

DeKalb County Government
Sycamore, Illinois

Planning and Zoning Committee Meeting
(June 23, 2021)

The Planning and Zoning Committee of the DeKalb County Board met virtually on June 23, 2021 at 6:30 pm via Zoom. In attendance were Committee Members: Tim Bagby, Steve Faivre, John Frieders, Jerry Osland, Roy Plote, Craig Roman, and Larry West, and Community Development Department staff: Derek Hiland and Marcellus Anderson. Also in attendance were: County Board members: Tim Hughes, Kathy Lampkins, and Dianne Leifheit; Brian Gregory, DeKalb County Administrator; David Berault, of the DeKalb County States Attorney Office; Greg Millburg, of the DeKalb County Farm Bureau; Katie Finlon, reporter for the DeKalb County Chronicle; Larry & Stephanie Forsberg; Brad Belanger; John Lyon; Tracy Jones; Mark & Alyson Cooley; Juanita Milton; Dan Kenney; John Craig; Barbara Retondo; Joseph Totman; Bernie Harris; Megan Sippel; Michael Lanan; Kevin Adelman; Tom Geiske; Rhonda Henke; Theresa Gillespie; and, Jim Hutcheson.

CALL TO ORDER / ROLL CALL

Mr. Faivre, Planning and Zoning Committee Chair, called the meeting to order. Due to internet connection issues, Mr. Osland was able to view the meeting, but was unable to participate in the meeting.

APPROVAL OF AGENDA

Mr. Plote moved to approve the agenda, seconded by Mr. Roman. A roll call vote was called, and the motion carried unanimously.

APPROVAL OF MINUTES

Mr. Frieders moved to approve of the minutes of the May 26, 2021, seconded by Mr. West, A roll call vote was called, and the motion carried unanimously.

PUBLIC COMMENTS

Brad Belanger, speaking for Concerned Citizens for DeKalb County, expressed their concerns regarding the industrial solar ordinance. He noted that they had sent the Committee members a list of their concerns on Monday, and that they had sent out an updated version of the list the day of the Committee meeting. He gave a brief rundown of the major concerns that were listed in their communication, and asked that the County work with the residents to develop a safe solar ordinance.

Mr. Forsberg noted that he had sent in a memo listing his concerns. He opined that when the County Board considered the current solar ordinance, they were focused mainly on the smaller

facilities and had not considered facilities the size of the ones being proposed. He noted that his biggest concern was the amount of agricultural land removed from production.

John Lyon noted that he had attended the Planning and Zoning meeting held when they developed the current solar ordinance. He noted that developing it was a learning experience, adding that the lessons learned during those discussions resulted in a much more comprehensive wind ordinance. He expressed his belief that the solar ordinance needed to be revisited to bring it more inline with the wind ordinance.

Joseph Totman noted that he lived in Clare, and that although he was the Mayfield Township Supervisor, he was only speaking for himself, and not for the township. He noted that he was very concerned about the dimensions of the Owens Creek project, in particular highlighting his concerns about the potential for damage to the township roads that could occur during the construction of the facility, and questioning where the funds to repair that damage would come from.

Barbara Retondo reported that she was a nursery owner, and noted the potential for tornados in the area. She expressed her concerns regarding that potential wind or hail damage to the panels could result in toxic chemicals leeching into the ground, the Kishwaukee River, and private wells. She asked that a complete ecological study be done before the facility is approved. She also noted that the panels only had a shelf life of about twenty years, and asked about how and where the panels, which she believes would be considered toxic waste, would be disposed. She expressed her concerns about the herbicides to be used to control weed growth under the panels, asking whether such applications could kill the soil, or potentially wash down into the Kishwaukee River and contaminate local communities.

Megan Sippel reported that she, her husband, and their children lived in Clare, and gave a little bit of the history of how her family came to live there. She explained that they had recently suffered a house fire, and that they were concerned about rebuilding in an area that would soon be surrounded by 3,700 acres of fifteen (15) foot tall solar panels. She asked the Committee to vote no on the solar farm.

Stephanie Forsburg expressed similar concerns to Ms. Retondo, and questioned what efforts would be taken to protect the farmland and communities from the hazardous wastes and toxins.

Mr. Faivre informed the attendees that public hearings will be held concerning the projects that had submitted special use petitions, and that notification would be sent out announcing the time and place of the hearings.

Mr. Totman asked, if Leeward had submitted its application for the Owens Creek Project, would that application be subject to the ordinance currently in place. Mr. Faivre confirmed that was correct. Mr. Totman then commented that the Owens Creek project appeared to be a done deal then, and that what was being talked about was for solely for future projects. Mr. Faivre explained that should the County Board decide to amend the solar ordinance, those changes would not apply to any projects currently in the pipeline at that time, but to applications received subsequent to that change.

