioners for economic development, road use, or decommissioning. That's all yet to be done, correct?

Mr. Friedall stated that is correct.

Councilmember Kantz asked if there is a plan to sign an economic development agreement before a project begins.

Mr. Friedall stated there are certain elements of the ordinance as it's currently crafted that require agreements that would be exhibited to the economic development agreement.

Councilmember Kantz commented in the other instance that we're referring to here there's a payment to the county associated with that, there's the road use agreement and a decommissioning agreement or some level of detail around those things that are important to the financial piece. It's fair to say that the ordinance that you guys need to take into account was passed to determine what you're your final investment is going to be, the final size, and etc.

Mr. Friedall stated they are doing that work now.

Councilmember Kantz asked in terms of investment you have made to date; can you quantify that?

Mr. Friedall It's in the magnitude of millions of dollars

Councilmember Kantz stated this goes against the original submission for the tax abatement which was \$88 million.

Mr. Friedall stated that \$88 million was an original estimate on the personal property that we would deploy into the facility.

Councilmember Kantz asked without the EDA in place, there isn't anything to prevent your company from walking away at some point theoretically.

Mr. Friedall said they are still in the early stages of development for this project and have submitted significant amounts of capital and have signed agreements that can be reviewed. The project yes, could stall for any reason.

Councilmember Hughes asked if they have any other projects in the state of Indiana?

Mr. Friedall commented that they have 2 other projects active in the state of Indiana currently and our construction team has just won a bid on a fourth project. They have a project that has received site plan approval in Huntington County and another project in Whitley County.

Councilmember Kantz asked if they have paid any property taxes on these leased lands to date?

Mr. Friedall stated they don't own the land so they aren't paying any taxes on it.

Councilmember Kantz asked if we could expect zero environmental impacts based on these projects?

Mr. Friedall stated the standard of expectation is that we remediate the site to its original condition. If something arises, that also would be governed by the decommissioning agreement or the private land agreements that we have.

Councilmember Kantz asked if there are any plans to build or develop battery storage or if all that power going straight to the grid from the panels themselves?

Mr. Friedall stated for this instance the governing document is the long cycle document for how we deliver power to a system governed by the PJM interconnect rate. Modifying that agreement would be an exceptional effort, especially considering it takes half a decade to codify an agreement like that.

Councilmember Kantz stated currently the agreement states, that there's no battery storage.

Mr. Friedall stated that's the way the design and agreement states today.

Councilmember Webb asked if are there any plans for any environmental impact studies after the decommissioning of the property?

Mr. Friedall states the ordinance addresses that specifically. He believed there was a standard that the community took a great deal of care in drafting the ordinance. There's language both in the ordinance itself as well as in the decommissioning agreement that speaks to the necessity of the measurement of environmental impacts.

Council and Mr. Friedall discussed the impacts the 500-foot setback has had on the project.

Mr. Friedall stated they are currently assessing those impacts of the ordinance and there's a level of interpretation and flexibility within the ordinance in how we work with the project land partners and how that may affect our system design. There's flexibility around securing waivers from both involved and uninvolved property owners that would potentially impact our project design.

Councilmember Hughes stated in applying for special use permit, they can request variances from the terms of the ordinance as a part of that application process and it's up to the board of zoning appeals as to whether those variances would be granted in addition to the granting of the special use permit.

Councilmember Webb asked for instance you said things changed and the project was no longer feasible, how would your contracts with those landowners be affected? How long do you have to pay those landowners if you walked away from the project?

Mr. Friedall stated it's a private agreement with private members of this community so I cannot comment. Once again as a private sector company, we take all of those risks and have spent in the magnitude of millions of dollars proceeding through those processes and that is the significant gating item from an electrical standard for a private of this nature.

Councilmember Webb asked if these companies are now considered as utilities, do they not have to have a degree of being a public company to be considered utilities?

Mr. Friedall stated he can only speak to his project but there are regulations that govern these projects that vary from state to state. There are regulatory bodies that oversee these projects that would approve the certificate for public aid necessity which are standard operations in most states that we operate in but in no way shape or form are we a utility or regulated utility in the state of Indiana.

