

Mason County Fiscal Court
Special Session
May 25, 2022
Maysville Community and Technical College
6:00 p.m.

Judge/Executive Owen McNeill called the meeting to order. Present were Commissioner Joseph McKay (District 1), Commissioner Chris O'Hearn (District 2), Commissioner Phil Day (District 3), Sheriff Patrick Boggs, and Executive Assistant Nathan Truesdell.

Assistant County Attorney Robin Rice explained to the court and crowd present that the Maysville-Mason County Joint Planning Commission has spent considerable time and listened to hours of evidence regarding the solar energy issue. The public meeting held this evening allows members of fiscal court to consider arguments only from the stakeholders as to their position on the issue. No public comments will be made.

Motion made by Commissioner McKay, seconded by Commissioner O'Hearn to accept into record the evidence gathered by the Joint Planning Commission.

Commissioner McKay – Yes
Commissioner O'Hearn – Yes
Commissioner Day – Yes
Judge/Executive McNeill – Yes

Motion made by Commissioner O'Hearn, seconded by Commissioner Day to accept the Findings of Fact and Conclusions of Law into the record as issued by the Joint Planning Commission.

Commissioner McKay – Yes
Commissioner O'Hearn – Yes
Commissioner Day – Yes
Judge/Executive McNeill – Yes

Assistant County Attorney Rice explained the stakeholders were given the opportunity to submit written submissions by 2:30 p.m. on May 20. These submissions were limited to evidence already presented to the Joint Planning Commission.

Motion made by Commissioner McKay, seconded by Commissioner O'Hearn to accept the written submissions, but consider only the evidence already offered to the Joint Planning Commission.

Commissioner McKay – Yes
Commissioner O'Hearn – Yes
Commissioner Day – Yes
Judge/Executive McNeill – Yes

Next, the members of the court discussed the time allotted to the presenters. Motion made by Commissioner O'Hearn, seconded by Commissioner Day to allow 7 minutes to the presentations by the solar developers.

Commissioner McKay – Yes
Commissioner O'Hearn – Yes
Commissioner Day – Yes
Judge/Executive McNeill – Yes

Todd Osterloh introduced himself. He is an attorney with Sturgill, Turner, Barker & Moloney in Lexington, Kentucky, and represents the solar company Acciona. Mr. Osterloh asked the court to consider reasonable regulations to allow the solar projects to move forward and benefit the community through jobs, increased tax base and other benefits. He explained the Joint Planning Commission recommends setbacks of 500 feet from property lines, 100 feet from the edge of roadways and up to 750 feet from roadways. He asked the court to consider instead a proposal of 100-foot setback from property lines, 300-foot setback from residences and 100-foot setback from the centerline of roads.

Mr. Osterloh also discussed the noise level requirement of 30 dBA set by the Joint Planning Commission. Rather, he proposed a noise threshold of 50 dBA during operations. He explained this is more reasonable and consistent with industry standards.

Lastly, Mr. Osterloh suggested the court consider tightening up the language in the recommendations from the Joint Planning Commission regarding decommissioning.

Next, Bill Behling with Innergex addressed the members of the court. Mr. Behling reiterated many of the points made by Mr. Osterloh addressing setbacks and restrictions. He asked the court to consider 300-foot setback from dwellings, 200-foot setback from perimeter fencing to non-participating property lines and 50-foot setback from delineated wetlands. He noted the noise restriction is more restrictive than what his company has seen in other areas. He also asked the court to consider modifying the height requirement of the panels. He proposed a height range be set between 16-18 feet.

Next, Aaron Ford with National Grid Renewables spoke to the members of the court. He also addressed concerns with the recommendations from the Joint Planning Commission for noise levels and setback ranges. He explained the setback provisions should be in alignment with provisions of the Kentucky Model Solar Ordinance to ensure the facilities are developed responsibly. He further explained the noise provision in the recommendation would prohibit the development of the solar project and added that there are currently no noise standards for any other industry in Mason County.

