

MINUTES

DATE: Wednesday, May 19, 2021

LOCATION: Fairfield Town Office 103 East Main Street, Fairfield, Utah

TIME: 7:00 p.m.

MINUTES BY: Recorder: Stephanie Shelley

AGENDA ITEM #1 - OPEN THE PLANNING COMMISSION WORK MEETING.

Co-Chair Riet called the meeting to order at 7:04 pm.

AGENDA ITEM #2 - ROLL CALL.

Commissioners Present: Co-Chair David Reit, Heather Strong, Jane Lancaster (via-zoom)

Commissioners Excused: Alina Pringle, Daymon Stephens

Staff Present: Recorder: Stephanie Shelley

Others Present Via Zoom: Steve Jones, Adrienne Bell

AGENDA ITEM # - DISCUSS REVIEW AND EDIT THE SOLAR ORDINANCE.

The Commissioners reviewed the 'Overview of Proposed Changes to Draft Solar Ordinance.' that Steve Jones had sent over for the Commissioners to review what Adrienne Bell had commented on.

'Abandoned Solar Energy System: Enyo has proposed that a project is not considered abandoned until it has remained inoperative for a year. Enyo's position is that the Town's proposed step-in right should necessarily be limited, given that it is a taking of private property and the Town can exercise other zoning enforcement actions if a project is not in compliance with its CUP, including revoking a CUP for failure to meet the conditions of approval. The Town's position is that a project should be deemed abandoned if it has not been used for six months, based on the fact that a project that sits idle for that long is an attractive nuisance. Periods of nonuse for emergencies, maintenance or requested cessation from a power purchaser or power transmitter, or acts of God are not counted as part of these periods of non-operation. '

The Commissioners agreed that some verbiage regarding the six months might need to be changed, for example, if there is a rainy season that could delay the project. Adrienne Bell will send some verbiage that will clarify this.

'Disturbance Zone. This term defines where impacts from the proposed project would be imposed. Enyo has proposed distinguishing between impacts on the project site: the "Disturbance Zone," and off-site impacts: the "Offsite Impacted Area." The primary difference here concerns visual impacts. See discussion of Protected Viewsheds below. '

'Protected Viewsheds. In order to provide a framework for the proposed viewshed analysis under the ordinance, Enyo is suggesting that the Town consider specifically identifying any viewsheds it wants to protect. Enyo's position is that a project's visibility from other locations should not constitute grounds, standing alone, to deny a project from going forward. This is a new concept that has not been discussed with the Planning Commission or Town Council. The Town has asked that Enyo

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explain its position to the Planning Commission, as this is a new concept and would require the Town to specifically identify and geographically define the protected viewsheds that it wishes to protect. As currently drafted, the Solar Ordinance would allow a CUP to be conditioned on the mitigation of visual impacts, without specifically identifying what those are – that determination would be left for the Planning Commission in its review of any proposed project. ‘

The Commissioners decided to leave the ordinance as it currently stands.

‘Section 37.50 –

Permitting Approval of Conditional Use Permits. The ordinance should specify whether the Planning Commission or the Town Council will serve as the land use authority for approving or denying conditional use permits for Solar Power Plants – Large. If the Town Council is the designated land use authority, the Planning Commission’s role would be to review each CUP application, hold a public hearing, and provide a recommendation to the Town Council for a final decision. If the Planning Commission is the designated land use authority, the Planning Commission would make the final decision after holding a public hearing.’

The Commissioners will wait on the Town Council’s decision on this.

‘Section 37.60 – Applications and Procedures

Possibility of Phased Projects. Enyo has proposed modifying the Ordinance so as to allow a CUP applicant to propose construction of a “phased” project, e.g., a 100 mw project could be constructed as two, 50 mw projects. This flexibility would make securing a power purchase agreement easier. This is a new concept, which the Town rejected when it was initially proposed, based on the 300-acre limit set by the Light Industrial East Zone ordinance. Enyo’s response has been that it still would like phased development to be allowed, without exceeding the 300-acre limit for the phased project. Because neither the Light Industrial East Zone ordinance nor the original Solar Ordinance contemplated phased projects, this is a new concept for the Planning Commission to consider. Steve Jones is opposed to permitting phased projects on policy grounds, even if the total project size remains below 300 acres.

The Commissioners talked about doing projects in phases. The Commissioners did not like phase projects.

