

TOWN OF SCHUYLER ZONING BOARD OF APPEALS
PUBLIC HEARING RE: APPLICATION SUBMITTED BY SUN EAST DEVELOPMENT
WATKINS ROAD SOLAR FARM
AUGUST 18, 2020 – 6:00 PM

Chairman Ronald J. Beach, Jr. called the Public Hearing before the ZBA to order at 6:00 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY 13502.

Other ZBA members present were: Vice Chair JoAnn Mammone, Robert Wasyleski, David M. Pasick and Alternate Member Jeffrey Dingman. Chairman Beach announced Christine Proulx has resigned; therefore, alternate member Jeffrey Dingman will be appointed to serve as a ZBA member and a new alternate member will need to be sought.

Others present were Kevin Murphy, Esq. and Chris Biamonte, Esq., (Wadas Law Firm) who are serving as legal counsel for the Town of Schuyler/ZBA for this project; Jason Dickey (TRC); Mike Beckner (SunEast), Greg Elko (SunEast), Councilmen Rodney Dodge and Joseph Juliano, Planning Board members Dale Dodge and Daniel Tripoli, IDA Chairman John Piseck, and Bette Szesny who served as Recording Secretary.

Also present were several members of the public, including the following persons: Calvin Treen, Michael Treen, Kyle Treen, Mariann Frye, Frank P. Spatto, Allyson Phillips-Young (Summer LLC), John Treen, Cathy Treen, Craig Treen, Alan Johnson, Julie Todd, Paul P. Sokol, Thomas Todd, Michael Lavelle, Cheryl A. Bletch, Roy L. Coffin, Carolyn Goodhines, Frank Spatto, Adam Spatto, Linda Spatto, and Harold Moss. The sign-in sheet is attached to these minutes.

A petition containing 47 signatures of persons who are opposed to the SunEast solar farm is also attached to these minutes. A suggestion box was placed in the Town Hall vestibule which reflects four additional comments; 3 in opposition to the project and one in favor, all of which are also attached to these minutes.

Chairman Beach explained the rules and regulations relating to protocol as applicable to all members of the public present at this public hearing. He stated everyone who has signed in will have an opportunity to speak, with a 5-minute time limit for each speaker. Only one person at a time will be permitted to speak, and this will be without interruption. If anyone wishes to speak a second time, this will be permitted after all have had their opportunity to state their opinions. No discussions or interjections between members of the public will be allowed during this public comment period.

Chairman Beach described the location of the project which includes parcels in both Town of Schuyler and Herkimer; the public hearing was published in the Times Telegram; posted on the Town's website and at the Town Hall; and all property owners within 500 ft. of the proposed action were notified by mail, in accordance with legal requirements; full information on the project public was made available for public access in advance of the public hearing; and the public has been invited to submit written comments.

Chairman Beach then opened the public comment period; members of the public wishing to speak were asked to raise their hand and when acknowledged, they will be asked to state their name and address. He then stated all comments elicited at the July 28, 2020 public hearing will be incorporated into the record of this public hearing. Documents and records will be accepted through this coming Friday. All comments are to be limited to 5 minutes; those wishing to comment a second time will be permitted to do so at the Board's discretion, and they will only heard after all others have had an opportunity to speak. Chairman Beach then opened the public comment phase of this public hearing.

MICHAEL LAVELLE, DDS, 226 MCKENNAN ROAD: Dr. Lavelle stated he only heard about this project two weeks ago, and he has a lot of questions that were not provided when he contacted the project engineer. He then referred to the project as "a complete oxy-moron." He stated he does not regard solar energy to be what is termed as "green," since it will eliminate vast acres of forestation and farmland. He also asked whether the project location would be taken off the tax rolls when the solar farm becomes operational. He asked that Chairman Beach provide him with the answers to his concerns. Mr. Beach informed him that the Board will not be answering questions; this public hearing is to provide an opportunity for those in attendance to express their opinions. Dr. Lavelle then expressed his concerns about the negative impact on residents' wells created by the solar farm. He also stated his concerns regarding the effect the electromagnetic fields will have on residents who are sensitive to this agent, adding that his wife suffers from migraine headaches. He said they relocated from the city to the country in order to avoid these issues, and he is concerned her migraines will return as a result of the solar rays emitted from this infrastructure, adding that his research has indicated it is a known cause for childhood leukemia. He also stated solar farms produce toxic chemicals, and he then provided the identified agents that he maintains establishes these claims. He said there are many other untoward effects he won't mention, since the Board has refused to answer any of his concerns, adding that solar farms do little or nothing to provide adequate power that would support their existence, and as well, the life span of the panels is short, rendering this project unworthy. He said if he wanted to stare at glass through his windows, he would have stayed in the city; in fact, he had turned down an offer to site a solar farm on his own property, and that it has been substantiated this will decrease the value of residents' homes. He then stated the current Town of Schuylers Zoning Ordinance does not allow for solar farms in this (R-A) District of the Town. In conclusion, he asked why no members of the Board have solar farms in their back yards. He asked the Board to be brave and reject this project which will help to save "Rural America." He asked what, if any, benefit this project will be realized by the residents, such as lowered tax rates, adding that he believes there are none. He stated he therefore hopes the Board will realize the negative impact this project will have on the residents, and they will choose not to approve the application.

