

LIVINGSTON COUNTY BOARD
AGRICULTURE, ZONING AND EMERGENCY SERVICES COMMITTEE
MINUTES OF THE DECEMBER 4, 2023 MEETING

Committee Chair Gerald Earing called the meeting to order at 6:00 p.m.

Present: Gerald Earing, Michael Haag, Jack Vietti, Steven Lovell, Paul Ritter, Rebekah Fehr and Joel Barickman

Absent: None

Board Members Present: James Carley, Marty Fannin, Bill Mays, Seth Welch, John Vizthum, Mark Runyon and Linda Ambrose

Also Present: Zoning Director Brittney Miller, Zoning Administrative Assistant Patricia Merlino, Andy Keyt (Heyl, Royster, Voelker and Allen) and Executive Director Alina Hartley

Earing called for a correction to the agenda to move all four solar cases to the top of the agenda, next being the 2024 Work Agreement with Diegan & Associates, and then BESS (Battery Energy Storage System) to the bottom of the agenda. Motion by Vietti, second by Ritter to approve the agenda as amended. **Motion carried with all ayes.**

The Committee reviewed the minutes of the November 7, 2023 and November 14, 2023 meetings. Motion by Vietti, second by Ritter to approve both sets of minutes as submitted. **Motion carried with all ayes.**

Business:

Case SU-14-23– USS Man Solar, LLC

This zoning case pertained to the review of a proposed special use to develop a 1.998 MW solar farm on approximately 10.52 acres of a 57.90-acre tract of land in an AG, Agricultural, District located near Manville.

Miller gave an overview of the case to the committee members.

Barickman questioned if this project was the same project that had previously come before the committee and was rejected last year because of some push back from the neighbor to the east. After some discussion, it was clarified that this was the same project, however, the project is now downsized and moved to the western portion of the property.

Fehr questioned Magnoni if US Solar had any other projects in Illinois with battery energy systems, to which Magnoni stated that there are currently 20 special use permits, with 3 in operation, as well as 5 possible new projects for next year. Fehr questioned which counties these projects are located, to which Magnoni stated Cass, Whiteside, Ogle and Cumberland. Fehr then questioned Magnoni if the other counties had a BESS ordinance, to which Magnoni stated that they do not.

It was noted that this case was recommended for approval by the Zoning Board of Appeals, with the condition that the applicant would abide by the battery energy storage system ordinance requirements once approved by the full board, or would seek a variance if they were unable to comply.

Motion by Haag, second by Ritter to recommend approval for Case SU-14-23 with the condition that the BESS would comply with the new ordinance to the County Board. **Motion carried with 6 ayes, 1 nay on roll call vote.** Ayes: Earing, Vietti, Haag, Barickman, Lovell and Ritter Nays: Fehr Absent: None

Case SU-15-23 – USS Avoca Solar, LLC

This zoning case pertained to the review of a proposed special use to develop a 4.995 MW solar farm on approximately 32.03 acres of a 63.49-acre tract of land in an AG, Agricultural, District located in unincorporated Fairbury.

Miller gave an overview of the case to the committee members.

Earing mentioned that this case was recommended for approval by the Zoning Board of Appeals with the same vote and condition of approval as the previous case.

Barickman stated that the condition for BESS was not in the findings of fact and recommendation, with Hartley responding that it was an oversight in the zoning office and will be added for all 4 sets of conditions. Hartley requested Keyt to draft language to be added into the findings of fact and recommendation. Keyt read for the record that the applicant shall abide by all BESS (battery energy storage system) requirements, including all federal and state law, or ordinance requirements which may come into effect. If compliance is not feasible, applicant will seek to obtain a variance from the county prior to the issuance of a building permit for any BESS.

Motion by Haag, second by Ritter to recommend approval for Case SU-15-23 with the condition that the BESS (battery energy storage system) would comply with the new ordinance to the County Board. **Motion carried with 6 ayes, 1 nay on roll call vote.** Ayes: Earing, Vietti, Haag, Barickman, Lovell and Ritter Nays: Fehr Absent: None

Case SU-16-23 – USS CEK2 Solar, LLC

This zoning case pertained to the review of a proposed special use to develop a 4.995 MW solar farm on approximately 32.21 acres of an 80-acre tract of land in an AG, Agricultural, District located in unincorporated Fairbury.

Miller gave an overview of the case to committee members and mentioned it was approved by the Zoning Board of Appeals with the same vote and condition of approval as the previous case.

