

Solar Workshop July 19, 2021

The Kingsbury Town Board conducted a Solar Workshop on July 19, 2021, at 6 Michigan Street.

MEMBERS PRESENT:

Dana Hogan, Supervisor  
Richard Doyle, Councilman  
William Haessly, Councilman  
Jane Havens, Councilwoman  
Dan Washburn, Councilman

OTHERS PRESENT:

Jeffrey Meyer, Town Attorney  
Todd Humiston, Enforcement Officer  
Town Residents: Dennis Kelly, Dan Columb, Mike Cleveland,  
Renny, Devine, Celeste McDonald  
Terrence Nolan, Borrego Solar  
Travis Rosencranse, Creighton Manning

Supervisor Hogan opened the workshop at 5:30 pm stating the Town had imposed a moratorium on the acceptance of solar applications in August of 2020 due to feedback received from members of the community. In addition, there were changes occurring at the state level and concerns with a county wide PILOT with the IDA. Also, the Town is in the process of developing a Comprehensive Master Plan. The pandemic struck and there were no in person meetings for approximately 6 months. The Town would like to start working on the solar and zoning laws. At this time anything with 1 megawatt or more is considered a commercial solar array. Currently the zoning law, which was established in 2015, deemed solar energy collectors acceptable in all zones. The solar workshop tonight will start the process of developing a plan to address concerns that have been brought to the Board.

Supervisor Hogan stated the workshop is about the law and zoning and requested that there be no conversation in regard to any specific solar projects., the Town has a Planning and Zoning Board to deal with that. The Board needs to address whether the zoning laws need to be changed and our rules associated with those so those boards can apply them correctly. The Town currently has a moratorium and has to determine if they want to extend it an additional 6 months.; the final extension the Board is allotted. Any changes that are made to the zoning or solar laws will be part of a Public Hearing and the public will have the opportunity to address those when that occurs.

Councilwoman Havens stated they will have the opportunity to also weigh in on the Comprehensive Master Plan. Supervisor Hogan stated that is a big piece of this and thanks to Councilwoman Havens they are in the process of the Master Comprehensive Plan and will secure a second grant soon.

Renny Devine stated it is his opinion there are 2 types of solar, some for personal/home use and commercial use. For home solar he thinks a number of panels should be allotted to each person, but not to over do it. A formula could be worked out based the square footage of the house. They should be placed in the yard as pleasantly as possible for your neighbor, with a permitting process in place. A member of the Planning or Zoning Board should check with the neighbors, definitely not put them in the front yard. Also, who is going to be responsible for the disposal of the panels when and if the solar company goes out of business. Also, who will be responsible if a house sells, and the new owners find there are cracks in the panels; who will be responsible for it and how much is the clean-up going to be. As far as commercial he thinks they should be put on brown land that can't be developed or other lands that can't be developed with housing or other commercial properties as much as possible. Also, the energy output should be limited so there are not 200-, or 400-acre solar farms.

Supervisor Hogan asked Mr. Devine what he referring to by limit the energy output. Mr. Devine answered how many acres the solar farm commercial solar farm could have.

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Mr. Devine stated the Town should make sure everybody is aware of these projects and the houses around it, which he feels the Town is doing a better job by posting signs and putting it in the minutes.

The de-commissioning money should be placed in a secure bank. Nobody knows the actual cost when they are taken down. He thinks agricultural land is agricultural land, farmers are working very hard to find land to grow hay to feed their cows and it should not be used for solar farms.

Dan Colomb stated his biggest concern is appearance. Most people seem to put them on their roofs. If you have the pedestals in your back yard that is ok as long as it does not interfere with the people that live around you. When you have a big array and you live next to it, he would object to that unless there is a way to block that view.

Supervisor Hogan stated the Town of Ballston is suggesting an approach where they cannot be seen from the road or from a neighbor's property.