Mr. Faivre noted that some of the issues brought up by the speakers would be addressed at the public hearing for the project, and encouraged the attendees to attend that public hearing.

Mr. Frieders inquired as to whether the public hearings would be: conducted via zoom or in person; would they be held in the evening; and, would they be held in a larger forum. Mr. Hiland explained that there were still unknowns at that time, and that much depended on whether the Governor's order allowing for public hearings to occur via Zoom was extended or not. He noted that staff would explore all of the options available, adding that if the hearings are held in person, a larger than normal venue would be chosen, but that nothing had been scheduled as yet.

OLD BUSINESS

None

NEW BUSINESS - Special Use Permit: SA-21-05 – Arneson Oil

Mr. Hiland reported that Arneson Oil was seeking a Map Amendment for their property located at 100 Gletty Road, Sandwich, which currently contained an automotive center. He explained that Arneson Oil also owned a propane business in Sheridan, Illinois, and wished to co-locate a 30,000-gallon propane storage tank on the Gletty Road property. Mr. Hiland explained that to have both uses on the property would require that the property be rezoned from BC, Business Conservation District to PD-I, Planned Development – Industrial. He noted that a public hearing was held on May 13th, and that Hearing Officer had forwarded his recommendation and Findings of Fact that the petition be approved with conditions.

Mr. Frieders moved to recommend approval of the Map Amendment, with conditions, seconded by Mr. Plote.

Mr. Hiland presented the concept plan for placement for the proposed storage tank. He then elaborated on concerns expressed at the public hearing by the County Engineer.

Mr. Plote inquired whether Gletty Road would be upgraded to allow to 80,000 lbs. for one-way only, or both ways. Tom Geiske, representing Arneson Oil, responded that they had decided that instead of upgrading Gletty Road, they would just keep under the weight limits, and elaborated on their plans how they would go about doing so. Mr. Frieders asked if that meant that they would not be hauling fuel into the tank when the road is posted, and just use the smaller delivery trucks to haul fuel out. Mr. Geiske responded that was correct.

A roll call vote was called to recommend approval of the petition, and the motion was carried unanimously.

OTHER BUSINESS – Discussion of DeKalb County Solar Energy System Ordinance

Mr. Hiland reported that at the June 9th Committee of the Whole meeting, Chairman Frieders directed the Planning and Zoning Committee to review the current solar energy system ordinance,

with the idea of considering whether to adopt a “solar cap”, that is the creation of language that would limit the total acreage of land in the County devoted to commercial solar farms. He noted that in his memo to the Committee, he presented three methods that could be used to achieve this goal if the County Board was inclined to adopt such language: Total acreage allowed Countywide by percentage of unincorporated area; total acreage allowed per project; and, a total acreage cap.

Mr. West noted that it had been pointed out that the County Board could not make any changes once a submittal had been done and inquired whether there were any submittals. Mr. Hiland responded that staff had received applications that week, but that they had yet to begin processing the applications, noting that the hearings had yet to be scheduled. Mr. West inquired whether this meant that no changes could be made to the current ordinance, since applications were now in. Mr. Faivre explained that the County Board could make changes, but that those changes could not be applied to applications already in process, only future ones. Mr. West noted that he felt that many of the concerns that had been raised were valid and the County Board should be looking into reviewing more than just a potential cap.

Mr. Frieders noted that the County Board needed to get a serious legal opinion on how much they could affect solar projects that have already been submitted. He noted that any cap could be on future projects, but the County could not apply these changes to companies that had already committed a serious amount of work towards applying in DeKalb County. Mr. West questioned whether work prior to an application counted. David Berault, of the States Attorney Office, noted that he did not have all of the background information that the others had, however, he could say making changes when someone has already submitted an application is a no go. He added that regarding changing an ordinance after someone has said they are going to apply for X from you, that was a legal grey area that was not well defined. He would not however recommend changing an ordinance if we had in mind a particular project that they were changing it to affect. Mr. West asked whether that meant that everything going forward would be affected then. Mr. Faivre noted that applicants are required to go through other steps that the County requires prior to submitting the application and questioned affecting projects in the process of completing those steps.

Mr. Frieders noted that he was ok with reworking the ordinance and with setting a cap. He then threw out 10,000 acres, as a figure to start the conversation, and added that if the County Board wanted to set a cap for moving forward, he was fine with that. However, he was concerned about affecting those projects that were already submitted and cautioned the Committee to be careful of setting themselves up for legal issues.

Mr. West noted that the discussion should not just be about a cap, but should include addressing the other issues brought up by the citizens.

