

**Town of Knox
Special Meeting
June 22, 2016**

PRESENT:

Supervisor Lefkaditis
Councilman Barcomb
Councilman Barber
Councilman Kuck
Councilwoman Pokorny
Town Attorney Dorfman

ABSENT:

Town Clerk Murphy
Highway Superintendent Salisbury

The meeting was called to order at 6:05 p.m. with the Pledge of Allegiance.

**RESOLUTION #141-2016 –APPOINT COUNCILWOMAN
POKORNY TO ACT AS RECORDING SECRETARY**

On motion of Councilman Barber, seconded by Supervisor Lefkaditis, the following resolution was carried unanimously.

RESOLVED to appoint Councilwoman Pokorny to act as recording Secretary.

Discussion of prepared comments from Planning Board Chairman Bob Price and Planning Board member Dan Driscoll regarding proposed draft zoning ordinance changes to regulate solar arrays, and the question of bringing the draft changes to public hearing:

Supervisor Lefkaditis questioned the possibility of a conflict of interest for Bob Price and Amy Pokorny to discuss changes to the zoning ordinance for large scale solar arrays because of their involvement with Helderberg Community Energy (HCE). Councilwoman Pokorny said

that HCE is a volunteer group of citizen advocates for renewable energy and the by-laws of the HCE organization specify that they are not to profit as individuals or as an organization, and they are committed to return excess funds to donors or to direct them to projects consistent with the group's mission. Supervisor Lefkaditis referenced section 6. a of the Code of Ethics and advised them to be careful because "in this town, perception becomes reality."

Attorney Dorfman said that since Bob Price previously declared his involvement with HCE a conflict of interest, he should not have voted to bring this draft ordinance to the Town Board.

Councilman Kuck noted that the purpose of the present discussion would be to request clarification or more concise language in the proposed changes.

Attorney Dorfman said that it would be a violation of the Open Meetings Law not to allow Mr. Price to speak as a citizen.

Councilman Barcomb said that to best serve the interests of the town, the Board should listen to as many voices and different points of view as possible.

Tom Wolfe said there could be a problem with voting on a law where there could be an appearance of the Town favoring HCE projects over other projects. Bob Price noted that the HCE project currently under consideration will not be located in Knox. Councilwoman Pokorny said she is a volunteer with HCE, and they do not make a profit, and she has no conflict of interest in discussing or voting on this.

Supervisor Lefkaditis said that because HCE could change their bylaws in the future, Mr. Price and Councilwoman Pokorny could have a conflict of interest. Dee Woessner responded that the Town can't work in the future. Debra Nelson said we each bring different knowledge and potential biases to these discussions; we can each determine for ourselves any conflicts of interest we might have as individuals; and in our roles serving the town, we should all work together.

Comment #1 – "There is no mention of the division of responsibility for the preparation of the required SEQR forms. The Developer must complete Section 1 and

the Knox PB must do Sections 2,3 and the Visual Impact form. This protocol should be spelled out for the benefit of Developer applicants.”

Bob Gwin said site plan review (SPR) procedures are outlined in the zoning ordinance and they involve SQR. SPR was used for cell tower approval. Visual impact studies change over time, and their requirements don't need to be complicated.

Councilman Kuck said it would be good to keep the language general, and specifics could be added later if needed.

Supervisor Lefkaditis suggested the changes recommended in comment #1 don't need to be made.

Comment #2 – “There is no provision for requiring the Developer to provide up to \$5000 in funding for the PB so it can hire Consulting Engineering assistance if the PB decides it needs it.”

Tom Wolfe said the Town may need to call on an engineer contingency fee with a term for replenishment as needed. The Town has never needed to do this in the past, but no large projects have been undertaken before.

Attorney Dorfman said between now and the public hearing the Planning Board could check with other communities to get dollar amounts based on the complexity of project proposals. He said changes can be proposed and decided at or after the public hearing.

Comment #3 – “While there is some wording addressing the plans for decommissioning the array, there is no mention of what constitutes a failed/no longer in use situation. Nor is there any time line specified to complete the de-commissioning and restoration process.”

Anna Wolfe asked what would happen if a project is abandoned.

Supervisor Lefkaditis said it is one problem if it is no longer profitable, but if it is no longer functioning, it is another. It is better to be flexible than to be too prescriptive. The Planning Board can specify decommissioning in site plan review as needed. The cell tower project had decommissioning language for the end of the life of the project.

