March 11th OPSB Stakeholder Meeting

Organization: Citizens for Greene Acres
Spokesperson: Jenifer Adams
Introduction: Citizens for Greene Acres (CGA) is an all-volunteer, non-partisan, grassroots organization formed in May 2019. We are ordinary citizens who hold full-time jobs as nurses, defense contractors, farmers, teachers, realtors, bookmobile drivers, and letter carriers. As residents of three neighboring rural townships we came together when we learned a developer had secured leases for 700 - 1000 acres of agricultural land for the purpose of constructing a utility-scale solar plant. The developer quietly began meeting with landowners—our neighbors and relatives—to secure these leases in 2017, and perhaps even earlier. Lease documents included confidentiality clauses so more than a year passed before word began to circulate in our community that the proposed project was underway. The developer has not yet initiated the pre-application process with the OPSB for this development.

The mission of Citizens for Greene Acres is to educate ourselves and inform our community about the process and the policies that govern utility-scale solar development in the state of Ohio. In this role, we've had the opportunity to communicate with residents from multiple counties and townships across the state who are most affected by utility-scale energy projects. Unfortunately, we've found the situation across Ohio and the U.S. is similar to what we are experiencing in Greene County. There is a general sense that developers work to limit or prevent local community participation in the application/review process, and that they strive to only meet minimum requirements rather than working to best practices/standards. CGA has been especially interested in learning about "best practices" being considered or implemented elsewhere. We have studied documentation from multiple OPSB cases, and researched rules and regulations about industrial-scale solar installations in other states and countries. We are here to share what we've learned in an effort to provide awareness to the OPSB and to provide suggestions that will ensure the protection of Ohio citizens.

1. How can the Board better engage the public?
As it's currently structured, local residents are thrown in with inadequate time to understand the process and prepare testimony/comments. The average person does not have enough time to do research, ask questions, process the impact, seek counsel, etc. for a change in the landscape of their community which will last for generations to come. Giving the public more time to gather data, educate themselves on the process, seek counsel, ask questions, etc. before the pre-application informational meeting, public hearings, and adjudicatory hearings will go a long way in better engaging the public.

Additionally, in an effort to ensure transparency and true demonstration of community involvement/input, we suggest the addition of an Intent to Develop Informational Meeting (more details below). The utilities/developers suggested that it would help if they themselves met with local municipal officials earlier in the process, perhaps prior to the pre-application informational meeting. Through discussions with residents across the state, we've discovered the sense that developers are already meeting early on with officials in an effort to "grease the skids" and manipulate the opinion of the officials prior to community involvement. We agree that earlier outreach is paramount, but it needs to be done in a transparent way. In an effort to avoid this type of activity and encourage/increase transparency, we would recommend that these initial conversations and outreach occur at a community meeting such as an Intent to Develop Public Information Meeting.

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In addition to an Intent to Develop meeting, we also recommend adding a townhall-type session to informational meetings which will allow broad information sharing and allow the board staff to be better informed as to local knowledge and project concerns.

a. How can the process provide meaningful participation in project reviews?

1. Prior to the filing of applications by the applicant or the Board?

We recommend the addition of an **Intent to Develop informational meeting**

- When: prior to any lease being signed and at least 3 months prior to the request for a pre-application conference
    - after leases are signed, participating residents are prevented from discussing the project with anyone, including family and neighbors. This creates a wall of secrecy and prevents open communication and community involvement
    - Allows for community discussion to begin prior to the developer expending funds on leased properties.
    - advertise project to encourage property owner participation
- Public Notice:
    - First notice 30-45 days prior to Intent to Develop public informational meeting
    - Second notice 14-21 days prior to Intent to Develop public informational meeting
    - Also recommend direct invitations to local township and county officials
- Information to Include:
    - Provided by Developer:
        - Map with the project zone shown to demonstrate the area of interest
        - Information regarding why the region is being pursued
        - General goals of the project

      Provided by OPSB:
        - OPSB addresses room:
            - description of OPSB role, application process and where info. can be found
            - info. about how township and county officials can participate
            - Include clarification that individual cannot speak at public hearing and adjudicatory hearing
            - Inform of the time limit for requests to intervene and clarify who can intervene (we encourage flexibility in granting intervenor status to citizens who've submitted late)
        - Property owner educational material about solar/wind leases
        - Townhall-type Q&A to include OPSB reading the written questions submitted
        - OPSB collects all written questions and files them with case documents

Pre-application informational meeting

- Public Notice:
    - **first public notice 30-45 days** prior to public informational meeting

- **second public notice** 7-21 days prior to public informational meeting
- Also recommend direct invitations to local township and county officials

- Information to add (provided by OPSB):
  - OPSB addresses room:
    - description of OPSB role, application process and where info. can be found
    - info. about how township and county officials can participate
    - Include clarification that individual cannot speak at public hearing and adjudicatory hearing
    - Inform of the time limit for requests to intervene and clarify who can intervene (we encourage flexibility in granting intervenor status to citizens who've submitted late)
  - Townhall-type Q&A to include OPSB reading the written questions submitted
  - OPSB collects all written questions and files them with case documents

2. During the period between the application filing and the finding of completeness?

3. During the period of Staff review and development of its report (within the statutory deadline of 15 days prior to public hearing - R.C. 4906.07)?

