

## ZONING SOLAR AD HOC COMMITTEE

Tentative Minutes

October 4, 2018

1. Call Meeting to Order: Chairman Finfrock called the meeting to order at 4:30 p.m.  
Present: Lee Meyers, Rick Fritz, Marcia Heuer, Dan Janes, Stan Asp, Keith Poole, and Scott Christensen. Others: Planning and Zoning Administrator Mike Reibel

2. Public Comment

Chairman Finfrock took a moment to make the attendees aware of the purpose of this meeting is to be an organizational meeting. We will discuss the current procedures and process and will focus on them. Chairman Finfrock expressed that there will be a public comment session but it will be reduced to three minutes since the focus is on the organization and procedures on the current procedure of the Special Use Permits for solar Farms.

Attorney Mike Shalbrack brought procedural questions for the Ad Hoc Committee to consider:

- 1) How will the minutes of the Ad Hoc committee be recorded and will the meetings be digitally recorded?
- 2) Is there going to be a schedule posted for the Ad Hoc Committee meetings? Chairman Finfrock stated that will be decided upon at this evening's organizational meeting.
- 3) Will the Ad Hoc Committee have the ability to take information directly from homeowners or affected parties and if so what is the process to make this happen?
- 4) Does the Ad Hoc Committee have the ability to take information directly from Township Trustees? What is the procedure for the Ad Hoc Committee to receive information from constitutes and proponents? Is the information available through the Freedom of Information Act?
- 5) Does the Ad Hoc Committee have direct communication from the proponents of solar farms and how are those records being kept?

Chairman Finfrock shared the focus of this meeting is to go through the current procedures and practices and finding things that they think might be worthy of suggestions to the Committee itself. There are no intentions of hearing from either side; the goal of this committee is to look strictly at what we are currently doing and what we should be doing. If there are things that we should be doing besides what we are doing in our procedures and practices. Chairman Finfrock suggested that comments and documents from both protagonist and antagonists be sent to the Zoning Administration as they wouldn't be addressed by the Ad Hoc Committee. Chairman Finfrock also stated that the minutes will be posted on the Ogle County Website when they are available.

Curt Broski reads a prepared statement. Suggested at looking at other states that have more mature solar farms and use their standards as well. There are 685,000 potential acres in Ogle County there certainly are places for them to be put just hoping they are not located near Cities, Villages and Municipalities.

Marlene Miller from Stillman Valley shared a video of the solar farm that is up by the Rockford Airport. Miller also shared the location of Site 13 that is in Stillman Valley that is surrounded by homes. She shared that the Rockford location is fitting because it doesn't interfere with people and residential areas but the Stillman location is not.

David Cargill spoke on behalf of the IBEW Local 364 and their support for the solar farms due to the ability to bring jobs to this area.

Curt Freeberg shared that there is a lot of misinformation being put out on solar farms.

Jessie Coffey spoke of buying property and receiving a letter stating that her property could be a site location for a solar farm. Would like to have the Ad Hoc Committee to put into place ordinances to protect others when buying their dream homes.

Reed Wills speaks on behalf of SunEast Development, looking to build solar farms. Asks that the communication be put out there for members of the communities being effected by solar farms. His hope is that the information can be shared from all angles of the building process to get all inputs and provide a comfortable and agreeable understanding in the county.

Cindy Miller stated that the Moratorium needs to be kept Countywide until there have been standards for the entire County and not just one corner.

3. Mission Statement:

Chairman Finrock shared the mission statement of the Ad Hoc Committee: "To understand the current procedures and processes for the solar farms in Ogle County. Making suggestions to the Assessment Planning and Zoning Committee that the Ad Hoc Committee feels should be considered."

Janes shared that he will be attending both the Starved Rock Conference and the East Peoria Conference. He has spoken with several individuals and is researching what are the proper areas that will work for as many people as possible in the County. Janes shared that it is his mindset that whatever is decided it needs to be fair for everyone and that is what makes this such a difficult task.

4. Discussion of the following topics

- a. The current (2017) Ordinance Approving Amendments to the text of the County Amendatory Zoning Ordinance;
- b. The Current Solar Farm Special Use Permit;
- c. The Current Ogle County Amendatory Zoning Ordinance;
- d. The Current Standard Ag Impact Mitigation Agreement;
- e. Survey of Illinois County Solar Farms/Solar Energy System Requirements.

5. A PowerPoint about Solar Farms in Ogle County:

Michael Reibel, Planning & Zoning Administrator, made a presentation that covered how solar farms are currently regulated under the Zoning Ordinance in Ogle County.

