

Mansfield Light Commission Minutes
December 17, 2014

Present: Jess Aptowitz, Chair; Olivier Kozlowski, Vice Chair; Frank DelVecchio, Clerk; Doug Annino, George Dentino; William Ross, Town Manager

1. Meeting Called To Order At 8:02 PM

Chairman Aptowitz called the meeting to order. The Chairman reminded everyone the meeting is being broadcast live and taped for future broadcast on Mansfield Cable.

2. Discussion and Action on Proposed Solar Installation on Branch Street (former IPSO and Campo Chemical Site)

Chairman Aptowitz explained that the process for this evening's meeting was for the Commission to first ask any questions of Town staff, the applicant or residents to further clarify the volumes of information received over the past six weeks. He noted there would be no presentations and that both the applicant and those residents signed up to speak would be limited to five minutes.

Chairman Aptowitz asked if any of the Commissioners had any questions.

Mr. DelVecchio asked if Mr. Ross had any information regarding assessed valuations as previously requested. Mr. Ross distributed an email from Assistant Town Assessor, Nancy Hinote, which noted that in her sampling of municipalities with solar farms, there was no indication of the facility negatively affecting property valuations. In regards to the assessed valuations, Mr. DelVecchio felt there to be some misinformation as it has been represented that if the valuation of house goes down it is a tax levy loss to the Town. Mr. DelVecchio explained it is merely spread amongst the residents and is not a tax loss to the Town.

Mr. DelVecchio noted that in his research, what stood out to him was that in other communities where projects of this nature went forward there was involvement from the residents, which he did not feel was the case here. He felt the parties here to be civil but noted there has been intellectual contentiousness back and forth.

Mr. Annino had no questions.

Mr. Kozlowski thanked Town Counsel for the information they did provide regarding the AULs and the effect of those but did note it did not completely answer the question of what could potentially go on the proposed site. He summarized that there were amendments to the AULs which may have not been titled properly leaving a gray area as to what could ultimately go on the site. He felt part of this ties into reaching out to the neighbors and community with regards to planning and discussing the potential uses of the site if the solar installation is not passed. In his research (including the DOER Report), Mr. Kozlowski found there to be a general dislike for citing solar facilities in residential areas. As a Light Commissioner Mr. Kozlowski is not particularly excited with the pricing in the purchased power agreement, as he felt the Commission has seen better deals. He stated a warehouse would generate more tax revenue than the solar facility and noted it is regrettable that the applicant did not reach out to the residents to discuss the potential uses of the site.

Mr. Dentino felt the Town is in a situation which is within its authority. He stated that it is fortunate that the applicant has allowed the Town to weigh in regarding aesthetics and screening of the solar panels. Mr. Dentino stated this is a case of use-by-right because it is industrial. Mr. Dentino reported he drove around the area extensively and noted the area to be thickly wooded with the Rails To Trails buffer on Lincoln Street. Mr. Dentino stated that in actuality, in his opinion, the only thing the Commission can do with authority is to try and make the site as least obtrusive as possible. Mr. Dentino did not see another avenue other than that.

Chairman Aptowitz thanked his fellow Commissioners for the amount of time dedicated to researching this issue in order to make an educated decision this evening. He also thanked Town staff, particularly Gary Babin, MMED Director and Mr. Ross for the amount of effort put forth.

Mr. Ross wanted to comment on the opinion from Lou Ross, Town Counsel, on the AULs mentioned earlier by Mr. Kozlowski. He asked Mr. Lou Ross (Town Counsel) that with an LSP's guidance and with proper applications to DEP could the property be utilized in any manner that is acceptable under the industrial zoning code I-2, to which Mr. Lou Ross said yes. Mr. Ross explained there would need to be permitting done and that a licensed site professional could obtain permission from DEP to excavate (water/sewer lines, foundations, footings). Mr. Ross listed some of the potential use-by-right options to include: warehouses, bulk material storage and sales, light manufacturing and self and mini storage.

Mr. Babin took the opportunity to thank the developers and felt the working relationship to be professional, informative and responsive to all requests. Mr. Babin also thanked the residents for being respectful and understanding of MMED's role, which is to package and present the information for the Light Commission.

Chairman Aptowitz asked if the applicant would like to make any comments.

