

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

Regular Meeting
6:00 p.m.

November 29, 2023

The reconvened meeting from November 9, 2023, came to order at 6:05 pm.

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

Members Absent: Neil Turner, Joan Huisman

Board Members Present: James Carley, Gerald Earing, Linda Ambrose, Michael Haag, Seth Welch

Others Present: Regional Planning/Zoning Director Brittney Miller, Administrative Assistant Trish Merlino, County Board Executive Director Alina Hartley, Ryan Magnoni (US Solar), Julie Buckles, Michelle Proksa, Carol Kurtenbach

Chair Runyon noted that this meeting is a continuation of the November 9, 2023 meeting.

Business to be reviewed:

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 ZBA members.

Magnoni gave a brief overview of the project, clarifying that the decommissioning amount at the November 9, 2023 meeting had an error. Magnoni explained the updated decommissioning plan, interconnection agreement, and the material specifications that had been provided since the last meeting.

Magnoni noted that the decommissioning amount without salvage equals to \$401,000, however, including salvage, the amount equals to around \$100,000. Magnoni confirmed to the committee that studies were already created or are in the process of being created by Commonwealth Edison for the interconnection agreement. Kiefer questioned what happens when an interconnection is not

granted, to which Magnoni stated that an interconnection agreement is always granted, however, the agreement is always dependent on the expense.

Magnoni stated that the roadway being used is in Illinois Department of Transportation jurisdiction and that he has been in contact with Illinois Department of Transportation, to which they do not foresee any initial concerns with the company using the roadway.

Flott stated that the county is currently in the process of creating a battery storage ordinance and questioned if USS Solar plans to adhere to the new ordinance once approved, to which Magnoni requested that a condition be put in place for all four solar projects, stating that the project can be approved until the ordinance is created and can be reviewed by the company. Flott questioned if synthetic graphite is to be used anywhere in the battery storage facility, to which Magnoni stated that he is not aware that any synthetic graphite is used.

Runyon opened the floor to the public for questioning.

Buckles questioned the fire suppression systems that are build into the BESS unit, if fire departments are trained correctly on putting out a BESS unit, an evacuation plan in the event of a fire, and if US Solar plans to pay for her to evacuate her home. Magnoni assured Buckles that aerosol-based fire suppression systems are currently being used in their projects, the local fire department had been contacted and does not see any issues with the project, an evacuation plan is in place as part of the special use permit application, and that USS Solar obtains insurance for any neighbors to be evacuated. Buckles showed concern with toxic chemicals contaminating water, overhead lines being damaged in bad weather, property taxes declining, and controlling loss of vegetations. Magnoni stated that the projects are not made with toxic chemicals, all lines will be underground, and that the special use permit requirements state that any living buffer will be replaced as death occurs. Buckles then showed concern regarding disturbance during construction, to which Magnoni assured Buckles that the construction will be during daytime hours, however, can be adjusted if an issue persists. Magnoni stated that a silt fence will be placed to keep excess soil from interfering with her property.

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.

Runyon opened the floor to the public for testimony.

Buckles distributed photos of her property to the committee, showing her view from the inside of the home outward, clarifying that the solar farm will inflict on two sides of her home. Buckles stated that she and her husband bought the property as a place to retire, to watch animals, and live in the country. Buckles expressed that the solar farm will impact her lifestyle, her view outside her window, as well as all wildlife.

Proksa testified that her vision for the property was in the aspect of agrovoltatics and that the project will better the property after completion. Proksa indicated that the falling trees on the property have been a large expense and have persuaded her to find a new use for the property. Proksa asked that the committee approve the special use permit.

Motion by Runyon, second by Stock that zoning case SU-14-23 – USS Man Solar, LLC be recommended for approval. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, and Runyon **Nays:** None **Absent:** Turner, Huisman

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 ZBA members.

Magnoni gave a brief overview of the project, noting that the decommissioning amount without salvage equals to \$790,000, however, including salvage, the amount equals to around \$750,000. Magnoni discussed the material specifications and stated that the interconnection agreement with Commonwealth Edison has been received and will be implemented in the next few weeks. Magnoni stated that he has been in contact with Fairbury Fire Department as well as the Livingston County Highway Department, with both departments foreseeing no initial concerns.

There was discussion between Flott and Magnoni regarding the breakdown of the commissioning plan and the future sales of the panels.

