

DeKalb County Government
Sycamore, Illinois

Planning and Zoning Committee Special Meeting
(July 21, 2021)

The Planning and Zoning Committee of the DeKalb County Board met on July 21, 2021 at 6:30 pm in the DeKalb County Legislative Center, Gathertorium, in Sycamore, Illinois. In attendance were Committee Members: Tim Bagby, Steve Faivre, John Frieders, Roy Plote, and Craig Roman, and Community Development Department staff: Marcellus Anderson. Also in attendance were: County Board members: Karen Cribben, Kathy Lampkins, and Dianne Leifheit; Brian Gregory, DeKalb County Administrator; Greg Millburg, of the DeKalb County Farm Bureau; Larry and Steph Forsberg; John Lyon; Anne Hutcheson; Jim Hutcheson; Rodney Kyler; Mark Cooley; Rhonda Henke; Henry Burgweger; John O'Halloran; Tim Hakes; Katie Androwski; Joe Totman; Andrew Tim; Edith Pratt; John Craig; and, Kevin Adelman, of Leeward Renewable Energy.

CALL TO ORDER / ROLL CALL

Mr. Faivre, Planning and Zoning Committee Chair, called the meeting to order. Mr. Osland and Mr. West were absent.

APPROVAL OF AGENDA

Mr. Plote moved to approve the agenda, seconded by Mr. Roman, and the motion carried unanimously.

PUBLIC COMMENTS

Larry Forsberg (South Grove Township) noted that many of the people in attendance had issues with the proposed solar farms, and noted that the total acreage is the sum of all of the smaller parts.

Rodney Kyler (Milan Township) feels that the limitation should be set at zero, and also asserted that he lives adjacent to where the DK Solar project would be located. He added that he is on the Milan Township Board, and that the Township was not in favor of these solar farms.

John Lyon (Mayfield Township) felt that not enough consideration has been given to non-participating land owners. He suggested that the minimum setback should be at least five hundred (500) feet instead of the current one hundred (100) feet, and have mandatory vegetative screening. He noted that the list of definitions does not include anything about non-participating landowners. He finished by giving a copy of his statement to the Committee.

John O'Halloran (DeKalb Township) noted that he lives on Twombly Road, just west of DeKalb, and felt that solar systems should be limited to rooftop applications only.

Mark Cooley (Mayfield Township) expressed his worries that property values would be negatively affected by the solar farms, and claims that the property value studies used by the companies are not accurate comparisons. He highlighted his issue with the proposed height of the panels. He noted that solar farms are industrial uses that do not belong in farm land areas. He noted that the current solar ordinance only identifies single parcel projects, not multiple parcel ones. He also expressed his concerns about the ability of these companies to decommission the projects in the future.

Rhonda Henke (Mayfield Township) expressed that the agricultural landscape and local farms need to be protected, and feels that these solar farms would be detrimental to farms, farmland, and farmland communities.

Henry Burgweger (South Grove Township) noted that he was the South Grove Township Road Commissioner. He talked about past efforts taken by the County to protect farmland, such as the 40-acre Rule. He expressed that solar farms are detrimental to farmlands, and that they would negatively affect property values. He noted that the views of the agricultural landscape would be lost. He noted the potential damage that would be done to the roadways during construction. He noted that he wanted to know where all the tax monies collected from these projects will be allocated.

Tim Hakes (Mayfield Township) talked about how him and his family came to live in Clare, expressed the benefits of living there, and talked about how he felt the solar farm would place that lifestyle in jeopardy. He expressed that being surrounded by industrial solar farm would destroy the area, turning it into the type of industrial area they left the city to get away from.

Katie Androwski (Franklin Township) talked about how valuable farmland was being lost to an industrial plant, and iterated the potential crop production to be lost. She also asserted that solar technology is not reliable and is potentially harmful to the aquifer.

Joe Totman (Mayfield Township) talked about the Syngenta Seeds facility being built and cited it as a positive to the County, and talked about how good the farmland in DeKalb County is. He noted that the Owen Creek Solar Farm is turning this important farmland into an industrial area.

Andrew Tim (Mayfield Township) noted that he was an electrical engineer, and gave a detailed explanation of why he felt there was no good plan for these solar farms, the potential harm they would cause, and that this was not the right area for these projects.

