

**Minutes for the Planning and Zoning Board Meeting held on
April 7, 2022, commencing at 6:00 p.m.**

Present: Chairman W.D. McTyier, Walt Lender, Don Meserve, Ben Leerkes, Clerk Tonya M. Thompson, Attorney Matthew Fuller, Code/Zoning Officer Dave Burrows

Absent: Mike Powers, Alternate Erik Leerkes

Others: Bridget Cuddihy, Mark Sweeney, Gordon Woodcock, R.B. Crammond

Chairman McTyier opened the meeting with the Reciting of the Pledge of Allegiance.

Minutes to Approve

Resolution #26-2022 brought by Ben Leerkes, seconded by Walt Lender to approve the minutes from the March 3, 2022, PZB meeting. **4 – Ayes, 0 – Nays. Carried.**

PIVOT5 – (Gordon Woodcock)

We are waiting on approval for Decommissioning Plan and Bond - Public Hearing has been called for next month's May 5th meeting.

Zoning Officer Burrows went over his calculations that have been agreed upon.

Pivot Solar 5

Estimated first year decommissioning	153,800.00
Estimated salvage/resale value	(52,500.00)
Estimated total cost	101,300.00
Inflation escalator @ 2% over 25 years	64,832.00
Total estimated decommissioning @year 25	166,132.00
25% reserve per LL #2 of2019	41,533.00
Total estimated bond amount	207,665.00

PIVOT1 – (Gordon Woodcock) – 33 Commerce Drive (150.2-10-2.000/150.2-10-1.000/139.4-1-55.1000)

We are hopeful that this project will be starting in a few months.

Zoning Officer Burrows went over his calculations that have been agreed upon.

Pivot Solar 1 --- ' · _

Estimated first year cost for decommissioning	97,500.00
Total estimated recycling allowance	included
Total cost	97,500.00
Inflation factor @ 2% over 25 years = 1.64	62,400.00
Total	159,900.00
25% Decommissioning reserve per Local Law #2 of2019	39,975.00

**Minutes for the Planning and Zoning Board Meeting held on
April 7, 2022, commencing at 6:00 p.m.**

Total decommissioning bond	199,875.00
Average cost per watt (total /5Mw)	(3.9 cents/watt)

Chairman McTyier noted that these plans have gone out for review by our consultant and asked Mr. Woodcock if this is agreeable.

Mr. Woodcock agreed that at this point, this is right in line with what we have seen with other municipalities and our hopes at this point is resolving this security and moving ahead.

Resolution #26-2022 brought by Ben Leerkes, seconded by Walt Lender to accept the findings presented by Zoning Officer Burrows and agreed upon by Gordon Woodcock for the Decommissioning Plan and Bond for PIVOT 1 Solar located at 33 Commerce Drive 150.2-10-2.000/150.2-10-1.000/139.4-1-55.1000 (on file in the Town Clerk's Office) Total Decommissioning Bond is \$199,875.00. (See breakdown above) **4 – Ayes, 0 – Nays. Carried.**

Resolution #27-2022 brought by Ben Leerkes, seconded by Don Meserve to approve the Special Use Permit for PIVOT 1 Solar located at 33 Commerce Drive 150.2-10-2.000/150.2-10-1.000/139.4-1-55.1000. **4 – Ayes, 0 – Nays. Carried.**

Ticon Solar, LLC (139.4-1-10.100 and 139.4-1-36.100) Charboneau Road (Catlin Property)
Bridget Cuddihy and Mark Sweeney

Ms. Cuddihy explained that there are no changes as of yet to their project; a public hearing has been scheduled for next month's May 5th meeting. She realizes that there may be some open items that we would like to keep pushing on in the interim. We did receive approval from the APA and will be following up in the upcoming weeks. We have an estimate for our Decommission Plan and will have that back at this time next week and she will be sure to have that to Mr. Burrows. The only other item she would like to mention is the comment letter from the DEC that came back in response to the Notice of Intent. If it is ok, she would like to have our Environmental Manager reach out to our contacts at the DEC, she believes there just might be some lines crossed. The items that they have listed in their letter, we have completed those studies and worked with them on already and they did issue a letter stating that we don't need a permit from the DEC for this project, so we just want to make sure we are aligned on that front. One aspect was of the Northern long-eared bat, there was a section regarding the wetlands site, the stream and archeological study as well as a bird survey. Over the course of the last 2 ½ years we have been working with DEC, so some of this is from a while back and we are thinking that maybe that is why in the latest letter it wasn't caught, but we have gone through those studies with them to date.

