

TOWN OF SCHUYLER ZONING BOARD OF APPEALS

SPECIAL MEETING

November 19, 2019 – 6:00 PM

WATKINS ROAD SOLAR FARM APPLICATION

Chairman Ronald J. Beach, Jr. called the meeting to order at 6:00 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY. Other ZBA members present were: Christine Proulx, Jo Ann Mammone, Robert Wasyleski and Alternate Member David M. Pasick. Absent was Joseph Aiello, IV.

Other Town officials present were Supervisor Anthony J. Lucenti, Codes Officer Philip Green, and Bette Szesny, who served as Recording Secretary.

Also present were Kevin Murphy, Esq. (Wadas Law Firm) who is serving as legal counsel for the Town of Schuyler/ZBA for this project; Chris Biamonte, Esq., (Assistant to Attorney Kevin Murphy, Esq.); Nancy Vlahos, TRC Project Manager; Mike Bechner (Vice President of Sun East Development, the applicant); Ken Collis (Town of Herkimer Codes/Zoning Officer); and Town residents Ricky Proulx and Craig Treen.

Chairman Beach led the assembled persons in the Pledge of Allegiance to the Flag.

Chairman Beach stated the purpose of tonight's meeting is to discuss the ZBA's assumption of Lead Agency Status for the Watkins Road Solar Farm project submitted by SunEast Development. He asked for a motion from the ZBA membership to enter into Executive Session for the purpose of discussing this proposed action in further detail with the Board's legal counsel for this project, Kevin Murphy, Esq.

Motion by JoAnn Mammone, seconded by Christine Proulx to enter into Executive Session; all in favor as polled by voice vote. Motion carried. The ZBA convened into Executive Session at 6:02 PM.

Executive Session was declared closed at 6:25 PM on a motion by Robert Wasyleski, which was seconded by David Pasick; all in favor as polled by voice vote. Motion carried. The Board then resumed their order of business in open session.

Mr. Beach then read aloud the Resolution for the ZBA's acceptance of Lead Agency status for the Watkins Road Solar Farm project submitted by SunEast Development. The text of this resolution states this application represents a Type 1 Action under SEQR; the project is located in the Towns of Schuyler and Herkimer; and the Town of Schuyler has agreed to accept Lead Agency Status. The full text of this Resolution is attached to these minutes.

Motion by Christine Proulx, seconded by David Pasick to adopt the Resolution declaring the Town of Schuyler ZBA to serve as Lead Agency for this Project, with Kevin Murphy, Esq., Wladas Law Firm to represent the Schuyler ZBA in the SEQR process. Mr. Murphy will provide written notification to all involved agencies of the ZBA's intent to declare Lead Agency Status, and he will record all responses which will be due in by noon on December 31, 2019.

All members voted affirmatively as polled by voice vote. Motion carried.

The complete text of this resolution is attached to these minutes, and is available for public access upon request.

Motion by JoAnn Mammone, seconded by Robert Wasyleski to consider approval of the \$10,000 invoice submitted by Wladas Law Firm for legal services rendered to the ZBA by Kevin Murphy, Esq. in connection with the SunEast application (described above), and to approve partial payment for same in

the amount of \$9,500. All members voted affirmatively, as polled by voice vote; motion carried.

Attorney Kevin Murphy stated his notifications to involved agencies will represent the Town of Schuyler ZBA's intent to assume lead agency status, with all responses required to be received on or before December 31, 2019, at which time the ZBA will be officially declared Lead Agency for this project, providing no valid objections have been received.

Attorney Murphy then suggested the date of the next meeting be set for Tuesday, January 21, 2020; however, there is a possibility a meeting before that time could be scheduled for December 17th for a review by the Engineering firm.

MINUTES: OCTOBER 15, 2019 – RE: GREEN WAVE RECYCLING

Discussion: Ms. Mammone stated she has issues with the fencing at this recycling business. She stated she also has concerns about the unsightly mess at the facility. She said there has been a lot of complaints, and she would prefer them to install a different type of fencing, as the fence they have been in the process of installing is already falling down, revealing the numerous recyclable materials on the property, which is very unattractive.

