
CALL TO ORDER:

Mr. O’Leary called the meeting to order at 7:36 p.m. and stated the meeting was open to the public in compliance with Public Law 1975, Chapter 231, sections 4 & 13.

FLAG SALUTE

ROLL CALL: **Members Present:** Hughes, Fette, Luthman, Randazzo, Leuthe, Didyk, Straub, Taylor, Van Sickle, O’Leary, Corcoran (7:44pm).

Members Absent: None.

Members Excused None.

Also Present: Michael Garofalo, Esq.
Gene Weber, PE
Frank Banisch, PP

AUDIENCE:

Mr. O’Leary opened the meeting to the public. With nobody coming forward, the meeting was closed to the public.

Mr. O’Leary said the Township Committee was asking the Land Use Board to look at the existing Outdoor Dining Ordinance and make recommendations on any changes it felt were necessary. Mr. Hughes said the existing ordinance was difficult to enforce. He said some of the establishments felt the 15% outdoor dining to indoor dining was a hardship. He said the Township Committee was specifically looking at removing the seating limitation. Mr. O’Leary said the limitation on the outdoor seating was in relationship to limited parking. Mr. O’Leary noted the Township Committee was proposing to remove the annual fee of \$50.00 for the compliance inspection. He said they are also proposing a fee for change of ownership.

Mr. Fette said he will print a list of issues he faces with enforcing the ordinance. He said he could not understand why the Township Committee wants to eliminate the fee. He said there are septic issues that need to be looked at. He said an increase outdoor seating will increase the parking.

Mr. Hughes said the Township Committee recommended changing the wording from restaurant to facility for businesses such as Quick Chek and Kwik Pik so long as it did not interfere with pedestrian traffic.

Mr. Luthman expressed a concern that changes to the ordinance do not allow drive through facilities to become acceptable. Mr. Weber suggested the Board handle this through its minor site plan ordinance.

COMPLETENESS/ HEARINGS:

1.) Beaver Run Solar Farm, LLC SP11-3B:25 L:2 & 4.01

Mr. Hughes and Mr., Corcoran stepped down from the Board for this hearing.

Ms. Megan Ward, Esq. said she was representing the applicant. Mr. Charles P. Shotmeyer was sworn in by Mr. Garofalo. Mr. Shotmeyer gave a history of his quarry business and property. He said they have had no major safety issues or incidents. Mr. Shotmeyer asked the Board to consider the application with the removal of inverter block 10 and the adjacent portion of inverter block 11. This would eliminate the cutting of 26 acres of trees and keep the development out of half of the steep slope areas. Using previously submitted exhibit A-24, Mr. Shotmeyer showed the Board the area he was proposing to eliminate from the original application. He said they would be reducing development on 10 acres of steep slopes. Mr. Knutelsky presented a map entitled “Forestry Resources Plan II” dated 7/21/11 which was marked and entered as exhibit A-24A. Mr. Shotmeyer explained the plan to the Board.

Ms. Jessica Caldwell, PP was sworn in by Mr. Garofalo. She gave her qualifications which were accepted by the Board. She said the application required a use variance

because the use is not an approved use in the residential zone. She went over the proposed project with the Board. She said the solar project is proposed at 80 acres of panel area, 115 acres of disturbance area, 126 acres will be forest, 33 acres of tree removal area and a shade abatement area of 15 acres. She explained the removal of the existing vegetation and replaced with a low growth seed mixture in the panel area. Ms. Caldwell said it is an inherently beneficial use. She discussed the benefit of creating jobs in the area and reducing the use of coal and natural gas power plants. She discussed the benefit of producing power near to where it is being used and the reduction of large power lines cutting through environmentally sensitive areas.

Ms. Caldwell explained the applicant's effort to maintain soil erosion controls. She explained that the solar farm is not a permanent facility. The panels and roads through the site can be removed. She explained that there will be minimum operating activity and they will only need to be checked once a week.

Ms. Caldwell discussed the negative impacts of the project. She said the inverters will make some noise however they will more than comply with the noise ordinance. She said there will be no chemicals or pollutants used. She felt there will be a reduction in water runoff. A project of this nature will not add children to the school system, require water or sewer systems, or create more traffic. She felt this project would not impact any of the critical species of animals and would even enhance the habitat of the redheaded woodpecker. She said the inverter is the size of a shed and she explained the buffers the applicant would be using. She said any view of the panels or inverters would be looking through trees and shrubs. The applicant is going to add more screening than exists presently.