6. Comments from the Committee:

Chairman Finfrock asked the committee members to review the documents:

- a. The current (2017) Ordinance Approving Amendments to the text of the County Amendatory Zoning Ordinance;
- b. County Amendatory Zoning Ordinance;
- c. Solar Farm Special Use Permit;
- d. Ogle County Amendatory Zoning Ordinance;
- e. Standard Ag Impact Mitigation Agreement;
- f. Survey of Illinois County Solar Farms/Solar Energy System Requirements.

Bring questions and suggestions after reading through those documents; as well as any questions from Mr. Reibel's PowerPoint presentation.

7. Here being no further business, Chairman Finfrock adjourned the meeting at 5:25 pm until Wednesday, October 10<sup>th</sup> at 5:30 pm.

Respectfully Submitted:  
June Jacobs, Deputy Clerk  
Laura J. Cook, Ogle County Clerk & Recorder

## **SOLAR ZONING AD HOC COMMITTEE**

Tentative Minutes

October 10, 2018

1. Call Meeting to Order: County Board Chairman Gouker called the meeting to order at 5:30 p.m.

Present: Rick Fritz, Marcia Heuer, Dan Janes, Lee Meyers, Stan Asp, Scott Christenson, Keith Poole, and Ron Steenken. Others: Planning and Zoning Administrator Mike Reibel and County Engineer Jeremy Ciesiel. Chairman Finfrock is absent and Chairman of the Board Gouker is there in his stead.

2. Public Comment

Ben Youman, a Scott Township resident and candidate for County Board District 1, brought information for the purpose of education for the Ad Hoc Committee. Youman stated that the County Board members have received this information. Illinois is the net exporter of electricity and the push is to make its quantities greater. The rise in interest in our State is because the State is pushing it and Illinois has relatively cheap land. Youman believes that the drive for them now is that they are being subsidized by the State at this time. People are going to make money but not as much as they are thinking that they are going to make.

Chris Molander, IBEW Local #3634, stated many of the members are looking forward to the work. The explanation of the jobs being temporary is true but that is how the workers make their livings moving from job site to job site to feed their families. The County would be best pressed to keep the permits as "Special Use". This would allow for decisions to be made and allow for the agreement process to change with the times. By making a hard set standard for Solar Panels doesn't allow for the change in the solar panel industry. If standards for the solar industry change they could no longer meet the standards for the County. Molander stated that Mr. Reibel has done a fantastic job compared to the other cities and counties that Molander has been in.

Jim Rodriguez, Attorney for Stillman Valley Solar, LLC, wanted to make themselves available to participants in the solar process whether it be from the industry side or the government relations side. If the committee would like to gather a list of questions they would like answered or specialists they would like to hear from Rodriguez's client would be more than willing to accommodate the committee with those persons. Rodriguez will provide his contact information to Mr. Reibel.

Mike Shalbrack, Attorney for Mark & Dan Werckle, wants to ask the County again to look into where the money is coming from.

Marlene Miller spoke on behalf of her husband, Stan Miller, who could not attend. She distributed a letter written by her husband for the committee members regarding his concerns with the decommission process.

Curt Freeberg – refers to various articles in the media about solar power.

3. Discussion of the following topics.

a. The Current Solar Farm Special Use Permit –

Meyers asks about the hazardous materials, what is the proper disposal? Janes believes one of the main components being cadmium which is only allowed two pounds per acre. Reibel says that is material in the solar panels. Reibel clarified that is would be the disposal of any hazardous waste resulting from the construction, operation or maintenance of the Solar Farm. Reibel shared that as of right now the Solar Farm industry isn't large but as the number of Solar Farms increased the after a certain number of years some may have to be decommissioned and that will be when it is going to take more. Reibel shared a presentation provided by Solid Waste Director Steve Rypkema for the recycling of the solar panels.

Poole asked Reibel about the verbiage being a standard in Special Use Permits. He recalled the same verbiage about the wind farms and hazardous waste removal. Reibel replied that yes they are required to take care of their waste that they produce before, during, and after the process to be considered in compliance with the Special Use Permit.

Unidentified man: says that according to the research that he has studied there are two main hazardous components cadmium and lead. He states that lead has been shown to leach off of the glass materials that studies have shown. There have obviously been pictures of destroyed panels that have been split open from tornados that would allow for exposure to other hazardous materials that are generally encapsulated. Poole asked to make sure that the data that is being brought to the committee be validated as concrete information.

Chairman Gouker stated that is why they are suggesting information be submitted to Reibel or John Finrock and they will decide if the information is accurate.

Unidentified man: Comment on the Special Use Permit and the fact that there needs to be some clarifications in the verbiage. The committee's task should be more so where and where not the solar panels belong. The decision should be based on where they should be now and where they can be put and not interfere with the quality of rural way of life to continue. There are places set aside for rural developments but he is in favor of using some of the green space for solar development and power those subdivisions. He says he is in favor of onsite solar energy use; allowing for it to be used on roof top units to help subsidize business and using it for learning in schools and maybe even giving credits to home owners that install it into their homes. The problem seems to struggle with the utility scale use and where it best fits within communities. He can see large scale solar being best decided from one town to another. The towns should be allowed to at least be involved in the discussion because they will have the best ideas of what will help grow their towns individually. He can understand and supports Special Use Permits for onsite solar use but there should be some differentiation for utility scale.