Mr. Green stated he has spoken to the owners, and they anticipate having new fencing delivered by Thursday. However, he suggested a resolution to this issue with this along with many others, which involve businesses that are not in compliance with the terms of their permits issued by the ZBA, might be to incorporate an operating permit policy, whereby all conditions of the permit would need to be met in advance of the date when the business would become operational. All agreed this policy should be implemented. The idea will be discussed with the Town Board and the Town's attorney, in an effort to establish guidelines for enacting the new permitting policy. It was suggested the Planning Board may be the appropriate entity to develop this policy that would include specific restrictions on "allowed use" applications. He said the permitting process would be applicable to all "special use" permits; development of the ordinance might well be undertaken by the Planning Board. The Town attorney will be contacted to assist in orchestrating this policy.

Motion by Robert Wasyleski, seconded by JoAnn Mammone to accept the minutes of the January meet as presented all in favor. Motion carried.

Supervisor Lucenti then asked Mr. Green if Green Wave had indicated any specific date when the installation of the fence would be completed. Mr. Lucenti pointed out that their agreement was to restrict their work area to 200 feet, but this has not been the case, creating a host of complaints by residents. He said although we welcome new businesses, when negative situations such as this occur, it is troublesome.

Mr. Green stated the owners had indicated the materials would be delivered on Thursday, and they planned to start working on it immediately. He said if nothing has been accomplished by Monday, the Town's attorney should be contacted, with a letter generated to put them on notice, to include a time line and deadline for completion of the installation, which if not met, would require another appearance before the ZBA.

Mr. Lucenti stated he has received numerous complaints on a weekly basis. He has spoken to the owners and suggested a chain link fence would be his recommendation, and that the owners had agreed they would be amenable this solution.

Mr. Beach stated he has already spoken to the attorney to discuss the required steps that would need to be undertaken in the event of continued non-compliance, that would enable the ZBA to pull their permit.

All agreed the appearance of the business site is extremely unattractive and unacceptable.

Mr. Lucenti stated the term "completed fence" needs to be defined.

Mr. Beach stated the owners had originally stated that as a recycling entity, their business activity would be operated on an "in and out" basis; however, there seems to be no "out" with regard to removal of the massive amount of materials at this business location.

ADJOURNMENT

There was no further business to come before the ZBA; therefore, Chairman Beach adjourned the meeting at 6:45 PM on a motion offered by Robert Wasyleski, which was seconded by Christine Proulx.

– Bette Szesny, Recording Secretary

TOWN OF SCHUYLER ZONING BOARD OF APPEALS
SPECIAL MEETING
GREEN WAVE SALVAGE & RECYCLING LLC
October 15, 2019 – 6:00 PM

Chairman Ronald J. Beach, Jr. called the meeting to order at 6:00 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY. Other ZBA members present were: Christine Proulx, Jo Ann Mammone, Robert Wasyleski and Alternate Member David M. Pasick. Absent was Joseph Aiello, IV.

Other Town officials present were Codes Officer Philip Green, Councilmen Rodney Dodge and Joseph Juliano, Planning Board member Dale Dodge, and Town Attorney Jennifer Lawrence, Esq.

Bette Szesny served as Recording Secretary.

Also present were Green Wave Recycling Salvage owner Hans Hendricks & Shawn O'Brien.

Chairman Beach led the assembled persons in the Pledge of Allegiance to the Flag.

Chairman Beach stated this meeting before the ZBA was called to order for the purpose of addressing some issues of concern regarding complaints Town officials have received concerning the unkempt condition of the Green Wave Salvage's business property, along with the Town's concerns regarding lack of proper fencing at the property, as was specified in the terms of their approved application.

Mr. Beach asked Mr. Hedrick to step up to the podium to discuss the Town's concerns.

In response, Mr. Hedrick and his associate stated they have had some problems with their newly purchased rendering equipment, and replacement parts had to be ordered from the European manufacturer, resulting in a significant delay in arrival of the equipment. However, the repairs have now been completed, and the business is now able to resume operation.