Judge/Executive McNeill and the Commissioners followed up the presentations with questions and discussions.

Commissioner Day asked where solar panels are disposed once they are no longer usable. Mr. Osterloh with Acciona explained there are facilities that will accept the panels. Additionally, if

the panels were damaged, he said there would be no environmental hazards. Mr. Osterloh also explained his company partners with local fire department to provide training and have in place emergency response plans in case something would happen with the panels.

Ben Adanick with National Grid Renewables said he knows of no health issues to humans or animals resulting from solar panels. The crews installing the panels test them but there is no requirement for soil and water testing where the panels are installed. Mr. Adanick also explained the companies plant grass under the panels once they are installed. This also gives the farmland a period of rest since it is not continually being farmed.

As for road use during construction of solar panels, Bill Behling with Innergex said his company uses road use agreements and conducts pre- and post- construction assessments of the roads used.

Commissioner McKay asked what, if any concerns are there about fracturing. Ben Adanick with National Grid Renewables said there is no concern with fracturing when driving the steel posts for the solar panels.

Next, Judge/Executive McNeill asked whether solar development has caused sinkholes or other land disasters as a result.

Both Ben Adanick with National Grid Renewables and Todd Osterloh with Acciona said no. Geographical studies done prior to installation would prevent this from happening.

Commissioner O'Hearn asked about battery storage with the solar panels. Todd Osterloh with Acciona and Ben Adanick with National Grid Renewables said neither have battery storage at this time.

Acciona and National Grid Renewables both estimated between five and seven peoples would be employed on-site with the project.

Commissioner McKay asked about strong winds and possible damage as a result. Ben Adanick explained the panels are built to withstand local conditions. However, the design considerations for the solar plans are focused more around snow accumulation. In addition, the panels can go flat to avoid being damaged by strong winds.

Commissioner O'Hearn asked about the 500-setback recommendation from the Joint Planning Commission.

Todd Osterloh with Acciona explained that with a setback that large, 500 feet, it would require the company to acquire more land than originally planned for the project to be successful.

Next, Mr. Hank Graddy, an attorney with W.H. Graddy and Associates, introduced himself as representing the Citizen's Voice of Mason County, along with attorney Tom Miller. He said he would be the only person speaking on behalf of the group.

Mr. Graddy said he had submitted materials, including 17 exhibits, prior to tonight's meeting. He began by expressing concern with the process in that solar energy is not a permitted land use in Mason County and that this should be remedied through the Planning Commission as a required update to the comprehensive plan. He further recommended the fiscal court to consider adopting the current recommendation from the Joint Planning Commission as an "Emergency Ordinance" and then adopt a resolution asking the Joint Planning Commission to update the Comprehensive Plan as to land use that addresses solar energy systems.

Next, Mr. Graddy says the Citizens' Voice Group supports the noise level of 30 dBA and the safety standard regarding the installation of batteries as proposed in the Joint Planning Commission recommendation.

Mr. Graddy discussed the setback requirements and proposed the fiscal court consider a setback of 1000 feet to another residence. He explained this larger setback was necessary to prevent the solar energy systems from being a nuisance and causing loss of property value to adjoining property owners. He cited Mary McClinton Clay's letter to Senator Paul Hornback, which relayed the decline of property values as a result of solar farms being installed.

Mr. Graddy also explained he believed the fiscal court must make a decision for a zone change from Agriculture to Industry for the land to be used for solar farms, which is currently zoned Agriculture, A-1 or A-2. He said no utility scale Ground Mounted solar energy system can be located in an Agricultural District, where generating utility scale electricity for sale is not an agricultural activity.

Next, Mr. Graddy spoke about water run-off from the solar panels. He explained the solar energy systems will affect infiltration and could dramatically change the make-up of the soil due to the diversion of water. He asked the court to consider requiring a storm water plan.

