

October 10, 2017
7:00 p.m.
Proposed Local Law # 2 of 2017

Present: Supervisor Gerald L. Deming, Councilmembers: Lynn Parnell, Amos Smith, and Norman Gates

Absent: Frank Rose Jr.

Others: James Campbell (Town Attorney), Rose & John Mader, Susan & Andrew Smith, Alan Brightman, Sam & Carrie Swearingen, Henry Fuller, David Deuel, Molly Cummings, David Rose and Kirk Richenberg

Supervisor Deming opened the Public Hearing at 7:00pm.

Attorney Campbell presented an overview of proposed Local Law # 2 of 2017, establishing a Temporary Land Use Moratorium Prohibiting Large Scale Solar Installations within the Town of York. If approved, the law would be for a period of one year. Mr. Campbell explained in detail what specifically a moratorium is stating that it is a legally authorized temporary halt of rights in order to investigate and determine how you wish to further proceed on a particular matter. (Suspension of activity) Mr. Campbell continued by saying that the Town of York Zoning regulations do not currently address solar arrays of any size. If such local law is approved, no applications, permits or site plans for large scaled solar could take place within the Town for one year. Smaller scale solar applications would be exempt from this law. Mr. Campbell added during the one year the Town must take action by exploring what is in the best interest of this community and what if any regulations should take place. If additional time is needed after the one year moratorium, it could be extended if necessary or cut shorter if the full one year is not needed we could “undo” the moratorium.

Attorney Campbell reported what exactly is driving this proposed moratorium is a conversation that took place regarding a very large scale array application to come. 200-500 acres are currently being talked about on Abbey of the Genesee property which is something no one has seen of this magnitude. Usual applicants seek 30, 40 or 50 acres for such application but never to this scale.

Mr. Campbell stated once again that the purpose of the moratorium is to give the Town Board on behalf of the community the time needed to determine what is best for the Town of York.

QUESTIONS/COMMENTS:

1) Andrew Smith: Mr. Smith asked what happens to the 200-500 acres, how do we ultimately keep the Valley green?

Attorney Campbell replied that agriculture is such a big part of this community and most communities throughout this County. A number of Towns have been struggling to determine what is in the best interest for their area. Prime soil is restricted and we want to maintain future potential for ag purposes.

2) David Deuel: Mr. Deuel asked the Board if they were aware of any State guidelines or regulations available pertaining to Large Scale Solar Arrays, DEC or State agencies. What will happen in 30 years, which is the lifespan of the Solar panels, what happens thereafter?

* Mr. Campbell answered unlike the Fracking situation which had State regulations, towns could not regulate. There is not structured regulations for solar. The New York State Energy Research and Development Authority (NYSERDA) has constructed guidelines for assistance. NYSERDA promotes energy efficiency and the use of renewable energy sources. They work with residents, businesses, developers and local officials throughout New York acting as consultants. Mr. Campbell stated once again that something of this size scale has not been done thus far noting that removal and or remedial is a major concern. A removal bond will be important to implement. When panels are no longer effective they need to be removed.

3) Sam Swearingen: In regards to the question asked by Mr. Smith; the contract that the landowner signs is spelled out how the land will be used now and in the future. This country was based on freedoms but the first words spoken tonight were about regulating the homeowner's rights. It should be our right as property owners to do as we choose with our property.

4) Kirk Richenberg: Knowing we are a Right to Farm Community, what would be the answer when this is referred to as a Solar Farm? How do you regulate or address that?

* Mr. Campbell replied as of right now this is not considered a farming practice. New York State Ag & Markets do not classify it as an agricultural enterprise. It may be changed in future years but it is not yet currently. The Right to Farm distinction is this town's identity for this community.

5) Rose Mader: Mrs. Mader referenced a television program she recently watched pertaining to solar panels. In China, hundreds of acres are being used for solar purposes because coal has become too much of an issue to contend with.

* Mr. Campbell commented that solar development over the years has improved greatly. With this proposed law, the Town is trying to get in front of this topic not potentially stopping it but needing to be mindful and adhere to our existing farming practices.

6) David Rose: Mr. Rose stated this is a difficult situation. He supports solar energy and in fact has been approached by a solar company to lease his land for a great deal of money. The offer would obviously hurt the current agricultural industry and go against the existing Town Comprehensive Plan. The ultimate question is whether we should engage in a solar energy plan. If hundreds of acres of land are used for solar, farmers and the farming industry gets hurt which will affect many others as well. Although supportive of solar energy, at this time I am in favor of the Board passing the moratorium allowing us time to educate ourselves further. There is a great deal of good information out there to tap in to. If we proceed with the moratorium, that time can be used to make a responsible decision.