President Piper stated the letter we received yesterday does explain some of the expenses you speak that they're up into the millions already that you've invested it says "These ongoing expenses include environmental studies, surveys, title work, engineering, interconnection expenses, as described above legal support, and power marketing expenses."

Councilmember Kantz commented on the ERA designation on Meadow Foredge expires in 2038 but there's no expiration date on the Hawthorne agreement

Mr. Friedall stated he would be happy to work with you all to address whatever may or may not be missing. It is commonplace for these agreements throughout the abatement and the economic development agreement to work hand in hand and as I alluded to before the road use agreement and the decommissioning agreement are requirements under the ordinance.

Councilmember Kantz asked if the environmental studies are public documents or something that can be released to the public?

Mr. Friedall stated it is a requirement by the state for approving our site plan and then additionally underwriting requirements require them also. Whatever we report to the state I believe the public would have access to would you be willing to provide that to us. If you'd like to send the request to us about what specifically you want to see, I'd be happy to follow up to share any other details with you.

Councilmember Mochal asked at the end of the life cycle on your solar panels, what do you do with those panels and do they contain Mercury?

Mr. Friedall stated the majority of the materials such as steel and copper are all recyclable. the panels themselves may contain Mercury but I don't believe they do.

Councilmember Mochal commented he has heard on the street that you in fact do have land leases with these farmers, are you paying or are you starting to pay upfront for a premium currently since they've signed leases?

Mr. Friedall did not want to comment on private personal leases.

Councilmember Mochal commented so you're going to sell your electricity and I assume that you're getting it state and federal dollars as well?

Mr. Friedall stated every dollar associated with these projects are private investments. There are infrastructure projects throughout the United States have long utilized the tax code that includes coal, nuclear, transmission projects, and pipelines. The tax code is the tool that our government uses to point the private sector in a certain direction. The only way to deploy them is through the use of private capital and every dollar that will end up affiliated with this project is a direct result of private investments.

Councilmember Mochal asked once you start generating electricity, where does it go?

Mr. Friedall explained the distribution system serves the local, the transmission system serves the region and is interconnected throughout all of North America. There are governing bodies that oversee all of that. The power moves under its path of least resistance, so wherever it is needed it will go. Due to the way that we connect to the grid, the power can go in any direction that it is needed and it will be consumed wherever it can be consumed which can be consumed locally. If it can't for some reason there isn't an absolute local need that is urgent for that electron, it will flow somewhere else.

Councilmember Mochal asked if they foresee the electrical rates dropping due to adding more electricity to the grid?

Mr. Friedall stated there's a great deal of antiquated equipment that cannot compete with solar power projects and that new electron from a new project that will get crowded out as a private market should work so it would be a downward force on power prices.

Councilmember Kantz stated since you're not receiving any federal incentives or any federal sub-subsidies, why do you need local county subsidies?

Mr. Friedall stated it is the choice of a community to utilize the economic development tools that they have at their disposal.

Councilmember Kantz stated Mr. Friedall had said they are not designated as a utility but my understanding is that you are required to depreciate the investment over three years, is that accurate?

Mr. Friedall said the depreciation of the investment is governed by the federal tax schedule for specifically for investments.

Mr. Rick Hall from Barnes and Thornburg stated the reason for the request for tax abatement is just because it affects the economics overall of the project and makes it more competitive. Having worked around the state in numerous counties on different wind and solar projects nearly every project that I'm familiar with has received some form of abatement to assist in the economics of it and make it competitive and viable in the long term for the community

Councilmember Mochal asked does your company get involved with your project if you do not receive abatements?

Mr. Friedall commented that every state is different and how each state determines how they would like to deploy tax on infrastructure projects would dictate how we go about that.

Councilmember Mochal stated hypothetically, you apply for an abatement for Delaware County but don't receive an abatement, so you decide to work with farmers anyway. They decide to work with you and you decide to move forward is that fair?