- first public notice 15 days after the application is accepted (no change)
- **the second public notice 45-60 days prior to public hearing**
- the **third** public notice 7-21 days prior to public hearing

4. What methods of participation are most useful to the public (i.e. public testimony, verbal comments on the record, written comments, or other forms of participation)?

All of the listed methods are useful to the public. In addition, townhall-type sessions should be added to the information meetings.

b. How can Staff become better informed as to local knowledge and project concerns prior to completing its formal report?

We recommend that the OPSB take a more active role in the collection and oversight of questions submitted at the informational meetings.

Adding a townhall-type session to informational meetings will allow broad information sharing and allow the board staff to be better informed as to local knowledge and project concerns prior to the completion of the formal report.

Comments or questions submitted during the public information meetings (Intent to Develop and Pre-Application) should not be collected and summarized by the developer. Those with financial interest in the project should not have the opportunity to summarize, downplay, and/or alter public opinion/concerns before they are presented to the OPSB.

c. Current rules require 4 public notices regarding a proposed project: (1) pre-application informational meeting; (2) the determination of application completeness; (3) the first public notice 15 days after the application is accepted; and, (4) the second public notice 7-21 days prior to public hearing. What additional public notices might be helpful during the evaluation of a project?

Additional informational meetings and changes to notification timing:

- Intent to Develop public information meeting
    - **first public notice 30-45 days prior to meeting**
    - **second public notice 14-21 days prior to meeting**
- Pre-application public information meeting
    - **first public notice 30-45 days** prior to meeting
    - **second public notice** 7-21 days prior to meeting
- Public Hearing
    - first public notice 15 days after the application is accepted (no change)
    - **the second public notice 45-60 days prior to public hearing**
    - the **third** public notice 7-21 days prior to public hearing

Additional forms of notification:

- Mass/bulk mailing to all residents within the affected townships, and within 5 miles of the project area if that 5 miles extends into neighboring townships
- Use different media outlets to notify residents (not just the newspaper). Television stations notified, radio announcements, public service announcements
- Coordinate meeting with local township trustees to notify/invite the community
- Invite local township trustees, county commissioners, planning/zoning, etc.

d. How else should the Board modify or update the current processes, including the public information meeting, public hearing, and evidentiary hearing?

Right now, many township and county officials have the mindset that everything is completely out of their hands, and they do not understand how to be involved in the process. During the informational meetings, the board staff should better inform/empower township and county officials to participate on behalf of their constituents.

Most communities are ill equipped to provide meaningful cross examination of developer claims due to lack of time, understanding of the process, and funds to hire legal counsel, expert witnesses or commission studies. Better cross examination of developer claims is required regardless of the level of local intervention. The process is currently setup such that developer claims are accepted as valid/accurate statements because they have not been disproven by local residents/intervenors.

Through discussions with residents throughout multiple Ohio counties and townships, we've learned that there is a general sense that the developers attempt to limit or prevent local community participation during the public hearings. This is done by the developers to give the allusion of little/no opposition to the project. Examples of what has been discovered:

- "pack the house" with proponents to prevent local citizens from having room/seats during the public hearings

- organizing lengthy non-applicable commentary meant to consume the available time. This does not allow local citizens time to speak

A few recommendations that might help:

- Venues with larger capacity
- Multiple sessions for the public hearing
- Separate sign-in lists (opponents, proponents, independent) with alternating selection for opportunities to speak.

e. Staff currently consults with and engages subject matter experts from state and federal agencies to seek and provide information while reviewing projects for possible approval. Can this process be improved? And if so, what recommendations do you have?

The utilities/developers suggested that if they could participate in discussions with state/federal agencies it would help speed the OPSB investigation process. It is incumbent upon developers to submit a proposal that is descript and thorough enough for the OPSB staff to complete their investigation. Allowing closed door discussions between the developers and state agencies responsible for ensuring the protection of Ohio citizens will reduce the transparency that local residents are so desperate for. If clarifications to developer proposals is necessary, it should be handled in writing and available for public review.

While we believe the engagement of SMEs from state/federal agencies is critical, we also believe that there should be stronger focus on public interest, the preservation of prime agricultural land, maximizing Ohio's economy, and independent review of all applicant claims.