Stephanie Forsburg (South Grove Township) expressed her belief that using the County's highly viable and valuable farmland is a mistake. She expressed her belief that solar farms are not agriculture, and talked about how Illinois was a poor place to use such technology. She also expressed her concerns regarding the potential for damaged solar panels to leak toxic chemicals into the farmland and contaminate them, and asked what safety standards are in place to prevent this from happening and what happens if the land does get contaminated.

OTHER BUSINESS – Discussion of Acreage Limitations regarding DeKalb County Solar Energy Systems

Mr. Faivre noted that this item was basically a listening session and that no votes would be occurring. He noted that the discussion was restricted to possible acreage limitation on solar energy systems, and asked that the attendees confine their comments to that topic.

Mr. Hiland noted that at the Committee meeting in June the topic of setting a maximum on the total acreage of lands devoted to solar in the County, and that it had been determined that it would be useful to have a discussion on this item alone.

Mr. Faivre described the process used to develop the Solar Ordinance, and noted that the States Attorney had advised against establishing a moratorium, explaining that the County could not just change the rules for those applications that have already been submitted. He also noted that at the time of the development of the Solar Ordinance no discussion regarding an overall limit on acreage that could be dedicate to solar farms.

Mr. Forsburg noted that he lives in Clare and that he was also an elected official. He talked about the history of agriculture in DeKalb County, and asserted that taking more agricultural land for solar farms would be bad for the County. He asserted that there needs to be a cap on solar added to the ordinance. Mr. Forsburg talked about how solar farms will hurt property values. He directed the Committee to check out the Lee County Solar Ordinance, in particular its requirement that solar developers have pollution liability insurance.

Jim Hutcheson noted that he believed that proposals concerning establishing limitations on solar farms had been in the past, and inquired whether the reason nothing ever came of those was that the proposals were never seconded. Mr. Faivre agreed that was likely the case.

Mr. Tim asserted that the real issue to be addressed was what was the defined need for these solar farms, adding that he felt there was no need for them. Mr. Frieders responded by noting that while Mr. Tim says we have no need, does the Committee have the right to just tell someone what they can do with their property. Mr. Tim responded that he felt that the risk-reward metric needs to be addressed, that just because something can be done, doesn't mean that it should be done. Mr. Frieders reiterated that he struggles with the concerns of the neighbors versus the right of a farmer to determine what he does with his own land.

Mr. Cooley asked that the Committee prevent contiguous acreage, limit the height of the solar panels, and increase the setbacks. Mr. Faivre reminded him that this discussion was limited to acreage limits. Mr. Cooley responded that the acreage should be limited, but that limiting the acreage was directly tied in with property values.

Ms. Henke commented that people should not do things that harm their neighbors. She asked that a limit be placed on the total acreage. She also noted that she objected to the "garden" and "farm" terminology used in relation to solar complexes. Ms. Henke asserted that when the current ordinance was developed, nobody envisioned that companies would be creating "daisy chains" of twenty-acre parcels to create massive complexes. She also noted the issues she had with the height of the panels. Ms. Henke asserted that these solar farms will create many issues.

Edith Pratt commented that it is important to do things right the first time, but that it is good to adjust them if they are not right. She asserted that given the major loopholes in the ordinance, a moratorium should be called to address these issues, instead of having these meetings. She noted that having an acreage limits are a huge part of what should be in the ordinance, and that the Board needs to listen to the residents.

Mr. Kyler noted that his vote would be for zero solar farms.

Mr. Forsburg noted that at 3,760 acres, the Owens Creek Solar farm would be the third largest such facility in the United States. He commented as to why is so much land needed when the company admitted that they will get no more than twenty-five percent efficiency, made a number of comments about the deficiencies of solar power. He then commented that the 10,000-acre cap that the County Administrator proposed is an arbitrary number. Mr. Faivre responded that the reason for the listening session was to help develop a good number to use. Mr. Forsburg asserted that numbers being thrown out were unrealistic, and feels that the Committee just use the real number of acres being proposed. He noted that a 3,700-acre facility is far too big.

Mr. Tim commented that the massive size of the proposed facility makes answering these questions difficult, and added that looking at the actual need would be a better way to look at things.

Mr. Frieders commented that people need to remember that the Committee is dealing with an existing ordinance; and explained that the County had learned from past experience that if someone applies to the County for permission to do a project under an existing ordinance, and the County then disregards or goes against that ordinance, it leads to a lot of problems. He noted that County may tweak an ordinance, if needed, but not just disregard it.