7) Alan Brightman: A solar farm of that size will produce a significant amount of electricity, there will be a need for a utility infrastructure which could include new utility lines and sub stations. Mr. Brightman stated that he is very supportive of renewable energy initiatives but a project of this size needs to be well thought out, and since we have no regulations in place yet, he is supportive of the one year moratorium.

Supervisor Deming questioned that there could be farm land that may not be as good for actual farming. Andrew Smith replied on the contrary saying that the Genesee River silt is probably some of the best soil in the Country. If used for solar panels it will not be planted or tilled ultimately no longer green. The topography of land as it affects steep slope areas would be good for panels but what is proposed is flat land. Mr. Smith expressed how difficult it would be to see this vital area used for solar panels which would be a loss to farming. Mr. Smith added drainage is another factor to contend with. Non tillable land used for panels may affect the tillable land. If panels were placed on a steep slope next to viable tillable land, it would cause excessive run off creating drainage issues, erosion and/or flooding.

* Attorney Campbell commented if there is going to be regulations prepared, we need to address these concerns and others as well. As discussed earlier this moratorium would be suspending landowner's rights temporarily.

Mr. Swearingen commented if passed, our rights could be suspended permanently and believes this will be the case. Mr. Swearingen added that he does believe someday this will be classified as a farming purpose.

8) Kirk Richenberg: Mr. Richenberg educated the Board on a completed solar project in Somerville, New York which allows cleaner energy options as well as cost savings on electricity. Mr. Richenberg stated that the definitions in the proposed moratorium are vague at best and questioned why after 6 months is this now an immediate need, is it because of the proposed 500 acres application? The 500 acre number is not in this description, more description is needed to outline Large Scale and Small Scale arrays.

* Mr. Campbell answered that the document was deliberately drafted this way for Large Scale Solar installs for commercial purposes with the intention of generating power and connecting the power into electricity for resale to or by a third party.

Councilman Smith added, with the NYS Model Solar Energy Law it gives guidelines to sized solar projects. Large scale solar is specifically described in the model law.

9) Alan Brightman: Customers receive a percentage of the output which then offsets their electrical costs.

10) David Rose: Mr. Rose stated that he feels the proposed Local Law is detailed. Large scale solar Arrays for landowner or farmers own personal use is exempt, the intent is for residential or business purposes not commercial.

11) Kirk Richenberg: What if there is a party that wants to be part of moving forward with renewable energy, which would allow them the ability to reduce their bill, you are stopping that. Mr. Richenberg added that he is not supportive of a moratorium because it is taking away land owners rights. In other towns there are solar arrays that are beneficial to their community.

* Attorney Campbell stated this moratorium only gives the Town Board time to decide what the community wants, it is not a long term permanent solution.

12) David Rose: Mr. Rose stated once again that the wording is adequate. He is very pleased with the intelligent discussion this evening on the topic which alone warrants a Moratorium to figure out how to proceed for our future after the one year has ceased.

* Mr. Campbell added, if we were to receive an application right now, currently our code does not permit large scale applications. My legal opinion is to look at this more closely and deliberately. There are representatives out there looking to lease land and trying to secure rights, some are reputable some are less so. Temporarily this community will be reviewing where they wish to go.

13) Henry Fuller: Mr. Fuller stated he feels we need another meeting but with experts in attendance. He recently attended a meeting in Warsaw which was very educational and believes the Town could benefit from this type of assistance. Mr. Fuller commented that he does not particularly care about the Ag industry especially when they are not even required to obtain a permit for the lagoon recently put in the township.

Mr. Fuller stated that we are now having the Public Hearing on Solar but previously the draft was submitted to the Livingston County Planning Department for review before we met.

* Attorney Campbell replied that the sequence is correct. We are required by law to have County Planning Board review prior to a decision. Mr. Campbell added that he agrees with Mr. Fuller that obtaining professional assistance could benefit the town going forward with how they wish to proceed but still recommends a moratorium at this time. Mr. Campbell stated if the Board approves the moratorium we are still required to complete additional work.

Mr. Fuller reported at the meeting in Warsaw, it was stated that the solar company or third party always seeks as much land as possible to lease but may only use a quarter to half of what they contract for.

* Attorney Campbell stated if the Board decides to move forward with the moratorium a committee should be assembled to discuss options in order to have multiple opinions. Mr. Campbell added that the websites for NYSERDA and NYS Ag & Market would be very useful to tap in to for assistance to see what exactly is available.

14) Henry Fuller: Mr. Fuller questioned what happened to the Fracking Moratorium and all of the money spent on it? \$40,000 and nothing done.

* Supervisor Deming replied that the Town did not spend \$40,000 on the moratorium

* Attorney Campbell added that preparing the moratorium is not a large expense.

15) Kirk Richenberg: Can you give us a dollar amount?

