

**TOWN OF JACKSON
PLANNING BOARD MEETING
JANUARY 19, 2021**

The Town of Jackson Planning Board met on January 19, 2021 at 6 pm at the Town of Jackson town Hall. The following people were in attendance-

Board Members:

- Amy Maxwell
- Mark Mahoney
- Irene Headwell
- Nick Rowland
- Steven Chuhta
- Kelly Donahue
- John Tully

Others Present:

- Town Clerk, Tammy Skellie-Gilbert
- ReJean DeVeux (GoTo)
- Adam Fishel (GoTo)
- Steve Long
- Steve LeFevre

Minutes

A motion was made by John Tully, seconded by Nick Rowland to approve the December 1, 2020 meeting minutes as written. Motion carried in favor 5-0. Steven Chuhta and Kelley Donahue abstained as they were not part of the board at that time.

A motion was made by Mark Mahoney, seconded by John Tully to approve the December 15, 2020 meeting minutes as amended. Motion carried in favor 7-0.

A motion was made by Nick Rowland, seconded by Steven Chuhta to approve the January 5, 2021 minutes as written. Motion carried 7-0.

PAULINE LAPOINT/BORREGO SOLAR

The planning board began with discussing the Decommissioning agreement. A copy of the Decommissioning agreement is on file at the town hall. Mark Mahoney pointed out that the Decommissioning agreement and Lease agreement has Larry Lapoint listed, however Mr. Lapoint is now deceased. ReJean DeVeux stated that Mr. Lapoint passed away after he had signed the lease. Steven Chuhta questioned if the lease is still valid with Mr. Lapoint still listed.

Steve LeFevre said that he will take any questions about the legality of it to the attorney. Steve Long said in that case they would typically make an amendment to the lease.

Chair Maxwell said that wording needs to be changed from “Borrego Solar” as the project company to “Jackson Solar 1, LLC.” Mark Mahoney suggested some of the wording in the decommissioning agreement be changed under paragraph 1. Wording should be changed where it states “building permit” because a building permit is not required. Mr. LeFevre suggested to change it to “site plan approval”. Mahoney also said that where it is stated “letter of credit or bond” it should be one or the other, not have them both listed.

Chair Maxwell suggested that in paragraph 3 (a) it should state notice to proceed in place of “building permit”. Chuhta questioned when the town can or needs to use the decommissioning bond. Mr. LeFevre clarified that paragraph 3 says that if the current owner of the project does not complete the decommissioning as stated in the agreement, the town can hire a contractor and pay from the decommissioning bond if the owner does not respond to the Town Decommissioning Notice or decommissioning is not completed within six months after a triggering event. Chuhta stated that in paragraph 3 it says “in good faith attempting to remedy” to fix an issue before town steps in. How many attempts will we allow the project operator? Nick Rowland suggested we place a specific time frame and number of attempts allowed by the operator to fix and issue. Mr. LeFevre said that the lawyer can make changes to clarify those issues.

Mahoney asked that a pollution clause be placed in paragraph 4 to cover any issues that may arise in the future.

Mahoney questioned the control of the bond. Mr. LeFevre said that what is stated in paragraph 6 protects the town. Chair Maxwell asked if the lease is sold will the new lease holders have to come to the board to do another bond agreement. Mr. LeFevre said that the bond agreement is all part of the lease. Mr. Long said that the company, which will be named Jackson Solar 1, LLC, will own the lease and any sales of the company will carry all lease and decommissioning agreements. If the new owner wishes to change any part of the lease or decommissioning agreement they will have to come before the planning board for approval of the changes.

Chair Maxwell asked how the town would know who the owners are if there is a sale and if they have the proper insurance for the project. Mr. LeFevre said it is stated in paragraph 7 that the operator must provide the town with proof of insurance coverage.

Mahoney and Chuhta both questioned how the town can be sure that all conditions are still being met even if there is a change in ownership. Both Mr. Long and Mr. DeVeux stated that The Decommissioning agreement will read Jackson Solar 1, LLC and if someone buys the project

they are buying the LLC and all rights, conditions and obligations stay with the LLC no matter who the owner is.

Chuhta expressed concern about making sure the LLC will stay in place and not be buried under another business name. He suggested the board get clarification from the lawyer and have some assurance.

