

**McLEOD COUNTY
PLANNING ADVISORY COMMISSION
MEETING MINUTES
January 22, 2020**

1. CALL TO ORDER:

The regular meeting of the McLeod County Planning Advisory Commission was called to order at 9:30 AM by Chairman Larry Phillips at the McLeod County Environmental Service Center Large Conference Room. Members present were Larry Phillips, Paul Merkins, Charles Hausladen, Commissioner Rich Pohlmeier and David Hoernemann. Also present were Marc Telecky, Environmental Services Director and Sandra Posusta, Secretary.

Others present: Ronald Vorlicek, Richard L Swanson, Attorney at Law, Francis Burch, Bergen Township, Jill Pevestorf, Ron Blazinski, Ron Mickolich, Hale Township, Dale Klaustermeier, Cindy Klaustermeier, Joel Zellmann, Lisa Zellmann, Robert Anderson, Hassan Valley Township, Tammy Stifter, Hale Township, Donald Albrecht, Penn Township, Cullen Kobayashi, US Solar Corporation, Minneapolis, MN., Dave Clark, John Shimanski, Roger Pokornowski, Hale Township.

2. ACTION ON MINUTES:

Upon review of the December 18, 2019 meeting minutes, David Hoernemann motioned to approve the minutes as typed, seconded by Paul Merkins. The motion carried unanimously amongst the Board.

3. MOTION TO CLOSE CALENDAR YEAR 2019:

Commissioner Rich Pohlmeier made a motion to close calendar 2019. Charles Hausladen seconded the motion, which carried unanimously.

4. OPEN CALENDAR YEAR 2020 & ELECTION OF 2020 OFFICERS

Marc Telecky, Environmental Services Director, opened calendar year 2020 and requested nominations for 2020 Chairman.

David Hoernemann nominated to elect Larry Phillips to act as 2020 Chairman. Paul Merkins seconded this motion. With nominations ceased, Larry Phillips accepted and the Board approved unanimously.

Chairman Phillips called for 2020 Vice-Chairman nominations.

Charles Hausladen nominated Paul Merkins. David Hoernemann made a second. With no other nominations to be made, Mr. Merkins agreed. The Board unanimously approved.

5. REVIEW PROPOSED CALENDAR YEAR 2020 MEETING DATES

The Board reviewed the proposed calendar dates as prepared and included in the packets.

David Hoernemann mentioned that the November and December meetings could be moved to week three as week four are holiday weeks.

The Board agreed with Mr. Hoernemann and also said to move the November and December meetings to week three.

David Hoernemann made a motion to approve of the calendar dates with November and December being moved to the third week of the month. Paul Merkins seconded the motion. The motion carried. The 2020 meeting dates are as follows:

February 28, March 25, April 22, May 27, June 24, July 22, August 26, September 23, October 28, November 18 and December 16, 2020.

6. NEW BUSINESS

FINAL PLAT 19-06, Kurt & Jill Pevestorf “PEVESTORF ADDITION”, Bergen Township

Kurt and Jill Pevestorf are requesting approval for a 1-lot final plat located in the southwest one-quarter of the southeast one-quarter of Section 2 in Bergen Township. This quarter-quarter has one non-farm dwelling, thus requiring this request. Staff does not have concerns with this request. The Title of Opinion was received and forwarded to our County Attorney’s office and County Recorder’s office for review. The sketch plan was approved in May 2019. The preliminary plat public hearing was held in August 2019 and approved.

Mr. Telecky also shared the Pevestorf’s are proposal is to create a 1.88 acres lot in the northwest corner of Mr. Pevestorf’s mother and step-father’s property. This area is not located in the floodplain and is outside of the CRP easement area. This area meets the criteria of hard to farm due to the wooded area, floodplain, and CRP easement. Traffic will come off of Maple Street. Soil borings have been completed by Chip Hentge of Chips Septic Service, Lester Prairie, MN.

There weren’t any audience members wishing to make comment.

David Hoernemann saw no issues with this proposal as delivered and motioned to recommend approval as presented. Charles Hausladen seconded this motion. The motion carried unanimously.

Marc Telecky said this item will be on the February 4, 2020 County Board Consent Agenda.

7. PUBLIC HEARING

CONDITIONAL USE PERMIT 19-23, US Solar Corporation (property owned by Donald Mielke)

Marc Telecky provided a brief description for the conditional use permit requested by applicant, US Solar Corporation, Minneapolis, MN for approval of a .5-megawatt solar garden array to be inter-connected to an Xcel Energy sub-station. Xcel Energy has awarded this project to the applicant pending local approval with no other projects ahead of this application for inter-connection.

