

SOLAR COMMITTEE MEETING

WEDNESDAY, APRIL 12, 2023

MEMBERS PRESENT: JAMES CAMPBELL (TOWN ATTORNEY), LANCE BRABANT (MRB GROUP), BRIAN GLISE (CODE OFFICER, TOWN OF AVON), COUNCILMAN JAMES HARRINGTON, COUNCILMAN MALACHY COYNE, BRIAN THORN (TOWN OF AVON PLANNING BOARD), MIKE DUNN (LIVINGSTON COUNTY SOLAR COORDINATOR), MARY UNDERHILL (LIVINGSTON COUNTY PLANNING BOARD), JENNY LOEWENSTEIN (GENESEE REGIONAL PLANNING COUNCIL), RICHARD SUTHERLAND, BRUCE HOWLETT, KATIE SMITH, DOUG MCCARTHY, EDWARD FORSYTHE, PAT RIO, JACALYN EDDY, DANIEL BROKAW, CHUCK MORGAN, TAMI SNYDER (TOWN OF AVON ASSESSOR)

CLERK: KIM MCDOWELL

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Jim Campbell started the meeting off by giving a brief overview of what the committee's goals will be. The large-scale solar law is not old and was adopted less than 2 years ago. The committee is NOT looking at previously approved projects or if large-scale solar should be in Avon; it is to look at what we have and the projects that have been constructed and try to improve the Code based on a lot of perspectives from a variety of community members and Board member experience, etc.

The committee will have several meetings where we will go through the current law and make recommendations to the Town Board regarding any changes we would like to see made. Jim Campbell feels by mid-fall/year-end we should complete our purpose.

Jim Campbell feels we should go through the current law page by page and determine if anything needs to be updated and then we make a recommendation to the Town Board.

Jim Campbell asked if everyone could introduce themselves:

Jim Campbell, Town Attorney, works with a variety of municipalities lately, mostly solar issues.

Lance Brabant, MRB Group, Town Engineers, works with a variety of communities with planning/ZBA applications as well as solar applications. I am also working with Livingston County on solar applications.

Jim Harrington, Town Board member, was on the last solar committee.

Brian Thorn, Town Planning Board, was on the last solar committee.

Chuck Morgan, resident, was on the last solar committee.

Dan Brokaw, resident, was on the last solar committee.

Jackie Eddy, resident, concerned with the future of solar.

Pat Rio, resident, is concerned with the future of solar and wants to learn more about it.

Edward Forsythe, resident, wants to learn more about solar.

Richard Sutherland, Genesee Regional Planning Council, wants to learn about what other Towns are facing with solar.

Jenny Loewenstein, Genesee Regional Planning Council, wants to learn about what other Towns are facing with solar.

Mary Underhill, Livingston County Planning Board, solar guru for Livingston County and is a tool for all Towns/Villages with their solar laws.

Mike Dunn, Livingston County Solar Coordinator, is available to help all Towns/Villages with solar.

Doug McCarthy, resident, concerned with the future of solar.

Katie Smith, resident, concerned with the future of solar.

Bruce Howlett, resident, and farmer, to give his perspective on solar as a farmer.

Malachy Coyne, Town Board member, was on the last solar committee.

Brian Glise, Town of Avon Code Enforcement Officer

Kim McDowell, Town of Avon Code Clerk

Jim Campbell handed out our current solar law and Mary Underhill handed out some maps and staff report addendum from the County.

Three different maps were handed out, the zoning map is currently what Avon uses. Lands not excluded for Type 2 solar anything in pink is nonagricultural zoning & flood hazard areas, blue is setback lines (200 ft). The third map showed all the areas that are prime farmland and land of statewide significance.

The staff report addendum is what the County uses when reviewing a solar application referral from Town/Villages.

Mary stated that the Town of Avon solar law is very descriptive and protective.

Both Mary & Jim suggest reading the solar law and staff report addendum and possibly highlight items that are important and bring back to the next meeting.

Jim stated that the current Town of York solar law is like the Town of Avon's since he worked on them both, but York is a more up-to-date law.

Jackie asked if Jim could distinguish what is considered large scale and he said the law has Type 1 solar and Type 2 solar. Type 2 is considered large scale in our code, and it produces power/energy that gets feed back into the grid for others to use.