Reibel stated that he agrees the Special Use Permit is not suited for a Solar Farm and wasn't intended to be for onsite solar generation.

Poole stated that communities currently have a say as long as it is within a mile and a half of the community. Reibel says the State Law does provide for a mile and a half planning area around a municipality. Reibel states with rezoning a municipality can force it to go before the County Board. This is why during the Zoning Board of Appeals process you are required to hold a public hearing to allow for input and or concern. Poole also expressed the concern in understanding and involving all those who would have a part; for example the Agricultural Community should also be involved in discussions they can use the solar energy as a source of income.

Janes speaks about his concerns with the people going through the process of Planning Commission and Zoning Board of Appeals they may make their recommendations based on sworn testimonies. The recommendations are overlooked and decisions are made to override the original ruling on matters. These committees have done their due diligence regarding matters and then the Board comes and overrides all of their hard work and decisions.

Stan Asp asks for a clarification on what the conditions that were being discussed were set up of all county wide guidelines. Reibel responded to shared that these were the conditions that were recommended for approval of a Special Use Permit for Solar Farms. Asp feels that the buffering zone is something that needs to have clarification. Gouker shared some of Chairman Finfrock's notes that he highlighted as possible adjustments. The majority being possible increases in the distances for perimeters throughout the Special Use Permit process and stated that Chairman Finfrock would probably be discussing those upon his return.

Reibel shared that the document that they are looking at is basically a brief introduction that he can give to people as they request information on Solar Farms. Reibel did explain that he stresses that this is just a general list and that it is open to modification by the Zoning Board of Appeals and the County Board if they decide to do so.

There was discussion regarding municipalities having Planning Commissions and their ability to weigh in on zoning issues.

Heuer stated that there has been a lot of work to make sure that their decisions meet Soil and Water Conservation guidelines. Heuer provided copies for the committee if they would like of a letter that was submitted to Mr. Reibel regarding Section H of the current standards from the Soil & Water Conservation District.

b. The Current Ogle County Amendatory Zoning Ordinance

Gouker asked if the Ogle County Amendatory Ordinance was adopted by the County Board. Reibel states that it was with a list of other text amendments that were all passed at the same time. Reibel further explains that he is looking at the Special Use Permit Section; if applicants do not meet these standards the Zoning Board of Appeals cannot approve the Special Use Permit. Reibel suggested that it is being looked at because that Ordinance highlights the standards for approval and the conditions that are being discussed do not meet those standards. If they don't the Zoning Board of Appeals then sets forth the Special Use Permit with outside conditions to regulate the use of the Special Use Permit in the County.

Heuer also asked who reviews those standards. Reibel stated the Zoning Board of Appeals holds a Public Hearing with sworn testimony and the ZBA goes through each standard, one by one and determines based upon the evidence makes a recommendation. Heuer asks how the County Board finds out the information from the ZBA. Reibel states the Zoning Board of Appeals then submits a '*Findings and Facts*' document which is attached to every ordinance with approval or denial that is submitted to the County Board. The County Board also has access to the Zoning Board of Appeals transcripts from the hearings as well.

c. The Current Standard Ag Impact Mitigation Agreement

Reibel states this is modeled after the Illinois Department of Agriculture and State Law requires that an Agricultural Impact Mitigation Agreement (AIMA) be entered into before the construction of a Solar Farm. These standards were set up to protect the agricultural land.

Janes asks if the manifold drainage was addressed. Heuer says this information is on page 7 of 12 of the document.

Ron Steenken says we do not have the authority to change the document. Reibel states that is correct. An unidentified member of the committee asks what the purpose of this committee is; are we looking at modifying or adding documents. Gouker says we could have some local standards and conditions.

Heuer states Ogle County with the Special Use Permit provision has the capability to have the facilities provide the monies before the decommissioning of Solar Farm sites. This can be in the amount of line of credit or bond, says Heuer.

d. Survey of Illinois County Solar Farms/Solar Energy System Requirements

Reibel informs the committee that he has put together 30 some ordinances from other counties throughout the state that would provide examples.

Ron Steenken asks Reibel how Winnebago handles Solar Farms. Reibel responded with the breakdown of the County being either an A-1 or an A-2 District. Solar Farms are not permissible in the A-1 District and listed as permitted in an A-2 District. If someone is living in the A-1 District and wants to use Solar Farms they would have to have their land rezoned for an A-2 District. This allows for the county to process the request and make their decision similar to how we handle our Special Use Permits.

