

TOWN OF CONCORD PLANNING BOARD
Town Hall

March 5, 2024
7:00 p.m.

ITEM # 1:

The meeting was called to order by Planning Board Chairman Joseph Edbauer, at 7:00 p.m.

ITEM #2: Roll Call

Present:

Joseph Edbauer, Chairman
Bruce Luno
James Jozwiak
Julie Zybert
Raymond Hilliker
David Dains

Also Present:

Darlene Schweikert
Clyde M. Drake, Town Council Liaison
Thomas Roberts, CEO
James Taravella, Project Manager/RIC Energy
Kevin Bliss, Environmental Manager/RIC Energy
Sheila Ransbottom, Wendel Engineering Manager
Kelsey Kaufman, Wendel Engineer

Not Present:

Michael Cochran

ITEM #3: Citizen Participation

There was no one for Citizen Participation.

ITEM #4: Comments from Council Liaison Drake

Council Member Drake noted that Ed Abdo already submitted a Special Use Application for the Zoar Moto Cross event. Mr. Abdo will be attending the May Planning Board Meeting. Last year Mr. Abdo applied for the Special Use Permit for just that one year for a 50 Year Reunion Ride. Since Mr. Abdo would now like an annual Special Use Permit for this event, there may be more DEC requirements. A SWPPP (Stormwater Pollution Prevention Plan) may be necessary because an area of land over one acre is being disturbed. CEO Roberts will reach out to the DEC for advice. If the DEC becomes involved, Mr. Abdo may need more time to get their approval and complete the Town's Special Use Permit application process. B. Luno believes last year's event turned out a lot better than anyone expected. D. Dains asked if Mr. Abdo is currently breaking any Town Code? CEO Roberts does not believe he is in violation of any Town regulation but he could be in violation of DEC regulations.

ITEM #5: Approval of Minutes

a) February 6, 2024— J. Jozwiak made the motion, seconded by B. Luno, to approve the Minutes as presented. All in favor. Carried.

ITEM #6: Ferguson/Ric Energy Solar – Springville Boston Rd

James Taravella, Project Manager/RIC Energy, introduced Kevin Bliss, RIC Environmental Manager, Sheila Ransbottom, Wendel Engineering Manager and Kelsey Kaufman, Wendel Engineer and reviewed the proposed solar project on Springville Boston Road with the members.

The members were provided the entire application packet submitted to the Town. The plan is to install a 5-megawatt AC community solar facility. Mr. Taravella displayed a diagram of the proposed project. Everything is being kept to the north half of the fields; they are staying away from all wetlands; they meet all DEC setbacks of 100 feet buffer zones and Army Corp regulations. All Town Code property line setbacks are met. The additional setback of 300 feet from any dwelling is also met; they are 335 feet away. To shield the project, they are providing plantings of over 200 shrubs/trees to shield it from the road. Chairman Edbauer reminded Mr. Taravella that at a prior meeting, there was discussion of having a berm. Mr. Taravella noted that they could work on that; he has not yet approached the two closest neighbors but he will ask them what type of additional screening they might want in order keep them happy. RIC would be happy to put something on the neighbors' property or off the site property. If it were on the neighbors' property, RIC would not be responsible for maintenance. If on the site, RIC would maintain.