Mr. Columb stated most people that move to the country want a view of the country; if you can put one there and he does not have to look at it he is fine with that. Another concern is stormwater runoff. When the panels are stacked closely together where is the water going in a torrential downpour, it is not being absorbed underneath the panels. He thinks solar is good it depends on where you put them.

Lorraine Forcier stated setbacks for solar panels needs to be addressed and dramatically changed. In the current solar regulation, it is a 50- foot back setback for a residence and that should be increased. She thinks you should not see it and it should not be next to a residence. The actual project should be seen by the Board whoever is reviewing the installation so they can fully understand the impact where it is being installed, where it is being proposed. As much natural vegetation that currently exists should not be taken down if possible because it is a matter of hiding or shielding the solar farm. Mr. Columb does not think that would be enforceable, because someone could clear cut the year before and you would not know their intent. Mr. Devine stated that is why you would want to limit the size of the solar farms in certain areas.

Mr. Columb has questions about the bonding for the de-commissioning, does the escrow account make interest, does it sit there as a guaranteed fund, do you buy treasury bonds that are guaranteed? You are trying to guess what the labor and disposal fees are going to be. It would have to be a huge amount of money up front or have the ability to make money while it is sitting there for 25 years.

Attorney Meyer stated the Town held money from East Side for about 10 years and he believes it was not in an interest- bearing account; that is not to say that it can't be. East Side had exhausted all their other opportunities; it started out as a bond, then a letter of credit and then cash. It has been up to the applicant, but the law could read differently, but is also left to the Town. You are trying to forecast what it would cost 20 years from now; you are building in inflation rates to the best of your ability and not providing any credits for the recycling or scrap costs and trying to provide a further buffer. Some communities are trying to re-examine it every 5 years but when they say no, what leverage do you have.

Supervisor Hogan stated there is some guidance with the NYSERDA De-commissioning Policy. Under the financial mechanism, de-commissioning trust for solar accounts, solar developers can establish a cash account or trust fund for de-commissioning purposes. The developer makes a series of payments during the project's life cycle until the fund reaches the estimated cost of de-commissioning. Landowners or third-party financial institutions can manage these accounts. Terms on the individual payment amounts and frequency can be included in the land lease. The Town could dictate some of that in our law. Supervisor Hogan is concerned at the end of a life of a solar farm the clean-up does not occur and feels we need to protect Kingsbury residents. The discussion continued.

Councilman Haessly stated they are not solar farms; they should be called energy generating facilities or something similar. Every year the operators of the facilities should be identified. There also may be a change of hands in the landowner. When a large- scale project comes before the Planning Board whether

it be power, commercial development or residential development, the approved project should have an expiration date.

Mike Cleveland stated the large-scale solar projects should be going through an inspection process after a hailstorm or anything like that to make sure they are not cracked and leaking into the water tables. Enforcement Officer stated in 2018 the State of New York sent guidance that the Building Department cannot have any oversight on large scale solar.

Supervisor Hogan is concerned that the de-commissioning of the solar farms may not be valued correctly. Supervisor Hogan referred to an article "The Dark Side of Solar" which talks about the cost of recycling is going to start skyrocketing because they are under-estimating the volume that is going to have to be recycled in landfills. We do not really know what the cost to de-commission will be in 25 years. The Town should rely on an engineering firm with solar experience, but who has solar experience in the State of New York right now.