Runyon opened the floor to County Board members.

Ambrose noted that Magnoni had previously sent a letter to the County Board members and questioned items that stated in the letter. Magnoni and Ambrose discussed how the solar farm works, how the solar power is utilized, and how the decommissioning plan with Commonwealth Edison works.

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.

Kiefer clarified with Taylor that the soil will not be brought back into production as well as it currently stands, to which Taylor clarified that the soil will not be brought back up to production if not managed correctly.

Runyon opened the floor to the public for testimony.

Mies, speaking on behalf of landowner Tom Mies, testified that the land has been used as farm land for over 100 years and wish to continue to benefit others, noting that this project is the best way to

do so. Mies stated that the family ask that the committee recommend approval of the special use permit.

Motion by Randolph, second by Kiefer that zoning case SU-15-23 – USS Avoca Solar, LLC be recommended for approval. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, and Runyon **Nays:** None **Absent:** Turner, Huisman

Runyon then called a break at 7:35 p.m.

Runyon called the meeting back to order at 7:51 p.m.

Case SU-16-23 – USS CEK2 Solar, LLC

Magnoni gave a brief overview of the project, noting that the decommissioning amount without salvage equals to \$786,000, however, including salvage, the amount equals to around \$45,460. Magnoni discussed the material specifications and stated that the interconnection agreement with Commonwealth Edison is currently still being studied before a final agreement can be made. Magnoni stated that he has been in contact with the Avoca road commissioner, Fairbury Fire Department, and Livingston County Highway Department, with no initial concerns.

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.

Kiefer clarified with Taylor that the soil will not be brought back into production as well as it currently stands, to which Taylor clarified that the soil will not be brought back up production if not managed correctly.

Runyon opened the floor to the public for testimony.

Kurtenbach, landowner for CEK2 and CEK3, testified that the land for has been used as farmland for over 100 years and wish to continue to benefit others, noting that this project is the best way to do so. Kurtenbach asked the committee to recommend approval of the special use permit for SU-16-23 as well as SU-17-23.

Magnoni mentioned that Taylor stated the property having wetlands, to which he clarified that the company is aware of such wetlands, however, this project will not disturb any existing or possible wetlands.

Motion by Stock, second by Randolph that zoning case SU-16-23 – USS CEK2 Solar, LLC be recommended for approval. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, and Runyon **Nays:** None **Absent:** Turner, Huisman

Case SU-17-23 – USS CEK3 Solar, LLC

Magnoni gave a brief overview of the project, noting that the decommissioning amount without salvage equals to \$787,000, however, including salvage, the amount equals to around \$37,500. Magnoni discussed the material specifications and stated that the interconnection agreement with Commonwealth Edison has been received and will be implemented in the next few weeks. Magnoni stated that he has been in contact with the Avoca road commissioner, Fairbury Fire Department, and Livingston County Highway Department, with no initial concerns.

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. Taylor stated that any possible contaminations will be from materials being used to build the project or from pylons being placed, which would have a straight conduit down into the aquifer. Taylor reiterated that contamination is not a guarantee, however, there is a higher potential.

Kiefer clarified with Taylor that the soil will not be brought back into production as well as it currently stands, to which Taylor clarified that the soil will not be brought back up production if not managed correctly.

Motion by Stock, second by Randolph that zoning case SU-17-23 – USS CEK3 Solar, LLC be recommended for approval. **Motion carried on roll call vote with all ayes. Ayes:** Stock, Flott, Kiefer, Randolph, and Runyon **Nays:** None **Absent:** Turner, Huisman

There was discussion regarding the applicant to abide by the future battery storage ordinance not being in the motions. Magnoni stated that the company agrees to abide by the future batter storage ordinance for all four cases presented.

Other Business: None

Findings of Fact and Decision:

Flott then made a motion, seconded by Kiefer that the findings of fact be approved from the previous two meetings. **Motion carried by roll call vote of all ayes.**

Public Comment: None

Report of Officers: None

General Discussion: Randolph mentioned that next months meeting has 7 cases and showed concern of being overloaded. Hartley clarified that 4 of the cases will be updates to previously approved projects and should not take long.

Adjournment:

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

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,

Brittney Miller, Zoning Administrator
Livingston County Regional
Planning Commission