

MINUTES
LIVINGSTON COUNTY ZONING BOARD OF APPEALS
Livingston County Historic Courthouse
112 W. Madison St., Pontiac, Illinois

Regular Meeting
6:00 p.m.

September 28, 2023

The reconvened meeting from August 31, 2023, came to order at 6:05 pm

Members Present: Joe Stock, Richard Kiefer, Joan Huisman, William Flott, Dave Randolph and Richard Runyon

Members Absent: Neil Turner

Board Members Present: James Carley, Bob Weller, Steven Lovell, Mike Haag, Linda Ambrose, Rebekah Fehr and Gerald Earing

Others Present: Regional Planning/Zoning Director Brittney Miller, Interim Administrator Jordan Uselding, Assistant Zoning Administrator Trish Merlino, County Board Executive Director Alina Hartley, Attorney Nick Standiford (Schain Banks), Benjamin Sych, Dean Smith and Tom Ryan (New Leaf Energy) and Becky Taylor (SWCD)

Approval of the Agenda:

Chair Huisman called for any additions or corrections to the agenda with none requested. Motion by Flott, second by Kiefer to approve the agenda as presented. **Motion carried on roll call vote with all ayes.**

Approval of Minutes:

Chair Huisman called for approval of the meeting minutes from the August 31, 2023 meeting. Motion by Randolph, second by Stock to approve the minutes as presented. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, Huisman, and Runyon **Nays:** None **Absent:** Turner

Chair Huisman called for approval of the meeting minutes from the August 10, 2023 meeting. Motion by Stock, second by Runyon to approve the minutes as presented. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, Huisman, and Runyon **Nays:** None **Absent:** Turner

Business to be reviewed:

Case SU-10-23– North Road Solar 1, LLC

This zoning case pertained to the review of a proposed special use to develop a 5 MW solar farm on approximately 26.5 acres of a 117.83-acre tract of land in an RA, Rural Residence, District located in unincorporated Pontiac.

Miller gave an overview of the case to ZBA members.

Sych, a representative of the applicant, gave a presentation on the project which included information about their company as well as the site plan, location of the project, setbacks, screening, site equipment, design, tax revenue, community outreach and decommissioning plan.

Smith, a civil engineer, explained the wetland study, Eco-Cat, SHPO, and decommissioning plan to the committee and their findings.

A committee member asked if the County was the only beneficiary on the decommissioning bond and Sych replied yes.

Sych was asked who prepared the noise study and replied that New Leaf Energy had prepared the study.

A question was raised regarding when the drain tile study would be conducted and Smith explained that a drain tile probability map study had been submitted and once harvesting season was over they would do an actual drain tile study.

Members questioned why 312 Solar Development, LLC was on the interconnection agreement and Sych said that they are a part of New Leaf Energy and would show the connection between all the LLC's and how they tie into the projects. Sych presented 4 different documents showing the affiliation of the LLC's to New Leaf Energy. Huisman asked if a copy could be sent over to the zoning office so the documents could be entered into evidence and Sych stated that they would email them over the next day.

Huisman explained that the Kohn Resnick and Barrett Energy Resource reports would not be entered into evidence since there was no author to testify to the contents, or answer questions about the reports.

Taylor, from the Livingston County Soil & Water Conservation District, testified regarding the soil information for the subject parcel and determined that this request would be a "Medium" impact to agriculture. Taylor explained that there is a high aquifer table so the land is at a greater risk for aquifer contamination. A county board member asked if Taylor could explain aquifer contamination. Taylor stated anything 50ft. or higher would make it much easier for aquifer contamination, noting that the poles that would be driven into the ground could open a direct line as well as farming could also cause the same effect. Standiford inquired if the grass and clover mixture would help improve drainage and Taylor replied that it would help the soil.

Another county board member asked Taylor about nitrate testing and she replied that her office does not conduct those tests.

Taylor was asked about her opinion on the eastern red cedar tree and if they are native or invasive. Taylor explained that they are native, grow easily in this area and are beneficial for wildlife, but most people don't like them because they are considered a shrub tree.