Mr. Leerkes asked if we had a copy of the APA approval; he would like to see the conditions.

Ms. Cuddihy noted that it is not in the packet that was provided, but she will get that to the board members with the conditions highlighted. There is one hedge row that needs to be maintained in order to guarantee screening, they do not want this removed.

**Minutes for the Planning and Zoning Board Meeting held on
April 7, 2022, commencing at 6:00 p.m.**

Mr. Meserve asked if this tree line is existing at this point?

Ms. Cuddihy agreed, it is shown in the simulations that we did as part of our visual analysis and that is providing pretty good screening looking toward the system and they just want to make sure that it stays intact and that it wasn't removed by any owner or future owner of the property.

Mr. Sweeney also explained that it is back a distance, it is not right up against the fence and we would maintain that hedge row.

Mr. Meserve noted that you would be maintaining his hedge row, not yours.

Mr. Sweeney stated that this is in addition to the landscaping that they have proposed.

Mr. Meserve understands, are you planting along side of this or will you use this existing hedge row? Are you going to replant?

Mr. Sweeney explained that as the topography goes, this hedgerow provides the best job of screening.

Mr. Meserve's concern is that these people sell this property and the new people do not like this hedgerow, and they want to go and remove the hedgerow.

Mr. Sweeney noted that we had to get legal rights in order to preserve this hedgerow, we cannot just say that we will.

Mr. Meserve explained the point that he is trying to make is yes, rely on that hedgerow, but also think about maybe establishing your own line that wouldn't need to be maintained to their specs.

Mr. Sweeney understands, whatever this board requires for visual screening we will do on top of the preservation of that hedgerow. We will do both.

Mr. Leerkes has misgivings on screening anyway, solar panels means that you are up-to-date and you are doing something about the environment. He has no problem seeing them. In Vermont we see very little screening of them.

Mr. Meserve noted that at this point in time they are requiring screening – you are following the process.

Ms. Cuddihy explained that by year 5, our proposal includes evergreen deciduous trees and shrubs, so we will stagger the plantings coming off the fence line to try give a good ground, low growth coverage as well as getting the tops of the panels, so by year 5 the racking under the modules has good coverage to it especially from Charboneau Road and by 10 years and on it has a nice natural landscaping up to it so that at that point you will only be seeing the modules when you actually at the 12 foot height.

Mr. Meserve asked what the names of the actual trees that you have selected in the plantings.

**Minutes for the Planning and Zoning Board Meeting held on
April 7, 2022, commencing at 6:00 p.m.**

Ms. Cuddihy noted that the APA has provided some guidance as to what should be planted and in the design on the last two pages and each species is listed in there. There is around 20 or so different species.

Chairman McTyier asked who we have heard from on the referrals.

Mrs. Thompson noted that we have heard from DEC and from Ag & Markets – they have heard from APA, that is not our referral. Mr. Burrows was asked noted that he received a no comment from the county.

Chairman McTyier asked if there was anything else from the board.

Mr. Leerkes asked what was the time frame for construction.

Ms. Cuddihy noted that we are looking to construct this year, 2022. We will be filing with the APA within the next few weeks going through the public hearing here...

Mr. Leerkes asked about tree removal, that there is a specific time frame of when you cannot remove trees.

Ms. Cuddihy agreed and stated that this is in the permit, so we are not able to clear the trees between April and early October, because the trees that we will be removing are not identified by them as potential roost trees, we are able to ask the APA to grant access to clearing after April.

Mr. Sweeney added that the requirement to clear between April and November is basically the DEC guideline that they will enforce, but they also will grant waivers accordingly. They want to see to make sure that it is not taking out a tree of concern. Most of upstate NY is habitat to the long-eared bat, so when they did that, they realized that there has to be some sort of relief for that because everything will be shut down for the entire construction season. So, they will distinguish the roost trees that have suitable conditions such as bark peeling and things for them and so we must show that this is not on site so we can move forward and clear the regular trees. There are no specific species, but they are trees that are dying, bark peeling, holes, rotting where the bat can get in there and roost.

Discussion on Bat habitat ensued.

Ms. Cuddihy noted that we will be reviewing the letter with DEC and ask for them to reissue a letter to the board then asked if the board able to consider deeming our application complete.