Public Interest

Through the review of existing OPSB cases, it was discovered that the public's opinion/preference for these projects has historically been cast aside as irrelevant and largely disregarded during the decision making process. ORC 4906.10(A)(6) specifies that the board shall not grant a certificate unless it finds that "the facility will serve the public interest, convenience, and necessity". There seems to be a general, underlying view that local preference for these developments is irrelevant as long as developers can prove need and promise that all concerns will be dealt with. We can see where that might have been acceptable in the past, but we are now dealing with technologies that are much more invasive and impactful on local communities. We are not advocating for, nor debating the efficiency, of one technology over another, but we would be remiss if we do not recognize the scale of these projects. A 2000 acre solar development is equivalent to:

- 484 Walmart Supercenters, or
- 1,512 football fields

Because these developments impact so many more residents, and potentially change the legacy of local communities, the opinion/preference of affected township residents for the project should carry just as much weight as the other seven conditions of ORC 4906.10 during the decision making process. These are the individuals who will feel the effects of the project for, in many cases, the rest of their lives.

In addition to public opinion/preference carrying more weight, the lack of wind or solar energy generation being mentioned in township or county land use plans or ordinances should not be interpreted as approval/acceptance of such industrial activities.

Preservation of Prime Agricultural Land

Based on a review of existing OPSB cases, some applicants use the fact that the development is sited on agricultural lands as justification for why the siting is appropriate/acceptable. Additionally, little/no information is provided describing alternate sites that were considered and why they were ruled out, or why they did not site the project on more appropriately zoned land.

ORC 4906.10(A) specifies that the board shall not grant a certificate unless it finds that "the facility represents the minimum adverse environmental impact" (division (A)(3)), and that it understands what the facility's "impact will be on the viability" of agricultural land within the facility (division (A)(7)). While ORC 4906.10(A)(7) focuses specifically on "agricultural districts", it can easily be argued that all prime agricultural/farm land in Ohio is important regardless of whether the land owner files an application to place the land in an agricultural district.

According to Executive Order (EO) 98-11V Ohio Farmland Protection Policy (see Attachment A):

- "Ohio's agricultural lands are finite and **require wise use and consistent management to prevent irreversible damage or loss**".
- "When productive agricultural land is converted to other uses, greater reliance is placed on marginally-productive land for agricultural production, **leading to higher rates of soil erosion, increased potential for fertilizer use and greater environmental damage**"
- "**actions of state agencies may have a detrimental impact on the preservation** and maintenance **of productive agricultural lands unless these actions are planned to minimize or eliminate conflicts with such lands**"
- state agencies are to "examine policies, guidelines, and procedures to assure that land acquisition, direct state development projects, **state-assisted public and private development including infrastructure, and development requiring state permits will not eliminate or significantly interfere with or jeopardize the continuation of agriculture on productive agricultural lands or reduce the agricultural potential on prime agricultural soils unless there is no feasible and prudent alternative and the facility or service has been planned to minimize its effect on such lands**".
- the Power Siting Board of Ohio and the Public Utilities Commision are two of the many state agencies that are tasked with creating guidelines to "**eliminate or minimize impacts detrimental to the continued use of productive agricultural lands**" that includes a process for completing a "timely and comprehensive analysis of alternatives is made".

In an effort to assure the protection of prime agricultural land, we suggest the OPSB administrative rules be revised to encourage siting of solar developments on lands zoned commercial/industrial or on lands with adverse soil conditions. With solar developments being so new to Ohio and the U.S., we do not have enough scientific evidence to prove that agricultural lands can be returned to agricultural use after decommissioning. If no alternative to agricultural land is viable, we suggest the OPSB restrict

siting of solar developments on productive/prime agricultural land to certain maximums based on NRCS soil classifications.

Maximizing Ohio's Economy

In addition to preserving prime farmland, siting solar developments on lands zoned commercial/industrial or on lands with adverse soil conditions will also maximize/bolster economic activity within the state. According to the Director of the Ohio Department of Agriculture, Dorothy Polanda, agriculture "is a cornerstone of our economy", and it "provides $124 billion in yearly economic activity and provides one in eight jobs to every Ohioan". Siting on alternative lands allows for the increased economic benefit of bringing solar development to the state without also sacrificing Ohio's agricultural economy. It results in a true economic increase for the state, rather than an exchange of economic activities.

Independent Review of Applicant Claims

Most communities are ill equipped to provide meaningful cross examination of developer claims due to lack of time, understanding of the process, and funds to hire legal counsel, expert witnesses or commission studies. Better cross examination of developer claims is required regardless of the level of local intervention. The process is currently setup such that developer claims are accepted as valid/accurate statements because they have not been disproven by local residents/intervenors.

To allow for a truly independent assessment of the project and applicant claims, we recommend that the OPSB conduct independent, third-party, studies rather than only using the information submitted by the applicant. It can be funded by the applicant, but OPSB must commission the studies. There should be some separation between the applicant and person/entity conducting the study.