Mr. Rick Hall stated the reason the tax abatement request was made was because it was important to the evaluation of the project as a whole from the company, so we can't stand here and say that we would the company would have gone forward without the tax abatement.

Councilmember Mochal asked are you currently in development or do you have solar in existence where you have not been granted an abatement?

Mr. Friedall stated taxing infrastructure is an imperfect science and states don't always get it right. To help states offer tools to local governments to encourage infrastructure investments. Every state does it differently, so it's hard to specifically answer your question.

Councilmember Kantz asked are you getting any incentives to use on any other projects locally such as Huntington?

Mr. Friedall stated Huntington County granted us a tax abatement.

Councilmember Whitehead stated Hawthorne said they are not receiving direct dollars; would your investors or partners be receiving dollars as far as subsidies or federal and state money?

Mr. Friedall stated that is entirely up to the Congress and the federal government on how that is deployed.

Councilmember asked have your partners received anything?

Mr. Friedall stated it is entirely handled in the tax code.

Mr. Matt Muller lead developer on our Meadow Forge project stated in the last two years we have continued to develop projects throughout Indiana. We're in the process next month of completing our project in Clinton County and we'll make our first EDA payment to them in April. We just broke ground on our construction in Sullivan County and we'll be making our first EDA payment to them in the next month. We expect to start two more construction projects on solar in Indiana this year. We remain committed to building the 163-megawatt Meadow Forge solar project here in Delaware County. We expect to invest over the 155 million minimum investments required by the EDA in energy. We will pay Delaware County the annual \$200,000 EDA payment once we're in service.

There was some confusion earlier about the provision that would grant us a tax credit for an EDA payment we'd already made but just to be clear what that is saying for example; if in year one we paid the \$200,000

EDA payment at the beginning of the year and later in the year we lost our abatement, then we would get a \$200,000 tax credit for what we'd already contributed. I think our lawyer submitted a letter earlier this month clarifying it but there's not a new dollar situation that if we haven't paid anything we're getting anything back.

Councilmember Webb stated so you're saying we're not on the hook for a \$5 million, you would only be on the hook for whatever you've paid in?

Mr. Matt Muller stated that provision is about making us whole. We are still expecting up to 250 construction jobs will be supported and once the project is completed, we'll expect there to be two full-time operations and maintenance jobs. Our engineers are still analyzing the impact of the new setback requirements to update our designs while the new setbacks may negatively impact the overall profitability of the project. We do not expect the setbacks to impact our ability to meet our financial commitments to the county under the EDA. We look forward to a more detailed project specific discussion at those BZA hearings when we submit our application. Along with those setbacks, the project land owners or leaseholders who are your constituents will also incur loss revenues. Most of these leases are set up so that they're getting paid out and if we have more setbacks there's more spare land. We do not believe that any legitimate material changes would provide the council with a proper legal basis to resend our tax abatement and we respectfully asked that the council allow the abatement to remain in effect. I'd be happy to give any more project specific updates but like I mentioned I do know that we'll go into a lot more detail on the project specifics when we submit our application.

Councilmember Kantz asked if there a time frame for that? Similar to Councilmember Hughes's question?

Mr. Muller stated I think to his point there's some good discussion that we need to have with how some of these things are going to be enforced but the expectation would be this year.

Councilmember Webb asked you had mentioned the \$200,000 economic development payment, how many payments would that be and how often are they paid?

Mr. Muller stated it's all listed out in the EDA but it's ten \$200,000 payments totaling \$2 million and they are paid once a year.

Councilmember Webb asked is that money paid to the commissioners or is that money paid to the County General?

Council discussed with each other and stated it goes to the EDIT and therefore the commissioners.

Councilmember Hughes stated the \$2 million total that is illustrated in the EDA is not a fixed number. If the assessed value of the land goes above \$8,000 an acre there's a reduction in that amount. The illustrative table shows a total payment of a million six as opposed to two million.