With regard to the fencing, it was noted installation of a chain type fence is currently underway. Ms. Proulx stated she is totally opposed to this type of fencing, as it is very unattractive. She stated this is not the type of fence that was agreed upon by the ZBA when approval of the permit was granted.

Ms. Mammone stated she is concerned the enamel coating of this fence will rust.

Mr. Hedrick stated he is sorry this fence does not meet with the Town's approval. He stated he does not want to create untoward issues for the Town, and he and his associates hope to continue to maintain a good rapport with the Town government and its residents.

After further discussion, it was decided to allow the chain type fence to be placed at the business site. As well, the owners will be expected to continue to clean up the front of the property, as well as to complete installation of the fence so as to camouflage any and all debris and the entire work area at this property. This agreement constitutes a 30-day compliance time frame for the work to be completed.

Mr. Hedrick thanked the Board for their understanding and consideration, also stating they wish to maintain a good relationship with the Town of Schuyler and its residents.

SUN EAST / WATKINS ROAD SOLAR FARM APPLICATION

Chairman Beach stated he has received a copy of the correspondence sent to SunEast's attorney by Kevin Murphy (Wladis Law Firm) who is representing the Town in this project, providing an in-depth description of the documentation the ZBA requires in order to move forward with consideration of acceptance of Lead Agency Status for this project. He stated it is anticipated this requested documentation will be forthcoming within the very near future, at which time another meeting of the ZBA will be scheduled and held, when the application for this project will be further entertained.

MINUTES APPROVAL: 9/24/19 SPECIAL MEETING

Motion by JoAnn Mammone, seconded by David Pasick to approve the Minutes of the 9/24/19 Special Meeting; all in favor. Motion carried.

ADJOURNMENT

There was no further business to come before the ZBA; therefore, Chairman Beach adjourned the meeting on a motion offered by Christine Proulx and seconded by David Pasick.

– Bette Szesny, Recording Secretary

TOWN OF SCHUYLER ZONING BOARD OF APPEALS

SPECIAL MEETING RE: WATKINS ROAD SOLAR FARM

SEPTEMBER 24, 2019

Chairman Ronald J. Beach called the meeting to order at 6:00 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY. Other ZBA Members present were Vice Chair JoAnn Mammone, Christine Proulx, Robert Wasyleski and Alternate Member David Pasick. Absent was Joseph V. Aiello, IV.

Others present were Supervisor Anthony J. Lucenti, Chet McLaughlin (Sun East), Kevin Murphy, Esq. (Wladis Law Firm), Codes/Zoning Officer Philip Green, Town Attorney Jennifer Christman, Town residents Collin Treen and Craig Treen, and Bette Szesny, who served as Recording Secretary.

Mr. Beach stated the purpose of this meeting is to address the ZBA's review of the Application and to entertain acceptance of Lead Agency Status for the Watkins Road Solar Farm project. He asked for a motion to enter into Executive Session with the Board's attorney, Mr. Murphy, to discuss this issue.

Motion by JoAnn Mammone, seconded by Christine Proulx, to enter into Executive Session for the purpose of discussing acceptance of Lead Agency status for the SunEast Solar Project. All voted affirmatively as polled by voice vote. Motion carried.

The ZBA then convened into Executive session. Time was 6:05 PM.

Motion by Christine Proulx, seconded by JoAnn Mammone to return to open session. All in favor as polled by voice vote. Motion carried. Time was 6:56 PM.

Chairman Beach stated following a careful review of the SunEast Solar Farm Application and its accompanying data, and at the recommendation of the Board's legal counsel, Kevin Murphy, Esq., the ZBA will be deferring action on their acceptance of Lead Agency status for the proposed Watkins Road Solar project, pending receipt of a more complete Environmental Assessment Form.