The property is owned by Donald Mielke and is located in Section 36 of Hale Township in the “A” Agriculture District. This project will be known as USS Water Fowl Solar, LLC, if approved. The applicant has negotiated a facility easement of 10 acres if the project is approved out of a 49.49-acre parcel in total. The easement is 25 years with an option to extend for an additional 15 years. The lifetime of these solar gardens, per equipment used is estimated at 35-50 years. The total size of this system will be within 3.5 acres.

A decommissioning and reclamation plan submitted to the Zoning Office by US Solar Corporation. A vegetative screening plan was also provided.

The physical characteristics of this parcel are considered rolling tillable acreage with soils described as prime farmland per the McLeod County Soil Survey.

Marc Telecky read nine proposed conditions from Staff should the Board wish to recommend approval.

McLeod County Engineer, John Brunkhorst, provided written comment indicating no concerns with the solar garden proposed near the County shop. Any change in access off CSAH 15 will require a permit from the County Highway Department.

The Board of Hale Township recommended denial. Mr. Telecky read aloud an email received by Hale Township Clerk, Tammy Stifter, dated January 15, 2020. The reasons for denial are as follows:

1. Decommissioning Bond dollar amount is not enough.
2. Tile and drainage identification on site and who will maintain.
3. Education is needed for ambulance and fire department in case there is a natural disaster, accident or fire.
4. Stray Voltage testing to be done on site before and after construction at the expense of the solar farm operation and results provided to the Hale Township Board.
5. A landscape plan for screening is needed to be provided to McLeod County prior to construction.
6. All conditions of the Township and McLeod County Planning & Zoning need to be confirmed and met prior to construction.

Marc Telecky read aloud an email submitted by Mr. John Schultz received January 16, 2020. Mr. Schultz is not in favor of this due to hazards of stray voltage, the safety factors of removal and the fact this area is prime farm land.

Marc Telecky read aloud a fax received Tuesday, January 21, 2020 from Mr. Richard Swanson, Attorney at Law, from Chaska, Minnesota on behalf of his client, neighboring property owner Ronald Blazinski, indicating wishes to make a formal objection in opposition of the proposed permit.

Mr. Cullen Kobayashi, Project Manager, was introduced to the Commission and audience by Mr. Telecky.

Mr. Telecky said we request a bond for the purpose of protecting the tax payer.

Mr. Kobayashi shared positive outcomes from solar gardens, such as an increased tax base, working with local schools and students and clean energy itself.

This proposed garden will only be .5 megawatt and 3.35 acres in total. The array itself will be smaller. The size, location and visibility are very small.

Mr. Kobayashi said he has had pre-planning meetings with Zoning Staff and discussed vegetative needs to help screen the area. Working with Ryan Freitag of SWCD, it was determined that black hill spruce and cardinal dogwood would be a very pleasing look for screening. It will be hidden from most people. Charles Hausladen questioned the wind rating of this particular design. Mr. Kobayashi did not know.

US Solar plans on keeping ownership of this project and have no plans to sell in the future as they have their own in-house operational team that takes care of all maintenance needs. The site will be monitored

remotely and the response time is very quick. They certainly don't want anything going wrong as its how US Solar earns their revenue. The panels are bifacial modules and single access tracking system.

Roger Pokornowski, Hale Township Board member has concerns with this facility and doesn't feel this location is the proper area for solar districts, nor is it appealing. This area is tornado alley. There is a safety factor as well.

Mr. Pokornowski offered his thanks to Mr. Blazinski for bringing in an attorney to assist with this proposal.

Richard Swanson, Attorney at Law representing client, Ronald Blazinski, said he is not an engineer and he has not had much of an opportunity to review the documents due to not enough time.

Once concern is the property value of Mr. Blazinski and the surrounding parcels. Mr. Blazinski has worked very hard on his property and does not want a solar facility next door. The homeowners want to keep their FMV (Fair Market Values.)

"US Solar is only concerned about one thing, making money. Mr. Kobayashi cannot tell us today what or if there is a wind rating," said Mr. Swanson. Corporate buy overs are common. What if this company files for bankruptcy? The comment made regarding the use of barbed wire fencing is dangerous to cattle. Its used in prisons to keep prisoners from getting out. The lack of the size is not the issue here. It is the permit itself. There is an issue with the bond amount as it is not sufficient. The construction placement has nothing to do with the FMV of neighboring landowners. This permit should be denied. If someone is going to propose a project they must know the supportive facts.

Farmers are very concerned about generated voltage. We need more information due to the close proximity of feedlots and existing houses, the duration of the proposed conditional use permit, perpetual or 25 years? Are the materials used in these panels dangerous or radio active? We need answers now. This is a premature request. A lot more information needs to be told to the landowners.