Councilman Doyle brought up a guy in a presentation from the State who stated the Town could not take money up front. Supervisor Hogan responded replied contrary to what this says. Supervisor Hogan has asked Attorney Meyer to look into it. Attorney Meyer stated the original guidance coming from NYSERDA as it relates to anything, the standard line is you can't require a bond for the expiration of a project. NYSERDA has amended their guidance and went from anything and gone to the most restrictive which is cash up front as opposed to a bond. Councilman Doyle stated a developer may establish an account that he makes contributions to, it does not say the Town can mandate the developer to establish. Attorney Meyer stated another problem is the landowner who gets the materials from a solar developer the original lease that has been provided and asked to sign is silent as it relates to de-commissioning then if you push back, they will add language that says either we will give it to you or the municipality if the municipality requires it. Then it creates an issue the municipality wants something, and the bond is the easiest so we will give you the bond. If the bond is in the name of the municipality, they can't have the property owner additional guarantee, then they say that would require us to get 2 bonds, which is insane. Then the property owner is forced to make that decision or come to some other agreement or find a different company that does not think it is insane. It is creating its own internal dynamic; depending on what the Town acquires you are going to hear from your residents who want to do the leases as to what is feasible and what is not and what they are hearing as it relates to solar companies. The discussion continued. Councilman Haessly stated the setbacks from the property has got to be 500 feet from the property line with a berm, tree line: trees that are fast growing.

Councilwoman Havens stated the most important thing is listening to everyone here and in preparing for the Master Plan, attending, and having projects going on around Town that affect us personally. She has attended some Planning Board Meetings and has heard the discussions about solar. Councilwoman Havens stated de-commissioning is a big thing. She learned about nameplate capacity and found solar is about 15% efficient, a 500-megawatt nuclear power plant is 92% efficient, coal is about 80% efficient. Solar is the most inefficient source of power in our country. You do not have a green process for making solar panels; there are three types of solar panels currently in production. The production of a nuclear plant or a coal plant, the infrastructure, the cost is nothing compared to the cost of a solar array. The production of solar panels is very expensive and there is no green way to do it. There is discussion in the scientific world that the emissions put out in the building of a solar array may never be recognized once it is up and operating and the industry has already been polluted. Then the solar array is put up and you may not generate enough power and with the lack of emissions you may not have enough to undo what you have already done. There is a resource for government agencies, International Renewable Agency, they project that up to 78 million metric tons of solar panels will reach their life expectancy by 2050. The United States has no solar recycling mandates. They estimate about 10% of the panels in the United States are recycled, that leaves 90% to be landfilled. The newer panels are more efficient, and people may change to them and dispose of the original panels. The projected number of 78 million metric tons does not

include early disposal of the panels. We have a landfill issue; this push is so new and so fast. When you look at how the solar panels are produced and the landfill situation, the amount of power generated and the amount of emissions you are going to save, it does not add up anywhere. She totally supports solar on brownfields and solar on homes where you can manage the aesthetics and the look of it, but not the concept of moving solar into rural areas.

The positive is the reduction of greenhouse gas and emissions; the negative is the energy demand for production, the chemicals used in the process; they use pure silicon in the mega crystalline panels. The technology is weather dependent, and she does not think the solar companies are going to stand up on the decommissioning to the level we need them to. She would like cash up front for the decommissioning of the solar panels.

Lorraine Forcier stated the mining that has to occur to create the solar panels is creating changes in our weather, the solar panels will never help recoup because the cost of that is bigger than what the solar panels will do for us. Right now, cost to re-cycle solar panels is \$20.00 to \$25.00, the cost to dump it in a landfill is \$1.00.

Renny Devine stated asked how many American jobs are being created by solar panels, they are made in China, this is not creating American jobs. He also read that one photovoltaic panel may get 22% efficiency, but they could get as low as 13%. The power from the panels in solar farms is going to other areas not to the town residents. He stated he is not in favor of solar at this time but believes in green energy.

Terence Nolan, of Borrego Solar, stated he and Travis Rosencranse of Creighton Manning are interested in working in the Town of Kingsbury. The solar workshop gave them an opportunity to listen and to be able to be a resource. They work around New York State and have been in contact with all kinds of variations of solar laws including setbacks and decommissioning. They use polycrystalline panels, and they could provide a Material Safety Data Sheet. They are accustomed to paying a fee decommissioning bond as a condition of approval, a cash bond, letter of surety or a letter of credit, whatever the Town decides is the appropriate reassurance. They also provide estimates on the decommissioning which the Town can review and comment on. Borrego Solar has been working in New York since the 90's and have good relationships with Towns. If there is any resource or perspective that Borrego Solar can provide, they would be happy to do that.