Additional Note

It was suggested that the carbon footprint of any electric generation facility be analyzed prior to siting approval is granted. We are in agreement with this. However we must ensure that this analysis takes into consideration all facets of manufacturing, construction, operation, and decommissioning.

f. How can the Staff improve the quality and timeliness of its review of transmission projects through coordination with regional planning authorities such as PJM Interconnect LLC?

With the development of solar and wind technologies and developer reliance on the placement and availability of transmission lines, it is important that Ohians are aware of new/expanding transmission projects and the potential they bring for future solar/wind development in their region.

2. What modifications should occur as to application processing?

a. With regard to the findings that the Board must make pursuant to R.C. 4906.10, to what extent can any of the required determinations be deferred after a certificate is authorized to accommodate the receipt of information for which the provision may not be feasible until after the certificate is authorized?

ORC 4906.10 does not appear to permit the deferral of the eight required determinations in division (A). A certificate can be granted with terms/conditions/modifications of the construction, operation, or

maintenance of the facility, but the board is still required to make all the determinations in division (A) before the certificate can be granted. Therefore, if an entire required determination is deferred, the conditions of the code are not satisfied.

We recommend requiring a completed application prior to a certificate being issued. No waivers to the application requirements should be granted that would limit information or prevent intervenors from having access to important details about the project. The public and board currently function as the primary source of intervention or cross examination. They should have access to all of the design information. If final designs change significantly from the designs available during the last opportunity for cross examination, intervenors should be given the opportunity to re-cross.

b. If any such determination is so deferred, should the Board consider unbundling a certificate to construct and operate, and permit construction to move forward while the operating authority is deferred until such time and any open items are addressed? Should certain phases or components of the application be: (1) approved only upon submission of “final designs;” or, (2) approved pursuant to more fully developed project information if it is impractical or not feasible to provide final detailed studies/designs or plans? What should the Board consider when making this determination of feasibility?
Final designs are essential to be able to truly evaluate the situation and determine environmental compatibility. Small adjustments to the design could result in a big impact to neighbors and the environment.

While final designs are always best, we understand that final designs for some aspects of the project may not be possible. However, developer proposals are full of ambiguous terms that provide no certainty about what local residents will be left with. With no minimum standards/regulations established, no final designs, and no enforcement, words like “intend to”, “may be”, “expected to”, and “anticipated to” are dangerous, empty promises. Without substantial justification for deferral, final designs should be required.

We recommend that the OPSB establishes a set of minimum siting regulations/best practices for solar developments (similar to OAC 4906-4-09 Regulations Associated With Wind Farms), final designs be required to the greatest extent possible, and enforcement processes/plans be established.

Below are some suggested minimum siting regulations/best practices based on information from states across the U.S. All studies/plans should be validated by independent, third party experts commissioned by the OPSB.

1. Landscape/lighting plans?

2. Solar glare studies?

3. Cultural resource studies?

4. Vegetation management and plant/animal impact action plans?

5. Final decommissioning plans? All plans validated by independent, third party experts commissioned by the OPSB. All-in-all, regulations similar to OAC 4906-4-09(I) Set minimum requirements for estimating bond values (including inflation and exclusive of salvage value). Decommissioning bonds should be incrementally funded based on the level of construction that has been completed. Include a requirement for decommissioned equipment to be recycled.

6. Geotechnical and other testing results?

7. Adaptive engineering plans (i.e. turbine modifications)?

8. Impacts to agricultural land? Site primarily on areas zoned commercial/industrial, land consisting predominantly of soils with reduced agricultural productivity due to adverse soil conditions or physical limitations, or areas designated as superfund sites and brownfields.

If it has been determined that no alternative to agricultural land is viable, we suggest the OPSB restrict siting of solar developments on productive/prime agricultural land to no more than:

- NRCS Class I 10 acres per development
- NRCS Class II 20 acres per development
- NRCS Class III 30 acres per development

9. Land use authority?
The lack of wind or solar energy generation being mentioned in township or county land use plans or ordinances should not be interpreted as approval/acceptance of such industrial activities. Local land use authority should not be overridden without the written consent/permitting of the local authority.

10. Transparent safety information, including access to non-proprietary safety manual information?
No information related to safety (safety manuals, manufacturer recommendations, environmental studies, etc.) should be deferred. The utilities/developers suggested that safety manuals are unavailable and/or proprietary. We understand that specific product designs might be proprietary. However, the safety specifications/recommendations and hazard warnings are likely not proprietary, and are essential in completing a complete analysis of the environmental impact.

Establish minimum requirements for emergency management plans that address Acts of God, fire, theft/vandalization, hazardous material leaks/spills, training for local fire, police, ems, hazardous material crews, etc. Funds for additional manpower and equipment required for an adequate response, as well as to cover expenses incurred by local residents in the event of an emergency related to the solar plant.