Mr. Muller stated that's a great question that Baker Tilly could maybe shed more light on. I know we reimbursed the county before for them coming to give a presentation on this and to have those numbers that they put together. We recommend and we're open to working with the county if they'd like Baker Tilly to come in and present again or anyone that you choose to review this with the state.

Council Hughes stated the state determines the land base rate on these types of projects, the local assessor does not determine them, is that correct?

Mr. Muller stated he believes that's the three regions that have been set up by the state for that assessment.

Councilmember Hughes stated that currently for 2023 the land base rate in our region was \$14,201 an acre which would reduce that annual payment from instead of being 200,000 it would be closer to 100,000.

Mr. Muller stated from his understanding they are making those \$200,000 payments every year.

Councilmember Hughes shared on page three 1E of the EDA, explains that's not a fixed number it's a variable based on the land. This leads me to his second question, I talked to Hawthorn, and they requested and were granted tax abatement on personal property only and you were granted a tax abatement on land and personal property is that correct?

Mr. Muller stated he is happy to review this with our legal council and get back to the council.

Councilmember Hughes stated he was just trying to understand what the difference is between the two projects and why yours would be ground and land particularly since it's leased ground if you don't own the ground?

Mr. Muller apologized for not having that answer right now but is happy to follow up.

Councilmember Hughes stated Meadow Forge has an EDA in place that more than almost two and a half years ago would you as a developer be open to reopening up that EDA for further discussion given the passage of time and everything else that's happened in the meantime?

Mr. Muller stated he thinks that's something that we can take back and consider.

Councilmember Hughes said one possible thing that shows up in other economic development agreements is the so-called good neighbor provisions and that that does not appear in the current EDA. Is that something you would look at?

Mr. Muller admitted he's not familiar with any of our EDA agreements in the state, so he can't speak to what those look like.

Councilmember Hughes stated Meadow Forge said they would be filing for the special use permit hopefully this year, based on your knowledge of design do you anticipate requesting any variances from the current standards in the ordinance?

Mr. Muller stated he can't say at this time.

Councilmember Hughes stated Hawthorne made a point they are a private developer, not a public utility. Do you consider your company in any way shape or form of public utility?

Mr. Muller stated we do in the sense that we are regulated as a public utility but to be clear we are a privately held company.

Councilmember Hughes stated do you see any circumstance where you would ask the Indiana Utility Regulatory Commission to take over jurisdiction to this project and in essence supersede local land use regulation and have them regulate the design of the project?

Mr. Muller commented as that being a legal question again, I can have our attorneys look at that and follow up.

Councilmember Webb made a comment that this is a special hearing for us to consider resending the abatement. I'm a little caught off guard that you don't have answers that we're asking you or you don't have somebody who can give us the answers.

Mr. Muller stated from his understanding was this was a hearing for us to come to provide an update on the project. I'm happy to provide the answers that I can and follow up after.

Councilmember Kantz asked are you willing to release any environmental studies that have been done?

Mr. Muller stated they submit them to the state to the INDR and I don't see now for any reason that we wouldn't be able to release those.

Councilmember Webb asked has anything been paid to the county up to this point?

Mr. Muller stated I know we've reimbursed the county for that Baker Tilly study that I mentioned but other than that I'm not aware of any payments to the county.

Councilmember Webb asked do you know when it's scheduled to be made?

Mr. Muller said that first EDA payment as defined would be in the first year after operations, so that \$200,000 payment would be once the projects in service.

President Piper stated there was a discussion within the council that any revenue that comes in from these projects since we're at our max cap, it doesn't actually equal new revenue necessary but it can reduce the tax rate for the entire county. Is that correct councilmember Hughes?

Councilmember Hughes stated it reduces all the relevant tax rates. It would be Harris Washington township for Wes-Del schools.

Councilmember Webb stated if he remembered correctly, it'll be a \$2 savings per person.

Councilmember Kantz asked if Meadow Forge has ever had an early decommissioning?

Mr. Matt Muller stated they have not ever had to do any early decommissioning. With these projects the investment cost is upfront and then they earn money over the life selling the electricity.