R. Hilliker noted that the rendering showed a five-to-ten-year depiction of what that screen would look like. What would that screen look like on Day #1? How big are these plantings? If you are talking ten years in, you may be a third of the way into this project before the plantings reach the minimum screening requirements. What is the Day #1 proposal look like? Mr. Taravella stated that the plants are 4 to 6 feet, various species of different plants. Some lower lines so as plants grow you don't see under; generally, they use faster growing plants. R. Hilliker asked for confirmation of the height of the panels; are they approximately 10 feet? Mr. Taravella said give or take, yes. R. Hilliker did not believe that 4 to 6 feet plants would not do the job as screening. Mr. Taravella advised that they could look for bigger plants but they are tougher to find good screening vegetation. J. Jozwiak noted that a berm could help with that; plant on top of the berm. Sheila Ransbottom noted that the only thing that they would need to be careful with in regard to a berm is that they can't change the drainage pattern; they don't want to change the draining pattern; this would need to be looked into. A berm could potentially do that depending on its location. They would have to see if or where a berm could be placed so that the drainage is not changed. B. Luno asked if this would create any run off during construction? Mr. Taravella advised that there will be some grading. There will be a dry basin that will collect the water which would have the same run off for the typical one-year storm, and five, ten-year storm there will actually be a reduction in the run off from the site. They are not adding or taking away any run off from the wetlands; they are staying completely away from that area. Ms. Ransbottom advised that the plans will show during construction silt fence or silt sock that will go around to keep any water from coming off the site. That is a DEC requirement.

Chairman Edbauer asked how many panels there would be. Mr. Taravella advised that there are approximately 12,292. With technology the capacity of the panels gets more and more so that number would not go up if they were to get bigger capacity panels in the same frame size, it would actually go down. B. Luno asked if the electric would come out and connect into Genesee Road. Mr. Taravella noted that it is going to connect at Springville Boston Road. He showed the members the location on the rendering. The thermos capacity ratings of the lines are included in the packet. There is capacity in those lines according to the utility. If any lines need to be upgraded, it is the responsibility of RIC Energy. R. Hilliker asked how long the lease was for and the response was 30 years. R. Hilliker continued that at Year 30, the project would be pulled out? Mr. Taravella said yes, and that the Town actually requires a decommissioning plan as well as a bond and drafts are included in the packet; the Code has other specifications such as if it goes out of operation for a certain amount of time, the company has an amount of time period to remove it and that is covered in the plan. The bond is if the company goes out of business, the Town has the money on hand. Mr. Taravella noted that the company would always want the panels back for the scrap value. R. Hilliker had seen that section in the submission where if the project was not under use for 12 months or if the Special Use Permit was revoked. R. Hilliker asked if the company had thought about what if the Town Board revoked their Special Use Permit in two years? Have you thought about that risk? Kevin Bliss answered that their submission is in compliance with the conditions required for issuance of the permit and wondered if the Town could revoke the permit and make them close down for no reason? R. Hilliker advised that his review of the Town Code looks like it is in the opinion of the Town Board; he's just playing devil's advocate. Mr. Bliss' response was that the Town would probably need a legal reason to revoke the permit; he had never heard that before and would wonder where that came from. Chairman Edbauer stated that it is our Code that the Town can revoke a Special Use Permit with cause; that R. Hilliker was just asking if the company had considered this. Mr. Bliss noted that if there was cause. Chairman Edbauer said there could be glare issues, not saying that there will be. R. Hilliker also noted that the noise study could be off and it could be louder. Mr. Bliss noted that things can happen, that's life; but that is not expected and they will make sure that it doesn't and if it does, hopefully the Town would give the company notice before any revocation. Mr. Bliss noted that now he understands and that was a fair question to be asked. R. Hilliker asked if they knew the depth of the water table in that area. Mr. Taravella noted that they have not yet done a full geologic assessment of the site; that is something that comes later. He would assume that it is greater than five feet based on the area and the standing water around. He showed on the rendering an area that is 15 feet lower so his assumption, without doing any testing, is greater than five feet. R. Hilliker advised that he is not familiar with the topography of this land but knows that when there is a wetland and then really good gravel ground, usually that water is sometimes equal. Mr. Taravella noted that there is a big difference in elevation in this area. R. Hilliker said to him it was important to know this information because if they are digging into that water table, no one knows what that is doing to the water. Mr. Taravella advised that the foundation for everything is all driven pile so they would not be digging. They would only be digging the buried electric line and that isn't more than 2 ½ feet. S. Ransbottom noted that their submission notes that the average water table is 6.56 feet. R. Hilliker noted that that is