Present before the Commission is Ed Valanzola, attorney, representing the applicant, Branch Street Development, LLC. Mr. Valanzola stated they were surprised by the feedback from residents after the initial presentation as they felt they were proposing a green use on a brownfield site and thought it would be well received. Mr. Valanzola explained that it was because of the strong stance against the project from the neighboring residents that Mr. Valanzola and the developer did not reach out.

Mr. Valanzola touched on the following points:

- In response to the Nantucket article submitted to the Commission earlier today by the residents, those inverters referenced in the article were installed at the property lines whereas with the developer's plan for this site the inverters will be installed in the middle of the property and designed according to State regulations.
- Regarding the impact on property values, there is no credible evidence that property values are to be affected by this proposed site. He noted that the value of the homes were already affected when they were first built/purchased as the industrial zone with AUL limitations has always been in existence at that location. He felt the use of the proposed solar installation before the Commission is green and is passive with no effect with regards to

traffic and that the Development Agreement would provide abutters an opportunity to weigh in on screenings and aesthetics.

- From the developer's perspective, this is the best use of the site.
- Mr. Valanzola read a letter from Tracey Environmental Consulting, a licensed site professional that has been made a part of the record. The letter is in regards to property uses consistent with the 2010 AUL.
- Mr. Valanzola also read into the record a letter from IRG Mansfield, current owner of the site, noting that IRG specializes in the purchasing and cleaning up of brownfield type properties throughout the United States. The letter also references the numerous offers on the property including equipment and product storage, an office building, low income apartments and a church.

Mr. Valanzola reported that the applicant has decided that it will go forward with the purchase of the property even if the Commission votes not to enter into a Purchase Power Agreement because it is an attractive site. It is their hope to install the solar farm and have the opportunity to work with the Commission and the neighbors but if it does not work they do have other options that have matured since the last meeting and will be of a commercial use.

Chairman Aptowitz opened the meeting to public comment.

James Farley, 18 Lincoln Road, thanked the Commission, Mr. Ross and Mr. Babin for their attention to detail and responsive answers. He then read from a prepared statement which outlined:

- His disappointment in the developer's answers which continuously referenced the DOER publication but do not reference the Branch Street site, or any potential impacts on the residents living in the area and users of the bike path.
- That the AULs are missing three critical contents because: 1) it is legally allowed by AULs does not mean it is legally allowed by all other laws, 2) it does not mean it is technically feasible for the site and 3) it does not mean it will be financially feasible and economical
- He asked for a delay in the vote until the following areas are further analyzed: 1) legal opinion provided by Town appears ambiguous between two AULs that could impact this proposal or further proposals, 2) resolution of essential questions relating to safety, noise, aesthetics, onsite cleaning and chemical usage, 3) significant concerns regarding property values, 4) proposal based on Federal and State tax credits, which are subject to change based on political climate, this could cause shut down of facility and 5) requesting analysis of alternatives for the site that would enhance the community and bike path which would provide a revenue stream (commercial/mixed use, coffee shop type establishment).

Michelle Farley, 18 Lincoln Road, a biomedical engineer at MIT, thanked the Commission, Mr. Ross, Mr. Babin and the developer for listening to the residents' concerns. She noted she is a quiet environmentalist. She felt the project has little to do with sustainability or reducing carbon impact but is about taking advantage of government subsidies from an out of state risk group. She

referenced their legitimate concerns with regards to the noise from inverters and unknown chemical usage potentially harming children. Ms. Farley felt this all comes down to trust and felt IRG did the absolute minimum of what the law requires of them and felt it was done in an insulting tone and they have done little to earn the residents' trust.

Julia Camp, 14 Lincoln Road, is a professor of business at Providence College and worked as a controller for a non-profit dealing with international and US companies. Ms. Camp is bothered by the presentation and its lack of due diligence. Her issue is not with the aesthetics but with risk, security and safety and her lack of trust of the developer as they did not involve the community. Ms. Camp is afraid that the residents' concerns would not be addressed going forward and stated she teaches to respect others and be socially responsible. Ms. Camp noted the potential uses do not bother her as risks would be known whereas potential risks with solar are unknown. She questioned the due diligence and felt the developer to still be unfamiliar with the neighborhood.