Jim also stated that the Town code is for 25 acres, 5MW farms. Truly large scale is under 94C is 100-500MW. Those are superseded by State statues.

There was a question about how many homes are powered by a 5MW solar farm and it was determined that approximately 1MW powers 750 homes via Google. Jim stated that this power doesn't necessarily stay locally.

The solar developer does offer the community members to sign up, but they have limited number of community members who will.

Mr. Forsythe asked if there was a lot of push back from the State and Jim stated they have been mostly hands-off on local code work, but they are completely involved in any 94C projects.

Malachy Coyne stated Mr. Howlett sent him some comments via text regarding the soils. Mr. Howlett feels the quality of soil can determine if you can farm the land, if you can't farm the land then nothing is made from that land but still must pay taxes.

The AG Exempt is not for buildings just for the land. He feels we must look at the soil and to not have solar on the best soils in Avon.

Jim Harrington asked if the developer pays any penalties on taxes if it is taken out of the AG Exemption and Mr. Howlett stated yes.

Jim Campbell stated our code puts a lot of the obligation on the landowner, those who are making the money and not on the taxpayers.

Mr. Howlett also feels that the type of soil can't be determined by the average person and the States criteria may not always be correct.

Jim stated that sometimes when we sit and think how we would like things done for solar and put it on paper in the form of regulations, it doesn't always work that well in actual application.

Jim stated real property tax as it relates to renewable energy, they are entitled to an exemption on the value of the improvements, and it happens automatically. But the Town has the right to provide written notice to the developer that the Town is going to require a PILOT (Payment in lieu of taxes) to generate some form of revenue stream for the Town from the solar improvements.

For the land encumbered by a conservation easement, everyone believed that if you had land in the conservancy, you couldn't put solar on it but that is not always the case, you must read the language of the conservancy easement.

Lance Brabant stated in one community they put in their solar law places where you can't have any solar farms.

There was much discussion on the maps regarding soils and the new AG & Market ratings for soil and how they compare. Our law uses prime soil and soil of statewide importance that helped in making the law.

Jim stated that this committee may need to determine if we want to continue to protect good farmland by limitation in size or shift gears to build a framework based on some description of quality of agricultural lands.

Mr. Howlett stated that the average age of a farmer is 65-67 years old and that is scary for the farming future, which is why some farmers are turning to solar to produce income for their farming businesses.

Doug McCarthy asked if the farmland forever programs are the same as the conservancy and it is.

There was discussion about how land can be used for solar and farming. Some of the land surrounding the solar farms may not be able to be farmed, depending on where solar is placed on the property.

Brian Glise asked about Agri voltaic, which is where you can farm the land under the panels, that is being done mostly in Europe.

Malachy Coyne suggested that we get some discussion points for the next meeting, read the local law, and staff report addendum and highlight areas that you think need to be discussed more in detail.

Jim would like to start on page 1 and go through the local law and review everything.

Each person in attendance gave points they are concerned about:

- Overview footage of solar once it is complete (drone).
- Setback and distance to property/property line/residential building.
- Electrical supply - grid and how it gets to us.
- Visual presence of solar fields.
- Visual and setbacks.
- Accumulative impacts of multiply solar developments across the Town.
- General balance and what you see your future as a Town.
- Safety, emergency operations, response plans and emergency exits.
- Future developments from developer point of view.
- Where the substations are and if they will create new ones to link together.
- Screening aspect regarding the length of time for it to get done and where in the construction process is it.
- Protect the view, setbacks, and location.
- View shed, not only screening but location, to the whole community not just neighbor's view.

Jim suggested that we may want to consider certain areas in the Town that have special qualities, e.g. a great viewshed and recommend creation of an overlay district where no solar can be constructed.

Malachy feels the decommissioning language needs to be solid and Jim does plan accordingly.

Lance Brabant feels Avon does have a solid decommissioning agreement, but he thinks the question needs to be when/what triggers decommissioning.

Lance also feels that during the construction process to help the Code Enforcement Officer is what/when are they allowed to do things and any change orders.

Next meeting - April 24, 2023, 6PM in the Village Hall.

DRAFT