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Jack C. Slingerland
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Via Email at dhiland@dekalbcounty.org and Hand Delivery

Mr. Derek Hiland
DeKalb County Planning & Zoning Department
110 East Sycamore St., 4th Floor
Sycamore, IL 60178

RE: DeKalb County Text Amendment Hearing
File: 12-344

Dear Mr. Hiland:

Enclosed please find my Report of Proceedings and Recommendation. The original and three (3) copies of my Report of Proceedings and Recommendation regarding the above matter will be hand delivered to your office later in the week.

Sincerely,

SLINGERLAND & CLARK, P.C.

BY: 
DALE J. CLARK
Attorney at Law

DJC/dcm
Enclosures

III. **“DeKalb County Solar Energy System (SES) Ordinance.**

At the initial hearing date of January 31, 2018, County presented its initial draft Solar Energy System Ordinance (hereinafter “SES” Ordinance). That initial SES Ordinance was a rough draft, put forth to spur discussion and improvement, and to begin the process of allowing County to regulate this industry and development within DeKalb County. As the SES Ordinance would be a first for the County, many suggested changes and revisions were heard at hearing, and submissions of SES Ordinances from other jurisdictions were submitted as well for consideration and/or incorporation into DeKalb County’s ultimate SES Ordinance, if adopted by County.

Addressing the Hearing Officer with questions at the initial hearing were the following persons:

1. Teague Dickey, CEO of Iconic Energy, a solar panel energy company.
2. Chris Lannert of Geneva Township.
3. Jaime Walter, Afton Township, of Whiskey Acres.
4. Garrett Schweikhofer of Batavia, President of Sun-Heat.
5. Brad Belanger of South Grove Township - who had questions but also wanted to be noted as being in opposition, and provided a written submission that has been incorporated into the record.

The majority of the questions at the initial hearing date concerned the 5-acre size limitations present in the initial draft SES Ordinance, the set-back requirements, and the conflicting terms of “solar garden” rather than “community solar” which is another definition used in other SES Ordinance configurations. Issues regarding the maximum height of solar panels, particular the discrepancy between the 20’ requirements in one section and the 6’

requirements in others, and the disposition or reclamation of land after the end of the useful life of solar energy producing properties were also discussed in detail.

Jaime Walter in particular described many areas of conflicting terminology and discrepancies. He further noted that some key terms, such as “reasonably minimize” and “principal structure” were not defined, and the resulting ambiguity could make enforcement and compliance difficult. Solar producers needed more certainty as to terms in order to evaluate the profitability of entering into this type of activity and production, he stated.

The following persons spoke in favor of the County adopting an SES Ordinance:

1. William Klein, Afton Township, who related that without solar energy his energy bills would be too high for him to remain on his property on which he has resided for 31 years.
2. Meryl Domina, DeKalb Township, of the group “350 Kishwaukee”, who encouraged County to move along faster with renewable energy sources.
3. Chris Lannert, who also encouraged the County to embrace renewable energy. He praised the specificity that County is seeking to provide in this ordinance, as many that he has seen have been too general.
4. Laura Hulseberg, Sycamore, who read a letter from her father, a retired farmer from South Grove Township. In particular she was pleased with the decommissioning plan described in the draft SES Ordinance.
5. Scott Novak, Cook County, of Cyprus Creek Renewables, who discussed the relative low impact, low noise, no pollution aspects of solar energy production. He submitted materials which have been made part of the record.
6. Marilyn Hrymak, Co-Chair of the Sycamore Climate Committee, who appreciated the draft regulations and wants Sycamore to sign onto the Paris Climate Accords.
7. Jaime Walter, of Whiskey Acres Distilling, who stated he has significant interest in pursuing this avenue of energy production and that the County needs to move fast to utilize State incentives. He stated the production “sweet spot” is the 2-megawatt level, which would require 12-18 acres, a significant size increase from the 5-acre “Solar Garden” as identified in the draft SES Ordinance.
8. Steve Capitan, DeKalb County, supports the idea of “community solar”, and that the County needs to be sensitive to the size and scale needed to support the desired outcome.
9. Jeff Whelan, County Board Member, spoke regarding the need for a security fence or screen fence to stop resulting glare from solar production from reaching adjoining properties.
10. Jonathan Roberts, of Soltage, who supported the ordinance.

Those who spoke in opposition to the draft SES Ordinance were as follows:

1. Ann Carlson, of South Grove Township. She wanted County to look at smaller scale solar projects that would help smaller farms, instead of lining corporate pockets.
2. Brad Belanger. Mr. Belanger indicated that most other solar ordinances use the property line as the setback reference point, and this one does not.

Also proffering additional comments was Chris Lannert, who submitted materials concerning ideal set-back requirements, and submitted substantial materials which have been incorporated and made a part of the record. The submitted documents contain an analysis of acreage loss based on various setbacks. His submitted documents also propose green plantings in the setback areas to promote wildlife corridors.