Fritz asks if once they are rezoned if that property stays the same forever where ours is done as a Special Use Permit so it has an expiration date. Reibel stated that is correct. If a Special Use Permit isn't commenced within the 12 months, the permit becomes null and void. Also if the special use is discontinued for a period 12 months the special use just goes away.

County Engineer Jeremy Ciesiel states that there is a Storm Water Management Ordinance in place to help protect surrounding properties. The requirement needs to be met through the Ordinance before Drainage Permits are issued. No one has come to him for a drainage application yet but they have had questions about the process. Heuer asks how much the installation of Solar Farms will have an effect with the run

off. Ciesiel states that the panels themselves will reduce the run off. What needs to be looked at is assuring that the water from directly off of the panels doesn't become channelized. Ciesiel informs the committee that there will be an inspection process done as well. Janes shared that each property will be addressed individually based on its own specific characteristics.

Poole thanks Reibel for his participation in compiling information and providing his input at these meetings.

4. Comments from the Committee

Ron Steenken asks what the goals of the committee are with the information gathered. Board Chairman stated that the purpose of the committee was to provide a fresh set of eyes that would allow for suggestions to the Zoning Board of Appeals. An unidentified committee member asks if the process will be to vote on suggestions as an AdHoc Committee. Gouker says he believes that is the intention and to bring in other experts as well.

Janes states that it would be a good idea for the "big picture" to get a regional level of how the County functions. There is a difference between various areas of the county that are rural and other that are urban. Gouker says this is possible if that is the direction the committee would like to go that is what they should suggest. Heuer says these items are addressed in the Ogle County Comprehensive Plan.

There being no further business, Gouker adjourns the meeting at 5:25 pm until Wednesday, October 17<sup>th</sup> at 5:30 pm.

Respectfully Submitted,  
June Jacobs, Deputy Clerk  
Laura J. Cook, County Clerk and Recorder



## Ogle County, IL Solar Farm Special Use Conditions

*The following conditions are what may reasonably be expected to be recommended by the Ogle County Planning & Zoning Department to the Zoning Board of Appeals as conditions to be applied to the approval of a Special Use for a Solar Farm. Screening/landscaping requirements or other requirements to mitigate the impact of the proposed use on the surrounding area may be added as an additional condition or additional conditions if warranted.*

### 1. General Provisions:

All proposals and representations made by the applicant and/or their representative shall be conditions of the Special Use Permit.

### 2. Development Standards

The following standards shall apply:

- A. Height: No aspect or component of a solar farm shall exceed 20 feet in height, as measured from grade at the base of the structure to its highest point. Such height restriction shall not apply to transmission lines.
- B. Setbacks: All aspects and components of a solar farm (excluding fences) shall be set back a minimum 40 feet from the right-of-way line of a township jurisdiction road, a minimum of 60 feet from the right-of-way line of a county jurisdiction road, and a minimum of 80 feet from a state/federal jurisdiction road.
- C. Yard Area Requirements: All aspects and components of a solar farm (excluding fences) shall be located a minimum of 50 feet from any interior property line.
- D. Residential Buffer:
  - 1) All aspects and components of a solar farm (excluding fences) shall maintain a buffer distance of 150 feet from the property line of any parcel of 20 acres in area or less containing a dwelling, other than a parcel owned by the owner, operator or lessor of the solar farm;
  - 2) All aspects and components of a solar farm (excluding fences) shall maintain a buffer distance of 150 feet from the property line of any parcel zoned for non-farm residential use (IA, R-1, R-2, R-3 or R-4) or determined to be eligible to have a non-farm dwelling constructed upon it as determined at the time of filing for a Special Use, other than a parcel owned by the owner, operator or lessor of the solar farm.

- 3) All aspects and components of a solar farm (excluding fences) shall maintain a buffer distance of 200 feet from any dwelling (as measured from the closest exterior wall) other than a dwelling owned by the owner, operator or lessor of the solar farm.

E. Approved Solar Components:

- 1) Electric solar farm components must have a UL listing or equivalent and must be designed with anti-reflective coating(s).
- 2) Building and electrical plans for the solar farm shall be in compliance with all required building and electrical codes for the State of Illinois.

F. Lighting: Lighting shall be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the property upon which the solar farm is located.

G. Stormwater Management: Best management practices shall be employed to minimize erosion and sedimentation during construction of the solar farm. A Drainage Permits will be required to be issued by the Ogle County Engineer for compliance with the Ogle County Stormwater Management Ordinance.

