

SOLAR COMMITTEE MEETING

TUESDAY, SEPTEMBER 26, 2023

MEMBERS PRESENT: JAMES CAMPBELL (TOWN ATTORNEY), BRIAN GLISE
(CODE OFFICER, TOWN OF AVON), COUNCILMAN
MALACHY COYNE, TED GRISWOLD (LIVINGSTON
COUNTY PLANNING), COUNCILMAN JIMMY
HARRINGTON, PAT RIO, KATIE SMITH, BRIAN
THORN, DAN BROKAW

CLERK: KIM MCDOWELL

Jim Campbell welcomed everyone to the meeting.

Jim, Brian Thorn, and Brian Glise attended the County solar tour on Friday, September 22, 2023. Jim stated he was surprised how different each field was and what stood out the most was the underground wiring and how clean it looks.

Jim asked if there were any observations that they would like to see in our code.

Brian Thorn liked Geneseo approach to screening, they had hardwood trees planted at intervals which gave something else to look at.

Jim stated that having a variety of landscaping will have a better visual impact and putting in the code about the landscaping architect will be beneficial to screening.

Brian Thorn stated he walked Pole Bridge Road parcel and Bruce Howlett stated that the array field was not where he thought it was going to be. Jim stated that maybe the cause and those agreements are done before we even see the application.

Brian Glise showed pictures of the above ground wiring that was on Pole Bridge Road until they realized how much it was going to cost for mowing and then they put it underground. He also was surprised how huge a 94c solar farm is in comparison to what we have in the Town of Avon.

Jim said there is talk of stacking the panels or fields. Brian Glise stated if they stack the panels then they use less land with the same output.

Dan asked if any applicant could request a variance for anything in the solar code that they wanted changed and the answer is yes but only for anything that deals with area.

Dan also stated that on a hillside they could double stack panels and that would still meet the height requirements.

Brian Glise stated they said there were 700 acres of solar panels on a 1200-acre lot for a 94c array.

Brian Thorn said he noticed the difference between fixed panels and tilt panels.

Brian Thorn liked the sites that they chose to tour, each had something different to view.

Jim said Geneseo has an agricultural preservation overlay district and these parcels can't be used for anything except agricultural. One of the spots was in the overlay district but the owner was able to convince them to move it out of the district to allow them to put solar on it.

Jim wanted to move along on the code since there is not a lot left to look over, we left off on 130-82, Abandonment and Decommissioning. A decommissioning agreement was sent to the committee members a while back to review.

When the project is no longer operating reasonably, how does it trigger decommissioning and who is responsible.

There is a monetary establishment based on an estimate for the cost of decommissioning, our code requires that be multiplied and have an escalator for inflation.

The Bond renewal with the escalator will be on an annual basis and there will be a schedule that will remind the Town to have it looked at and updated.

There needs to be a reset every 5 to 7 years and Jim feels it should be 7 years.

Malachy asked about the transfer of ownership and Jim stated since the decommissioning agreement and PILOT are registered at the County, they will be indexed on the deed for the parcel.

When a reset is happening, the applicant will have to go to their engineers and review the decommissioning agreement and then send it over to the Town's engineers for approval. The applicant will be responsible for all costs to do this review.

Dan feels 7 years is a good time frame for the reset review.

Jim feels the Town will need to be responsible for being on top of the timeframe and keeping things up to date.

Brian Thorn feels with all the applications that we could possibly have and had; that could be 2 years for the Town.

Jim asked if anyone had any suggestions for the decommissioning agreement.

Brian Glise stated if they must take out all the trees that we require them to plant, it could be very expensive.

Jim stated in the code it is either/or, restore the property to predevelopment condition and that means everything or if the then owner of the property wants it decommissioned to something less than that, they can approach the Town Board for a change in the agreement.

Brian Glise asked if this will be limited to just the landscaping or can it be any part of the solar array. Jim stated it could possibly include landscaping, drainage, roadways, and fencing.

Dan stated the electronics and solar panels need to be decommissioned and Jim stated the code says solar energy equipment is to be decommissioned.

Jimmy asked if decommissioning happened today, is there a place that recycles the panels and there is.

Malachy asked if the landowner could keep some panels for his own use after the array is in decommissioning mode and Jim stated based on what we just discussed, they cannot.

Jimmy asked if they could use the panels for their own use and Brian Thorn and Dan stated they couldn't. They both feel that the language should state they have to remove all the solar equipment decommissioned.

Jim found in the code where it provides the details for decommissioning, under decommissioning plan 1(I). Jim is reluctant to put into the code that there can be a deviation to the plan and leave it in the applicant's court to submit anything different than the code.

Jimmy asked after 25-30 years they decided they want to keep the panels running, can they ask for another PILOT on this property.

Jim stated that PILOTs can't extend beyond 15 years for solar, but he feels that may change in the future and encourage the use of these solar arrays.

Jim stated we have considered bumping the cost of the PILOT and CBA if these solar arrays may be active for longer than 25 years.

Dan feels technology will change within 15 years and thinks panels will be around for longer than we think.

Ed asked if decommissioning happens if they produce less than 80% and Jim is going to incorporate some definitions in the code that he received from MRB Group to address this.

Ed asked if the infrastructure decays trigger decommissioning and Jim stated our code is based on the system not individual panels. In the O & M agreement states the maintenance must be kept up and maintained.

Jimmy asked if 180 days is still a good number for decommissioning and Jim stated he is unsure since we haven't gone through that process yet.

Brian Thorn said that on the tour a 500 feet setback didn't look as big as it seems, and we should revisit that since our code states 400 feet.

There was much discussion on the setback action of our code such as the larger setback the larger prime soil we are taking out of farming and what would the landowner do with the land.

Jim likes the idea of a landscaping architect to help with the screening and buffering.

Katie feels it should start at the property lines and not a structure on the property.

Katie also asked if the land around the array must be kept up and Jim feels that we can't control what is not in the fenced in area or leased by the developer.

Malachy asked if a surrounding property owner could come and request a larger setback during the application approval process

and Jim stated the developer can push back with, they are following our code for setbacks.

Jimmy asked if we could change the code for setbacks to state from the property line and not from accessory buildings.

Jim read the code which states, Type II solar energy systems shall be sited to create a front setback of no less than 200 feet (measured from the fence line of the solar energy system) from the right of way line of any public or private roadways and setbacks of 100 feet (measured from the fence-line of the solar energy system) from all side and rear property lines. In addition, no Type II Solar Energy System shall be located closer than 400 feet (measured from the fence-line of the solar energy system) from any dwelling or accessory building containing a dwelling unit that is located on another parcel. The code is more restrictive in the context of dwelling units, but we can change that, however if there is nothing around the solar array it would have to be 400 feet away which it wouldn't matter for that situation.

There was much discussion about different situations that can occur with different setbacks, and it was decided to keep what is in the code currently.

There was also discussion on what part of the parcel the developer leases and Jim feels they only lease what is inside the fence and not the whole parcel but that is up to the landowner and the developer.

Jim asked if the group feels we should have one more meeting or have him make the changes and then have a meeting (after everyone has reviewed it) to make sure the changes and suggestions are incorporated in the code.

Jimmy feels we should meet after the changes have been made at a Town Board meeting, but everyone feels we need to meet after the changes have been made before going to the Town Board.

Malachy asked when you send the draft to everyone can you highlight or put the changes in a different color to see exactly what was changed.

Once Jim gets the draft completed, we will plan the next meeting.

It was determined that the moratorium ends in February 2023.

DRAFT