Attorney Dorfman suggested asking vendors for decommissioning plans when a proposal is prepared. The vendors will then look to the local zoning ordinance for the requirements they have to satisfy. The

developer could offer decommissioning terms for consideration in site plan review.

Comment #4 – “There is no realistic connection between the existing Density Control Schedule and the solar array siting. The DCS applies to *residential/agricultural* situations not to large scale solar arrays. The placement of an 8 acre array in the middle of a 16 acre field does not constitute making the array invisible. The Committee Report mentions several times the importance of “visual impact of commercial solar arrays” arbitrarily forcing the Developer to use twice the needed land to build the array is a waste of land and does little to meet the goal of reducing the visual impact and preserving the open spaces in the Town. Each project must be evaluated on its unique situation and the appropriate steps taken to assure minimum visual impact based on the existing conditions surrounding the proposed array. Related to that is the lack of the definition of “visual buffer” so that the applicants can get some idea of what the PB board will be looking for in their proposal.”

Debra Nelson explained that the density control schedule allows 25% of the space to be used, but solar arrays are not accessory buildings, so the draft changes would allow up to 50% of the space to be used. The comprehensive plan focuses on preservation of open space and visual aesthetics; this provision would keep some open space while allowing flexibility.

Debra Nelson asked what the Town Board members’ feelings are.

Attorney Dorfman responded that the Planning Board is independent of the Town Board and the Town Board should not interfere in the work of the Planning Board. It is acceptable for the Town Board to provide feedback and to request changes, not to direct or require changes. Bob Gwin said the Planning Board reached 50% as a compromise between a 25% low and no limit, and asked if another rationale for a different percentage could be offered.

Councilman Kuck asked what the downside would be in allowing use of 90% of a property, with the standard building setbacks from the boundaries. Supervisor Lefkaditis asked if each permit application could be considered on a case by case basis.

Attorney Dorfman said these specifics should be discussed at the public hearing.

Comment #5 – “What is the meaning of the phrase ‘all related work off site?’”

It was noted that many of these issues are related to work offsite, and the loose terminology may be acceptable.

Comment #6 – “There is no definition regarding the design of the isolation fence: how tall, use of barbed wire, masking the fence with bushes/small trees, how deep in the ground must it be etc. This is something that must be controlled by the Planning Board during the Site Plan review and not by the applicant and it should be made clear that the PB will be the party making the decision during the Site Plan Review process.”

Bob Price said the Town can make rules that are more strict than other governing authorities. Bob Gwin said they don't want to tie industry's hands and put a lot of words in the Zoning Ordinance.

Comment #7 – “There is no requirement that the Knox CAC be asked to comment on the proposed changes.”

Councilman Barcomb asked if CAC's role of vetting plans and providing opinions is required, as our CAC does not have Board status. Councilman Kuck said it is a good idea to have their plans reviewed by the CAC, and Bob Gwin noted that the Planning Board asked the CAC for opinions on the noise and light ordinances that were recently proposed.

Comment #8 – “There is no request that Knox/local contractors be allowed to bid both on the initial preparation of the site and for long term maintenance of the site so that Knox/local folks can benefit from the project.”

A comment was made that they are a planning board, not an economic development board.

Comment #9 – “Last, but by far, the most important factor, is that the proposed changes to the Ordinance have not taken advantage of any of the information in the Solar Array ordinances from the towns of Bethlehem and Ulysses, the NTS Model Solar Energy Law document, the Land Use Planning for Solar Energy Guide and the model ordinance from the folks in No. Carolina.”

Bob Gwin said the Planning Board did use models from other communities from State-provided training, and they adopted pieces from ordinances in other municipalities to fit our needs. Debra Nelson said she has a thick folder of model ordinances and material she has researched from other places and they did a thorough review of language

from other states as well. Site plan review covers the issues that are detailed and addressed more specifically in other model ordinances. Tom Wolfe said the Site Plan Review section of the zoning ordinance is on pages 70-71. Councilman Barcomb said it would be good for the Town Board members to review this section before the public hearing.

Supervisor Lefkaditis asked how the requirement could be enforced to return the property to its original condition at decommissioning.

Attorney Dorfman said a lease agreement has to be approved and town personnel would have to have the right to go on the leased property.

Bob Gwin said industry could propose what they want to offer and we could give it to the attorney for review.