Mr. O'Leary asked Ms. Caldwell to explain why she felt removing 50 acres of forested land was not an impact to the area. Ms. Caldwell said she felt it was a minimal impact compared to residential development and they are still preserving 126 acres. She felt it was a nice balance on the site. Ms. Caldwell felt a solar farm in a wide open flat field can have a visual effect. She felt this is a viable piece of property for a solar farm. She said it will create 100 jobs with 4 of them being permanent jobs. She said the town will be getting more in taxes for the solar facility than if it remains farmland.

Mr. Weber felt there is an inefficiency of the panels on the slope areas. Ms. Caldwell said the applicant will need more panels than if it were on flat ground however the project is still a viable facility.

Mr. O'Leary noted the legislature is in favor of solar facilities in light industrial zones as opposed to residential zones. Ms. Caldwell said they made it easier to install them in industrial zones however they are beneficial in residential zones as well. She said the applicant removed inverter block 10 and part of 11 because of the concerns of the Board. Mr. O'Leary asked if Mr. Gregg was aware of the reduction of inverter blocks and asked if the project is still workable to which Ms. Caldwell said yes.

Mr. Banisch asked if the applicant was going to use a rolling construction approach to which Ms. Caldwell said yes. Mr. Banisch asked how the post will be secured to the ground. Mr. Knutelsky said they will be drilled into the ground and if they hit rock the post will be drilled into the rock and secured with concrete. Mr. Banisch felt the idea that this is removable development was not true. He did not feel the site could be returned to its present day condition. Mr. Banisch asked if Ms. Caldwell felt this would be a greener project if the solar panels were installed on buildings to which Ms. Caldwell said it probably would be.

Mr. Banisch asked about the loss of farming capacity. Ms. Caldwell said the site is not being removed from farming forever. She felt it could be returned to an agricultural farm in the future.

Mr. Fette asked about the stump removal. Ms. Caldwell said the only stumps that will be removed are in the areas where the panels will be. The stumps will remain in the shade abatement area.

Mrs. Straub asked if the applicant has a reforestation plan in the event the project is removed from the site to which Ms. Caldwell said no. Ms. Ward said this can be addressed in the decommissioning plan. Mr. Banisch agreed there needs to be a reforestation and restoration plan.

Mr. Taylor asked what the neighbors will actually see from their lots. Mr. Shotmeyer said the neighbors on Lewisburg Road will be able to see some of the panels. Mr. Shotmeyer offered to plant trees to help block the view. Mr. Knutelsky presented a photo taken by him of a local solar facility dated 7/21/11 and marked and entered it as exhibit A-26. Mr. Knutelsky said he took the photo about one month before. The photo was taken at 300 feet away from the rear of the panels. This would be about the same distance as the homeowners would be from the panels. He said the panels he took a picture of are taller than what the applicant is proposing.

Mr. Luthman asked if the applicant is going to respond to Dr. Keller's report. Ms. Caldwell felt what she presented at this meeting was her response. She felt Dr. Keller did not disagree with Ms. Newguard's report. Mr. Luthman did not agree with Ms. Caldwell on this matter.

Mr. Luthman asked if on a shady day would the system need a conventional electrical backup. Ms. Caldwell said the solar system does not have a backup because they will work in any kind of light. She said it will absorb light in any weather or season.

Mr. Luthman expressed a concern about the amount of impervious surface. Mr. Knutelsky said state regulations consider solar panels as a pervious surface. Mr. Luthman asked about the height of the panels to which Mr. Knutelsky said they are between 12 and 15 feet in height. Mr. Luthman asked what is proposed for the woodland area of the site. Ms. Caldwell said it will go into a woodland management plan. Mr. Luthman expressed a concern with the existing pond. Ms. Ward said the project will have no impact on the pond. Mr. Knutelsky said it was calculated into his stormwater management plan.

