

City of Ellsworth
Joint Workshop of the Planning Board and City Council Minutes
Monday, July 25, 2022 6:00 PM

For the City Council, Chair Dale Hamilton. Members Marc Blanchette, Casey Hanson, Steven O'Halloran, Michelle Kaplan, and Robert Miller attended. Councilor Gene Lyons was absent. For the Planning Board, Chair John DeLeo, Vice Chair Rick Lyles, Members Marc Rich and Molly Friedland, and Alternate Member Michael Hangge. Planning Board members Nelson Geel and Patrick Lyons were absent. Staff present were City Manager Glenn Moshier, City Planner Elena Piekut, and Assistant City Planner Matthew Williams.

1. Call to Order

Chair Hamilton called the meeting to order at 6:13 PM.

2. Staff Comments

City Planner Piekut asked Chair Hamilton to provide a brief history of how the solar moratorium came to be. Chair Hamilton outlined how before the moratorium, solar grew quickly across Maine and then arrived at Ellsworth.

Three projects were approved or underway very rapidly in Ellsworth and ordinance in place for solar was in place, but incomplete, as Ellsworth was still learning best practices for handling solar development. The City Council met to institute the moratorium to put a pause on medium and large scale solar projects and followed the example of other communities to give the City time to understand the issues surrounding solar development.

City Planner Piekut then introduced George "Woody" Wood of Oak Point Energy Associates, LLC, who would be providing an informational presentation about solar development to both the Planning Board and City Council. Mr. Wood's presentation would focus on the solar industry in Maine and New England and what potential growth and benefits look like. City Planner Piekut would then follow his presentation with one providing an overview of existing standards for medium and large solar projects. The purpose of the workshop is to discuss goals for a renewed ordinance for these developments.

George Wood's Presentation

Mr. Wood provided a detailed presentation on the growth of the solar industry, the pros and cons of solar development, and the reasons developers have been looking to set up shop in Maine.

After the presentation, Councilor Kaplan asked what herbicides are used along the transmission lines from these sites to prevent weed growth and how that influences the environment surrounding the solar farm.

Mr. Wood was unsure of the exact type of weed management techniques were used by specific solar developers, but he volunteered to ask and find out for the Council.

Ms. Kaplan also stated that this would be very important if solar development would be allowed within drinking water zones and near lakes.

Mr. Wood added that new herbicides may not be added to these environments because it is likely that developers would try to follow existing transmission lines to cut down on development costs.

Chair Hamilton stated that Ellsworth needs to think about the future and Sunraise, the company Ellsworth made a solar deal with in the past, has already been bought out by a different company. Developers come in, make their money, and then leave. Just because there are decommissioning guarantees, doesn't mean a company won't stop the solar project and leave the City empty handed. Solar is not currently sustainable without subsidies, only thing that needs to change for those to disappear is the political force in charge of the

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state.

Mr. Wood responded by acknowledging Chair Hamilton's concerns and advising that this emphasizes the importance of strong language in a decommissioning clause of an ordinance. Ensuring that a developer has to put down an inflation and cost conscious bond before development and work with the City Attorney to construct language that protects whatever funds the developer provides. Additionally, Mr. Wood commented on how the panels can be reused or recycled once the 20 year term on a project is up. The panel itself would not be as usable or efficient, but it contains metals and minerals that are still useful. Mandating a specific disposal process could be a part of the ordinance or a requirement City Council puts in place. Mr. Woods finally commented on Chair Hamilton's concern regarding solar subsidies and stated that he is correct that the subsidies come and go, but the State Legislature has more control over that and they are likely to maintain a desire to initiate and RFP for scale/utility level solar.

City Planner Piekut asked if there is a developing second hand market for solar panels?

Mr. Woods stated that solar panels lose about .5% efficiency per year. When a development agreement is approaching the end of its term, the developer is likely to assess what the next steps are. Is it more beneficial to keep the farm running for 5 years or better to resell to a second hand market such as a large corporation or municipality looking to have their own solar farm.