Councilmember Hughes asked how many acres would roughly would be involved in your project?

Mr. Matt Muller stated it is yet to be determined. The engineers are redoing the design with these 500-foot setbacks and some other considerations. A project this size I think we stated before about 1,000 to 1,100 acres would be in the fence. Obviously, it's going to be spread out farther now with the 500-foot setback.

Councilmember Hughes asked is your project scalable? If the board of zoning appeal said that's too large it needs to be closer to the 700 acres, would that be possible?

Mr. Matt Muller stated it might impact our ability to meet the 163 megawatt that is in our EDA our economic development agreement but I would have to speak with the engineers.

Councilmember Kantz asked do you know if there was a decommissioning if the land can be recaptured, how long does that take? If it takes you how many years, does it take from the time you break ground on this project to actually getting it up and going? How long is that roughly?

Mr. Matt Muller stated conservatively two years. He also added that our county partners are looking at ways to get new dollars through these economic development payments. But they are capped at these property taxes so that's something that's also being considered.

Councilmember Kantz stated it's the unknown factor. Just like you've never decommissioned one of these projects, we don't actually know what that long-term impact is going to be.

Councilmember Webb stated Mr. Muller mentioned something about economic development teams want to partner with companies such as yours, can you state for the record did your company reach out to us or did our economic development team reach out to you for this project?

Mr. Matt Muller stated he can't say to this specific project but it's common place when we approach a county.

Councilmember Kantz stated there was one public question that just came through relative to wildlife permits. Is do you have to file for wildlife permits to any protected species like bald eagles in this area?

Mr. Matt Muller stated that is all captured in our environmental studies

Councilmember Webb asked does Meadow Forge have anyone who has wooded lots that they plan to clear to make way for your solar panels?

Mr. Matt Muller stated again the state regulates all of that from our perspective. If we were intending on clearing any wood lots, we'd have to get to the state for that. None of the projects I've worked on, have I seen us clear wooded areas for the purpose of solar panels.

President Piper wanted to clarify with the EDA, you're only talking about the \$200,000 payments, we're not talking about the abatement itself? Are those two separate things that there was a recension of?

Mr. Matt Muller stated in the economic development agreement, we agree to pay kind of in junction with this tax abatement, we agree to pay \$2 million over 10 years.

President Piper asked what has your investment been thus far? Do you have a ballpark range?

Mr. Muller stated it's very similar to Hawthorne, it's in the millions of dollars. Mostly it's those interconnection studies that he was mentioning. I do think that clause that has been discussed here is specifically talking about our \$200,000 payment to the county which will not be paid until we are in operation

Councilmember Kantz asked is there going to be a battery storage?

Mr. Muller stated no.

Councilmember Hughes stated he doesn't disagree with the interpretation that Council Wheeler sent on February 6th. Her summary under Section 11 Meadow Forge receives a credit for any amounts paid to the county under the EDA on its future tax payments. It's not that they're not recouping the abatement, they're recouping the direct payments through paragraph one of the EDA. He agrees with Council Wheeler.

Councilmember Webb asked can you clarify the number of local jobs your project would have? Would they be temporary or full-time positions?

Mr. Muller stated the number of local jobs will depend at the time of construction on how many are available. We always want to use as many local workers as we can. We work very closely with local unions to incorporate them but until we actually get to construction and have a plan, I can't say for sure. Usually, it's about two full-time jobs for maintenance.

Public Comments

Mr. Steven Brand 8770 South County Road 200 West Muncie stated I've been involved in small and large businesses here in Delaware County for the last 35 years. I've requested and been granted tax abatements. I've launched hundreds of pieces of business and not every time do I come and ask for a tax abatement. I had to come before this County Council multiple times to request and report on the status of my abatements in terms of real estate investment, capital investment, infrastructure, IT jobs/payroll, and all those things. I'm glad to say that we always overperformed and exceeded the expectations on our abatements and I believe President Piper was president for all of those. I was always challenged when I requested an abatement. Is this required to get the project across the goal line? Have you already signed a contract with your customer? I learned very early on that you don't come and ask for abatement for a project that you're already going to do or that's already been secured with your customer. As evidenced by the testimony that you heard this morning, they have already worked, secured land contracts, and then communicated with the county. Then they came and asked for the abatement. I just ask that you consider my comments and my personal experience with abatements in this county while it may be different in other counties or other states.