H. Vegetative Cover, Vegetative Maintenance and Weed Control: All areas occupied by the solar farm that are not utilized for access to operate and maintain the solar farm shall be planted and maintained with native ~~warm-season~~ grass(es) and/or other vegetation for the purpose of soil stabilization or other methods **as recommended by the Ogle County Soil & Water Conservation District and approved by the Planning & Zoning Administrator and/or County Engineer.**

The solar farm owner/operator shall provide for weed control in a manner that prevents the spread of weeds onto agricultural land affected by the construction, operation or decommissioning of the solar farm. Spraying shall be done by a pesticide applicator that is appropriately licensed for doing such work in the State of Illinois.

The required fence surrounding the solar farm shall be maintained to prevent the growth of woody vegetation within and along the fence.

I. Zoning Certificate and Occupancy Certificate: Prior to construction of the solar farm, a Zoning Certificate (permit) shall be issued by the Planning & Zoning Department. All aspects and components of a solar farm shall require engineering certified by a registered engineer or other certified professional. Upon completion of construction of the solar farm and prior to placing into service, an

Occupancy Certificate shall be issued by the Planning & Zoning Department. A "certificate of inspection" from a qualified inspector as defined pursuant to 20 ILCS 3105/10.09-1 is required to be submitted before an Occupancy Certificate will be issued.

J. Utility Notification: Unless the applicant is a public utility, no Zoning Certificate to construct a solar farm shall be issued until evidence has been provided to the Planning & Zoning Department that the applicant 1) has entered into a power purchase agreement (PPA) if a utility-scale solar farm or 2) has been approved for utility interconnection if a community solar farm.

K. Decommissioning:

1) The owner or operator of a solar farm shall completely decommission the solar farm within eighteen (18) months if any of the following conditions ("decommissioning triggers") exist:

- a. The solar farm ceases to generate electricity for a continuous period of twelve (12) consecutive months;
- b. The land lease ends, expires or is terminated;
- c. The solar farm is damaged and will not be repaired or replaced.

This period may be extended by the Supervisor of Assessments and Planning & Zoning Committee of the Ogle County Board if the owner or operator provides evidence that the failure to generate electricity is due to circumstances beyond the owner's or operator's reasonable control and the solar farm has not been abandoned.

2) Decommissioning shall include:

- a. The removal all equipment, cables, wires, conduits, structures, fencing, and foundations to a depth of at least 42 inches below grade.
- b. The removal of all graveled areas and access roads unless the owner of the leased real estate requests in writing that they are to remain in place.
- c. Restoration of the land to a condition reasonably similar to its condition prior to the solar farm development, including replacement of top soil removed or eroded.
- d. Re-vegetation of any cleared and/or disturbed areas with warm season grasses and forbs that are native to the region, unless requested in writing by the owner of the real estate to not re-vegetate due to plans for agricultural planting.

- 3) As a condition of issuance of a Zoning Certificate authorizing the construction of the Solar Farm, Applicant shall submit to the Ogle County Planning & Zoning Department an estimate of decommissioning costs prepared by a qualified engineer. Ogle County may, at Applicant's expense, hire it's own qualified consultant to verify the accuracy of Applicant's estimate of decommissioning costs.
- 4) To ensure the full completion of decommissioning requirements, and/or to facilitate the mitigation and abatement of public nuisances or health hazards caused by debris or hazardous materials occurring in the event of partial or complete destruction of the solar farm by natural or man-made causes, the solar farm owner and/or operator shall obtain and deliver to the County of Ogle ("County") a ~~letter of credit or~~ performance bond; or similar financial assurance; in form and substance reasonably satisfactory to the County, securing the solar farm owner and/or operator obligation to remove the solar farm ("Decommissioning Security").

The Decommissioning Security shall be equal to or greater than the estimated amount by which the cost of decommissioning the solar farm exceeds the salvage value of the solar farm. By its terms, the Decommissioning Security shall survive the bankruptcy or dissolution of the owner and/or operator of the solar farm or other termination of the owner and/or operator of the solar farm's existence or its legal obligations. Once it is in place, the owner and/or operator of the solar farm shall maintain the Decommissioning Security, and cause the Decommissioning Security to be valid and enforceable until the secured decommissioning obligations are satisfied.

When any of the identified decommissioning triggers exist, if the owner and/or operator of the solar farm has not complied with its decommissioning and related obligations, the County shall be entitled to make a claim against the Decommissioning Security for its costs to decommission the solar farm, net of any salvage value the County actually realizes.

Decommissioning costs shall be re-valuated once every five (5) years from the date of substantial completion of the solar farm to ensure sufficient funds for decommissioning and, if the parties agree at that time that the decommissioning costs need to be modified, the amount of the Decommissioning Security shall be adjusted accordingly.

L. Materials Handling, Storage and Disposal

- 1) All solid wastes related to the construction, operation and maintenance of the Solar Farm shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
- 2) All hazardous materials related to the construction, operation and maintenance of the Solar Farm shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

M. Points of Contact

The Solar Farm Owner/Operator shall maintain with the Ogle County Planning & Zoning Department and Sheriff's Department a primary and two (2) secondary points of contact. Any changes shall be reported immediately or as soon as possible.