11. Interconnection information?

12. land lease/use arrangements
Many ground cover and setback arrangements are currently included within the land leases. A set of minimum standards should be set to provide consistency. This will protect property owners who've signed the leases and local residents.

13. Other
To allow for a truly independent assessment of the project and applicant claims, we recommend that the OPSB conducts independent, third-party, studies rather than only using the information submitted by the applicant. It can be funded by the applicant, but OPSB must commission the studies.

We also suggest adding a section similar to OAC 4906-4-09 Regulations Associated With Wind Farms that is specific to solar.

c. What level of design and engineering drawings should be provided in the application? Should the final design be provided?
Yes. No waivers to the application requirements should be granted that would limit information or prevent intervenors from having access to important details about the project that they may be impacted by. The public and board currently function as the primary source of intervention or cross examination. They should have access to all of the design information. If final designs change significantly from the designs available during the last opportunity for cross examination, intervenors should be given the opportunity to re-cross.

d. To the extent the applicant submits supportive studies, should the studies be subject to a trustworthiness standard such as the evidentiary standard applicable to expert opinions? If so, what standard? If not, why not?
All studies/experts should be third-party, independent contractors hired by the OPSB, paid for through funds provided by the applicant to the board. Each department that makes up the OPSB should have experts on hand that they know to be unbiased, reliable, accurate, etc. We might even suggest that a group of established experts be created. Studies, management plans, safety procedures, land use information, etc. and designs should be coming from these established experts, as the Board would have a rapport built with them and would be able to move efficiently through each case.

Alternate plans should be fully disclosed and residents within the vicinity of the alternate plans should receive all the same notifications and opportunities for comment and intervention. The same should apply for modifications and amendments as well. The bottomline, if it affects residents in a different way than is currently understood, then an opportunity to understand the changes and intervene should be provided.
If any additional acreage is added to the project the full review/hearing process should apply.

e. Does the application need to be expanded, including the required information in the filing?

Applicants should be required to present real plans. Simply stating the requirements will be met or that there are no issues is insufficient. A good application will demonstrate what actions will be taken and they will be executed.

f. Should multi-stage projects be required to be filed as one combined application (i.e., transmission line, substation, generating facility)? Why or why not?
Yes, provides whole picture to the community

1. For multi-stage projects involving a generating plant and a dedicated transmission line, how should "need" for the transmission line be determined?
An assessment of the state power requirements/shortages should be conducted, and details regarding how much of the power generated will remain in the state.

g. What criteria should determine the difference between a "modification" versus an "amendment?"

h. What criteria should determine if a proposed change in the facility would result in any material increase in environmental impact or a substantial change in location for purposes of R.C. 4906.07?
If any additional acreage is added to the project the full review/hearing process should apply.

i. Where provision for decommissioning is appropriate, should the applicant be required to demonstrate project financial viability/adequate cash flow sufficient to accommodate estimated and actual decommissioning expense?
Yes. Bonds (or whichever financial mechanism that is the most secure) should be funded to the level required to cover the decommissioning costs of the facility at its current development/construction phase. Additionally, proof of the funded bond should be provided and continuous oversight provided by the board.

Suggest adding solar provisions similar to *OAC 4906-4-09 (I) Regulations Associated With Wind Farms, Decommissioning and Removal*. Also require:

- The applicant's decommissioning cost estimate must be certified by an independent qualified engineer
- A contingency amount should be included to protect the state, local municipalities, local residents, and participating landowners
- Costs should include cost to recycle material rather than sending to landfills for disposal in the U.S. or any other country.

The utilities/developers suggested that decommissioning is covered in the property leases, that the bond doesn't need to be funded until 10 years in, and that local residents shouldn't worry about the project owner going bankrupt because another company would pick-up the project. First, local residents cannot rely on the varying language within each lease agreement, lease agreements that we never see, to protect the community. Second, it is imperative that the decommissioning bond is in place immediately. We all know tornados are a regular occurance in Ohio and becoming much more frequent

in many regions. Ohio communities cannot afford to have the funding of a decommissioning bond delayed to some arbitrary date. Third, if funding the bond were delayed, who is responsible for funding that bond?

j. Should an applicant be required to submit manufacture safety manuals and other materials and to what extent should such information be available to the public?
Yes. No information related to safety (safety manuals, manufacturer recommendations, environmental studies, etc.) should be deferred that would limit information or prevent intervenors from having access to important details about the project that they may be impacted by. The public and board currently function as the primary source of intervention or cross examination. They should have access to all of the material. If material specifics change significantly from what was available during the last opportunity for cross examination, intervenors should be given the opportunity to re-cross.

Additionally, all emergency management plans that address Acts of God, fire, theft/vandalization, hazardous material leaks/spills, training for local fire, police, ems, hazardous material crews, etc. should be provided.