JASON DICKEY, SR. PROJECT MANAGER: Mr. Dickey identified himself as the Sr. project Manager with the TRC Company, a nationwide environmental engineering concern serving the northeast and mid-Atlantic area that specializes in the development of renewable energy projects. He stated he is based at their Albany NY office, where he is representing SunEast in the development of this project. He further stated SunEast is a renewable energy company that specializes in commercial solar energy, and that this project will be situated in a vacant area of farmland. He stated this project has undergone SEQR review where no negative impacts on the environment, residents or any species were established. He said the SEQR review is in compliance with all involved state and federal agencies. Once operational, this project will deliver energy to the state's electrical grid (operated by National Grid); it will generate no waste, no pollution of any kind, no light or noise; it will just sit there unassumingly, delivering energy to the grid. He said through an agreement with the Herkimer county IDA, this project will generate millions of dollars in revenue, which will benefit the surrounding communities and school systems. He said the polls will be beneath the tree lines, and will not be visible. He said he will gladly answer any written comments from concerned residents.

FRANK A. SPATTO, MOHAWK, NY: Mr. Spatto said he had many questions, which he had presented to Mr. Dickey at a February meeting, and they have remained unanswered. As well, with regard to the first public hearing regarding this project, the wrong tax map numbers were recorded, resulting in lack of communication with regard to notification of many residents residing within 500' of the proposed action. He stated he has learned this project has been in the works for over a year, yet he was never

informed about it until February. He stated he believes in view of this situation, the SEQR should be re-done. He said this Board should be starting out anew, using the new Tax ID numbers, and move forward from that point. He requested a new SEQR process be commenced, to include referral to HOCPP for recommendation, and then move forward.

KYLE TREEN, 351 WATKINS ROAD: Mr. Treen stated he believes building a solar farm at this location is a complete oxy-moron, as referenced by Dr. Lavalle. He said situating a solar farm in an agricultural section of the town where abundant forestation exists doesn't make any sense. He said we live in a small rural farming community where residents value nature, and most of the residents on Watkins and McKennan Roads would like to keep it that way. He stated his feeling is that solar farms belong in an industrial area, and he does not understand why a company "would want to come to a rural area and make it an eyesore." He said, "It just doesn't make any sense." He stated he has taken the time to draw up a petition signed by nearly all the residents of McKennan and Watkins Road, which he will present to the ZBA. He then thanked the Board for their time.

FRANK P. SPATTO, MOHAWK, NY: Mr. Spatto focused his discussion on the issue regarding Oak Hill Road, which involves his/his family's chief complaint with regard to this project, concerning whether the road is or is not closed. He stated the Thruway Authority did in fact compensate the Town for using a portion of Oak Hill Road at the time of the Thruway infrastructure's origin in the Schuyler area back in the 1950's. He said this purchase was possible because at the time, the Town owned Oak Hill Road; and the fact remains that the Town still owns the portion of this road where the solar panels will be located. He further stated he fails to understand the legality of situating a solar farm on a portion of the property that is owned by the Town of Schuyler.

HAROLD MOSS, SCHUYLER: Mr. Moss stated his input is likely redundant; however, his issue is also with regard to Oak Hill Road. He stated he, Mr. Spatto and possibly others still utilize the road to access their properties; however, the solar panels will be installed in this area, which will inhibit their access. He stated his main objection to the project is that the solar panels will be situated on what is currently Oak Hill Road.

CRAIG TREEN, 232 MCKENNAN ROAD: Mr. Treen stated his house is within 100 ft. of where the solar panels will be installed. He stated his house is located on the lower portion of a hilly area, and he is concerned about run-off and the resultant ground water, with regard to possible contamination to his well water from the solar panels that he believes may become a health hazard. He stated he currently has his water tested on a regular basis, and he will continue to do so; however, this is a major concern, especially since his daughter is afflicted with epilepsy .

FRANK A. SPATTO, MOHAWK, NY: Mr. Spatto, who had spoken previously, was granted another opportunity to provide an additional comment: He stated Oak Hill Road is the only means of access to his property, which will be unavailable if the project proceeds as planned;, and without any other means of access trough a neighboring property, he will have no access to his 400 acres of property.

JULIE TODD, SOKOL ROAD, HERKIMER: Mrs. Todd stated in reference to Mr. Spatto's claims that he will be denied access to his property as a result of this project are invalid, in that he currently has no access to his property through any means. She requested this statement become part of the record.