Mr. Gregory reminded everyone that at the previous Committee meeting, which was held via Zoom, David Berault of the States Attorney Office discussed in detail the procedural processes commented on by Mr. Faivre and Mr. Frieders. Mr. Gregory summarized this discussion by explaining that the County cannot just change the applicable rules after someone has applied for a use under those rules. He added that the audio of that meeting is available online for anyone wishing to review it. He added that, at that same Committee meeting, 10,000-acres had been suggested when the subject of countywide total number of acres to be allowed occurred, but that this number had only been meant as a starting point for the conversation and that whatever number is chosen should be above whatever has been already applied for.

Mr. Frieders commented that, per the advice of the States Attorney Office, not accepting projects already in the works is a bad policy and can lead to bad consequences.

Mr. Forsburg inquired whether this meant that if Amazon submitted a completed application for a project occupying 50,000 acres and turned it in tomorrow, that the County would just accept it because the process is what it is or the top limit would be adjusted to include it. And, if it takes the County Board two months to act on a cap, and another 50,000-acre project also came in during that time, they would also be taken in. Mr. Frieders responded that he had spoken with Mr. Gregory about capping the maximum at 10,000 acres or less, but that is a decision the Board would have to make as a whole. Mr. Frieders noted that the next County Board meeting was in August. Mr.

Forsburg then inquired as to what the County was doing to discourage any further applications. Mr. Faivre responded that the 10,000-acre number was out there, on public record, and that the County Board would be addressing as soon as possible.

Ms. Henke inquired whether all this meant that the Special Use permit applications already submitted for the three solar farms were a done deal then. Mr. Hiland responded that it did not mean that, and explained how the special use process worked. Ms. Henke inquired whether other issues could be addressed at the public hearings. Mr. Hiland responded that her concerns could be brought up at the public hearing.

Mr. Burgweger inquired whether the size of the solar panels was taken into consideration at the time the solar ordinance was created.

Mr. Lyon noted that the applications are hundreds of papers in size, and wanted to know who was legally responsible to find all of the convoluted things in them, adding that he had already found some. He also inquired as to what would keep them from just arbitrarily adding another one hundred acres to the project if they wanted to. Mr. Hiland explained that when a Special use is approved by the County Board it contains specific details and exhibits regarding the project/use being approved, and such details are difficult to just change in the future. Adding that for the applicant to change any of these details, they would have to go through the whole special use process all over again to amend these details, and elaborated some examples of this process. Mr. Lyon inquired whether what was approved was what was in the application, asserting that there were conflicts within the application, or if only certain parts of it were approved. Mr. Hiland explained that special use ordinances are crafted by staff, not the applicant, reviewed by the States Attorney Office, and whatever items/elements are in those documents is what is codified part of County policy thereafter, and that what the developer would have to adhere to. He noted that any inconsistencies would be addressed at the purpose of the public hearing, and that County Staff and the County Board will be reviewing the material. Mr. Faivre noted that the only thing that matters is what the County Board passes. He added that part of the reason for having public hearings is so that members of the public can also review the material, if they wish, and point out any issues they see.

Mr. Tim inquired whether the acreage was defined as farmland in some way or can it be shared with a business. He also inquired whether the solar energy systems necessarily mean a solar farm. He asserted that there existed far superior technologies out there, and detailed some of them.

Mr. Plote related that he had been contacted by a constituent who was adamant that these solar farms be stopped as soon as possible, because of things coming, but the process is that those in line are expecting an increase in demand from local industries moving into the area. Mr. Plote noted that the person acknowledged that nobody knows what the total demand is, but that we can hold off until new technology is available.

John Craig (Mayfield Township) inquired whether the Committee was considering just limiting the total amount of acreage in the County or are they also considering limiting the total amount an individual project could have also. Mr. Faivre responded that the Committee had yet to decide on, noting that the Committee packet mentioned three possible caps: total acreage allowed countywide

by percentage of unincorporated land, total acreage per project, and total acreage cap. He added that any or all of these were possibilities.