The utilities/developers suggested that safety manuals are unavailable and/or proprietary. We understand that specific product designs might be proprietary. However, the safety specifications/recommendations and hazard warnings are likely not proprietary and/or non-proprietary versions can be created. The manufacturers safety manuals are essential in completing a complete analysis/assessment of the environmental impact and risks to the community.

k. Should the applicant be required to address issues and concerns raised in public comments?
Yes. The public (primarily residents within the vicinity of the development) will be impacted by this development for the rest of their lives. Regardless whether it is in the form of a comment or question, the applicant should have to address issues and concerns raised in the public comments, and the concerns should be given the same level of clout/consideration as the other seven required determinations defined in ORC 4906.10(A). The applicant typically has no knowledge of the cultural, historical, ecological, economical, etc. impact that a project will have on a community. If an issue is raised, they should have to address it. Their response allows the Board to get to know the developer better and will add supplemental information for review before the certificate is granted.

3. How should the Board monitor and enforce the terms of its certificates?
All authority to grant the certificate resides with the board, and thereby, all responsibility for overseeing the conditions of the certificate all rests with the boards. Enforcement of certificate terms and developer promises by the OPSB is essential in ensuring the protection of local communities.

a. How should compliance with certificated conditions be documented both with regard to the determination of when construction may commence and through the life of the certificate/facility?
Similar to applicant claims, all should be subject to independent review and monitoring. Additionally, continuous construction progress should be required. Driving a few posts in an effort to claim construction has begun and then leaving the site dormant for months should not be allowed. The

developers advertise construction as a temporary inconvenience to local residents. It is essential that progress is not delayed.

b. To the extent that permits, licenses or other consents must be obtained from federal, state or local authorities before the project can move forward, how should the applicant document satisfaction of these requirements and update the Staff and Board as a result of changes in circumstances that may affect the authority provided by such permits, licenses or other consents.
Proof of all permits, licenses, and other consent required must be provided to the OPSB. If the circumstances that allowed for the permitting have changed, the OPSB should be notified immediately. This aspect of the developer's responsibility will require oversight by the OPSB. If permits, licenses, and other required consent are not maintained or the conditions are violated, OPSB should then proceed with revoking certificates.

c. More generally, what post-construction monitoring and enforcement procedures should apply, including during the operation and decommissioning phase?
Funded annually by the current project owner, annual safety inspections of the facility by the state (infrastructure, emergency testing, emergency response plans, well and soil sampling, etc.) should be mandatory. It is frightening (think the fires caused by Tesla's solar panels on Walmart roofs) to think that these facilities might be constructed and left without adequate safety plans in place and/or being monitored/maintained/inspected by the developer instead of independent, third party folks who are trained to protect the public. The overall goal here should be to maximize preventative measures.

The developer must notify the OPSB if it receives a customer complaint. Those complaints given to the OPSB must be specific, not a general quarterly summary.

Additionally, certificates should be revoked if the site is left inactive for more than 12 months.

d. What additional procedures should apply, if any, to certificate transfers beyond the transferee agreeing to comply with the terms, conditions, and modifications imposed upon the certificate by the Board? What enforcement mechanisms should exist to ensure compliance with certificated conditions, board orders, rules, or laws (i.e. suspension of certificate or operating authority in the event of a violation of 4906.98)?
Suspension of certificate and operational shutdown until the conditions are met. We suggest something similar to the following: Give ___ days to comply or ____ days shutdown and decommissioning shall begin within ____ months and be completed by the time defined in the decommissioning plan.

e. By what process should decommissioning costs be revisited and evaluated for purposes of establishing the bond level?
Similar to OAC 4906-4-09(I)(2)

Closing Statements:

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On behalf of Citizens for Greene Acres, thank you for the opportunity to participate in today's session. We appreciate the opportunity to share some of what we've learned and to make suggestions about how the OPSB process might be improved in order to better engage the public.

In summary, please hear us when we tell you that for the public, the **learning curve** is steep and the **time frame** for citizen review, response, and participation is problematic. Applicants and developers, whose work begins months and even years before filing their first notice with OPSB, are at a distinct advantage. They have engaged legal counsel, accumulated information, data, and hired experts to assist them well before local residents are even aware of a proposed project. Thus the process, as it currently exists, is predicated on **information asymmetry**, which simply means one party (the applicant) has more information than the other (the local residents and perhaps even the OPSB).

We have learned that the very people whose neighborhoods will be transformed by the construction of a 21st century power plant are often unaware of a pending project until very late in the approval process. Ordinary citizens do not have the expertise, the time, or the funds necessary to engage professionals and experts who can help educate and aid them. An informal survey of our local and elected officials, and those in other regions of Ohio, suggests that local officials are also uninformed about the basic issues and policies regarding the power siting process in our state, much less the finer points of participating in the OPSB process.

