

CHAUTAUQUA COUNTY AGRICULTURE & FARMLAND PROTECTION BOARD MINUTES

Zoom

October 7, 2020

PRESENT: Brian Aldrich, Steve Kimball, Dan Steward, Fred Crosut, Dennis Rak, Lisa Kempisty, Jim Joy

ABSENT: Jay Gould, Heather Woodis

OTHERS: Matt Bourke, Melissa Keller, Brendan Cullen

Administration / Organization

MINUTES	Chairperson Kimball called the meeting to order. Chairperson Kimball motioned to approve the minutes of the March 2019 Agriculture and Farmland Protection Board (“Board”) meeting. Dennis Rak made a motion to approve the minutes. The motion was seconded by Fred Crosut and was approved by unanimous consent.
CORRESP.	Melissa Keller: We did receive a letter from Ag. & Markets confirming that they received our letter in response to the NCCWD NOI we reviewed last December.
PRIVILEGE OF FLOOR	None.

NEW BUSINESS

Abundant Solar NOI	<p>Melissa Keller: This NOI is for a 3.25MW solar project in the Town of Portland. The intent is to install ground mounted panels on about a 25 acre property. The property was formerly a vineyard, but has since been abandoned according to the applicant. The primary features of the project include the ground mounted panels, a gravel access road, installation of a chain-link fence, concrete equipment pads, and buried electrical lines. The project plans to remove the overgrown vineyards and use about 23 acres of the lot. They do note that they majority of the land is prime soil if drained. They also note that about 92% of the property is poorly drained. Through the NOI process, the applicant is asked if there are adverse agricultural effects that are unavoidable with the continuation of the project, and if the project will spur additional development on farmland. The applicant notes that they will be taking over the remaining capacity of the Electrical grid in the area, so further development is unlikely. The applicant states that they will be following Ag. & Markets Guidelines for Agricultural Mitigation. However, we can emphasize this again in our letter. They also note in their decommissioning plan that they will return the site to its original state, to the extent that they are able, after the life of the project is over.</p> <p>Fred Crosut: Something that’s been brought up with the South Ripley project is the concern of battery impacts on the soil. They claim that if the batteries or panels were to explode, it would pollute the soil. Do we know if that’s true? Should we be concerned about soil contamination with these projects? My other question is, should we be concerned about runoff? Lastly, if the land is leased are the owners of the property going to be partially responsible for any remediation?</p> <p>Dennis Rak: I don’t believe that this project has any battery storage on it, it will go directly into the grid. In another solar meeting I was at, runoff was not deemed to be an issue. We are putting in panels, but there will be the same amount of ground area.</p>
---------------------------	--

**Abundant
Solar NOI**

Jim Joy: Speaking on the runoff from the panels, this was discussed at the Lake Erie Water Commission. It was viewed by the watershed people almost as if you're placing a roof over the land. It will direct a lot of water to one area when it rains. In theory, the ground would absorb it, however, you're taking a broad area and narrowing the runoff to a smaller area which would not absorb as quickly. It may be more than a theory than a concern, but we wouldn't want to wait to after the fact to know if it causes issues like flooding. Good questions, I don't know if we have an answer.

Dennis Rak: I would think there would be enough project now that we would be able to have seen the types of impacts this would cause. These panels aren't that large, I'm reluctant to liken it to a roof. In my mind, I wouldn't think it would cause a problem but the answer would have to be out there.

Melissa Keller: We can recommend that the runoff question investigated before the project moves forward.

Dan Steward: You are concentrating the runoff onto a smaller area and it probably won't absorb as quickly. I would think that specialists, such as NRCS, would be able to model that.

Fred Crosut: One other item I wanted to bring attention to was Section D of the Decommissioning Plan. It says that the owner/operator shall purchase a decommissioning bond. I'd hate to see our farmers be held responsible for that. In this case, the company owns that land. This might be a question down the road in the case that the land is leased from the owner.

Dan Steward: I have a question on the bonding schedule. It says it is renewable annually. What happens if the company goes bankrupt, in say, year 5? Does that mean it's no longer covered for the remaining years? Or do you buy a bond for a period of 25 years?

Jim Joy: I would hope that it would be for the duration of the project. That might be a town level issue in how they set it up.

Dan Steward: I hear that some of these companies go in to get the benefit and then go bankrupt. If they don't pay for it up front, who is responsible for it? Is it still covered by the bond? Does it become the landowner's responsibility?

Matt Bourke: That's a really good, I don't know the answer but we'd like to look into this for other projects down the road.

Dan Steward: Another question I had is how the agriculture value assessment works on projects like this. If that land had be in ag. assessment program for a number of years and it's being taken out of production because of these solar panels, does the property owner have to pay that conversion fee or pay that back? How does that work? Is it even taken out of the program in that instance?