Mr. Beach then read aloud the proposed resolution of the Board to be entered into the record, indicating the Board's decision to request that SunEast withdraw the application as it has been submitted, as this application has been deemed incomplete. He said no action will be taken by the ZBA until such time as the requested data has been submitted and evaluated by the ZBA.

The complete text of this resolution is attached to these minutes.

Motion by Chairman Ronald J. Beach, seconded by JoAnn Mammone to adopt the resolution to delay action on the proposed SunEast solar project until such time as the required data is submitted by SunEast and is thereupon reviewed by the Town of Schuyler ZBA.

All ZBA Members voted affirmatively when polled by voice vote; motion carried.

GREEN WASTE PERFORMANCE BOND AGREEMENT

Attorney for the Town Jennifer Christman stated the owners have accepted the Town's proposed performance bond (contractual agreement), and they will place \$25,000 into an escrow account to cover any clean-up costs so as to ensure the Town's interests are protected, in the event this becomes necessary.

Motion by JoAnn Mammone, seconded by Christine Proulx to authorize Supervisor Lucenti to execute the agreement; all in favor. Motion carried.

MINUTES APPROVAL

Motion by Christine Proulx, seconded by JoAnn Mammone: to approve the minutes for January 9, February 20 and September 18, 2019; all in favor. Motion carried.

UPCOMING PLANNING/ZONING TRAINING EVENT & ATTENDANCE POLICY

Secretary Szesny called the Board's attention to the upcoming October 2, 2019 Planning & Zoning training seminar and the newly adopted Town Board resolution regarding the Town's attendance policy for Planning Board and ZBA members, both of which were included in the members' packets.

ADJOURNMENT

Chairman Beach adjourned the meeting at 7:12 PM on a motion of JoAnn Mammone; all in favor.

- Bette Szesny, Recording Secretary

TOWN OF SCHUYLER ZONING BOARD OF APPEALS
WATKINS ROAD SOLAR FARM MEET & GREET MEETING

SEPTEMBER 18, 2019

Chairman Ronald J. Beach called the meeting to order at 6:00 PM at the Schuyler Town Office, 2090 State Route 5, Utica, NY. Other ZBA Members present were Vice Chair JoAnn Mammone, Christine Proulx and Robert Wasyleski. Absent were and Joseph V. Aiello, IV and Alternate Member David Pasick, who was excused due to an employment related responsibility.

Other Town officials present were Supervisor Anthony J. Lucenti, Councilmen Eric Kane and Rodney Dodge, Codes/Zoning Officer Philip Green, Planning Board Chair Donna Salamone, Planning Board members Dale Dodge, Jean Finster and Daniel Tripoli, Clerk Jeffrey Dingman,

Also present was John Piseck, CEO, Herkimer County IDA, and several Town residents.

Chairman Beach led the assembled persons in the Pledge of Allegiance to the Flag.

Chairman Beach then introduced the Board Members, Codes Officer and the following persons:

Representatives from the Town of Herkimer were Councilman Mark Gaworecki and Codes Officer Ken Collis.

Representing Herkimer County was John Piseck, CEO, Herkimer County IDA. Mr. Piseck stated the Herkimer County IDA is committed to lending its support and assistance to the Town of Schuyler for this project in whatever way it is needed.

Representing the Watkins Road infrastructure were Nancy Vlahos, TRC Project Manager; Harrison Kilonge, SED; Mike Beckner, VP - Sun East; and Kevin Murphy, Esq. (Wadas Law Firm) who will be assisting the ZBA in the legal process of this project.

The attendance sign-in sheet is attached to these minutes.

PROJECT OVERVIEW

It has been established that 40% of this project will be situated in the Town of Schuyler and 60% in the Town of Herkimer.

The project was then described in great detail by Nancy Vlahos, Project Manager for Sun East, as well in part, by Mike Beckner, Vice President, SunEast.

Ms. Vlahos stated this will be a 20 megawatt AC solar project located in both the towns of Schuyler and Herkimer, on Watkins Rd. also encompassing a small section of Soule Rd. Point of intersect will be at the Watkins Rd. intersection.