The Commissioners would like to vote on phase projects in Fairfield.

Confirmation of Commitment to Purchase Power. Amendments to the Light Industrial East Zone ordinance adopted by the Town Council in December 2020 require that an applicant prove that it has the commitment to purchase 100% of the power anticipated to be produced by the project. As originally drafted, the Solar Ordinance required that customers for the power be utilities licensed by the Utah Public Service Commission. Enyo has proposed modifying this to by adding wholesale power coops and service districts in addition to regulated utilities. This is acceptable as long as a definition of those groups and regulated utilities can be developed, using definitions from the Utah Public Service Commission. Consistent with the proposal to allow phased projects, Enyo has requested that confirmation of a commitment to purchase power only be applied to the project being planned for construction. As noted above, this would be a change to the language in the Light Industrial East Zone ordinance.’

The Commissioners agreed with this verbiage since it came right from the State Statue.

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Section 37.70 – Location, Appearance, and Operation of a Project Site

Visual Impacts. As noted above, Enyo has proposed that the Town identify “Protected Viewsheds” and that mitigation of visual impacts be limited to those areas.

Electrical Interconnections. The current draft allows the Planning Commission to waive the requirement that all on-site electrical collector lines be buried. Enyo has asked the Planning Commission/Town Council to clarify whether the Planning Commission should be given the discretion to waive this requirement.

The Commissioners discussed the electrical lines below ground. The Commissioners would like the determination on waiving rights. Steve Jones stated that it usually goes under Land Use for decisions.

‘Section 37.80 – Conditional Use Permit Review

Visual and Glare Impacts. As noted above, Enyo has proposed limiting consideration of these impacts to Protected Viewsheds. Such impacts will be identified and mitigated.

Solid and Hazardous Waste. Enyo has concerns with the wording and requirements of this section, which, as drafted, would present a challenge for any applicant. Enyo’s position is that solar projects do not produce hazardous waste; however, the component parts of the assembled array panels may contain products that are designated as hazardous waste. As drafted, the applicant would have to separately evaluate each component part of the array panels and document the waste stream for each such part, which is not practical or realistic. Enyo would be willing to provide MSDS or similar data sheets if provided by the solar array manufacturer and prepare (and implement) a decommissioning plan that addresses waste disposal, which in Enyo’s - 3 - view assures (together with the required decommissioning security) that the site will be properly decommissioned at the end of the project’s life. See <https://www.nrel.gov/docs/fy99osti/24618.pdf> for more information.

Because there is evidence to the contrary – both evidence that metals can leach from PV panels based on runoff or cleaning and that disposal of PV panels can generate hazardous waste – the Town continues to insist that any application include plans for the cleanup and disposal of all such waste.

Both Enyo and the Town agree that no disposal of solid or hazardous waste generated by a solar project may take place within the Town.’

Adrienne Bell’s concern is that it is open-ended that they should not identify each element. When they can use the manufacturer’s data sheets on the elements of the solar panels. The Commissioners stated that as long as they have a plan in place and a government agency governs it. Adrienne will provide the manufacturer’s data, and they would not dispose of it in Fairfield. Commissioner Riet would like to get the data sheets to show the community what is in the panels to appease the public.

The Commissioners would like to change the verbiage of the clean and disposal plan. They will need to see SDS (Safety Data Sheet - New global format).

The Commissioners stated that they need to decide who will be the Approval Authority.

The Commissioners said the height of fencing needs to be determined, and materials need to be given on what is in the panels being used. It will need to be brought up during the CUP process.

Commissioner Lancaster read some of the mayor's concerns in an email he sent to the Commissioners today. Part of the email was having an independent company do an impact study. (Section 37.80.G) (NEPA) regulations standard.

AGENDA ITEM #4- DISCUSS OLD BUSINESS

None

AGENDA ITEM #5- DISCUSS NEW BUSINESS

Commissioner Strong and Commissioner Lancaster stated that a family is living in trailers with solar panels; kids are riding on four-wheelers everywhere, and a possible illegal well.

AGENDA ITEM #6 - ADJOURN THE PLANNING COMMISSION REGULAR MEETING.

Motion made by Commissioner Strong to adjourn the meeting. Commissioner Lancaster seconded the motion. Meeting adjourned at 8:41 pm.

July 7, 2021

Stephanie Shelley

Minutes Approval Date

Town Recorder Stephanie Shelley