

LEE COUNTY RENEWABLE ENERGY COMMITTEE

Ad Hoc Meeting

July 11, 2022, at 9:00 AM

County Board Room
Old Lee County Courthouse, Dixon, Illinois

Zoom Video- & Tele-conferencing

Meeting ID: 828 7215 0974

Password: 797986

YouTube

<https://www.youtube.com/watch?v=TO-pzCW8vII>

Appointed Committee Members

Chris Norberg – Chair
Marilyn Shippert
Tom Kitson
Tom Wilson
Danielle Allen
Dave Bally
Bob Olson

Advisory Members

Dee Duffy, Zoning Administrator
Alice Henkel, Renewable Energy Coordinator/Clerk
Charley Boonstra, State's Attorney

At 10:00 AM, Chair Chris Norberg called the meeting to order.

Acting Chair Norberg called for roll call of members of the committee and county staff.

Appointed Members present: Norberg, Shippert, Kitson, Bally

Appointed Members absent: Allen, Wilson, Olson

Advisory Members present: Duffy, Henkel

Advisory Members absent: Boonstra

The next order of business was the approval of the minutes for the July 5, 2022 meeting. The minutes were approved as written.

Chair Norberg asked if there were any visitors present that would like to speak. None wanted to speak at that time.

Chair Norberg proceeded to the review of the proposed pipeline ordinance.

Member Tom Kitson wants to make sure the comments concerning adequate insurance coverage and that the County's insurance provider has been consulted. He also wants to make sure State's Attorney Charley Boonstra reviews the ordinances before they are voted on by the County Board. Renewable Energy Coordinator Alice Henkel noted that the comment concerning insurance was from the previous review of the solar ordinance (late 2020/early 2021) and had already been addressed. She also confirmed that final drafts will be provided to SA Boonstra for review.

Chair Norberg asked the visitors if they had any comments.

Martha Johannsen had comments on the solar ordinance. She feels the setbacks need to be more defined. As they are written, “A minimum of four hundred (400) feet from any foundation of an adjacent, non-participating primary dwelling, [i.e., an eight hundred (800) foot by eight hundred (800) foot, square exclusion zone centered on the adjacent, non-participating primary dwelling foundation],” it is confusing because 400 feet from a foundation and an 800-foot by 800-foot, square are not the same. She also feels the setback should be 500 feet from the foundation of a non-participating residence and that non-participating landowners are not being recognized.

Chair Norberg resumed the discussion of the proposed pipeline ordinance. The committee agreed on moving the proposed pipeline ordinance to the Properties Committee. Ms. Henkel requested the ability to continue working with Chastain & Associates to make changes to clarify, correct and/or clean up the draft as it moves through the approval process. Chair Norberg noted that all the ordinances require some minor clarification, corrections, and/or clean up that will need to be completed prior to the ordinances going before the County Board.

Member Dave Bally made a motion to send the proposed pipeline ordinance (dated 2022-07-05) to the Properties Committee, and a second was discerned. During discussion of the motion, Mr. Kitson again stated that he wants SA Boonstra to review the final draft prior to the final vote by the County Board. A vote was taken, and the ayes prevailed. Motion passed, 4-0.

The committee proceeded to the discussion of the proposed, revised solar energy systems ordinance.

Mr. Kitson has questions related to the fencing requirements. Chair Norberg explained that these requirements come from the National Electric Code (NEC).

Mr. Kitson also noted that the ordinance states the “Applicant shall provide for a fire protection plan for the construction and the operation of the facility and shall provide for and maintain reasonable means of access for emergency services.” He is concerned that a fire department could hold up a project by not approving a fire plan. He would like to see early involvement of the fire chiefs so that a plan can get approved and there are no hold ups when it comes time for construction.

Scott Remer with Hexagon Energy (Steward Creek Solar, LLC) said that historically, they have provided a fire plan to the fire chief and ask for comment. The response is typically a request to make sure there are Knox boxes and emergency access is provided at the gate and he noted these are both required by the proposed ordinance. Mr. Remer said he has heard of training sessions being provided and would be willing to provide a workshop if any fire departments want it.