As of this date, OPSB has approved six solar facilities in Ohio. Using the first official public record in each project's case docket (the pre-application notice filed by the applicant), five of the six approved projects have proceeded through the process in under a year. The Willowbrook project was approved in fewer than 90 days. Hardin, Hillcrest, Hecate, and Hardin II were all approved in fewer than 12 months.

As currently structured, local residents have insufficient time to familiarize themselves with the OPSB and its protocols, and to master the technical subject matter related to utility-scale solar and/or wind generated electricity. Many members of the public are not comfortable speaking up at public meetings or filing notices on the OPSB website, especially if they are intimidated by the complexities inherent in the subject matter and the process for participation. Clearly, most people do not have sufficient funds or the appetite to hire legal counsel and become intervenors.

In reviewing the OPSB rules, let's consider those people who wish to learn more about the issues and develop an informed opinion about whether a utility-scale energy project is a good fit for their rural neighborhood. After a certain age, most of us learn informally. We pose questions and seek to answer those questions as best we can. In the case of power siting and new forms of utility-scale energy generation, most of us must start from scratch. Formulating the right questions and seeking evidence-based, independent research to answer complex questions is a process that takes time, commitment, and resources. For many citizens, visiting or learning about comparable and nearby projects would be a logical place to begin gathering information. But there are no solar projects greater than 50MW currently operating in Ohio and construction has just begun at the Hardin and Hillcrest sites.

In rural areas, where many of our neighbors are over 65, both computer and internet access are limited. Older Ohioans are decidedly disadvantaged in making use of the numerous resources

and documents located on the OPSB website.

Encouraging public participation in Ohio's power siting process naturally intersects with land use issues and property rights. Rural residents, many of whom have multi-generational ties to land, have a keen understanding of stewardship and of the importance of conserving soil, water, and other natural resources for future generations. We also understand that conflicts can and do arise when competing interests pit neighbor against neighbor.

Executive Order 98-11V, Ohio Farmland Protection Policy, issued by Governor Voinovich in 1998, recognized that "when productive agricultural land is converted to other uses, greater reliance is placed on marginally-productive land for agricultural production...." Executive Order 98-11V further acknowledges that "state government affects the conversion of agricultural land to other uses through state land acquisition, state development projects and state financial assistance for public and private development including infrastructure, but no state plan currently exists to uniformly ensure that state actions do not irretrievably convert prime or productive agricultural land to other uses when alternatives are available."

Shouldn't the siting of utility-scale energy projects work in tandem, not at odds, with the state's longstanding and current policies of preserving Ohio's most productive farmland and protecting and conserving its soil, water and other natural resources?

In closing, we commend the Ohio Power Siting Board for recognizing that issues exist with regard to public awareness and participation, and that the OPSB needs to be more engaged and in-tune with the citizens of Ohio. The Board needs to promote and provide non-biased resources and expertise that will help Ohioans make prudent decisions and arrive at reasonable compromises regarding complicated energy matters that will have lasting consequences for individuals and for the state. The Board needs to ensure that the public can be confident that the approval process is fair, deliberate, and is not unduly influenced by the private sector applicants who stand to benefit from the Board's decisions.

STATE OF OHIO

Executive Department

OFFICE OF THE GOVERNOR

Columbus

EXECUTIVE ORDER 98-11V
(AMENDING EXECUTIVE ORDER 98-03V)

OHIO FARMLAND PROTECTION POLICY

WHEREAS, Ohio's agricultural lands are finite and require wise use and consistent management to prevent irreversible damage or loss; and

WHEREAS, in June 1997, the Ohio Farmland Preservation Task Force issued a Findings and Recommendations Report in compliance with Executive Order 96-65V; and

WHEREAS, the importance of preserving Ohio's agricultural land has been recognized; and

WHEREAS, each year Ohio's productive agricultural lands are converted to nonagricultural uses thereby potentially undermining the economic vitality of Ohio's agricultural industry; and

WHEREAS, when productive agricultural land is converted to other uses, greater reliance is placed on marginally-productive land for agricultural production, leading to higher rates of soil erosion, increased potential for fertilizer use and greater environmental damage; and

WHEREAS, state government affects the conversion of agricultural land to other uses through state land acquisition, state development projects and state financial assistance for public and private development including infrastructure, but no state plan currently exists to uniformly ensure that state actions do not irretrievably convert prime or productive agricultural land to other uses when alternatives are available; and

WHEREAS, the actions of state agencies and state instrumentalities may have a detrimental impact on the preservation and maintenance of productive agricultural lands unless these actions are planned to minimize or eliminate conflicts with such lands;

NOW, THEREFORE, I, George V. Voinovich, by virtue of the power and authority vested in me as Governor, do hereby direct the state agencies and instrumentalities enumerated below to examine policies, guidelines, and procedures to assure that land acquisition, direct state development projects, state-assisted public and private development including infrastructure, and development requiring state permits will not eliminate or significantly interfere with or jeopardize the continuation of agriculture on productive agricultural lands or reduce the agricultural potential on prime agricultural soils unless there is no feasible and prudent alternative and the facility or service has been planned to minimize its effect on such lands.