N. Coordination with Local Fire Protection District(s)

- 1) The Applicant, Owner or Operator shall submit to the local fire protection district(s) a copy of the site plan.
- 2) Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire protection district's emergency response plan. The Solar Farm Owner/Operator shall cooperate with any and all local rescue authorities to provide training (at Owner's and/or Operator's expense) to personnel who can assist with a rescue from a Solar Farm.
- 3) Nothing in this section shall alleviate the need to comply with all other applicable fire, life safety and/or emergency response laws and regulations.

O. Miscellaneous Provisions:

- 1) The facility shall provide approval for access points and change in access use from the road authority having jurisdiction.
- 2) The perimeter of the solar farm shall be secured through the use of security fencing of at least seven (7) feet in height.
- 3) The owner or operator of the solar farm shall provide for and maintain reasonable means of access for emergency services.

- 4) The owner of the solar farm shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to commencement of construction of the solar farm.
- 5) During construction of the solar farm, construction activities shall commence no earlier than 7:00 A.M. and shall be discontinued no later than 7:00 P.M.
- 6) The Owner or Operator of the Solar Farm shall maintain a current general liability policy covering bodily injury and property damage with minimum limits of at least \$5 million per occurrence and \$5 million in the aggregate.
- 7) The Owner and/or Operator of the solar farm shall defend, indemnify and hold harmless the County of Ogle and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney's fees arising out of the acts and/or omissions of the Owner and/or Operator concerning the operation of the solar farm without limitation, whether said liability is premised on contract or on tort.

## **SOLAR ZONING AD HOC COMMITTEE**

Tentative Minutes

October 17, 2018

1. Call Meeting to Order: Chairman Finfrock called the meeting to order at 5:30 p.m.

Present: Rick Fritz, Marcia Heuer, Dan Janes, Lee Meyers, Stan Asp, Scott Christensen and Keith Poole. Absent: Ron Steenken. Others: Planning and Zoning Administrator Mike Reibel.

2. Public Comment

Christine Youman talked about how daunting the process is and very complex for the average person to prepare for a Public Hearing before the Zoning Board of Appeals.

Mike Shalbrack, partner with Christine Youman at Holmstrom-Kennedy shared three things that he believes the Ad Hoc Committee should do: 1) Slow the process down and get it right; 2) Four applications have been approved through the Zoning Board of Appeals process. Do not let these four land owners and/or developers force you to make a quick decision; 3) Why didn't Wind Farms take off in this community? There was some hesitation with Wind Farms in the area. Ask yourself why didn't they work in that situation and why solar will work for this situation; 4) Look at the conditions which can be modified to protect the people of the community.

Curt Freeburg shared his disregard for the committee and the County Board in handling the Solar Farm issue as a whole. He commented if he had known things were going to go this way from the beginning he would have sought to make Solar Farms a referendum on the ballot.

Chairman Finfrock re-reads the Mission Statement of the Solar Zoning Ad Hoc Committee: "To understand the current procedures and processes for Solar Farms in Ogle County and make suggestions to the Assessment, Planning and Zoning Committee that the Solar Zoning Ad Hoc Committee feels should be considered during the application process."

Heather Lalor, Stillman Valley resident, spoke with the EPA who created a document of 564 acres of the most suitable land for Solar Farms in our County. She feels if they have done their homework, the committee should continue to do their homework as well. She spoke with other states that have Solar Farms to get their input, which she is willing to share. Ogle County is one of the top producing Ag communities in the country not just the state and that should be protected.

Reed Wills with SunEast Development spoke of information that was provided to the committee before the meeting. The Solar Industry is an industry that is very mature right now and growing quickly. A fact sheet was provided about the growth and development in North Carolina. All information from their research in North Carolina, shows that solar is a very vibrant and growing business. Wills also provided a few reports from the North Carolina Clean Energy Tech Center and the Department of Energy that clarify there are not health hazards in conjunction with Solar Farms. Documentation was also provided on the recycling of the Solar Farms and advancements. Wills comments his company has spoken at the Zoning Board of Appeals Public Hearings and suggests the citizens should read for further clarity. Wills stated his development company understands that they would be near a residential community and they would support adjustments to provide a buffer.

Solar Zoning Ad Hoc Committee

October 17, 2018

Reibel stated he did receive the information but it was too late pass it on. He will post this information on the Solar Ad Hoc Committee webpage.

Daniel Solarzano with ForeFront Power who has three projects they are trying to develop within the County. Wanted to share that his company understands the concerns and have reached out to individual and is willing to answer any questions that people may have regarding their projects.