Robert Camp, 14 Lincoln Road, has a PhD in mechanical engineering with a specialization in nanomedical science and technology from Northeastern University. Mr. Camp spent nine years designing electro-optic and thermal optic goggles for the Special Operations and is currently a college professor of energy systems engineering at a State college. Mr. Camp had four concerns 1) property values and that power savings are insignificant, 2) health studies are inconclusive, 3) glare (referenced incident at Manchester Airport) and 4) finances and particularly basing the project on government funding. Mr. Camp felt this to be a case of "approving and work it out on the other end" but felt there to be too many trust issues for little financial benefit.

Geoff Matthews, 8 Hemlock Lane, is not a direct abutter but does utilize the bike path. He distributed a document "Installed Solar Capacity In Massachusetts" to the Commission. Mr. Matthews responded to Mr. Dentino's statement earlier that the Commission can only ensure control of the aesthetics of the project by noting the law says you cannot write a bylaw that prohibits the construction of these facilities and doesn't say you can't consider the merits of the project and how it will impact the community. With regards to finances Mr. Matthews reiterated Mr. Babin's statement at an earlier meeting that the project is dependent on the sale of SRECS in order to meet their debt service payments. He noted that a 14% capacity factor does not create enough energy revenue to pay debt service. His graph shows the rapid development of solar in Massachusetts and with this increase the SREC values cannot be maintained and the market will decline. Mr. Matthews felt the financial viability of this project to be in question and if it fails it will go into bankruptcy and a potential secondary investor could take advantage or a bankruptcy court will then intervene leaving the Town to wait for an outcome before it can do anything.

Sergio Martin, 10 Lincoln Road, is present before the Commission. Mr. Martin has a background/expertise in finance. Mr. Martin spoke with regards to testing the developer's assumptions and what happens if those assumptions change. He noted the monthly financial savings per home is \$0.80 and questioned the risk of the project as compared to what he felt to be a minimal financial impact for the Town. Mr. Martin stated the key aspect is this would be a long term relationship and in his experience it is being able to trust the other side and the fact that developer has never approached the residents and felt they are only there to make a profit. Mr. Martin referenced words such as baseless and disingenuous that the developer used with regards to the residents' opinions. Mr. Martin appreciated the Commission's time.

Donna Mattice, 288 Branch Street, has lived at her residence for the past 20 years. She noted when purchasing her property she was told by the Town and her realtor that nothing could be built there

but that was not the case as she has seen many things come and go. Ms. Mattice did not believe this to be a good deal for the Town financially.

Barry Cioe, 12 Deer Path Circle, has been a resident for the past 17 years and felt the Town to have the best light department in the surrounding area in terms of reliability and rates. He is an abutter and noted he has been concerned for years as to what could potentially go into the proposed site. He felt the proposed solar installation to be one of the best options as it would contribute to the tax base, provide millions in savings over the life of the project without increasing traffic in the area, that the cost to the Electric Department is good at only half the rate cost to consumers and is a progressive green project. Mr. Cioe hoped developer would work with residents to address the concerns raised this evening.

Alison Vitonis, 12 Noonan Street, is not a direct abutter but utilizes the bike path. Ms. Vitonis requested if the project is approved to look at the Norton project in terms of size of the buffer area.

Ms. Madhu, 5 Lincoln Road, has lived in Mansfield for 10 years. She questioned why there is an industrial zone within a residential neighborhood and requested that the Town rezone the area. Chairman Aptowitz explained that typically only the owner can petition to rezone a piece of property and with all due respect there needed to be some type of due diligence on behalf of the realtor and the potential home buyer as it is public record. Ms. Madhu would like the Town to ensure the safety of the residents and that the property values do not decrease.

Mr. Sri, 22 Lincoln Road, noted this is a long term project located in the heart of Mansfield (train station, bike path). He felt with today's fast paced technology changes there is a possibility that solar panels will become obsolete. He asked that the project be limited to a short term plan.

Rick Rys, has lived at Cherry Street since 1980, has no association with the developers or the site and is a chemical engineer with a lot of experience with chemical pollution and electric power generation. In his independent view there is still residual PCBs buried at the site where it was remediated and soil placed on top. He referenced the 1953 sale of Hooker Chemical Company's waste dump with a clay cap to the Niagara Falls School Board, aka the Love Canal. It was his point to do something on Branch Street so it is managed and not left abandoned and there is a risk to not do anything. Mr. Rys felt the project to be environmentally favorable in terms of a pollution life cycle and not a real hazardous waste. It was his thought that the solar panels will provide power to 300 homes and offsets dirtier energy. Mr. Rys felt this to be a good use of site.