* Mr. Campbell answered that he could not at this time. His fees are based on hours expended. This particular model is one that he drafted, so more time was used but at other times towns share information.

16) Sam Swearingen: Mr. Swearingen stated that he has been talking with solar companies for the past 5 years and understands the town's position to look at all sides. He fully supports agriculture but wants to be able to use his land as he sees fit.

17) Rose Mader: What exactly prompted this proposed moratorium...is there someone asking about a large scale solar?

* Supervisor Deming replied that there is a very large application being discussed.

* Attorney Campbell stated that there is a real interest from the Abbey of the Genesee. We have explained to them our draft moratorium which focuses on large scale not small. In the original discussion, they had inquired about 500 acres of large scale solar panels. Mr. Campbell added with the aging population at the Monastery, they are seeking other opportunities for their land.

18) John Mader: Mr. Mader asked as to what we will do about the tax base?

* Attorney Campbell and Supervisor Deming answered that is a very good question and further review would be necessary.

Supervisor Deming commented that the company installed panels on two separate fields in Massachusetts, one for 140 acres and the other for 125 acres but nothing of this proposed magnitude.

* Councilwoman Parnell asked what specific acreage are they referencing.

* Attorney Campbell replied that they have not given the specifics of the acres.

19) Rose Mader: Mrs. Mader questioned if there is any state land in that area?

* Supervisor Deming answered that there is not any state lands but there are some by her property which is the old railroad bed.

Mrs. Mader inquired, can't the State come in and take your land if necessary?

* Mr. Campbell answered in order for the State to proceed in that fashion it would be pretty significant battle to do so but could on behalf of the Town under Eminent Domain. For this particular matter they would not proceed in this format.

20) Kirk Richenberg: Mr. Richenberg asked if there are any more details to share regarding the Abbey.

* Supervisor Deming stated that due to the large number of acres discussed they would not have all acreage in a contiguous parcel which questions where specifically the proposed panels would be placed perhaps behind the Retsof Hamlet.

* Attorney Campbell added we are unsure if they have committed to the size of the parcel(s) because they also commented on a range of acreage, but we know nothing has been finalized. The Abbey wants to continue to be good neighbors to the community perhaps even by reducing the number of acres.

21) Kirk Richenberg: Mr. Richenberg stated the 500 acre number appears and now the Town Board wants a moratorium after having the draft for several months, is this a scare tactic or truly a real number?

*Attorney Campbell replied, the large number the Abbey stated did drive him to move more quickly for the Board to render a decision. Nothing in our region has ever contemplated this large scale project. We need time to educate ourselves. Mr. Campbell added, if you have a developer that is serious, we want to get ahead of it, otherwise it is too late once the application is submitted.

22) Rose Mader: Mrs. Mader asked if they will get free power.

*Mr. Campbell replied he is unsure how this will be structured, perhaps benefitting financially.

23) David Rose: Mr. Rose commented whether it be 500 or 100 acres, the result is still the same, we need to have our ducks in a row prior to an application.

*Mr. Campbell agreed and added, larger scale acres have a much greater impact on a community.

24) Kirk Richenberg: Mr. Richenberg informed the Board that the Town of Stafford has scheduled solar education meetings for their residents. He believes it is a series of sessions, with guest speaker Attorney Dennis Vacco, who was previously the NYS Former Assist. Attorney General. The town should consider attending if possible or contacting his office directly. He would be a very good resource going forward.

*Attorney Campbell agreed Mr. Vacco would be a viable resource, and added we still have much work to do, this does not stop with a moratorium.

ATTENTION STAFFORD CITIZENS

Land Owners and Farmers

Please join the Stafford Solar Education Committee

**Thursday, Oct 19, 2017 at 7 PM
St. Paul's Episcopal Church Hall,
4 corners Rt. 5 and Rt.237**

for a video showing of the third in a series of talks as we continue exploring efficacy of allowing large scale industrial solar plants in town.

Presenting

Attorney Dennis Vacco

**NYS Former Assistant Attorney General
Buffalo, NY**

as he discusses:

**"Contracts, and laws, the legal side of Large
Scale Industrial Solar Electric Plants and their
impacts and risks on your farm production and
the future control of your farm in Stafford."**

Please bring your questions and stay for refreshments.

The following picture is in regards to the discussion earlier this evening



After no further questions or comments from the public, Supervisor Deming stated that the Public Hearing will remain open until Thursday, October 12th for the purpose of accepting any potential written comments.

ADJOURNMENT

RESOLUTION offered by Mr. Smith and seconded by Mrs. Parnell to adjourn the Public Hearing until October 12, 2017. Voted on and approved, Yes-4, No-0.

Public Hearing closed at 8:08 p.m.

Respectfully Submitted,

Christine M. Harris, Clerk