FRANK P. SPATTO, MOHAWK: Mr. Spatto again asked to speak. He asked whether there might be available a pamphlet or other written substantiation with regard to solar farms' effects on water quality issues. Chairman Beach requested he refer his issue to the engineer. Mr. Spatto then expressed some of his concerns regarding cleanup of the panels when they are no longer utilized, and the negative effect this might have on the current owner of the property with regard to clean-up of the site following decommissioning.

KEVIN MURPHY, ESQ. (Wladas Law Firm, Syracuse, NY): Mr. Murphy stated he/his law firm are serving as legal counsel representing the interests of the Towns of Schuyler and Herkimer in the review of this project, and he is responding to the last comment elicited by Mr. Spatto. He stated as part of the review in the negotiations with SunEast, the parties have reached an agreement on the decommissioning plan and a decommissioning agreement has been reached, requiring the developer to post a bond that will cover the cost to decommission the project. He stated he bond is required to be posted before the construction begins.

FRANK A. SPATTO: Mr. Spatto was granted another opportunity to speak. He asked who is responsible for the bond, and whether the Town will be required to accept the financial responsibility. Mr. Murphy informed him that the Town will not be required to assume any financial responsibility.

HAROLD MOSS, SCHUYLER: Mr. Moss stated he contacted the solar company approximately two weeks ago with regard to some questions and concerns regarding this project and an informal discussion ensued; however, he has to date received no feedback as was promised. He stated this situation has resulted in some concerns among his neighbors as well as himself, with regards to some issues they have with regard to this project. He then asked whether Mr. Murphy represents both the towns of Schuyler and Herkimer for this project. Mr. Murphy stated he represents both towns jointly for this project. Mr. Moss asked whether this may represent a conflict of interest. Mr. Murphy stated he knows of no issues that would create a conflict of interest; however, if he were to also represent the developer, that would represent a conflict of interest, but this is not the case; initially his law firm was engaged to represent the Town of Schuyler, and then they were retained by the Town of Herkimer, since the firm was already familiar with the project.

CHERYL BLESCH, 326 McKENNAN ROAD: Ms. Blesch stated her question is, "*What aren't they telling us?*" She said if anyone looks up the research, they will find these panels leak in extreme weather, and we have extreme weather. She further stated the panels will leak into their well water; there is no "city water" available in this area. She said animals and people both drink the water, and asked what is going to be done about this situation. She then asked that some research be accomplished. She stated her opinion that the solar company will not reveal this information, and will only tell the residents what they want to hear.

PAUL P. SOKOL, NEW JERSEY: Mr. Sokol stated he resides in New Jersey, but he was born and brought up on the Sokol farm. He stated Solar Farms and solar energy are located everywhere across the USA and throughout the world; he further stated that it is a matter of fact, that this country is well behind other countries with the development of solar energy. He stated this is a great economic opportunity for the Mohawk Valley.

FRANK P. SPATTO, MOHAWK: Mr. Spatto was granted another opportunity to speak. He reiterated his concerns (stated above), along with his recommendation that an informational pamphlet on the possible health risks resulting from solar panels needs to be made available to the concerned residents.

MICHAEL LAVALLE, DDS: Dr. LaValle was granted a 2nd opportunity to speak. He suggested the Town provide concerned residents with an opportunity to meet with the Board, all involved agencies and experts on solar farms to discuss the entire project's impact on the residents, as opposed to any benefits. Mr. Dickey stated all the information has already been provided to the Board. Dr. LaValle then requested he be provided with the entirety of all this information. Mr. Dickey stated his organization has already provided all information to the Board, and he informed Dr. Lavalley that it is available to him upon (FOIL) request. Mr. Dickey stated he will provide the Chair with all information on the project. He then read aloud the environmental impact statement which substantiated there will be no environmental impact created by this project.

MOTION TO ADJOURN PUBLIC HEARING

Since there were no further comments elicited by the public, a motion was made by JoAnn Mammone and seconded by Robert Wasyleski to close he public hearing.

Motion was carried by unanimous voice vote of all ZBA members present.

Chairman Beach closed the public hearing at 6:34 PM.

SPECIAL MEETING

Chairman Beach called the Special Meeting before the ZBA to order at 6:35 PM.

MINUTES: JULY 28, 2020

Motion by JoAnn Mammone, second by Jeff Dingman to approve the minutes of the July 28, 2020 Special Meeting and Public Hearing. all in favor; motion carried by unanimous voice vote.

EXECUTIVE SESSION

Chairman Beach then asked for a motion to enter into executive session for the purpose of conferring with legal counsel regarding the proposed SunEast Solar Farm.

Motion by Mr. Pasick, second by Ms. Mammone to enter into Executive session. All in favor; motion carried by unanimous voice vote.

RETURN TO OPEN SESSION

Motion by David Pasick, second by Chairman Beach to return to open session; motion carried by unanimous voice vote.

ADJOURNMENT

Motion to adjourn the Special Meeting was entertained by David Pasick and seconded by Jeffrey Dingman. Motion carried by unanimous voice vote.

– Bette Szesny, Recording Secretary