Councilman Haessly asked if they could install solar projects and make money if they did not receive funds from NYSERDA. Mr. Nolan answered, probably not. In certain load zones you could. In Load Zone G, further downstate in Orange County you could but not in Load Zone F where we are. NYSERDA provides incentives and they would not be able to pencil the projects out without those incentives.

Typically, under a community solar arrangement about 10% of the residents can lock into the power, there are different mechanisms and ways they could reduce their cost of electricity.

Supervisor Hogan asked Mr. Nolan who manufactured the solar panels they use. Mr. Nolan stated they are disconnecting their supply chain from China due to slave labor and are looking for options in Germany and the United States.

Supervisor Hogan asked Mr. Nolan if he was doing work in Niagara County and if he was familiar with the law they just passed. Mr. Nolan replied he is not, but a colleague is, and he is not familiar with the law.

Supervisor Hogan stated Niagara County was the first in the country to pass a law where all the manufacturers, distributors and installers must provide documentation to decommission.

Supervisor Hogan asked Mr. Nolan is he was familiar with anyone who has done a cash escrow, cash up front, for the estimated cost of decommissioning. Mr. Nolan responded 90% of the Towns are satisfied with a surety bond or a letter of credit and does not know of any who has but will look into it.

Supervisor Hogan asked if a cash bond would be okay with him; Mr. Nolan it would be ok. Mr. Nolan stated he thinks it is difficult to get a reasonable estimate for decommissioning 25 years from now.

Supervisor Hogan stated he sees the landowner, the installer, and the Town of Kingsbury; two are getting their money up front and the third, the Town is taking the risk on the back end.

Enforcement Officer Humiston asked Mr. Nolan to explain why it is not cost-effective to build in this area without financial assistance from the state, is it money that is provided to do the install or is it money provided through the life of the project. Mr. Nolan explained it is a combination, there are varying incentives that get locked in up front.

Mr. Haessly asked Mr. Nolan if you have a lot and are able to hook up to the grid to hookup can you sell that spot. Mr. Nolan stated it will secure a permanent place in the que. The New York Connection Agreement allows for a different entity to step into the shoes of the entity that made the application. Mr. Haessly is interested in knowing about where capacity is available and who may have reserved capacity.

Mr. Nolan stated in Kingsbury there is the Burgoyne sub-station, with the distribution lines that are coming out of it that are 13.2kb lines and you can look and see exactly what solar companies are reserving power, how much capacity on the sub-station. They are allowed to be on there for a period of time before they have to make a commitment as to whether they are moving forward or not. If they do not move forward, they are knocked off the que. You are always limited in capacity at the sub-station, it is very expensive to upgrade. The community solar arrays are generally too small to bear the substantial upgrade of a new transformer at the Burgoyne sub station unless there is Public Service order which provides for a mechanism to split the cost across different projects in the Town for upgrades.

Mr. Nolan stated the Burgoyne sub-station is more than subscribed and Borrego has a project which is very well situated behind trees that is reserving 5 megawatts on the Burgoyne sub-station. Depending on what happens in the Town they may have to jump off or as your process evolves, we will move forward when you are ready.

Dennis Kelly is concerned with the landowner who leases their property, the installer then builds the facility and then sells to an investor how do we hold the feet to the fire to landowner and the investor. Supervisor Hogan stated he was recommended that all stakeholders are identified annually.

Dennis Kelly stated the right to farm law has nothing about solar farms in the law; therefore, they should not be called or labeled solar farms, they should be labeled as an industrial facility. He does not agree with solar farms being on farmland.

Lorraine Forcier asked Mr. Nolan if he was aware of any decommissioning of solar panels. Mr. Nolan is not aware but will check on it.

The Solar Workshop closed at 6:44pm.

Respectfully submitted,

Cynthia Bardin, Town Clerk