Mr. Faivre asked Mr. Gregory what was the County's legal ability to put the breaks on future applications. Mr. Gregory responded that, per the States Attorney Office, if a project is already in the cue, the County cannot modify the ordinance in a way that would be in the direct detriment of that project, so creating a cap that would effectively cut one of those project down is not advisable. He added that given the concern that other developers may rush to submit applications prior to a cap being set, there was some urgency on the part of the County to get some sort of cap in place. Mr. Gregory suggested that the County could consider establishing an interim cap, with a provision that it be revisited in two years to re-evaluate whether the cap chosen was sufficient or if the number needed to be revised. He also noted that given the nature of the process the County has to follow, there was the potential that a developer could come in prior to a cap being put in place.

Mr. Roman asked Mr. Hiland if he knew the total acreage of unincorporated land in the County; to which Mr. Hiland said he did not know offhand. Mr. Roman noted that had estimated that there was approximately 403,840 total acres in the County, and then estimated that to come in anywhere close it was be 1.75% of the total land. Mr. Forsburg cautioned that this number would also be including non-tillable farmlands, and felt that number would be different. Mr. Greg Millburg, of the DeKalb County Farm Bureau, noted that the County was approximately 406,000 acres, with approximately 85% to 88% agriculture, thus about 355,000 acres of open land, though he could not say offhand how much of that was tillable land. Mr. Faivre agreed with Mr. Gregory's suggestion to come up with an interim limit, which could be revisited in two years, as soon as possible. He commented to the Committee that the question was how many of different classifications are to be included in that 10,000 acres. He then asked Mr. Hiland how many permits had been granted, in acres, as of today. Mr. Hiland responded that he did not know that information offhand, but noted that approximately fifty of the two-megawatt, community solar projects were approved by the County, of which seven were awarded by the State. He did not know the actual sizes of these projects offhand, but assuming each was the maximum twenty acres allowed, that would be approximately 140-acres had been permitted by the Board. He noted that of those, about half were under currently construction, but he was not sure were the others were in the construction process offhand. He then estimated that these plus the three application that had been submitted were probably around 6,500 acres.

Mr. Gregory then informed the Committee that some draft acreage cap language had been put together, and Mr. Hiland distributed copies of the draft language to the Committee members. Mr. Gregory went over the language with the Committee members. Mr. Faivre noted that given the notice put out for the special Committee meeting, the Committee would not be able to take action on the draft language, and it would have to be addressed at the next Committee meeting in August. Mr. Hiland suggested that the Committee could instead have a discussion of preference, which would entail no action being taken, and that the Executive Committee could take up the matter at its August meeting. The Executive Committee could then craft a resolution that could be forwarded to the County Board for action its August meeting. The Committee agreed to this approach.

Mr. Faivre noted that the cap would not include ancillary private uses.

Mr. Forsburg inquired as what the difference was between setting a cap and calling a moratorium, and commented that instead of using an arbitrary number like 10,000, the County should limit it to whatever the actual number of acres currently being or are proposed to be used. Mr. Gregory noted that the difference between calling a moratorium and setting a cap had been addressed at the last Committee meeting, gave a brief explanation of the difference. Mr. Gregory then elaborated more on the rules that the County Board had to operate under.

Mr. Frieders suggested making the cap 8,000 acres instead of 10,000, noting that the County Board could adjust that figure at any time, instead of waiting two years.

Mr. Forsburg asked that the Committee consider also implementing township specific caps. Mr. Faivre noted that the Board has never made a township specific ordinance. Ms. Henke suggested just capping the individual projects. Mr. Faivre explained that the language before the Committee at the moment would allow the Board to act to put a cap in place quickly, possibly before any other applications are submitted, while addressing a township cap or project cap could very well result in nothing being done until December as they work their way through these other suggestions. Mr. Frieders also noted that placing a cap on a particular project at this point would materially affect it, and possibly create legal issues for the County.

Mr. Forsburg voiced his concern about the amount of solar being proposed for Mayfield Township.

Mr. Gregory suggested that he could speak with the States Attorney Office regarding some of the other questions that had been raised, and they would bring that information to the Executive Committee meeting.

The Committee members agreed that draft language should be presented to the Executive Committee for further discussion.

Mr. Faivre noted that the upcoming Special Use hearings on August 10th are important, because then we will also get a chance to hear from the proponents, and hopefully get some answers to of the questions that had been raised.

ADJOURNMENT

Mr. Roman moved to adjourn the meeting, seconded by Mr. Frieders. A roll call vote was called, and the motion carried unanimously.

Respectfully submitted,

Steve Faivre
Chairman, Planning and Zoning Committee