Chairman McTyier stated that we have just received this letter and we do not have the Decommissioning plan – we need to wait on approval of the application.

Mr. Sweeney reviewed then, assuming there is not a big turnout at next month's Public Hearing, and assuming that we have the letter from DEC, does the board feel they can accept the application as complete at that time, close the Public Hearing and then he does not know what this board's practice is, but if we plan to construct in 2022 our schedule is getting a little tight; is it possible as long as there isn't any open issues we may be able to get an approval?

**Minutes for the Planning and Zoning Board Meeting held on
April 7, 2022, commencing at 6:00 p.m.**

Chairman McTyier stated that it depends on what comes out of the Public Hearing, but we can make the decision that night.

Other Business

Mr. Burrows went over the recommendations for the Bond for ELP Ticonderoga Solar, LLC – 139.4-1-1 (Doering) and 139.4-1-2 (Rafferty)_

East Light Partners

Total Estimated cost for decommissioning	339,732.93
Total estimated recycling allowance	(84,933.23)
Total cost	254,799.70
Inflation factor @ 2% over 20 years = 1.46	117,207.86
Total	372,007.56
Decommissioning reserve per Local Law #2 of 2019	29301.96
Total decommissioning bond	465,009.45

These totals average 2.3 cents per watt (20,000,000 watts /465,009.45)

Chairman McTyier reviewed stating that our consultants have given their recommendations, Mr. Burrows has gone over his findings and ELP has agreed.

Resolution #28-2022 brought by Walt Lender, seconded by Ben Leerkes to accept the findings presented by Zoning Officer Burrows (see above) and agreed upon by Jamie Fordyce from ELP Ticonderoga Solar, LLC – 139.4-1-1 (Doering) and 139.4-1-2 (Rafferty)_for a total Decommissioning Bond of \$465,009.45. **4 – Ayes, 0 – Nays. Carried.**

Resolution #29-2022 brought by Ben Leerkes, seconded by Walt Lender to approve the Special Use Permit for Jamie Fordyce from ELP Ticonderoga Solar, LLC – 139.4-1-1 (Doering) and 139.4-1-2 (Rafferty). **4 – Ayes, 0 – Nays. Carried.**

Brief discussion was held on the succession of order for Special Use and Site Plan approvals.

Mr. Burrows explained that the board can now review SolarPark Energy, LLC (tax map #139.15-3-5.110 &135.4-1-20.000) – Huestis Farm. He has not heard back regarding his breakdown of that plan which is as follows;

Solar Park 17

Estimated first year decommission	118,292.25
Estimated salvage/resale value	(0)
Estimated total cost	118,292.25
Inflation escalator @ 2% over 30 years	94,633.80
Total estimated decommissioning @ year 25	212,926.05

**Minutes for the Planning and Zoning Board Meeting held on
April 7, 2022, commencing at 6:00 p.m.**

25% reserve per LL #2 of 2019	53,231.51
Total estimated bond amount	266,157.56

Gordon Woodcock from PIVOT solar is going to be working with this firm due to unforeseen circumstances.

Mrs. Thompson would like the board to approve the Special Use Permit that has now been updated to mirror all our current permit forms that are up on the Town's website.

Resolution #30-2022 brought by Walt Lender, seconded by Ben Leerkes to approve the Special Use Permit form as handed out with the updated criteria for submission. **4 – Ayes, 0 – Nays. Carried.**

Mr. Burrows believes that he saw in the Zoning Law under the Solar law that the fee to charge is only \$25.00. He will look into this further to clarify.

Sign and Camper recommendations

Mr. Burrows would like to review further; the board feels the same.

Resolution #31-2022 brought by Walt Lender, seconded by Don Meserve to exit the Regular Planning and Zoning Board meeting and enter into an Executive Session regarding St. Joseph's litigation inviting Dave Burrows, and Mark Wright at 6:52 p.m. **4 – Ayes, 0 – Nays. Carried.**

Resolution #32-2022 brought by Walt Lender, seconded by Ben Leerkes to exit the Executive Session at 7:21 p.m. and re-enter the Regular Planning and Zoning Meeting. **4 – Ayes, 0 – Nays. Carried.**

Resolution #33-2022 brought by Walt Lender, seconded by Doug McTyier to close the meeting at 7:21 p.m. **4 – Ayes, 0 – Nays. Carried.**

Respectfully submitted, Tonya M. Thompson, Town Clerk