Cindy Miller, a Stillman Valley resident expressed her concerns with guarantees for Solar Liability Coverage Insurance in the county. Miller was told by her insurance agent that if a natural disaster were to happen, the damage and debris from her property would not be covered under her insurance. Miller questioned if the County was going to cover the debris clean up from the Solar Farms since home owner's insurance will not cover the potential removal of the hazardous material.

3. Discussion of the following topics:

a. The Current Solar Farm Special Use Permit

Chairman Finfrock asked the committee if there are questions or suggestions.

Heuer asks if Finfrock received the Soil & Water Conservation letter. Finfrock states yes he did. Heuer discusses the vegetative cover under Section H in the document. Heuer says she would like to have Section H be expanded based on the recommendations of the Ogle County Soil & Water, DeKalb County Soil & Water and Winnebago County Soil & Water. Heuer says her reasoning is these grasses are faster growing and less flammable.

Christensen states solar may have gotten ahead of the County on how we manage it. He believes townships should have the right to grow their communities as they see fit. Christensen also thinks this should be planned from a zoning perspective and be proactive. Long term it may be good for the committee to plan where the Solar Farms should be located. Christensen says compromising a community should not be done just to provide more power on a grid. He also states there are risks and that should also be looked into. For that reason, there should be a decent amount of research and thought into the decommissioning clauses. You do not want make it a burden on the tax payers or the county. Christensen also suggests there should be some risks listed within so that the landowners know what they can do to protect themselves.

Poole comments the Farm Bureau has had several landowner meetings to educate people, and asked Christensen what changes he would suggest to the current Special Use Permit requirements. Christensen states he would like to see a matrix added. He would also like to see funds up-front in a bank to the County for the decommissioning costs; suggesting 100% of what the costs are to construct the Solar Farm into an escrow. The landowner should have to acknowledge the risk and liability of having a Solar Farm on their property. Lastly, he would like to see the towns more involved in the process.

Poole expressed that the towns have the mile and half proximity for planning. Poole stated he felt that all of his concerns are already covered in specifications of the Special Use Permit.

Heuer comments on a Special Use Permit going before Planning Commission at the meeting tomorrow night. They are asking for an expansion of a Solar Farm that has been approved by the County Board that is in Mt. Morris in a designated economic growth area. The Village of Mt Morris and Mt Morris Township are aware of this and has designated the land for such



use. In this circumstance however it would not fit a matrix because it is less than a mile away from a subdivision. Heuer shared that the Zoning Board of Appeals has a standard that will cover boundaries better than a matrix would be able to provide for the County. Heuer stated that the Zoning Board of Appeals has shown proof that they do their due diligence in making sure that the conditions are met. If they do not, they are denied approval from the Zoning Board of Appeals. Janes states that he understands what is being said. But, why then the vote for 5 – 0 denial vote came from the Zoning Board of Appeals; why did those members vote against the Zoning Board of Appeals at the Planning & Zoning Committee meeting? Heuer stated that she could not speak to why they voted that way. Chairman Finfrock states the members of the Zoning Board of Appeals sit through the sworn testimony and are deeply involved. The County Board may not have the time to read through the Zoning Board of Appeals transcripts but if the Zoning Board of Appeals makes a recommendation then that decision should be supported.

Christensen wanted to clarify the use of the matrix and it has nothing to do with the mile and a half. The matrix has to do with the size of the solar facility versus the type of zoning around it. You define the majority of the zoning around the size of the solar facility to decide on the set-back. Heuer asks is Christensen is agreement with the set-backs as they are presented. Christensen says he is not, these set-backs are set in the table as “tbd”; he would like to see numbers. Heuer states what if Haldane or Eagle Point want to have a medium sized Solar Farm next to their community. If a local area wants to relax the conditions, then that is when the Zoning Board of Appeals would come in, says Christensen.

Poole says it sounds like the document may not be the problem but to keep on focus; he is not hearing a lot changes that need to be made to the document. Poole makes a motion to approve the document as presented with the addition of the suggestions from the Soil and Water Conservation District. This motion will be a recommendation to the Zoning Board of Appeals, states Poole. Heuer seconds.

Meyers would like to see the verbiage on monies being paid up front and not as a bond. He suggests that as much money it takes to build the Solar Farm should be given up front to cover the decommissioning costs. Meyers also stated he would like something put in there regarding the landowner having some responsibility. Meyers asked that things be dug into a little bit more and refine the document.