Member Marilyn Shippert wanted to know the risk of having a fire. Mr. Remer said with grasses being planted underneath the panels and there being electrical wires, there is a change for fire if the system is mismanaged. The arrays are typically segmented to limit the impact to the system should a fire occur. They make sure the fire departments have full access to the project. The system is constantly monitored in real time so if there is a problem, it should be noticed immediately. The access roads are built to have adequate turn arounds for fire trucks and other equipment. The panels, themselves, are not flammable and there is nothing inside the panels that is flammable. He noted the most likely place for a fire to occur is at the inverters and they sit on concrete pads and are typically located near access roads.

Will Hantzmon with Hexagon Energy (Steward Creek Solar, LLC) added that they reach out to the local taxing bodies, including fire districts, early on to ensure their concerns are addressed prior to

petitioning the County. They rely on the input from the local fire districts to make sure they have an adequate fire plan.

The committee further discussed the addition of a requirement to have an approved fire plan. Chair Norberg has concerns about whether the smaller, volunteer fire departments would have the qualifications and necessary training to be able to approve a fire plan.

It was agreed to amend the proposed ordinance so that it states, “Applicant shall provide for a fire protection plan for the construction and the operation of the facility that has been received and reviewed by the fire district(s) in which the SES will operate and shall provide for and maintain reasonable means of access for emergency services.”

Mr. Bally had questions about the setbacks of 400 feet from the foundation and the dwelling exclusion zone which is defined as an 800-foot by 800-foot, square. He agreed with Ms. Johannsen’s earlier comment that those result in two different setbacks. Chair Norberg said it will be 400 feet from the foundation.

Ms. Johannsen again commented on increasing the setbacks to 500 feet from the foundation of an adjacent, non-participating dwelling. Chair Norberg said that changing the setbacks was not intended for this review and they will remain at 400 feet. He further explained that this was greatly discussed during the last review of the solar ordinance (late 2020/early 2021) and everything from 200 feet to 800 feet from the foundation was considered. The trade off was creating a setback that is square instead of circular because it results in additional acreage being included in that setback.

Ms. Shippert said there is a 500-foot setback for the inverters and inquired as to why the setback from an adjacent, non-participating dwelling and the inverters are not consistent. Chair Norberg explained that inverters have the potential to generate noise/sound; therefore, they are setback 500 feet from dwelling to minimize that potential impact.

There was still confusion over the setbacks being 400 feet from a foundation and 800-foot by 800-foot, square as those result in two different figures. By definition, the exclusion zone is always going to be bigger than then 800-foot by 800-foot square. The following amendment was accepted to address this concern: “A minimum of four hundred (400) feet from any foundation of an adjacent, non-participating primary dwelling, [i.e., a minimum eight hundred (800) foot by eight hundred (800) foot, square exclusion zone centered on the adjacent, non-participating primary dwelling foundation].

Chair Norberg said the inverters have the greatest potential for creating sound/noise. He believes the Eldena Solar Project setback inverters 1000 feet from non-participating dwellings. Mr. Hantzmon said that based on optimal project design, Steward Creek Solar’s inverters will be setback approximately 1000 feet. He also noted that the sound/noise generated by the inverters is a low enough decibel that is cannot be heard at the fence line.

The location of any laydown yards was discussed. It was agreed that the location of the laydown yards and areas of material storage should be included in the application for special use permit. This requirement will be added to the proposed revision of the solar ordinance.

Ms. Johannsen noted that Paragraph C under 9. Road Use Agreements, uses the term, “from conception to completion.” She would like that further defined as it is unknown if completion refers to construction or the life of the project. Ms. Henkel will check with County Engineer Dave Anderson to find out the intent of those terms, as he proposed this specific language. Mr. Remer

and Mr. Hantzmon feels that “completion,” refers to construction and that it should be changed to, “Commercial Operation Date (“COD”).”