Mr. Graddy also offered suggestions for the application process. He asked the court to consider that several issues have not yet been addressed regarding solar farms.

Next, the group Limestone Solar addressed the court. Those speaking were Bill Marshall, Paul Jackson, Mary Katherine Cropper and Tim Theissen.

Bill Marshall spoke first and addressed the setback requirements and sound regulations as already addressed by the solar companies. He advocated a 50-foot setback from any property line. Like the solar companies, he reiterated there is no sound standard for any other land use in the county. He also spoke of the benefits of solar farms to the community including lease payments to the farmers, tax revenue and payroll taxes.

Paul Jackson addressed the members of the court and explained that in this day and time, there are limited options in farming and solar farms is an attractive option for many farmers. The increase in the costs of seeds, diesel and other farm supplies makes it difficult to continue farming. He said with the solar farms, there is a steady source of income to the farmer, which he can in turn, use to improve his property.

Mary Katherine Cropper spoke next. She told the court she would like her farm to continue to be there for future generations. With traditional farming, she said she always had worries about the weather, sick animals and machinery breakdowns. She said solar farms would provide a steady income for her. She advocated for a height of 20 feet for the solar panels so the land under the panels could still be utilized. She also said setbacks exceeding 100 feet creates useless wasteland and no one benefits from this excessive amount of footage as a setback. She asked for the court's help in securing the future of farming.

Lastly, Tim Theissen, attorney for Limestone Solar, addressed the court. He said the comprehensive plan as currently written recognizes agricultural hardship. He said no more time is needed for this process, as it began nearly three years ago. He recommended the court consider a solar ordinance with achievable standards and added that no noise regulation is needed.

Motion made by Commissioner Day, seconded by Commissioner O'Hearn to give Citizens' Voice of Mason County a rebuttal time of seven minutes.

Commissioner McKay – Yes
Commissioner O'Hearn – Yes
Commissioner Day – Yes
Judge/Executive McNeill – Yes

Mr. Hank Graddy, attorney for the Citizens' Voice of Mason County addressed the court for his rebuttal. He said he recognizes that the fiscal court is acting in an emergency mode without all the knowledge it needs. He said more analysis and research needs to be done and the Joint Planning Commission needs to update its Comprehensive Plan.

He protested the solar companies' claims that the water run-off issue is eliminated with the rotating panels. He maintained that large-scale diversion of normal water flow is an unknown risk and stated there are water issues surrounding solar farms across the country.

Judge/Executive McNeill and the Commissioners followed up the presentations with questions and discussions.

Commissioner O'Hearn asked the solar companies to address the water run-off issue. Ben Adanick with National Grid explained that the vegetation planted under the solar panels improves drainage and infiltration. He also said storm water run-off studies are conducted.

Judge/Executive McNeill asked about the movement of earth and loss of soil in the development of a solar farm. Ben Adanick with National Grid said some grading is required.

Commissioner Day asked what a farmer could produce after the installation of the panels. Ben Adanick with National Grid said typically grasses are planted under the panels and often beekeepers will set up on the land.

Judge/Executive McNeill thanked the presenters and citizens in the audience for attending this

special meeting. The first reading of the ordinance will be at the regular fiscal court meeting on June 14, 2022, in the Mason County Fiscal Courtroom at 9 a.m.

Having no further business, motion made by Commissioner O'Hearn, seconded by Commissioner Day to adjourn.

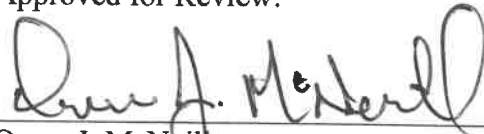
Commissioner McKay – Yes
Commissioner O'Hearn – Yes
Commissioner Day – Yes
Judge/Executive McNeill – Yes

Respectfully submitted on this the 25th day of May 2022:



Stephanie G. Schumacher
Fiscal Court Clerk

Approved for Review:



Owen J. McNeill
Mason County Judge/Executive