There was a lengthy discussion on the preservation of the forest area. Mr. Randazzo did not agree with Ms. Caldwell's statement that the deforestation will not have an impact on endangered species. He felt the animals would lose their transitional habitat. Ms. Caldwell disagreed. Mr. Randazzo asked if it would be possible to expand the mitigation for the life of the project. Ms. Caldwell said they can add it to the woodland management plan. Mr. Randazzo asked how much deforestation took place in other solar projects Ms. Caldwell has worked on. Ms. Caldwell said she did not have those numbers with her. Mr. Randazzo asked what the State's solar goal was to which Ms. Caldwell said she did not know. Mr. Randazzo expressed a concern that an approval of this project would set precedence. Mr. Garofalo said a use variance doesn't set precedence.

Mr. Luthman felt the efficiency of the project was not addressed. There was a lengthy discussion on the efficiency. There was a discussion on a decommissioning plan.

Mr. O'Leary opened the meeting to the public. Mr. Sean Meyer of 18 Lewisburg Road asked if the project required the applicant to add conductors to transport the electricity to Sussex Rural Electric Cooperative. Ms. Ward said that is something that is determined by the electric company and that they are working on that issue. Mr. Luthman felt the power company should present testimony on how the power gets from the site to the sub station. Mr. Weber felt the Board needed more information on this matter. He wanted to know if more power lines will be needed, more poles and the routing of the power lines. Ms. Caldwell said there will be no added poles or power lines. She said the power company cannot draw up a final plan until the applicant gets municipal board approval.

Mr. Emil Conforth of 66 Fox Hill Road asked about the vacation of a portion of Fox Hill Road. He said it is the only viable access to his property. Mr. O'Leary said that was something that was outside the jurisdiction of the Land Use Board and referred him to the Township Committee. Ms. Ward disagreed with Mr. Conforth and said he does have access to his property even if a portion of Fox Hill Road is vacated.

Mr. Conforth expressed a concern with this project being out of character with rural Lafayette. He said it will be visible from his property. He said it will have a negative impact on the value of his land. Mr. Conforth presented a packet of photos which were marked and entered as exhibit O-1. The photos were taken by Mr. Conforth and they were pictures of his property.

Mr. Bill Macko of 20 Dennis Road felt the Board had a obligation to bring ratable to the town and get some taxes and roll back taxes. He felt this type of a project will increase tax revenue without putting additional children in the school system.

With nobody else coming forward, the meeting was closed to the public.

Mr. Kelly wanted to gather a list of remaining question from the Board so he can gather the information for the next meeting date. Mr. Taylor requested information on tree buffering. Mr. Leuthe requested information on how the unused land will be preserved. Mr. Luthman asked for an explanation to #5 of Dr. Keller's report addressing the overall energy return per unit of forest impact. He also asked for information on the ratable to the town. Mr. O'Leary asked for a copy of exhibit A-24-A and asked Mr. Knutelsky to quantify the difference between exhibits A-24 and A-24-A. Mr. Weber asked for information on the seeding of the disturbed area, the number of posts that will need to be drilled into the limestone and how will the holes be protected while they are exposed.

The Board agreed to carry the hearing to the July 28, 2011 meeting date.

OLD BUSINESS:

1.) Solar Application Fee

The Board agreed to carry this matter to its next workshop meeting.

2.) Gateway as an Element to the Land Use Plan

The Board agreed to carry this matter to its next workshop meeting.

3.) Reserve Septic Location Ordinance

The Board agreed to carry this matter to its next workshop.

4.) Sub-Committee to meet with business owners

Mr. O'Leary said this was discussed at a previous meeting. He asked for volunteers to be on this sub-committee. Mr. O'Leary and Ms. Didyk volunteered. The Board Secretary will advise the Clerk.

NEW BUSINESS:

1.) Outdoor Dining Ordinance

The Board agreed to carry this to next week's meeting date.

RESOLUTIONS: None.

ORDINANCES:

1.) Renewable Energy Ordinance

Mr. O'Leary advised the Board that the Township Committee had adopted the proposed ordinance at its last meeting.

PENDING APPLICATIONS: None.

TRC REPORT: None.

ZONING REPORT: None.

BILLS: List #8

The Board agreed to carry the bills to next week's meeting.

EXECUTIVE SESSION: None.

CORRESPONDENCE:

- 1.) To: Township Committee
Re: Clarification of Proposed Renewable Energy Ordinance

ADJOURNMENT:

With no further business to conduct, a motion to adjourn was made by Mr. Fette. It was seconded by Mr. Randazzo and passed with everyone saying aye.

Respectfully submitted,

Stephanie Pizzulo
Secretary