Heuer asks Reibel about the Agricultural Impact Mitigation Agreement and it addresses decommissioning, responsibility of the company for the landowner and responsibility of any destruction or replacement. Reibel states the AIMA is primarily for the protection of the agricultural land so it may be returned to productive use someday. It protects the site from construction practices that would compact the soil, it identifies tile infrastructure and it requires the tile to be routed around the Solar Farm so it does not impact property owners up or down stream. It requires rocks to be moved that were uncovered of a certain size, requires any soil that is removed due during excavation or trenching to be replaced in reverse order. Reibel states that there is a decommissioning provision in the AIMA document. The Illinois Department of Ag defers to the local jurisdictions to require Surety for the decommissioning. Reibel states we have provided for in the conditions, it does say a Surety needs to be provided in a Letter of Credit or Performance Bond. The decommissioning costs can be adjusted every five years and the Surety can be adjusted if the costs go up or down. Finfrock asked where

that information was located in the documentation. Poole stated it was located in Section 4 on page 4 of the Special Use Permit. Heuer stated she would like to strike “Letter of Credit” and replace with “Performance Bond.”

Reibel states he can provide the committee with additional conditions to add to the previous list. Reibel suggests:

*Section 2, Development Standard:*

*Paragraph O - Miscellaneous Provisions:*

*6) The Owner or Operator of the Solar Farm shall maintain a current general liability policy covering bodily injury and property damage with minimum limits of at least \$5 million per occurrence and \$5 million in the aggregate.*

*7) The Owner and/or Operator of the Solar Farm shall defend, indemnify and hold harmless the County of Ogle and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney's fees arising out of the acts and/or omissions of the Owner and/or Operator concerning the operation of the Solar Farm without limitation, whether said liability is premised on contract or on tort.*

Poole informs Meyers that on page 4 of 12 of the AIMA, there is language that covers the decommissioning process. Which is the same thing the county has which is 4 on page 4, says Heuer. Heuer amends the motion to strike in 4 - 4 “a letter of credit” and add “a performance bond or other similar financial assurance” and add conditions 6 and 7 that were suggested by Reibel. Reibel recommends changing Section H on page 2; strike “warm season” and replace with “shall be planted and maintained with natural grasses...”

Christensen asks Reibel who is going to regulate the monitoring of said solar facilities and keep up with the standards that are being set. Reibel explains the concept of a community solar garden and a utility scale. Reibel explains that the Planning and Zoning Department will cover those responsibilities. Christensen asks is the Planning and Zoning Department has the resources to carry out that responsibility. Reibel states his department has the resources to manage the solar sites.

Christensen moves to amend the motion to recommend setbacks be designated based on population density around proposed sites. Heuer states this has been discussed; if there is a particular area due to the density of residential, it would go through the ZBA. If they are comfortable with the set-backs here, then we would be eliminating that Special Use Permit if we change the set-backs to include residential density. Christensen is proposing a sliding scale of set-backs based upon the zoning which will not restrict anyone.

Christensen suggests putting the matrix discussion on hold until the next meeting and give the committee members time to review it.

Meyers asks about the fencing that is in the document. Reibel says those are suggestions but the developer can bring ideas of how they would like to provide screening. Heuer asks if the Planning and Zoning Department will decide when the applications come in if there is to be screening or not. Reibel responded that is correct, they did not put a set of standards due to the fact that each location is unique.

Meyers asks if there is one main disconnect switch for a Solar Farm. Wills comments it depends on how the facility is designed but regardless they will have to go through fire code. There will be access into facility by the fire departments and they should know where the disconnect switch is located. Meyers asks what the voltage at the disconnect switch will be. Wills says it is going to depend on the facility but probably 34 KV. Meyers wondered if the fire departments around here have the capability to handle. Wills states it is just a switch that would need to be hit and they would have access to that.

Chairman Finfrock says the committee will put this motion into writing and present it at the next committee meeting. Reibel has been making the changes and has a working document.

Chairman Finfrock asks for the committee to approve the recommendations as discussed and keep this as a working document. The motion carries.

b. Sub-Divisions

Chairman Finfrock would like to discuss the difference between farmland and subdivisions and how this will be looked at in the future. This goes back to the matrix suggested by Christensen. Heuer suggested that this item be held off on because it will be covered in the discussion of the matrix. The committee agreed to pass on discussing this matter.

c. Township, Village and City Input

Chairman Finfrock says the cities, villages, and townships should be involved in this process. Previous meetings and discussions show there is a way during the Zoning Board of Appeals process. Chairman Finfrock suggested that there be further discussion at the next meeting regarding the Zoning Board of Appeals process.

d. Population Density Matrix

Poole asks Reibel if is going to develop the matrix for the next meeting. Reibel stated he just got it and hadn't had the time to really look at it but will send it out to all of the committee members to look at and bring for discussion at the next meeting.

4. Comments from the Committee: None

5. Adjournment: There being no further business, Chairman Finfrock adjourned the meeting at 7:15 pm until Tuesday, October 23rd at 5:30 pm.

Respectfully Submitted:  
June Jacobs, Deputy Clerk  
Laura J. Cook, County Clerk and Recorder

The Minutes for this Committee will be posted when made available