Mr. Tim Niccum, Harrison Township stated if there was a motion made today to resend these tax abatements, I would ask that a second also be given and a vote taken so that the public knows exactly where you all stand on this.

Mr. Friedall stated we approached the county once we had enough preliminary information. It was at the point of recognizing that we have the perspective project that we reached out to the county to talk to them about any economic development inducements that may be available. We're in a highly competitive marketplace and we're competing with projects all over the state and county. The requirements for us to even

apply for the right to deliver our power to the electrical grid requires an agreement. Then we have to wait for the results of the electrical study which is a multi-year process. Before exercising the county, we want the results of that electrical process then we approach the county collaboratively to pursue the opportunity.

Comments From Council

Council discussed concerns regarding the abatement.

Councilmember Kantz expressed his concerns that there is no EDA in place.

Councilmember Hughes expressed his concerns does the council have the authority to resend tax abatement? He stated he thinks it would be worthwhile that we find out how the council feels about this.

Councilmember Webb expressed his concerns

Councilmember Whitehead expressed his concerns about the land that is being used for the solar projects. He also stated he does not want this county to resend the abatements to companies. If we resend the abatement, then every other company that wants to come to Delaware County will see that and are going to go elsewhere. We've already heard in previous meetings our poverty rate is significantly high. We don't need to be turning away any jobs. We need to encourage growth and higher paying jobs to come our county.

Councilmember Mochal expressed his concerns. He stated he was born and raised on a farm. For that reason, I think farm ground should remain farm ground.

Councilmember Flanagan expressed his concerns. He agrees with Mr. Mochal that farm ground should stay farm ground.

President Piper stated she was on the council when the tax abatement was granted. We made decisions based on the information we had at that time and zero opposition.

Motion: Councilmember Webb made a motion to resend the Meadow Forge tax abatement and resubmit the request.

Second: Councilmember Hughes second for the purpose of discussion.

YEA'S: Councilmember Kantz, Councilmember Webb

NAY'S: Councilmember Flanagan, Councilmember Hughes, Councilmember Mochal, Councilmember Whitehead, Councilmember Piper

Adjourn

MOTION: Councilmember Flanagan made a motion to adjourn

SECOND: Councilmember Kantz

YEAS; Councilmember Flanagan, Councilmember Hughes, Councilmember Kantz, Councilmember Mochal, Councilmember Piper, Councilmember Webb, Councilmember Whitehead

https://www.youtube.com/watch?v=o9_xTPhfByI

Dear Commissioners and Council (and their respective attorneys) –

Invenergy asked me to send this letter to you to correct the Council’s claim that Section 11 of Meadow Forge’s Economic Development agreement somehow requires the County to make a “\$5 million” payment/credit to Meadow Forge. The reality is that this part of the agreement has a *net zero dollar impact* for the County. It simply requires a refund, in the form of a tax credit, of any payments made by the County under the EDA for which Meadow Forge did not receive an equal tax abatement benefit. This is a dollar-for-dollar credit, meaning that Meadow Forge would never be due more in tax credits than it contributed in EDA payments—and this amount would never be anywhere near \$5 million. I am also attaching two EDAs from other projects in Pulaski County (unrelated to Invenergy), which have similar terms. You will see that this type of agreement in a County EDA is very common, and simply put, is a matter of fairness. As always, Invenergy welcomes the opportunity to share information with County officials to help them better understand the Meadow Forge project. If you have questions or need additional information, please let us know. Thanks, -Kris Wheeler

Kristina Wheeler

Bose McKinney & Evans LLP

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HAWTHORN SOLAR, LLC

February 26, 2024

Delaware County Government

Attn: Mr. Benjamin Freeman - Attorney
County Council
100 W Main St.
Muncie, IN 47305

Re: February 27 Special Session

To whom it may concern;

As a representative of Hawthorn Solar, LLC, I am writing today regarding the Delaware County Council meeting scheduled for February 27, 2024. As requested, a representative of the Project will attend along with the project's counsel, Richard Hall of Barnes and Thornburg in Indianapolis. We are happy to provide any updates and answer any questions, as appropriate at this time, about the project status.