To these ends I direct the following steps to be taken:

1. By June 30, 1998, each agency enumerated in this order will prepare and submit to the Lieutenant Governor for her review and approval, to be incorporated into the Ohio Farmland Protection Plan upon approval, recommendations regarding the following:

    a. A listing of agency actions including land acquisition, planning, construction, permit review, and financial assistance that may directly or indirectly impact productive agricultural lands, including grazing lands;

    b. A statement of agency guidelines and procedures that may be instituted or altered to eliminate or minimize impacts detrimental to the continued use of productive agricultural lands. This will include:

        i. When agency actions involve land acquisition or direct development, an identification of the mechanism for initiating review and coordination procedures so that timely and comprehensive analysis of alternatives is made. Further, an identification of mitigating measures that could be implemented when alternative sites or locations are not feasible;

        ii. Where agency actions involve permit review or financial assistance, an identification of the information that will be required of applicants relating to the preservation and maintenance of productive agricultural lands;

        iii. An identification of any changes in statutes or agency rules and regulations that may be needed to implement some or all of the intent of this order.

2. The Ohio Office of Farmland Preservation will consult with each of the following agencies and will, through suggested guidelines, cooperatively develop an Ohio Farmland Protection Plan:

a) Adjutant General
b) Department of Administrative Services
c) Department of Aging
d) Department of Agriculture
e) Department of Alcohol and Drug Addiction Services
f) Ohio Arts and Sports Facilities
g) Ohio Building Authority
h) Ohio Bureau of Employment Services
i) Department of Commerce
j) Department of Development
k) Department of Education
l) Environmental Protection Agency
m) Ohio Hazardous Waste Facility Board
n) Department of Health
o) Department of Human Services
p) Industrial Commission
q) Department of Insurance
r) Department of Mental Health
s) Department of Mental Retardation and Development Disabilities
t) Ohio Mining and Reclamation Commission
u) Department of Natural Resources
v) Ohio Petroleum Underground Storage Tank Release Compensation
w) Power Siting Board of Ohio
x) Department of Public Safety
y) Public Utilities Commission
z) Ohio Public Works Commission
aa) Ohio Rail Development Commission
bb) Board of Regents
cc) Department of Rehabilitation and Corrections
dd) Ohio School Facilities Commission
ee) State and Local Government Commission
ff) Department of Taxation
gg) Department of Transportation
hh) Ohio Turnpike Commission
ii) Ohio Water Development Authority
jj) Ohio Water Resource Council
kk) Ohio Water and Sewer Rotary Commission
ll) Ohio Bureau of Workers' Compensation
mm) Department of Youth Services

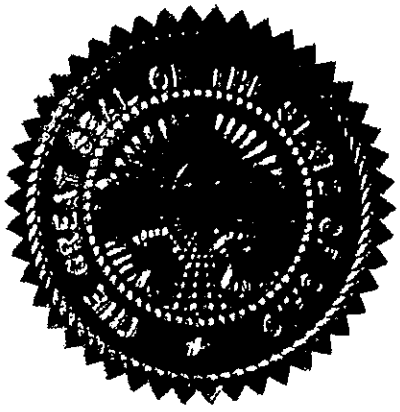
The Office of Farmland Preservation shall assist these agencies in developing policies, guidelines, and procedures to ensure that their actions will not lead, directly indirectly, to the unnecessary and irretrievable conversion, loss, or significant reduction or of productive agricultural lands and/or primary agricultural soils. Modifications made to policies, guidelines, and procedures of state agencies and instrumentalities shall be consistent with applicable laws and regulations of federal, state, and local governments.

3. That each agency enumerated in this order shall designate appropriate personnel to serve as the department's official liaison for farmland protection.

4. That the Office of Farmland Preservation will, in consultation with the affected agencies, issue an annual report on the progress and effectiveness of the Ohio Farmland Protection Plan.

I call upon all units of local government and all organizations administering programs at the local or regional level that affect agricultural lands to assist these state agencies and instrumentalities in carrying out this order.

Effective with this order, I specifically revoke all other Executive Orders issued which are inconsistent with this order. This Executive Order shall remain in effect until rescinded.



IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus, this 25th day of February, Nineteen Hundred and Ninety-Eight.

George V. Voinovich
Governor

ATTEST:
Bob Taft
Secretary of State

Filed in the Office of the Secretary of State at Columbus, Ohio
on February 25, 1998
BOB TAFT
Secretary of State
Per Jill Cuthbertson