<p>Abundant Solar NOI</p>	<p>Melissa Keller: Unfortunately, we do not yet have a Real Property Tax Director replacement on the Board, they would be able to answer that question. We can look into that and see if we can get you an answer.</p> <p>Steve Kimball: My understanding is they only go back eight years for the ag. assessment and that corresponds with the eight year review for the ag. districts.</p> <p>Lisa Kempisty: According to NY's website, there is a payment for conversion. The payment will be equal to five times the taxes saved in the most recent year that the land received an agricultural assessment. In addition, interest of 6 percent per year compounded annually will be added to the payment amount for each year that the land received an agricultural assessment, not exceeding five years.</p> <p>Steve Kimball: That money then would go to the Town and County as regular income from taxes, right? Where would that money go to?</p> <p>Dennis Rak: I would think so.</p> <p>Melissa Keller: For our response, we'll add investigating the run-off question. For future projects, we'll look into how battery storage is dealt with. Is that everything?</p> <p>Jim Joy: I'll make a motion to approve the letter with that additional comment.</p> <p>Fred Croscut seconded the motion and it was passed unanimously.</p>
----------------------------------	---

OLD BUSINESS

<p>Agricultural Districts Update</p>	<p>Brendan Cullen: We are looking at resuming the ag. district review. I've reviewed the process and the related laws and have begun to work out the process. We currently have nine districts in the County, and they are all out of compliance. Back in 2015 there was a consolidation plan to merge these districts into four districts. This was passed by the County Legislature. The upcoming review will be both the consolidation and the eight year review. The Department will prepare a report for the Board and that report will include a summary of agriculture in the district that is being reviewed and proposed changes to the boundaries of the district. The Board will review the report and give recommendations on the modification of the district to the County Legislature. The Legislature will then hold a public hearing. Based on public response, the Legislature will either approve or deny the resolution. If passed, the resolution is then sent to NYSDAM for certification. In the past, we've held ad hoc meetings for the review process. In speaking with the State, this is not the typical process. Most other counties have a standard form called the Agricultural District Worksheet that asks for the landowner's name and address, if they're renting or owning the land, if they are a part-time or full-time farmer, and similar questions. It asks if there are any parcels the landowner would like removed from the program. In speaking to Don about this, we want to be hesitating about removing lands from the program, as it is a way to protect and conserve farmland. I think that this form would be a good way to solicit the comments and information we're looking for. We think that using a form such as this would be a good way to streamline the process. Are there any questions?</p>
---	--

<p>Agricultural Districts Update</p>	<p>Steve Kimball: I think at the time we were discussing the consolidation, we had planned to have the reviews staggered. Is that still in the plan?</p> <p>Brendan Cullen: Yes. We'd like to get these districts up to date and consolidated as quickly and efficiently as possible. Once the consolidation is complete, there will be a review every two years.</p> <p>Steve Kimball: We'll need to let people know this is coming in advance. I'm assuming you have a plan to field inquiries and get information out to people.</p> <p>Brendan Cullen: Yes, that is a good idea. We put a note in the CCE newsletter. As the process evolves, we'll work on ways to keep people involved.</p> <p>Steve Kimball: I'm thinking of the rural non-ag landowners that may have questions. The farmers will naturally contact extension, but others will need to get the information somehow.</p>
<p>Farmland Protection Plan</p>	<p>Melissa Keller: Last we spoke to you all, we were going through the RFP process to select a consultant. Things have been a little delayed due to COVID, but we have selected a consultant, ACDS. They have worked on farmland protection throughout the state and the nation. They are excited to think out of the box with this plan and we're excited to have them on board. The first step in this process is to have a kickoff meeting to bring our partners up to speed and discuss the planning process. We've set a date for November 5th. The format will be a hybrid meeting. We'll have a physical location with proper safety measures and will also stream the meeting via Zoom for those unable to attend. We're still working out some of those details but will keep you up to date as we move forward.</p>
<p>OTHER</p>	
<p>Empire State Brands</p>	<p>Dan Steward: Before we adjourn, do we know what the status of the hops and barley project is?</p> <p>Melissa Keller: We haven't heard too many updates on our end. They did do a feasibility study and shared the executive summary with us.</p>
<p>Empire State Brands</p>	<p>Matt Bourke: I think the project did receive funding through the State's CFA process. I don't think that's new information but that is the latest I've heard.</p>
<p>ADJOURNMENT</p>	
	<p>Fred Crocut made a motion to adjourn the meeting. The motion was seconded by Dan Steward and passed unanimously</p>