As you are aware, on September 28th, 2021 the Delaware County Council approved Hawthorn Solar's application to designate its project site an Economic Revitalization Area via Resolution (#2021-036). Subsequently, on October 26th, 2021, the Delaware County Council passed the Resolution Approving Deduction of Assessed Value Of Personal Property in an already Declared Economic Revitalization Area (# 2021-038) for the Hawthorn Solar project.

As part of its application to designate the project site an Economic Revitalization Area, Hawthorn Solar submitted the required form SB-1/PP, which included an estimated value of the manufacturing equipment to be installed by the proposed project. This estimate appeared in the Section of form SB-1/PP labeled, "Estimated Total Cost and Value of Proposed Project."

It is the nature of all large economic development projects that the ultimate costs are not known with certainty until the project is finally constructed. Indeed, the Indiana Code abatement mechanism anticipates this by requiring that property owners file a certified deduction schedule (Form 103-ERA) once the property has been constructed and installed. Furthermore, the actual property tax abatement is expressed as a percentage, so the calculation automatically adjusts for whatever the final, certified cost of the project may be.

Since the abatement was granted to induce investment in Delaware County, Hawthorn Solar has continued to invest meaningfully in the development of the Project. The most intensive effort during this phase is focused on the electrical interconnection and the system wide electrical

HAWTHORN SOLAR, LLC

studies that are administered by the PJM Interconnection and regulated by the Federal Energy Regulatory Commission. Additionally, AEP, the transmission owner, interfaces with PJM and the Project to be sure the selected equipment meets all of the system requirements for safe and reliable operation. This is a time intensive and costly process. The results of all these studies are publicly available on the PJM website.

It's worth remembering the purpose of the resolution to permit the deduction of assessed value of personal property is to attract, encourage, and induce investment in the County. And in the instance of the Hawthorn Solar project, this purpose was successful, as the project has continued to make significant investments to move the project toward completion. These ongoing expenses include environmental studies, surveys, title work, engineering, interconnection expenses (as described above), legal support, and power marketing expenses.

Hawthorn Solar continues to invest in Delaware County and is fully committed to doing business within the County. The project record speaks for itself as it has always made significant efforts to be a good community partner. We look forward to answering any questions you may have on Tuesday, February 27th.

Sincerely,

HAWTHORN SOLAR, LLC,
An Indiana limited liability company

By:  _____

Jesse Montgomery, Manager






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Final Audit Report

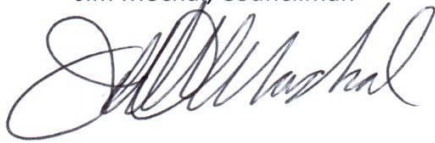
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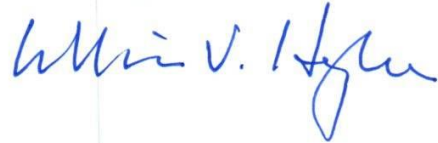
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Jim Mochal, Councilman



William Hughes, Councilman



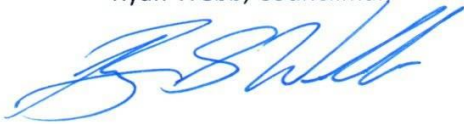
Eugene Whitehead, Councilman



Dan Flanagan, Councilman



Ryan Webb, Councilman



Matt Kantz, President Pro Tempore



Jessica Piper, President



Ed Carroll, Auditor

