

MARION TOWNSHIP

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October 10, 2018

Hand Delivery

Mr. John Finrock, Chairman
Ogle County Ad Hoc Committee on Solar Farms
1431 IL Rt 64
Oregon, IL 61061

Re: Ogle County Ad Hoc Committee on Solar Farms
Suggestions from Marion Township Trustees

Dear Mr. Finrock:

We are writing to you regarding the Ad Hoc Committee on Solar Farms established by the Ogle County Board. The Marion Township is concerned with the possibilities of our Township being a magnet of sorts for these solar farms/solar plants. Currently, four (4) such farms have presented special use applications for approval within Marion Township and our Township Board has voted against the current petitions on file. We likewise object to additional petitions for solar farms being filed in the near future in Marion Township because there are not adequate plans and protections for adjacent property owners..

At the special organizational meeting of the Ad Hoc Committee on October 4, 2018 at the Ogle County Courthouse (I was present), Planning and Zoning Administrator Mike Reibel presented a PowerPoint program which purported to lay out the foundations of the Special Use Permit process and how solar farms fit in with this process in Ogle County. The impression left by Mr. Reibel is that once the basic requirements of a Special Use Ordinance and SUP Conditions are addressed, that the Special Use Permit must be granted by the Zoning Board of Appeals and ultimately the County Board. The implication is inaccurate. To be clear, granting of a Special Use Permit is always discretionary ("may"), not mandatory, by the County Board. All persons on the Ad Hoc Committee, the Zoning Board of Appeals and the County Board need to be aware of this distinction.

The PowerPoint presentation contains a narrative slide (see page 10) identified as "Adoption of Special Uses" that states:

Special Uses, when found to meet all of the standards pursuant to Section 16-9-8C of the Ogle County Amendatory Zoning Ordinance (Special Uses, Standards) *are* approved by the County Board as an Ordinance.
(emphasis added)

The highlighted language implies that the Special Use must be adopted by the County Board. Again, the Ordinance is quite clear that the County Board *may* allow for a Special Use of property zoned as AG-1 and IL-1.

The Marion Township is quite concerned that the process of approving the four pending petitions for solar farm Special Use Permit requests are being rushed through without adequate thought and consideration, and this will lead to unfortunate results in Marion Township. As it stands now, the location of the proposed applications is largely due to the location of power lines and substations, rather than for the benefit of citizens of Ogle County. There is no plan for locating these industrial facilities. In other words, if you have property zoned AG-1, you can place a solar farm on it regardless of the overall plan for appropriate land use in Marion Township, or of Ogle County as a whole. The expected result will be random placement of such uses/solar farms without guidance as to *where they might be best located*.

This is why Marion Township encourages the Ad Hoc Committee to give strong and serious consideration to **a well thought out plan for locations of solar farms in all of Ogle County**, rather than simply going forward with and approving whomever wants to place a solar farm on their property. The latter approach takes too much of a hands-off approach to land use planning. A comprehensive plan identifying where solar farms are *best suited* will better serve Ogle County residents and land owners over time.

Marion Township previously adopted a comprehensive plan ("Plan") and submitted it to Ogle County and the County Board adopted it as an addendum to the Ogle county Zoning Ordinance. The Plan seems to be ignored in this process. Solar farms/plants do not comply with Marion Township's vision or the Plan where solar farms are currently being suggested. We (Ogle County) *do not* have a comprehensive plan in place and we are hoping that the Ad Hoc Committee will help develop one, irrespective of how long it might take, and further without the economic pressure on several land owners to get "in" on the lottery and the raffle for possible subsidies. The Ad hoc Committee should not let a few (4 in total now) landowners and their solar farm benefactors decide when and how a good decision will be made. Pushing this to a December decision time frame is the wrong approach. Let's not allow the solar development companies unreasonably and hastily dictate the time frame (there is more at stake than the lottery possibilities) and hype up the economics of possible solar farms in our townships to the detriment of our constituents.

Suggestions

We asked for the opportunity to provide suggestions to the Ad Hoc Committee while giving the County Board guidance on solar farms issues. We have a few, although not

all inclusive. Preliminarily we offer the following thoughts for discussion and consideration by the Ad Hoc Committee:

1. We believe that there is great concern over the lack of information about decommissioning of the solar farms when their useful life ends. We think it would be better for both the Landowner and the Solar Developer/Lessee **to each submit** and maintain surety bonds (not Letters of Credit) to protect against/cover the costs of decommissioning. We believe the Landowner needs to have “skin in the game” as far as the costs related to the return of the property to its preexisting use. Reliance solely on the financial wherewithal of the developer (who has possibly sold off one or more times to a larger or more distant financial participant) is neither prudent or sufficient as there is no clear indication of what the costs of remediation are and how to implement corrective measures. Make the Landowner who has a financial interest in the project responsible as well as the Developer, **jointly and severally**.

Additionally, the Landowner and Developer should be willing to submit to the County unredacted and fully executed copies of their lease/agreements so that the County can assure itself of the protections that are otherwise required. Currently, there is no such requirement. The County is therefore at risk.
2. Along these same lines, the Ogle County Solar Farm SUP Conditions (“Conditions”) do not appear to be codified or in force of ordinance or law. What was shared by Mr. Reibel seem to be *guidelines or suggestions* more than law. Without the ability to enforce conditions and restrictions, they are relatively toothless; the Conditions need teeth. Other Illinois Counties are codifying such Conditions by way of Ordinance before voting on Special Use changes like what we are currently dealing with. The Conditions are not currently incorporated into Ogle County Ordinances.
3. More specificity is needed in the handling of solar farms than appears to be currently in place. The Section K of the Conditions, dealing with “decommissioning” is, on its face, inadequate since there are no express rules on the amount of the bonds or cost protections required. There is no basis for determining the amount to be covered to provide so-called “financial assurance” related to decommissioning. This needs to be specified clearly.
4. The Decommissioning Agreement, in whatever form it takes should be required to be recorded with the County Recorder for all residents of Ogle County to access and review. This goes for all amendments and revisions to the agreement.
5. Finally, and most importantly, we believe that the Ad Hoc Committee needs to take its time in putting these recommendations together. We do not agree that there is financial risk to the County if it fails to act before December on the four pending applications for Special Use Permits. **The County and County Board**

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6. **is charged with a careful deliberative consideration of the facts, the law, and long term impacts..** No rights have been violated against the people who have *only filed* petitions for Special Use Permits. The Permits have *not* been approved and the approval is, as mentioned above, discretionary. The Moratorium in place now does not damage their right to eventually move forward with their petitions once the Moratorium is lifted. The Rules aren't being changed because they have not been granted a Special Use Permit thus far. The claimed loss of income is clearly speculative given that the solar farm proponents freely acknowledge that they have to get into a lottery in order to be awarded subsidies from the State. Nothing is certain. The proponents also admit that there will be additional opportunities to get into the game next year as well.

The Marion Township Board of Trustees respectfully requests that the Ad Hoc Committee on Solar Farms take its time, and be receptive to all thoughts and information rather than moving on pending petitions because speculative financial interests are pushing forward. Please don't be moved based on the opinions of the solar farm developers and their current projects. This is an important enough issue in our County to want to make a good, well informed decision and get it right this time. We thank you for this consideration.

Sincerely,



Bryan Vandiver
For the Marion Township Board of Trustees