

**Orwigsburg Borough Council**  
**Public Hearing**  
**May 3, 2023**

The Orwigsburg Borough Council met on Wednesday, May 3, 2023 in Council Chambers for a Public Hearing. President Bubeck called the hearing to order at 6:30 pm.

In Attendance: President Rick Bubeck; Councilors: Kerry Mariano, Tim Wilhelm, Ed Winkelbauer, Ed Keyworth and Angie Hoptak-Solga. Solicitor Paul Datte; Borough Manager Randy Miller, Borough Secretary Sherry Edwards.

Visitors: Attorney Andy Miller of MPL Law Firm – York, Pa; Kevin Richards of Alfred Benesch; Ben Hunter of 406 Roseberry St; Bill Knecht of 204 S Warren St; Utility Supervisor Dave Teter, Tori Morgan of Entech Engineering, Jim Leymeister of 200 Ronald Ave, Fire Chief Scott Rarick.

**Public Hearing** – to receive comments on proposed Ordinance #457

Solicitor Datte: Summarized the draft ordinance:

An ordinance to amend the Orwigsburg Borough Zoning Ordinance by adding or amending the definitions of Accessory Solar Energy Systems, Building Coverage, Financial Security, Glare, Impervious Coverage, Impervious Surface, Lot Coverage, Principal Solar Energy System, Solar Energy and Solar Related Equipment; Amending sections: 6.03, 6.13, 6.23, 6.33, 6.43 and 7.02 relating to lot width, lot area and yard requirements; amending section 8.03.B relating to detached non-residential buildings and uses ; amending sections 9.03 and 9.03.B relating to maximum building and impervious coverage in the Industrial Zoning District; amending section 6.02G.7, 6.12.I.9, 6.22.H.9, 6.32.K.9, 6.42.K.9 and 7.01.M.13 relating to recreation courts; amending sections 6.02.G, 6.10.I, 6.22.H, 6.32.K, 6.42.K and 7.01.M to add accessory solar energy systems; amending sections 6.02.H, 6.10.J and 6.22.I to add principal Solar Energy Systems as a special exception use; amending sections 8.02.T, 9.02.J and 9.12.L to add principal Solar Energy Systems as a conditional use; amending section 10.01 relating to accessory buildings and structures; adding a new section 10.40 relating to Solar Energy Systems; and providing for a repealer, provisions regarding validity and the effective date of the ordinance.

The original internal draft ordinance has been available online but has been revised to reflect the amendments stated above.

Ordinance has been developed by the Orwigsburg Planning Commission

To the extent of any revisions brought forth tonight the ordinance will be available to be adopted by Council tonight. If there are substantial revisions to be made the ordinance will be readvertised.

**Public Comment:**

Attorney Andy Miller of MPL Law Firm Solar Renewal Energy LLC is looking at an 11-acre property in the borough to establish a small 8 acre, 3.15-megawatt solar project, selling electric directly into the grid.

Attorney Miller reviewed the draft ordinance and is asking for accommodations in Section 10.40 – Solar Energy Systems:

1. Section C.9.h – Security – requires 6ft high fence topped with barbed wire and self-locking gates. Barbed wire is hard to maintain and gives the facility the look of a prison. Attorney Miller asked that the barbed wire requirement be eliminated and suggests a more agricultural type fencing to allow for small game to pass through and will give a more natural look.
2. Section 10.40.C.9.i.2 – Access – requires a 20ft gravel cartway in between solar arrays for maintenance access and emergency vehicles. Ordinance only requires a 14' access drives. Attorney Miller noted a 20ft gravel cartway would require stormwater management for the gravel area and creates a dust problem. These facilities are not regularly accessed; done by remote monitoring. Operation maintenance people available and close by for routine mowing and routine panel maintenance. Only need adequate space between solar arrays for maintenance equipment. Emergency services typically won't enter due to it being an electrical facility. There is no situation where vehicles will be drive between the solar arrays. Attorney Miller asked for accommodation on the 20ft cartway width to be reduced.
3. Section 10.40.C.9.d.i.1 – Impervious coverage calculation – ordinance considers the solar panel area itself as impervious coverage for purposes in the calculation. Project is located in the I1 District that has an 80% impervious coverage limit. Not enough planning has been done to know if this project could meet the requirement. If grass were between the solar panels the project would have a chance to meet the requirement; however, its odd to see the solar panel surface be considered impervious coverage. DEP has criteria as to whether or not the area beneath the panels is considered pervious or impervious depending on the slope the panels are located and the height of the drip line. Ordinance incorporates these criteria in the stormwater provisions and as a result it does not look like there will be any extensive stormwater management required for the panel but would still be calculated as impervious coverage, which seems odd. Attorney Miller asked for accommodation on the solar panel surface area not to be considered impervious coverage.
4. Attorney Miller asked that the project be considered a permitted use and not conditional use as written in the ordinance. Ordinance regulates most of the specifics of the project site. A Land Development Plan is required to be filed to move forward on the project. Conditional use adds time and costs to the project.

### **Kevin Richards – Planner**

Addressed the four accommodations requested above:

1. Fence – ties into the fact that it is a conditional use with that section as written; refers to the chain link fence with barb wire and self-locking gate or as designated and approved by the borough. This section was not really discussed in detail at the planning meetings. Section was based on various draft ordinances from other municipalities. It is private property, needs a fence one way or another. There was no strong opinion with the commission that it needed to be a chain link fence with barb wire. Currently the draft ordinance doesn't identify the fence as being chain link.

Kevin suggested leaving in conditional use and or as designated by the borough, the fence requirement would come up as part of the conditional use process and would be addressed at that time

2. Access isle – 20ft gravel cartway – does make it difficult from a stormwater standpoint; currently as outlined the stormwater requirement is if the specific requirements for the panels are met, it would only be the access isles, any above ground resources, transformer pads. The 20ft gravel cartway was discussed and settled on as being adequate; made wider than the 14ft access drive for making right angle turns and 90 degree turns between panels. There should be no need for emergency vehicles in the facility so the spacing in between panels would be for their own use; hesitate to reduce the 20ft and that would help meet the impervious coverage calculation. The gravel would be a stormwater issue versus a grass meadow would be receptive to stormwater. Kevin suggests leave the 20ft between arrays and have an accessible surface like grass meadow or something less than impermeable like gravel.
3. Impervious coverage – ordinance is broken down into stormwater requirements and zoning requirements.
  - Stormwater requirement – If you meet the 15 criteria that are in the ordinance the panels are not considered impervious
  - Impervious lot coverage standpoint – the panel needs to be quantified as impervious.
4. Conditional Use – Planning Commission pressed for this item – for a principal system in the I Zone requires conditional use permit.  
Kevin suggests leave as written.

Attorney Miller readdressed the width between the panels. Usually, smaller vehicles like an ATV are used for access between panels. 20ft between panel forces developers to enlarge the footprint of the project because they are trying to get a capacity of electric into the grid.

Attorney Miller asked to consider reducing space between panels, that additional space could be used to put more capacity back into the grid.

Solicitor Datte – depending on what revisions if any council decides to make, cartway width, gravel to grass, ordinance will not need to be re-advertised and could be considered for adoption next Wednesday.

No other comments were received.

President Bubeck closed the hearing at 7:00pm.

Respectfully submitted,

Sherry M. Edwards  
Borough Secretary