Mr. Ronald Blazinski stated that he does not want this next to his property and requested the Board to take a real good look at this proposal being so close to his property.

Mr. Ron Vorlicek, nearby property owner, across the road from Mr. Blazinski, shared that he has been contacted by companies as well. Stray voltage is a very big concern as he has a feedlot permit and cattle. "I have a good standing Feedlot Permit with the County," said Mr. Vorlicek.

Another factor Mr. Vorlicek is concerned with is water run-off and the fact that it is prime farmland. Two rows of dogwood and evergreens is not enough. A lot more is needed.

Donald Albrecht, Penn Township Board member and resident, said he hasn't had much time to review the documents, but wants to know what will be used for the actual area under the panel. Mr. Telecky said it will be 3.35 acres used for the actual area under the panels.

Mr. Kobayashi explained the reason why this project is smaller in size. It is because there is no more room on the substation itself. There are 427,000KW left on this substation which is slightly less than .5MW. There cannot be anymore. It will be full to capacity. It very expensive to upgrade a substation.

"A competitive company proposed three different sites and made me offers and said they would not propose locations anywhere near livestock," said Mr. Vorlicek. It's an eyesore and it's not the proper place. Not on prime farmland or near livestock operations.

Mr. Telecky explained that he has conducted a lot of research and explained the process of the projects being put into the queue. The projects awarded versus the projects in the queue are totally different. Some of these projects that are in the queue, never get to fruition. Xcel would need to increase the substation and changes of that happening are almost zero percent. You, the landowner, need to ask questions. It's not the fact of the scope of the project, it's what's available and what capacity exists in McLeod County. They're different. This particular site, if approved, the applicant has one year to make use of the permit. If so, their conditional use permit becomes null and void.

Mr. Kobayashi explained that in the case of possible bankruptcy, the project company would receive the land lease, not the parent company. So, if US Solar would ever file bankruptcy, it would not include the project company. Therefore, the project would continue to operate.

The property values just do not have a lot of data to support whether or not solar projects bring down property values. There was a study done by Chisago County Assessor called the Northstar Project, near Stacy, MN regarding a 100MW project. It's about one-hundred acres. The assessor looked into the properties and did not find any land value depreciation from this project.

As far as hazardous materials in our panels, there are none in the panels and there is no evidence. There is a clause on the lease that holds the landowner and us to ensure there are no hazardous materials on site. US Solar Corp does go through a fair amount of environmental permitting with the State and MPCA. We're trying to bring in renewable energy that is good to the environment. US Solar Corp is not trying to bring hazardous waste.

Natural habitat is a concern. There is a short clearing for smaller animals to go through. We have chosen a pollinator friendly mix that is cohesive with the natural ecosystem. We're also working with local beekeepers on some of the sites which is producing honey.

Charles Hausladen questioned the lease / rent agreement with this land owner. It is a lease agreement. Mr. Hausladen asked if the lease amount could be divulged. It is a private matter worked out with the landowner. Mr. Hausladen wished the land owner was present to discuss.

Mr. Kobayashi said we are leasing the total amount of the fenced in area, with the panels on the inside the fence.

Mr. Telecky explained the site specifics in regards to type of fencing and screening. It will be a page wire fencing with barbed wire for security. We're following the conditions of the County.

Mr. David Hoernemann stated keeping this project within the company will solve some issues we've experienced with those that sell off the project in regards to emergency contacts and so forth. Also, we hear from every company that there will be significant savings. "How do neighbors see a savings," asked Mr. Hoernemann.

Mr. Kobayashi said reviewing a utility map helps. Customers who are subscribed with Xcel Energy will feel the benefits.

Mr. Joel Zellmann, property owner to the north and across the road, is in Xcel territory. Others are in McLeod Cooperative.

Mr. Hoernemann said he has never seen an assessor who devalued a property.

Mr. Paul Merkins asked if this project plans to re-landscape this site or use the slope that is already there because most work with what is already present, the contour of the land. It will be discussed later with SWCD for direction and worked out.

Mr. Merkins asked if an investment group is going to do this. Mr. Kobayashi said yes, however US Solar Corp maintains ownership.

Mr. Zellmann questioned the access point.

Marc Telecky said the access is further to the south side of the proposed garden. If it were to be approved then a permit would need to be secured from the County Highway Department.

Mr. Zellmann questioned how the property owner accesses the field as it is today?

Mr. Telecky said we would need to ask the property owner where he is accessing.