Tom Wolfe said DEC issues long term permits for mines with reclamation bonds. We can rescind any permits we issue. Attorney Dorfman said the Town has never had a Special Use Permit violation come up in the past 24 years. Councilman Barcomb said a 5 year restriction was in place for the Knox Airport on Knox Cave Road but the Town had no one monitoring it. These are issues that can be discussed at the public hearing.

RESOLUTION #142-2016 –SCHEDULE A PUBLIC HEARING AT 6:00 PM ON TUESDAY, JULY 26 FOR THE PROPOSED DRAFT SOLAR ORDINANCE.

On motion of Councilman Barcomb, seconded by Councilman Barber, the following resolution was carried unanimously.

RESOLVED to schedule a public hearing a 6:00 PM on Tuesday, July 26 for the proposed draft solar ordinance.

James Buono of Potentia Management spoke about replacing municipal lighting fixtures with LEDs of the same brightness and color. Only the bulbs, not the fixtures, would be replaced, with no need to paint around them. The bulbs would come with a 10 year warranty, and they would last about 15 years. The Systems Benefit Charge (SBC) on National Grid bills pay for this program.

Supervisor Lefkaditis asked for a cost proposal in writing. The Town needs to provide a signature on Invest Tool for a proposal for the municipal lights except the streetlights and the Historical Museum lights. A proposal for the 23 streetlights will be offered separately.

RESOLUTION #143-2016 –AUTHORIZE THE SUPERVISOR TO SIGN THE INVEST TOOL TO REQUEST A PROPOSAL FOR UPDATING ALL MUNICIPAL LIGHTS TO LEDS, EXCEPT THE LIGHTING DISTRICT LIGHTS AND THE HISTORICAL MUSEUM LIGHTS, AND TO SCHEDULE A PUBLIC HEARING AT 6:00 PM ON TUESDAY, JULY 26 TO CONSIDER A SPECIAL ASSESSMENT FOR THE LIGHTING DISTRICT.

On motion of Councilman Barcomb, seconded by Councilman Kuck, the following resolution was carried unanimously.

RESOLVED to authorize the supervisor to sign the Invest Tool to request a proposal for updating all municipal lights to LEDs except the lighting district and the Historical Museum, and to schedule a public hearing to consider a special assessment for the lighting district at 6 PM on Tuesday, July 26, approved unanimously.

A contract decision can be made at the July 12 meeting.

Councilwoman Pokorny will prepare a special mailing to property owners in the Lighting District to advise them of the public hearing.

Carol (Cookie) Palmer of Potentia Management spoke about an opportunity for the town to host a 500kW or larger solar array (5 acres or more) on town owned property to provide municipal electricity for Knox plus for one or more other partner entities in a 20 year agreement. More than a small number of partners would add complexity and costs. If the Town wants a proposal, utility pole numbers near the proposed site for the array would be needed, and copies of National Grid bills for 12 months for all of the Town accounts and for all accounts of proposed partner entities. Since the Town does not use more than 75,000 kWh per year, partner entities would have to have enough electricity demand to use the remaining 425,000 kWh per year.

Bob Price noted that the Town sent a letter last year to Helderberg Community Energy to express interest in getting more information about terms for a community net metering solar array project that they are promoting with help from NYSERDA.

Councilman Barcomb noted that the Town doesn't have a suitable property for this kind of development, and it would be very complicated to put together the necessary information about a large number of potential customers to meet the minimum demand threshold.

Supervisor Lefkaditis asked that the minutes say that he found it "remarkable that Bob Price was pitching more restrictive" solar ordinance language than was drafted by the other Planning Board members and was later talking about the solar project Helderberg Community Energy is working on that may be offered to the Town in the near future. Attorney Dorfman noted that the zoning ordinance changes Bob Price suggested would add protections for the Town.

**RESOLUTION #144-2016 –OFFER DEFERRED
COMPENSATION BENEFITS TO TOWN EMPLOYEES.**

On motion of Councilman Barber, seconded by Councilman Barcomb, the following resolution was carried unanimously.

RESOLVED to Offer Deferred Compensation benefits to Town employees.

Councilman Barcomb made a motion to adjourn, Councilman Kuck seconded and the motion carried unanimously.
The meeting was adjourned at around 8:30 pm.

Respectfully Submitted,
June 22, 2016
Amy Pokorny