

TOWN OF JACKSON
JOINT PLANNING & TOWN BOARD MEETING
November 28, 2022

The Town of Jackson Planning & Town Boards held a Joint meeting to discuss the Solar Law draft on November 28, 2022 at the Town Hall at 7:00 pm with the following members present:

Planning Board Members:

Amy Maxwell, Chairman
Kelly Donahue
Irene Headwell
Mark Mahoney
Steve Chuhta [7:06 pm]
Erik Vandenberg
Tim Thomas

Town Board Members:

Supervisor Jay Skellie
Councilwoman Jennifer VanDeWater
Councilman Travis Rea
Councilwoman Carol Rich
Councilman Edward Rouse [7:30 pm]

Others Present:

Ted Berndt
Sharon Dunn

Supervisor Jay Skellie opened the meeting at 7:02 pm and asked that all Town and Planning Board members introduce themselves. After introductions were made, Planning Board Chair Amy Maxwell prefaced the discussion by opting to go page by page so any thoughts and ideas on the Solar Law draft can be decisively presented. Prior to the meeting, both Planning and Town Board members received copies of the Solar Law draft and prepared different points to go over.

The following numbers represent the pages of the Solar Law draft that were discussed:

1. The Board discussed Section 2.A. Purpose and Intent. Town Board member Travis Rea mentioned our duty to protect the interests of farming in the community as there have been concerns throughout the state of solar taking over valuable agricultural land.
[Steve arrives at 7:06 pm]
Planning Board member Mark Mahoney questioned the Town's right to make the law more constrictive. Chair Maxwell pointed out that the intent of the law is to protect and steer solar in the right direction for the Town of Jackson.
2. Planning Board member Steve Chuhta referenced Section 3.A. Definitions. He pointed out that farmland in the Town of Jackson might not fit with the current definition of Designated Farmland and may need to be revised.
3. Town Board member Jennifer VanDeWater questioned the definition of Native Perennial Vegetation and its purpose in the law. Steve said that this references the state of which we want land to return to after decommissioning.
4. More definitions, the Boards had no comment.
5. Steve referenced Section 5.A. Application and the non-refundable fee of \$10,000.00, a figure that he rallied for as to weed out any non-serious applicants and to help benefit the Town throughout the lengthy process of site plan review. This fee is solely a cost for time and energy,

and does not go towards legal fees for the Town. Money for legal fees can be put separately into an escrow account by the applicant. Supervisor Skellie referenced Section 5.A.(5) and stated that the Town does not have a Stormwater Management Officer so this point should be removed to designate acceptance of the SWPPP exclusively to the State Department of Environmental Conservation.

6. More application procedures, neither Boards had comment on this page.
7. The Boards discussed Section 6. Standards for USSEFS (Utility Scale Solar Energy Facilities). Mark Mahoney said that a lot of the standards were set based off of the Planning Board's proceedings with Borrego Solar (now under New Leaf Energy). Planning Board member Kelly Donahue pointed out that the Conditions of Approval will be how the Town can add to each individual project. After looking at Section 6.A.2. Lot Coverage, the Planning Board informed the Town Board of their struggle to keep a balance between landowner privilege and the rights of the Town when it came to the percentage of lot coverage used by solar. Steve added that there was no exact formula when deciding this number and many variables to consider.

[Ed arrives at 7:30 pm]

Supervisor Skellie pointed out Section 6.A.3. and 4. Setbacks and Buffer/screening. He questioned where the setback and buffer would begin. Mark Mahoney said that the buffer would begin in the center of the road and the setback would begin at the property line. The difference between the two can be added in the definitions. The Boards agreed that 100 ft for each would be sufficient.

8. Continuing on Section 6., Steve said little land in the Town was classified as "Prime" farmland by the state. Jay referenced Section 6.B.2. and affirmed that there would be no building inspector for the Town.
9. In Section 7. Decommissioning, Steve voiced his concern over the word "generated" as opposed to "sold" in reference to ceasing the production of electricity over a 6-month period, which would trigger the decommissioning of the USSEF. Planning Board member Erik Vandenberg questioned how the Town would know if the company had sold electricity, it would have to be through an honor system. Mark added that this could be added as a 6-month inspection. Jay continued on this thought by suggesting a yearly energy output report. Chair Maxwell said she will take this back to Attorney Terresa Bakner for thoughts.
10. Drawing attention to Section 7.3.k., Steve expressed concern over the notion that the Town "may" provide funds if decommissioning security is insufficient. He does not want to leave any room for the company to expect the Town to cover their expenses. All Board members agreed the paragraph should be rewritten to take out the Town's responsibility to pay for decommissioning, but keep the Town's authority to levy the taxes of the property if funds were insufficient.
11. Erik pointed out that the definition of 'Conditions of Approval' should be added to Section 4. Definitions. Referencing Section 9.A.1., Supervisor Skellie asked what happens with any leftover bond money provided by the company. Chair Maxwell stated that it would be in the company's interest to pay for the decommissioning and if they did not, the Town would have to pay through the bond and then retain any leftover funds.

12. The Boards acknowledged the amount of general liability insurance required for the operator of the USSEF, at no less than 5 million dollars. Chair Maxwell pointed out that this figure was in many other laws that were reviewed throughout the process of creating the draft. Mark commented that this amount should be renegotiated at the 5-year anniversary of the USSEF project, so the Town has the option to review.

Having reviewed all 12 pages of the draft, Supervisor Skellie welcomed the residents in attendance to comment. Resident Ted Berndt questioned whether there was any provision in the draft on rooftop solar. The Board commented that the law does not apply to residential solar and there were no specific provisions in the draft regarding it. Mr. Berndt then questioned when a copy of the Solar Law draft would be available. After discussion, the two Boards inferred that an official draft would most likely be available before the public hearing in January, pending legal review. Resident Sharon Dunn spoke at this time to ask about the size of invertors for projects as well as lighting provisions in security. Mark Mahoney stated that the facilities would most likely use whatever size inverter works most efficiently and that there were lighting provisions in the conditions of approval for the Jackson Solar 1, LLC project. Ms. Dunn also questioned whether or not there would be penalties for companies breaching their conditions of approval, such as not informing the Town of the change or transfer of ownership of said company. Amy said she will take this question back to Terresa Bakner.

The meeting adjourned at 8:49 p.m.

Respectfully submitted,

Molly Dixson
Town Clerk/Planning Board Clerk