Ms. Johannsen said the ordinance states the County Board can extend a special use permit. She wanted to know how many times the special use permit can be extended. Chair Norberg said it can be extended as many times as the County Board sees fit. Ms. Henkel cautioned the committee that due to changes in technology and how quickly the industry is advancing, that a rehearing should be required at some point. Attorney Courtney Kennedy said that an extension should depend on whether or not like-kind materials are being used, and industry should only have to come back to hearing if material changes have been made to what was originally approved.

Ms. Henkel has concerns that the County might not know if material changes have occurred. She also noted that one of the Zoning Board of Appeals members suggested having applicants come back before the Zoning Board of Appeals to deal with any proposed changes. Attorney Kennedy feels the County should be aware of material changes based on the operations reports the applicants/owners/operators will be providing to the County. Ms. Henkel noted that those reports are not required until after the COD. Attorney Kennedy suggested adding a requirement that those reports be due once the special use permit is granted instead of once the COD is established.

Mr. Remer explained that how it is currently written does work for them as it allows them to come before the County Board and let them know they are still invested in the project. Currently, the PJM backlog has created years-long delays which is a circumstance beyond the applicants’ control. As is supply chain issues related to COVID-19 pandemic. He understands that it is the goal of the County to make sure they are not being strung along but from an industry perspective, they need to know they can continue investing in their project without the threat of losing their permit due to circumstances beyond their control. He does not object to submitted annual reports showing that good faith efforts have been made advance the project into construction and eventually operation. Mr. Hantzmon also noted that a company having an “active interconnection position” shows that they are actively working through PJM’s queue. A status of “terminated” or “withdrawn” indicates that a project is not or is no longer in the queue.

Chair Norberg suggested changing Paragraph 14, under Section H so that it states, “The County Board may extend this three-year period for such time as it shall determine, for good cause and with further hearing before either the Zoning Board of Appeals.”

Ms. Henkel requested that is annual reports are going to be provided prior to the COD, she would like to receive them quarterly. Mr. Remer said quarterly reports would be somewhat onerous and would prefer annual reporting. Chair Norberg suggested bi-annual reporting. Mr. Remer said they can provide the County with the communications they receive from PJM; however, those are only received every 12-18 months. It was agreed that the granting of special use permit shall trigger annual reporting. Annual reports prior to the issuance of building permits shall include the overall status of the project, identifying any delays, the reason for the delay(s), and what actions are being taken to resolve the delay(s). They shall also be available upon the request of the Zoning Administrator.

Mike Pratt, member of the Zoning Board of Appeals, submitted some concerns via email. With regard to his concern about who pays for the third-party engineer hired by the County, the definition of “County Appointed Third Party Engineer,” found at the beginning of the ordinance, specifies that the developer will be responsible for those cost. Ms. Henkel would also like that definition to specify that the engineer must be Illinois-licensed and registered.

Mr. Pratt disagrees with the current language for the visual screening option. As it is currently written, adjacent, non-participating landowners have the option of a visual screen. They may choose to have a visual screen installed or accept payment equivalent to the cost of having a visual screen installed. If the landowner fails to select one of these options, he or she will receive payment equivalent to the cost of having a screen installed. Mr. Pratt disagrees with paying a landowner who fails to select one of the options. A landowner receiving payment for not responding is a default. It prevents a landowner from holding up a project and guarantees compensation to non-participants living within the project footprint.

Mr. Remer said that the current language does work for them. He asked for clarification regarding the memorandum of agreement that a landowner must sign when selecting their visual screen option. Chair Norberg said that if they landowner will not sign, the default payment will occur.

Mr. Pratt has had concerns with the landscaping language. The ordinance states, “A landscape plan shall be submitted which shall incorporate native grasses, flowers, plants which will provide wildlife and pollinator habitat, soil erosion protection and/or aid in strengthening the soil structure.” Mr. Pratt doesn’t think the ordinance should define what is planted in that much detail. Ms. Henkel noted that the language states that native grasses, flowers and plants shall be incorporated into the landscape plan but does not restrict them to only planting native grasses, flowers and plants.

Mr. Pratt’s other concern related to the County Board approving a special use permit extension with a hearing. He would like to see the applicant come before the Zoning Board of Appeals to present reasons for needing an extension. This concern has already been addressed by this committee and the ordinance is being amended so that special use permits may be extended after a hearing before the Zoning Board of Appeals and the Zoning Board of Appeals making a recommendation to the County Board.