Ron Vorlicek said Mr. Mielke doesn't have access from the south because that's a different owner.

Mr. Zellmann said there is a gap between the County land and Mr. Mielke's land.

Paul Merkins asked if there were any more comments or we would move to close the public hearing.

Mr. Richard Swanson referred to the barbed wire as what used at the Lion Lakes prison. As far as existing wildlife, there seems to be so many questions that have not been answered yet. As far as the contents of the panels. One reply said there is no hazardous materials, but is uncertain. Three individuals will be making money off of this but not the adjacent land owners and feels that is wrong.

Robert Anderson, Hassan Valley Township Board member, brought up the topic of wind. He felt there was not a sufficient answer when asked earlier. There was a company that was asked a few years ago how much wind pressure these panels could sustain and if he remembered correctly it was way under 100 MPH. ago and they said at that time. If these panels start flying around, you could have loss of animal and even human life. Is there a liability for this situation? Can you refer to an ordinance?

Marc Telecky told Mr. Anderson that this is a very fair question. It is our Essential Services Ordinance in regards to any type of power production that goes back for public consumption. As far as wind loads, there is a lot of information depending on the manufacturer and how they're mounted. Typically, the panels are rated to withstand winds of 85-110 miles per hour.

Mr. Telecky has researched within the Zoning Department in regards to liability and found that it is very similar to a landowner that has a building that is destroyed by a tornado where debris falls on a neighboring property and potentially impacts it. We ask that the company carries insurance.

Mr. Kobayashi referred to the application which states liability coverage is one million dollars coverage and excess liability of one million dollars per occurrence.

Mr. Merkins said that is standard.

Chairman Phillips asked if there were any more comments.

Mr. Vorlicek wanted clarification on stray voltage.

Mr. Kobayashi explained they have completed several studies with electrical engineers and Carver County. If something malfunctions, the system shuts off, so the stray voltage would not be an issue. These systems are designed to shut down. They're very safe systems. Multiple groups of engineers check and certify to ensure it is running properly. Basic ground fall protection.

Mr. Kobayashi stressed that they're most open to conduct studies if requested.

Paul Merkins asked how many poles will be present for connection. There will be three.

Mr. Hoernemann said some have no poles, some have two.

The poles provide the interconnection said Mr. Kobayashi.

Mr. Phillips referred to the operation by Arnold's in Glencoe. There are no poles. It just differs.

Commissioner Pohlmeier told the audience this is their time to ask any questions or bring up concerns as this is their time before we need to close the public hearing.

Mr. Donald Albrecht said that the State Electrical Code is not eliminating a lot of these problems.

Mr. Kobayashi said we're not trying to say stray voltage isn't a problem. We're open to testing to ensure these systems are completely safe.

Roger Pokornowski said there is a lot of deep concern and hopes the Board takes it into consideration. As the Township we're not in favor of it at all, neither are the neighbors and I hope you (the Board) considers that.

With no further discussion to be had, Paul Merkins motioned to close the public hearing. Charles Hausladen seconded this motion. Motion carried.

Mr. Hoernemann questioned the proper amount to set for a bond.

Mr. Telecky shared that he's done quite a bit of different analogies trying to get a handle on what true reclamation costs. He's spoken with Nancy Riddle of Sherburne County, Zoning Administrator, and John Byron in Lyon County who deals with wind and solar in his area. The concern the MACPZA association (Minnesota Association of County Planning and Zoning Administrators) is trying to get a handle on true reclamation costs. What you spent on a vehicle in 1970 is not the same of what you're spending on a vehicle today. Staff is not sure what the true value is. We don't know the cost of the recyclable material. We can't answer that questions.

The Bureau of Labor and Statistics has a calculator. You enter an educated guess from 2017 – 2057. They provide a rate of three (3) percent. Solar is fairly new yet in the State of Minnesota. There isn't a good test case available. We're trying to secure a bond, or letter of credit, to cover ourselves to be safe, said Mr. Telecky.

David Hoernemann asked for screen plan clarification.

Mr. Telecky said screening is proposed on the east and north boundaries. With the discussion today, I would recommend screening along the south boundary, should we be considering approval of this request.

Mr. Telecky said the applicant has the right to accept or reject the condition. "If he is not willing to accept the condition, then you as a Board may use that as a finding for denial. It is your responsibility to recommend mitigation efforts for the public, and that's what you're doing," said Mr. Telecky.

Mr. Hoernemann said if we request screening along the south, will it change the footprint of the project? Will it need to be shifted further north?

We are pretty confined to this specific area (in the dashed lines on the drawing), and may need to slightly shift this towards the north said Mr. Kobayashi.