Planning Board Chair DeLeo referred back to Councilor Kaplan's concern about new transmission lines and stated that because so many of these projects are along major roads, they can use existing transmission line infrastructure and run to substations on existing paths without digging new lines.

Ms. Kaplan re-affirmed her question pertaining to weed control and herbicides.

Planning Board Chair DeLeo noted that the Planning Board had referenced a sample solar ordinance by the Audubon Society when drafting the existing Ellsworth solar ordinance. There is language within the sample that speaks to environmental issues such as weed control and co-existence with wildlife. The Planning Board is already asking developers about these issues and they are happy to find solutions, the next step is to codify these requests.

Ms. Kaplan stated that this is good, but they may say a chemical they are using is non-toxic and we don't find out until much further in the future that it actually isn't.

There were no more questions from the Planning Board or City Council at this time.

City Planner Piekut's Presentation

City Planner Piekut provided a presentation on the history of solar in Ellsworth, the moratorium, and tools available to Staff and the Planning Board to guide what the City can ask of solar developers. During the presentation, City Planner Piekut and Planning Board Chair DeLeo addressed Chair Hamilton's concerns over decommissioning by noting that all language for decommissioning is reviewed by the City Attorney and they are trying to get a template to use to make the process run more smoothly.

Councilor Hanson commented that she had read about a program in Maine that reimburses municipalities for 50% of the taxes solar companies would have to pay on their exempt equipment.

After the presentation, the floor was opened for comments.

Chair Hamilton raised concerns that if solar credits can be sold to anyone, there is no guarantee that

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Ellsworth will see any financial benefit from solar developments. If left unfettered, the solar farms will take up land and all of the benefit will go elsewhere. Decommissioning of solar farms needs to be particularized, because an abandoned solar farm is different than an abandoned building that can be re-used.

Planning Board Chair DeLeo stated that decommissioning is key. The current language in the ordinance is not going anywhere and would only get stronger. Solar farms will likely not be allowed in Ellsworth if the credits are going to be sold to people outside of the community.

Chair Hamilton asked if there is a way to cap the size of solar projects or control where the credits go?

Planning Board Chair DeLeo responded that a deal like the one with Sunraise saves the City \$4 million dollars over the 20 year term. We don't want to limit a business like Jackson Lab or the hospital from trying to lower their energy consumption and gaining savings too. It would be an invasion of their property rights.

Planning Board Member Rich stated a PILOT (Payment in Lieu of Taxes) plan could be an alternative to produce more immediate income for the City and is an option for the Council to consider.

Councilor Hanson stated we don't want to limit solar too much because we don't know what the future looks like and it may be beneficial to have more renewable energy already in Ellsworth.

Councilor Miller asked if there were any way to have some of the billing rates accrued by the solar company go straight to Ellsworth residents.

Mr. Woods stated he did not know if that sort of deal is legal, but it could potentially be considered.

Planning Board Vice Chair Lyles stated that these are all important thoughts, but they are more economic considerations outside of land use, which is the purview of the Planning Board.

Councilor Kaplan asked about the relationship between credits and subsidies given to solar companies and the energy rates being paid by Ellsworth residents. Eventually, the subsidies will end and many projects will no longer be economically viable for companies so they leave them abandoned and the land is scarred. The farms are not attractive to look at.

Planning Board Chair DeLeo stated that most of the projects are not visible from the road or lakes, so concerns about views may be avoidable.

Planning Board Member Rich stated that how the farms look is relative. Some people find them attractive because of their utility in helping the community move away from fossil fuel based energy.

Ms. Kaplan then asked if there was a cap on the project size a solar company can build.

City Planner Piekut stated that currently, economics and State permitting costs limit the size developers are interested in building right now. There is a 5 megawatt limit on the net energy billing in the state of Maine.

Ms. Kaplan stated that it could be good to put a cap in the ordinance in case the State limit changes.

City Planner Piekut responded that if the State were to change the limit, the legislative process would likely give municipalities plenty of notice and time to make those changes if necessary.

Chair Hamilton mentioned that renewables are a new industry and they present a positive change for our future energy production. But there needs to be a balance. We cannot realistically move to a majority

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renewable system right now. We need to continue to ask “what do we want our land to be used for? What does our land look like?” These issues are able to be discussed because we instituted a moratorium.