Mr. Dentino said that most important statement this evening was that the developer was moving forward with the purchase of the site either way. Mr. Dentino noted this is why he would like to hold onto as much as the Commission can to assist in making this a good looking project and ensure it is safe and avoid the problem of what could potentially go there down the line.

Mr. Annino thanked everyone for being cordial, polite and respectful. He felt this to be a great education on solar power, the community benefit and its pros and cons. He felt there is enough information for him to vote.

Mr. DelVecchio asked if the solar facility were to be approved if there would be time to address concerns within the Purchase Power and Development Agreements. Mr. Ross explained that all of the items related to power would be addressed in the Purchase Power Agreement while all of the others would be within the Development Agreement. He also noted that the documents would be

public and would have to come back to the Commission for review and Town Counsel would be involved. Mr. DelVecchio asked if there would be potential for public input to which Mr. Ross stated yes. Mr. DelVecchio clarified that he did not mean to suggest that a hypothetical loss in value would not be an actual loss to the people or property but to make the point that if a particular property loses value the rest of the Town picks that up in terms of raising the tax levy so that services are not directly impacted.

Chairman Aptowitz noted some will be happy and some will not after this evening's vote but reminded everyone that a lot of time has been spent on this and it has been taken seriously. Again, the Chairman thanked his fellow Commissioners.

Mr. Annino would like to make a motion with some caveats:

Motion: To enter into a Purchase Power Agreement for the Branch Street site based on the following:

- AULs do not limit development of the site for commercial activities
- cost of electrical energy can be purchased at a price that will result in a net savings for the Town of Mansfield
- find that the aesthetic disadvantages of the site can be softened by extensive landscaping at the perimeter
- find that public safety will not be compromised provided that a 6' high black chain link fence be installed around the site
- find that the disturbed site will be improved significantly by the introduction of indigenous species of vegetation (proper heights and spacing)
- no apparent health issues should arise due to the disturbance of the site (the structures will be constructed above ground)
- find that the requirements must be understood prior to final agreement with the developer
- find that a site plan be submitted to the Commission for approval prior to sign off
- find that there will be no light levels migrating off site (foot candle levels must be zero off the property line)
- find that the developer will enter into all agreements with the Town of Mansfield that protect the Town in regards to bankruptcy or that if something happens to the site to ensure that the site will be cleaned at the end of its life
- if the developer cannot meet its obligations all approvals will be rendered null and void
- the developer will provide power in a means directed by the Mansfield Municipal Light Department

Motion: (Annino/)

Mr. Annino would also like to make conditions with respect to the site plan approval. Mr. Annino would like to ensure that all the details are in place so that the Commission can understand and act upon them once there is an approved plan in house. Chairman Aptowitz thought that verbiage "subject to final approval of the Light Commission" would encapsulate that. Mr. Annino would like to provide a list. Mr. Ross suggested a list to work from.

The motion was then seconded by Mr. Dentino.

Discussion:

Mr. Annino stated he is open to his fellow Commissioners making any adjustments to that motion. Mr. Kozlowski felt it to be a pretty long and specific list of findings. Chairman Aptowitz explained the gist of motion is to enter into the purchase power/development agreement with caveats. Mr. Annino wanted the caveats considered within the motion to be on the record. Chairman Aptowitz asked Mr. Annino if he would be comfortable with adding the word "consideration" to the motion to which he stated yes. Mr. Ross viewed the motion as entering into an agreement but that the Commission would like to see a final agreement and not sign off until then. He wanted to further clarify with the Light Commission that there would be a future motion to actually accept the agreement moving forward. The Commission agreed.

Motion: To enter into a Purchase Power Agreement for the Branch Street site based on the following considerations:

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(Annino/Dentino)

The Commission then voted by ballot.

Vote:

Mr. DeVecchio – Yes

Mr. Annino - Yes

Chairman Aptowitz - No

Mr. Dentino - Yes

Vice Chairman Kozlowski – No

PASSES 3:2 Aptowitz, Kozlowski NAY

3. Questions and Comments

None.

4. Adjourn

Motion: To adjourn Light Commission Meeting at 9:39 PM (DeVecchio/Kozlowski) PASSES 5:0



Signature of Clerk

3-11-2015

Date of Approval