Motion by Vietti, second by Lovell to recommend approval for Case SU-16-23 with the condition that the BESS (battery energy storage system) would comply with the new ordinance to the County Board. **Motion carried with all ayes on roll call vote.** Ayes: Earing, Vietti, Haag, Barickman, Lovell, Fehr, and Ritter Nays: None Absent: None

Case SU-17-23 – USS CEK3 Solar, LLC

This zoning case pertains to the review of a proposed special use to develop a 4.995 MW solar farm on approximately 32.25 acres of a 39.25-acre tract of land in an AG, Agricultural, District located in unincorporated Fairbury.

Miller gave an overview of the case to committee members and mentioned it was approved by the Zoning Board of Appeals with the same vote and condition of approval as the previous case.

Motion by Earing, second by Haag to recommend approval for Case SU-17-23 with the condition that the BESS (battery energy storage system) would comply with the new ordinance to the County Board. Motion **carried with 6 ayes, 1 nay on roll call vote**. Ayes: Earing, Vietti, Haag, Barickman, Lovell and Ritter Nays: Fehr Absent: None

2024 Work Agreement- Diegan & Associates

Earing mentioned to the committee that the only change to the agreement was the increase in the hourly rate.

Motion by Vietti, second by Ritter to recommend approval for the 2024 Work Agreement with Diegan & Associates to the County Board. Motion **carried with all ayes on roll call vote**. Ayes: Earing, Vietti, Haag, Barickman, Lovell, Fehr, and Ritter Nays: None Absent: None

ZT-5-23: Commercial Solar Energy Facilities & Battery Energy Storage Systems

Keyt discussed the draft ordinance and explained where changes were made from the previous draft that was discussed with the committee.

After some discussion, the following changes to the draft ordinance were made:

1. Section 56-645. Definitions.
 - Keyt suggested to exclude any extra solar usage on one parcel; i.e., solar panels used behind the meter.
2. Section 56-645.1. Prohibitions and Limitations
 - Keyt suggested adding one clause to exclude any system behind the meter.
 - Keyt suggested that if a solar farm does not have a BESS, the applicant would return to the county board and apply to obtain another special use permit.
 - Keyt suggested that the first meeting after filing the application must be within 90 days of filing.
3. Section 56-646. Design standards for Commercial Solar Energy Facilities.
 - (f) *Setbacks*. (IV) Keyt suggested to add this subsection to the Wind Energy Solar Facility ordinance.
 - (g) *Screening and Fencing*. Barickman suggested to add “evergreen, conifer, or other plants that provide a year-round screening or buffer.”
 - (o) *Biodiversity*. (7) Earing suggested adding “weed free” to which Keyt added “No vegetation shall be allowed within the buffer area.”

Ritter suggested that a definition of “pollinator friendly” should be in the ordinance.

The committee discussed what would happen if BESS was added to the project after the project was built or if a system was upgraded as new technology becomes available, with the consensus being that the applicant/developer would be required to file an application to obtain a new or amended special use permit as the case may warrant.

- (r) *Hazardous Materials*. Ritter and Earing stated that “onsite” should be added to the sentence.
4. Earing mentioned that a timeframe needs to be added when a battery is replaced in the event that it stops working. Keyt suggested that a sentence will be added stating “Any inoperable equipment that is not intended to be used must be removed as soon as possible.”
 5. Fehr stated that the zoning office must have documentation in the office regarding state and federal laws concerning battery storage removal. After discussion with the committee, Keyt suggested an annual

certification by developers stating that all federal and state requirements have been met.

6. (k) *Inspections*. Keyt suggested that if there are changes or upgrades, the applicant must provide a list of the new laws and regulations that are being complied with.
7. Fehr suggested adding a portion stating that the applicant must follow the Resource Conservation Recovery Act.

Motion made by Ritter, second by Haag that a special meeting be created to approve the draft with recommended changes to the County Board. Motion **carried with all ayes on roll call vote**. Ayes: Earing, Vietti, Haag, Barickman, Lovell, Fehr, and Ritter Nays: None Absent: None

Other Issues to Come Before the Committee

None.

Public comment

The floor was opened for public comment.

Review and Approval of Bills

Motion by Ritter, second by Vietti to approve the bills as submitted. **Motion carried with all ayes.**

Adjournment:

Motion by Ritter, second by Vietti to recess the meeting. **Motion carried on voice vote.**

The meeting recessed at 7:32 p.m. The Committee will reconvene at 5:30 p.m. on December 14, 2023.

Brittney Miller, Zoning Administrator
Livingston County Regional
Planning Commission