Councilor Hanson asked the Planning Board if they had specific plans for encouraging developers to develop land that is not desirable for other uses and if they had ideas for protecting wildlife.

City Planner Piekut stated that it is difficult to incentivize what is not currently disincentivized, but she has more concrete ideas for preserving soils and habitat.

Planning Board Chair DeLeo stated that Planning Board Member Lyons would be able to speak to the incentive of using a PILOT program to alleviate some concerns, but he is not present. City Manager Moshier could ask the Assessing Department to do some calculations on how much the City could get reimbursed for the 50% of taxes the solar companies are not being charged.

City Planner Piekut mentioned that the ordinance could be revised to help protect the limited prime farmland Ellsworth has by capping how much impact the solar farm can have on this type of land. This approach could be similar to wildlife blocks. For example, if you build a site of a certain size, it cannot be contiguous and needs to have a certain area of forested land for wildlife in between sites.

Councilor Hanson asked if we could get input from experts or others with more experience.

Planning Board Vice Chair Lyles reiterated that the Audubon sample is being used and involves the input of many professional groups.

Councilor Kaplan stated she was concerned about the human rights issues surrounding the collection of rare metals. She asked is there a way to include a provision in the ordinance that prevents developers from using companies with negative human rights track records.

Planning Board Vice Chair Lyles stated that this is a federal and international issue and it is being worked on. Currently on the federal level there are new restrictions on suppliers U.S. companies can source from. The issue may be too large scale for the City to handle.

Ms. Kaplan asked if we could require developers to only use materials sourced through fair trade.

City Planner Elena pointed out that they likely could, but it might be more symbolic as it would be difficult to enforce.

Chair Hamilton asked if there are changes the Planning Board wants to make to the ordinance.

Planning Board Chair DeLeo and Member Friedland stated that much of the discussion tonight has been changes the Planning Board wants to make.

Planning Board Vice Chair Lyles restated that many of these things are already being asked of developers, but we need to codify them.

Planning Board Chair DeLeo said that ever since the first review of a solar farm, the Board knew things could be done better.

City Planner Piekut asked Mr. Wood if other energy sources are subsidized.

Mr. Wood stated that every energy source receives subsidies and oil is the most heavily subsidized.

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Councilor Miller asked if there has been much interest in additional solar development since the moratorium.

City Planner Piekut said there had not been much interest and stated that State law required developers to obtain local permits by the end of 2021.

Planning Board Vice Chair Lyles added that there is a panel shortage which could have added to the lack of new development interest.

Planning Board Member Friedland asked Mr. Wood what Ellsworth would look like to a developer looking to build solar in Maine?

Mr. Wood said that the moratorium adds a level of uncertainty to the City. A developer would likely be discouraged because of the added risk in not knowing what requirements will be added to the new ordinance. Additionally, time is money and most don't want to wait for the moratorium to expire. Developers are looking for low hanging fruit.

Chair Hamilton stated that it's not just the moratorium. The process a company takes to determine where to place solar takes time and the companies would have already explored Ellsworth as an option before the moratorium took effect.

Mr. Wood added that there are seven projects here already, but the potential for new projects is decreased.

Chair Hamilton responded that the credits program is already full, so the lack of new development may have slowed because there are less benefits to it.

Planning Board Vice Chair Lyles pointed out that there has been one project that dropped from the utility's queue for reasons unrelated to the moratorium.

Mr. Wood stated that there are generally four to five projects in the queue per substation. One to two stay in the queue while the others likely drop out.

Chair Hamilton and Mr. Wood have an exchange about the pros and cons of the moratorium.

City Planner Piekut suggested that as part of the new ordinance, the City could cap large scale project size instead of leaving it open ended.

3. Next Steps

4. The Planning Board and Staff will continue to prepare amendments.

5. Adjournment

Adjourned 8:42 PM.

Minutes prepared by: Matthew Williams, Assistant City Planner.

Date

Nelson Geel, Secretary