Mr. Remer asked for clarification of the language found under Paragraph 1b of Section G. Operational Standard Conditions that states, “Any physical modification to the SES that increases the number of solar conversion devices or structures and/or the land area occupied by the SES shall require a new special use permit...” Mr. Remer would like this to apply after the building permits are issued because the building permits reflect what is being built. He doesn’t think it should apply after the special use permit is granted because project specifications may change based on product availability. Chair Norberg disagreed but felt that the Zoning Administrator should be able to determine if any changes are substantial enough to require a new permit. Mr. Remer requested adding language so that it states, ““Any material modification at the discretion of the Zoning Administrator shall require a new special use permit...” Chair Norberg agreed to the change.

Mr. Remer said the requirement of a minimum of \$50,000 per megawatt for decommissioning is high. The committee agreed that the process for determining decommissioning costs should be the same as the wind ordinance to maintain consistency – specifically that a cost analysis will be prepared by a third-party engineer, paid for by the applicant, security for decommissioning that is equivalent to 125% of the estimated decommissioning costs, and that the cost analysis be updated every five years. There will be no minimum cost per megawatt.

Dave Bally made a motion to send the proposed solar ordinance (dated 2022-07-05) with the amendments discussed at this meeting to the Properties Committee, and a second was discerned. There was no debate. A vote was taken, and the ayes prevailed. Motion passed, 4-0.

Chair Norberg proceeded to the review of the proposed, revised wind energy conversion systems ordinance. Chair Norberg noted the major changes to this ordinance being the addition of the ADLS lighting system and the updates to the decommissioning section.

Ms. Henkel brought up the recent decision to change the setbacks multiplier from 3.1 times the height of a WTG to 3.0 times the height of a WTG. She has concerns that the turbines are getting bigger but the County is wanting to reduce the setbacks. Chair Norberg explained that by using a multiplier, the setbacks automatically get larger as the turbines get larger. Ms. Henkel agreed but feels the perspective of a landowner living amount the turbines maybe different. For a 650-foot turbine, changing the setback multiplier from 3.1 to 3.0 results in a difference of approximately 65 feet. While 65 feet may seem minimal, it may be a big deal to a landowner who does not wish to be living among a wind project. Further, she does not understand why an additional 65 feet is that important to the industry. Ms. Shippert agreed that 65 feet is minimal and feels it should not be that significant to the industry. She would like to maintain a 3.1 multiplier for setbacks. Mr. Kitson concurred. The committee agreed to change the setback multiplier back to 3.1 times the height of a WTG. Applicants still have the ability to obtain waivers to reduce setbacks.

Tom Kitson made a motion to send the proposed wind ordinance (dated 2022-07-05) with the amendment discussed at this meeting to the Properties Committee, and a second was discerned. There was no debate. A vote was taken, and the ayes prevailed. Motion passed, 4-0.

Once the drafts ordinances have been cleaned up, they will be forwarded to SA Boonstra for review.

The timeline for the ordinance approval process was discussed. The Properties Committee sends the ordinances to the Executive Committee. The Executive Committee will add it to the County Board's agenda for July 21, 2022. At the County Board meeting, the County Board will move to send the ordinances to the Regional Planning Commission for public hearing on August 1, 2022. The Planning Commission will then send it back to the County Board with the public's comments on August 25, 2022. The County Board will then move to hold the ordinances over for one month, with the final vote occurring on September 22, 2022. This timeline is subject to change at anytime.

There were no other comments from any visitors present either in person or by ZOOM.

There was no other old business.

There was no new business.

There was no other business.

There was no executive session.

At 11:53 a.m., Tom Kitson made a motion to adjourn. The motion was seconded, and there was no debate. A vote was taken, and all were in favor. Motion passed, 4-0.

*Live feed can be viewed on **YouTube** at [Lee County Renewable Energy Committee – 07/11/22](#).*

Respectfully submitted,

Alice Henkel