Commissioner Rich Pohlmeier asked about a storm water basin. There needs to be a basin to ensure erosion and run-off are properly handled.

Commissioner Pohlmeier brought up a consideration that this is on prime ag farmland in McLeod County and do we want to be the ones to take this part out volume out of agricultural production for solar production.

Mr. Telecky agreed that it is a relevant point. That's the first question that needs to be answered. Does this fit with the area and is this going to be considered prime or not prime farm land? The NRCS definition does not necessarily take into consideration the size of the parcel as far as the irregular shapes. It takes into consideration the productivity of the soil. Whether growing on ten acres or eighty acres is really in regards to the producer and the size of equipment he has and what practical difficulties he may be faced with.

Charles Hausladen comment. The large farmer today couldn't even turn around. Pretty tough to do anything.

Larry Phillips said its perfect for the smaller farmer.

Commissioner Pohlmeier questioned the accessibility of this 49 acres parcel although its not our concern. Brief discussion ensued about the entrance into this parcel.

David Hoernemann suggested if approved, to include a condition regarding stray voltage testing to be done on site.

Paul Merkins would like to add screening on the south side along with north and east sides and to meet with property owners before hand to answer all concerns.

Charles Hausladen questioned the amount of the bond.

Mr. Merkins asked for leadership from the Zoning Office officials.

Marc Telecky said, "We've been light on past applications but again, \$50,000? Am I comfortable with this amount today? Yes, I am. But, tomorrow I might not be. I don't know. We just need to cover our costs in the event that the County is in a position where they have to reclaim this project. Chances of that happening are very little." It is a starting point.

Charles Hausladen asked Mr. Kobayashi if he was comfortable with \$50,000? He has only seen \$50,000 so his company agrees with \$50,000.

David Hoernemann brought forth the concerns from Mr. Richard Swanson, Attorney present today. There are concerns Mr. Swanson would like to investigate.

Paul Merkins said he has time to investigate between now and the County Board meeting.

Marc Telecky interjected and to the Commission they have three options. One of them is to recommend approval with conditions. One of them is to recommend denial with findings. Or, the Commission could table this hearing until February 26, 2020 to give more opportunity for people to look at information and present to the Board.

If the applicant is willing, he would need to sign the sixty-day waiver and we would table until February 26, 2020 Planning Commission meeting.

Paul Merkins asked when this item would go to the County Board. February 4, 2020.

Charles Hausladen asked how many properties transferred in and around this area?

Commissioner Pohlmeier is not quite comfortable on the proposal. Prime farmland is a high concern even if its only a few acres.

Commissioner Pohlmeier said he would be willing to table this item to allow for people to find out more information.

Mr. Telecky said that we need to ask the applicant if they would be willing to do so.

Mr. Kobayashi said what if we decide not to sign it? Mr. Telecky said you are asking the Board to make a positive or negative recommendation to the County Board.

Mr. Kobayashi asked for time to call his management team.

Commissioner Pohlmeier suggested the Board take a ten (10) minute recess to allow the applicant time to contact his management team.

David Hoernemann motioned to approved of a ten (10) minute recess with a second by Charles Hausladen. Motion carried to recess at 11:10 A.M.

Chairman Phillips called the meeting back to order at 11:20 A.M.

Mr. Kobayashi spoke with his manager. They are willing to sign the sixty-day waiver to allow more time to address concerns.

My. Kobayashi asked Mr. Telecky to communicate to him a list of concerns brought forth in today's meeting.

Larry Phillips is interested in receiving additional information for the following:

1. The findings of the North Start project in Stacy, MN regarding Fair Market Values.
2. Stray voltage reports from other sites they have conducted testing on.
3. The wind rating.
4. The fence design plan.

David Hoernemann asked to include screening plans along the south perimeter.

Mr. Telecky will work with Mr. Kobayashi to provide the areas of concern so these issues can be discussed on February 26, 2020.

Paul Merkins made a motion to table Conditional Use Permit 19-23 until the February 26, 2020 Planning Advisory Commission meeting. Charles Hausladen seconded this motion. The motion carried unanimously amongst the Board.

Marc Telecky addressed the audience stating no new meeting notices will be mailed for the February 26, 2020 meeting. It will be at the same time, 9:30 A.M. in the same building in this same conference room.

Mr. Hoernemann thanked Mr. Kobayashi for his understanding and listening to the concerns of the neighbors as well as the Board.

10. RECESS

With no further business to be discussed, Mr. Merkins made a motion to recess until February 26, 2020. Mr. Hoernemann seconded the motion, which carried unanimously.

Larry Phillips, Chairman

Sandra Posusta, Secretary