Kelly Donahue questioned what would happen if the LLC were to declare bankruptcy. Mr. LeFevre said that is where the decommissioning bond kicks in and the town can access the money for decommissioning.

Mahoney suggested that the Decommissioning agreement have some sort of schedule and time line for decommissioning. Rowland pointed out that the decommissioning estimate gives man hours but not a time frame. He believes it is crucial to have a time frame to have the decommissioning completed.

Tammy Skellie-Gilbert said the agreement should include the phone number and email of the town clerk as well as the property owners phone number and/or email.

Mahoney questioned if the Planning Board has the authority to give the notice to proceed for the project or if the Town Board has to give the approval, as the agreement is between Jackson Solar 1, LLC and The Town of Jackson. Irene Headwell stated that in her opinion the town board has more authority because they are elected officials, where as the planning board are appointed positions. Skellie-Gilbert said that the town Site Plan Review law states the Planning Board has the authority to approve any site plan review. Rowland suggested the planning board still approach the Town Board to see if they want final say on the project. Chair Maxwell said she would speak with the Town Supervisor to get clarification.

The planning board reviewed the draft for the Conditions of Site Plan Approval written by Steve LeFevre, which is on file in the town hall. It was stated that any where in the document where it says applicant, it should read operator. In letter b it should not list "Bond or Letter of Credit", it should only list one. There should also be listed separately for the decommissioning bond and the O&M bond.

Letter c should read only arborist and there should be clarification on who is responsible for the cost for the landscape inspections. Donahue questioned why the landscaping would only be inspected for the first five years. Mr. LeFevre stated that after five years all the plants and trees should be established.

Letter g should state "upon completion of construction". Rowland said that it should also be stated that the board have a report on the discussed procedures and kept on file with the town.

Letter h should read “by Board and attorneys”.

Letter i should include “escrow agreement & escrow fund”. Chuta questioned if the bond amount of \$10,000 would be enough. Mr. LeFevre said the amount could be changed to \$15,000 if the board is more comfortable with that. Mahoney stated that Letter k should be included under letter i. Mr. Fishel stated that the wildlife friendly fence is also written right on the plans and in the maps. Mr. LeFevre suggested that letter k be taken off completely. It was suggested that letter i be included under letter b.

Letter m should say “agreed” in place of “stated”. Rowland suggested that where it says “any such expansion...” should start a new section. Donahue said that it should also read “operator, Planning Board and Town Board review and approval”.

Chair Maxwell suggested that under letter p it should state “the operator must agree to address the complaints”. Mr. LeFevre also stated that the end of the paragraph could read “to the satisfaction of the town and the panels causing glare will cease operation until mitigation is implemented”. Donahue asked about glare issues with any neighbors affected. Mr. LeFevre said he could word it “onto the public roadways and affected land owners”.

Letter q should state that the operator has to submit as built drawings. Mr. LeFevre also suggested to change the wording and say “certified engineer hired by the operator”.

Mahoney stated that there should be a paragraph for O&M and list the bond for O&M be approved by the Town Board and the attorney.

Donahue questioned about lighting and sound issues. Mr. Long said that there is only lighting on the work pads and they will be motion detection lights and if there are any sound issues then some kind of wall can be put up around the work pads. Mr. LeFevre said he can add a paragraph addressing any lighting or sound issues and state that “any light or noise complaints must be addressed by the operator with in three weeks or a time agreed to by the town”.

Mrs. Skellie-Gilbert asked about the well water inspection for the residence on the property. Chair Maxwell suggested that there be a pre and post construction test done for both quality and quantity. Chuhta also suggested it be done by a certified lab. It should also be stated that it be paid for by the operator and the town receive documentation when it is done. Mr. LeFevre suggested it also say that if the water is bad post construction that the operator must put in a new well.

Next meeting the planning board will discuss part 2 of the SEQ. Mr. LeFevre said when doing part 2 the board should take into account public input, input from agencies, drawings, and

information from part 1. There is no time limit between completing part 2 and part 3. Once they are done the Planning Board can continue on to decide on final approval.

The public hearing remains open until February 9, 2021.

Donahue made a motion to have the next meeting at 6 pm, seconded by Tully. Motion carried 7-0.

Next Meeting: Tuesday, February 2, 2021 @ 6 pm

Adjourned: @ 8:56 pm

Respectfully submitted,

Victoria Ruggles

Town of Jackson, Planning Board Clerk