There are no identified historical or archeological impacts and very minimal impacts for wetlands on the site; as well, no endangered species issues have been identified. Compliance with DEC guidelines has been verified, as well.

Project size will consume 172 acres of land. In response to Supervisor Lucenti's concern, it was stated there will be no expansion of this solar farm anytime in the future due to limitations on the capacity of this solar farm's size and wattage. She said the Planning Board was presented with a sketch plan back in April, when the conceptual layout was revealed. The site plan was then submitted to the ZBA in August. This infrastructure will have an anticipated life of 35 years, at which time it will need to be replaced; however, the extent of its existence has been verified for a 50 year time frame. There is no margin for increasing the wattage due to the expense outweighing any financial gain.

Construction should take 4 to 6 months. It is hoped the contractual agreements can be completed by year's end, with construction commencing in the spring.

Concerns with regard to possible change of ownership were expressed by Ms. Proulx; however, the board was assured no known decommissioning of solar farms has been established to date. It was noted by IDA CEO John Piseck that there have been no negative issues with windmill farms situated in Herkimer County. Mr. Beckner interjected that letters of assurance and decommissioning protection agreements will offer protection in this regard.

In response to Codes Officer Green's inquiry, it was established this project will require two (2) separate building permits (Towns of Schuyler & Herkimer) and compliance with both town's zoning ordinances will be necessary.

In response to Mr. Wasyleski's question, Mr. Beckner stated the benefits will include contractors' purchasing power for goods and services in our area. The need for an effective decommissioning bond was also stressed. Mr. Wasyleski indicated he is totally in favor of the proposed project.

Ms. Vlahos called the Board's attention to the site plan layout, as is demonstrated on the maps provided to all ZBA Members.

Issues of concern were posed by Chairman Beach and other members of the ZBA with regard to National Grid's acceptance of the energy to be produced by this solar farm. It was established this issue is currently in the verification process, with a resolution anticipated in the near future.

Ms. Vlahos then concluded the discussion, stating she and her associates have come to the Town of Schuyler tonight to request the ZBA to declare Lead Agency status, and it is hoped a Public Hearing can then be scheduled to be held in the very near future.

Chairman Beach then stated the ZBA now needs to discuss acceptance of Lead Agency Status for this project, which will require a resolution of the Board. He also stated the Board must also entertain a resolution to hire Wladis Law Firm to represent the ZBA in the entire process.

It has been established that Lead Agency Status will be assumed by the Town of Schuyler Zoning Board of Appeals. Chairman Beach recommended that the ZBA's action on acceptance of Lead Agency status will be deferred until their next meeting date, scheduled for 6:00 PM on Tuesday, September 24th.

Mr. Beach also stated additional resolutions need to be entertained to engage the services of Kevin Murphy, Esq., Wladis Law Firm to represent the ZBA through the SEQR process for this project, and as well, to engage the services of CT Male as the Board's Project Engineer representing the Town of Schuyler. It was then decided to entertain the resolutions at this evening's meeting.

Motion by JoAnn Mammone, seconded by Christine Proulx to engage the services of Kevin C. Murphy, Esq., Wladis Law Firm, to represent the Town of Schuyler/ZBA for the Solar Farm Project; all in favor, as polled by voice vote. Motion carried.

Motion by Robert Wasyleski, second by Christine Proulx to engage the services of CT Male Associates to represent the Town of Schuyler/ZBA for the Solar Farm Project; all in favor, as polled by voice vote. Motion carried.

At the conclusion of the meeting, Chairman Beach signed the Letter of Engagement/SunEast Watkins Road solar Project LLC proposed by Kevin C. Murphy, Esq., (Wladis Law Firm) who will be representing the Town of Schuyler/ZBA as legal counsel for this project.

There was no further business to come before the ZBA; therefore, the meeting was adjourned at 6:26 PM on a motion by JoAnn Mammone and seconded by Christine Proulx.

A recording of the entire meeting is available for public access via E-mail by contacting Bette Szesny at bszes@aol.com.

- Bette Szesny, Recording Secretary