Mr. Faivre encouraged people to read the ordinance, noting that many of the issues raised were already covered in the current ordinance. Mr. Frieders added that the State also has a number of requirements that also address some of the concerns mentioned. Mr. West expressed his concern that the State regulations could change.

Mr. Frieders noted that he did not want solar companies to push the County around, and that if the ordinance needed tweaking, then it should be done.

Mr. Plote commented that he had been asked whether the townships could limit the number of acres devoted to commercial solar in their township. Mr. Hiland explained that in DeKalb County, townships do not have a zoning ordinance, and that they would operate through the County Board. It was also noted that different counties operate differently, so people who were hearing from residents in other counties that the township should be able to take certain actions, were not necessarily correct.

Mr. Hiland noted that Mr. Frieders had suggested 10,000 as a starting point for discussion. He added that the discussion had been sent to Committee to see if the County Board wanted to implement a threshold limit of developable land dedicated to solar energy in DeKalb County. He noted that the Board could also differentiate between residential solar projects and commercial solar projects, which would include community solar and industrial scale solar. He then elaborated on the steps the County could take to address the issue.

Mr. Hiland asked whether 10,000 acres is the number the Committee wished to use, noted that he had also presented using percentages as another possibility. Mr. West noted that if 10,000 was used, what if all that acreage came into one township, and asked whether they should consider setting a limit on the amount that could go in each township. Mr. Faivre noted that this was a good point, but that this matter should be taken to a public meeting so that they could get a pretty broad input on the issue. Mr. West commented that he felt setting township limits would help spread these projects out, so as to keep one township from having to take the majority share of the projects.

Brian Gregory, the DeKalb County Administrator, recommended that whatever number was chosen, that they should also add a clause that it be reviewed in a proscriptive amount of time, say for instance two years, so that the Board can review the limit to adjust it as necessary.

Mr. West noted that he liked the idea of a public hearing, but expressed his concern that if it was scheduled too far out, then more applications could come in before anything was addressed. Mr. Faivre noted that the proposed meeting should be able to happen within the next two months. Mr. West noted that if the word about the proposed change got out, then companies may rush in their applications, and then the Board would have lost the chance to effectively implement the change. Mr. Faivre expressed his concern that if anyone had made an application to any of the other entities they are required to go through before submitting an application, that legally it may count as them having submitted an application to the County. Mr. Berault talked about potential liabilities but noted that he could not confirm Mr. Faivre's comment at that time. He did recommend that the safest route would be to limit any changes to the ordinance to future projects. The Committee and Mr. Berault then discussed possible scenarios and the potential liabilities.

Mr. Faivre recommended that a hearing should be held to revise the solar ordinance. Mr. Frieders noted his concerns that setting a moratorium would be an issue.

Mr. Plote inquired whether they could limit industrial solar separate from community solar, or would they have to be lumped together. Mr. Hiland elaborated on the differences between how the State and the County distinguished the different types of solar projects.

Mr. Hiland reminded the Committee that Solar Farms had been identified as special uses, and as such, each is looked at individually, uniquely, to see how the project blends with the fabric of the area, and that the County Board can place additional requirements on these projects. Such conditions needing to make sense and be defensible. Mr. Hiland reminded the Committee and the Attendees that these projects are not a permitted by-right use, and the applicants could not just submit a building permit and then go build it. Mr. Faivre noted that most applicants had been cooperative and community oriented. He noted that he agreed with Mr. Hiland, and asserted that the hearing will be important. Mr. Faivre reiterated that he felt a special hearing was needed to hear from the community on the issue. Mr. West agreed that the proposed hearing needed to occur sooner rather than later. Mr. Hiland noted that he would look into possible dates for the meeting.

Mr. Gregory recommended that if the Committee was considering establishing a cap, especially a lower one, that the cap not go into play until January 1, 2022, which would give a reasonable amount of time for any applications currently in the queue.

Mr. Faivre noted that he wanted to have a hearing set up to discuss the cap and possibly other related issues. Mr. Hiland responded that he would get it set up, but the meeting would still have to meet state scheduling requirements.

OTHER BUSINESS – Google Maps

Mr. Hiland shared with the Committee that DSATs (DeKalb – Sycamore Area Transportation Study) had recently acquired the equipment and were in the process of mapping out areas for Google Maps. He talked about how useful of Google Maps are to the County. He informed the Committee that the Community Development Department was making plans to work with the County Highway Department to attach the equipment to County vehicles to get up-to-date maps of the roadways in DeKalb County.

ADJOURNMENT

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

Respectfully submitted,

Steve Faivre
Chairman, Planning and Zoning Committee

MOA:moa
P:\Zoning\P&ZCommittee\Minutes\2021\06-23-21 PZ minutes.docx