County Engineer Nathan Schwartz also offered correspondence in relation to the proposed fee schedule, screening, participation in a Road Use Agreement, height requirements, and decommissioning. His correspondence is dated January 31, 2018 and is incorporated into the record.

At the continued hearing date of February 15, 2018, a further revised SES Ordinance was submitted by County.

After brief review of the revised SES Ordinance, the following persons had questions and/or comments:

1. Ron Downer, Franklin Grove.
2. Laurel Bergren, ARC Perspectives, Inc., submitted materials which were made part of the record. She stated the revised SES Ordinance provides certainty for producers and to landowners, which will reduce costs.
3. Marlin Anderson, Malta Township, who is a pilot. He submitted materials concerning glare issues and depth perception issues that can result from large scale solar farms. His submissions were made part of the record.
4. Brad Belanger, South Grove Township, commended the Committee for revising page 3 of the draft SES Ordinance regarding 500 ft. setback requirements.
5. John Craig, Mayfield Township, indicated concern that the language on page 3 makes it sound as if there is an acceptable amount of glare,
6. Lisa Bergeron, South Grove Township, also stated she appreciates the new setback requirement of 500 feet.
7. Chris Lannert, applauded the revised SES Ordinance revisions regarding setbacks, and that neighbors can negotiate a setback limit down to but not less than 50ft. He suggested however, that in the “solar farm” designation, the setback should be a minimum 100 ft, rather

than the 500 ft. He would suggest that the “solar farm” provisions be similar to the other provisions and allow for neighbor negotiations from 500ft down to not less than 100 ft.

8. Tim Polz, noted a scribe’s error in relation to the terms “solar farms” and “solar gardens” on page 3, Section 2.

9. Charles Brown, Attorney, DeKalb, noted that the Illinois legislature was considering a bill impacting renewable energy, by requiring an Agricultural Impact Mitigation Agreement, which will set minimum standards, and also discussed the negotiating leverage disparity between solar producers and landowners who may be considering a solar lease.

10. Jaime Walter, Pierce Township, Whiskey Acres, echoed Attorney Brown’s comments regarding decommissioning and new legislation. He also stated that the 50ft setback is either desirable, or should be slightly increased, but that a 500 ft. setback is too excessive, particularly with non-occupied or non-residential properties. He suggested a setback of not less than 120ft., to permit farming equipment to farm the setback strip, but less than the 500ft as indicated in the ordinance.

11. Patrick Dalseth, Geneva.

12. James Hutcheson, South Grove Township, discussed land-lease issues and the issue of a solar easement.

13. Additional submissions were received and admitted into the record regarding health and safety impacts of photovoltaic projects, soil conservation and the use of native vegetation, and acoustic levels.

The submitted materials were quite instructive and informative, and the revised SES Ordinance submitted in advance of the February 13, 2018 continued public hearing date incorporated many of the suggested revisions. The revised SES Ordinance is and will be a work in progress, so to speak, for quite some time as it is or will be the initial SES Ordinance for DeKalb County, if adopted. However, the search for a “perfect” ordinance is not practical at this early stage, as what may or may not work for DeKalb County will likely be unique and uncertain until and unless an SES Ordinance is adopted and projects begin in accordance thereof.

I would recommend changing the term “solar garden” in paragraph 2 under Setback Requirements, on page 3 of the revised SES Ordinance to read “Solar Farm”, for definitional consistency. I also would recommend that the County reconsider the 500 ft setback requirement, absent a waiver. In the materials presented by Mr. Lannert, a 500 ft setback can result in the loss of 24.4 acres of farmland, whereas a 100ft setback results in only a loss of 3.0 acres, on a typical farmstead configuration. Other draft ordinances from surrounding jurisdictions did not appear to have a 500 ft. setback.

However, on the whole, the revised SES Ordinance appears to be in the County’s and public’s interest, and in general was wholly supported by the community who chose to be present at the two hearing dates on this issue. Further, the revised SES Ordinance appears to be

substantially similar in form and substance to other SES Ordinances adopted in surrounding jurisdictions, which will assist in obtaining objective reference points for all aspects of solar energy generation as projects commence, including glare, visual obstruction, power generation and efficiency, and, ultimately, decommissioning.

Based on the above and foregoing, I hereby recommend approval of the revised SES Ordinance submitted for consideration at the continued hearing date of February 15, 2018, and would recommend that the County consider the recommendations concerning a lesser setback requirement than 500 ft., as presented in the incorporated materials. I also recommend that the property line be clearly references as the setback reference point. I also recommend revising Page 3, Section 2, under Set Back Requirements to use the same term, Solar Farm, throughout that Section 2 to avoid confusion in execution of the requirements of that Section.

Respectfully submitted,



Dale J. Clark
Hearing Officer