Motion by Randolph, second by Stock that zoning case SU-10-23 – North Road Solar 1, LLC be recommended for approval. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, Huisman, and Runyon **Nays:** None **Absent:** Turner

Case SU-8-23 – Esmen Solar 1, LLC

This zoning case pertained to the review of a proposed special use to develop a 5 MW solar farm on approximately 33 acres of a 40.37-acre tract of land in an AG, Agricultural, District located in unincorporated Pontiac.

Miller gave an overview of the case to ZBA members.

Sych, a representative of the applicant, gave a presentation on the project which included information about their company as well as the site plan, location of the project, setbacks, screening, site equipment, design, tax revenue, community outreach and decommissioning plan.

Smith, a civil engineer, explained the wetland study, Eco-Cat, SHPO, and decommissioning plan to the committee and their findings.

Huisman asked why the decommissioning amount was the same as the previous case and Sych explained that is because it is the same size as the previous case.

A committee member asked if the fence was inside or outside of the tree line and Smith stated it was outside of the tree line.

A question was raised regarding when the drain tile study would be conducted and Smith explained that a drain tile probability map study had been submitted and once harvesting season was over they would do an actual drain tile study.

Huisman asked if the vegetative buffer was the same as the previous project and Dean stated it would be the same.

Taylor, from the Livingston County Soil & Water Conservation District, testified regarding the soil information for the subject parcel and determined that this request would be a “High” impact to agriculture.

Standiford asked to correct the record on the decommissioning figures that were previously submitted for the North Road Solar project. Huisman told Standiford that that case has been closed and would think about how they wanted to proceed when they came back from break

Huisman then called a break at 8:24 p.m.

Huisman called the meeting back to order at 8:35 p.m.

Huisman addressed the request to correct the applicant's record of the closed case SU-10-23. Huisman ruled the prior case, SU-10-23, would remain closed with the record as stated.

Motion by Stock, second by Randolph that zoning case SU-8-23 – Esmen Solar 1, LLC be recommended for approval. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, Huisman, and Runyon **Nays:** None **Absent:** Turner

Case SU-9-23 – Esmen Solar 2, LLC

This zoning case pertained to the review of a proposed special use to develop a 4.99 MW solar farm on approximately 32.9 acres of a 40.3-acre tract of land in an AG, Agricultural, District located in unincorporated Pontiac.

Miller gave an overview of the case to ZBA members.

Sych, a representative of the applicant, gave a presentation on the project which included information about their company as well as the site plan, location of the project, setbacks, screening, site equipment, design, tax revenue, community outreach and decommissioning plan.

Smith, a civil engineer, explained the wetland study, Eco-Cat, SHPO, and decommissioning plan to the committee and their findings.

Huisman questioned the existence of proof of the interconnection agreement as none was provided in the application documents. Ryan found the interconnection agreement on his laptop dated August 14, 2023 and stated that he would email it over to the zoning office the next day, requesting for it to be entered into testimony.

Taylor, from the Livingston County Soil & Water Conservation District, testified regarding the soil information for the subject parcel and determined that this request would be a “High” impact to agriculture.

Motion by Randolph, second by Stock that zoning case SU-9-23 – Esmen Solar 2, LLC be recommended for approval. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, Huisman, and Runyon **Nays:** None **Absent:** Turner

Other Business:

Uselding gave an update on the Heritage Prairie Wind Farm project, stating that they would not be submitting their application at the end of September as previously mentioned. Uselding stated that the 2 special meeting dates scheduled for November 1, 2023 and November 2, 2023 at the high school auditorium needed to be cancelled.

Findings of Fact and Decision: N/A

Public Comment: Julie Russow stated that it was hard for her to come up and give public comment because the solar cases discussed tonight pertained to her relative's property. Russow reiterated her research into safety concerns regarding solar projects continues. She further stated that she feels the zoning hearing process is unfair to average resident of Livingston County and more friendly to the applicants.

Report of Officers: N/A

General Discussion: N/A

Adjournment:

Motion by Flott, second by Kiefer that the meeting be adjourned. **Motion carried on roll call vote with all ayes.**

This meeting was adjourned at 9:09 p.m.

Material regarding these proceedings is on file in the Livingston County Regional Planning Commission Office, in the Livingston County Historic Courthouse, 112 W. Madison St., Pontiac, Illinois.

Respectfully submitted,

Trish Merlino, Administrative Assistant
Livingston County Regional
Planning Commission