pretty close to where they would be working. Mr. Bliss advised that there are no chemicals on site, no storage, no potential impact associated with the posts so the contamination of water is extremely unlikely. J. Zybert asked how resistant the panels themselves are to hail. There have been a couple of freak hail storms that have done a lot of damage to motor vehicles and property. Mr. Taravella advised that the panels are about 4.5 feet by 8 or 9 feet. Like with any other kind of glass, if something hits with enough force, it will crack and that panel will be shut down automatically and it would need to be replaced; similar to a windshield. J. Zybert asked if there was a polycarbonate coating on it. Mr. Taravella advised that there are coatings on it to prevent them from shattering but they can still crack. R. Hilliker asked if they could speak to the requirements of when the state declared this substantial farmland. Mr. Taravella noted that there are two designations farmland of statewide importance and prime farmland. The Town of Concord Code does restrict the development of solar to being on less than 50%. Overall, this site is 102 acres. He referred the maps to page C103 (Soil Classification Table) where this was broken down. The members reviewed C103. Mr. Taravella reviewed the table and its 63.5 acres and 31.14 acres; which is 49%. There was confusion about the information on C103 and the information on Appendix F- SEQR page 9 of 13. Mr. Taravella explained that the Agricultural current acreage of 65.37 on page 9; the agricultural amount refers to use not the soil type. R. Hilliker noted that somewhere else in the packet they designated the acreage as significant farmland or prime farmland. Mr. Taravella noted that the information in Appendix S, Hydric Raing by Map Unit (last page in this section), is from the USDA map and this was used to derive the data on table C103. R. Hilliker had gathered his data from page 9 of the SEQR where it said there was 65 acres and you were using 35 which is more than 50%. Mr. Taravella clarified that that was the use; not the soil type. S. Ransbottom noted that it is the amount being used for agricultural and then out that there are soils that are prime farmland and soils that are not prime land. Mr. Taravella explained that the two charts don't give the same information. C103 breaks down the soil types: Not prime farmland of 21.2 acres; prime farmland of 63.5 acres, farmland of statewide importance of 17.8 acres for the total of 102.5 acres. Mr. Bliss asked what tables R. Hilliker was looking at: SEQR page 9 of 13 and C103. His calculation is that there is 63.5 and 17.8 acres of farmland. Mr. Bliss reminded the members that those soils extend into the wooded areas as well. The SEQR table is the project area. Mr. Taravella advised that they will clarify this information and put together a quick write up. Mr. Taravella reviewed the Town Code section in this regard. R. Hilliker noted that when he was reviewing the submission, he thought of this because he knew that there were rules as far as using farmland and especially farmland of statewide importance. The Code states that "Any Tier 3 solar system located in areas that consist of prime farmland soils or farmland soils of statewide importance shall not exceed 50% of the area of prime farmland or farmland of statewide importance on the parcel upon which panels and other solar energy equipment (the fenced in area) are to be installed. Any program in which the applicant participates that provides for the use of the land within the fenced in area as farm-related uses may be excluded from this 50% coverage threshold calculation based on the amount of space actually occupied by the farm use. This exclusion will only be allowed based on a Planning Board's determination that these lands are being used for actual agricultural uses." Mr. Bliss noted that there are two soil types of concern and if you

total 63.5 and 17.8 which is 81.3 acres which means that they could have no more than 40.65. The limit of disturbance is 32 acres. They could have 40.65 and they have 32. The SEQR does not go into the soil type. The Code speaks to the kind of soil and not to go over 50% of the good and they are under that. The SEQR speaks to what the property is used for which is agricultural, some trees and some wetlands. That's not soil type. That's cover type or land use; two different things. What the Code speaks to, Mr. Bliss believes they are compliant with.

R. Hilliker noted that in his opinion he is not sure that this is the best use of prime farmland of statewide importance. Living in this area, that land is one of the best fields around for growing crops. That is why he is raising these concerns. Assuming you are less than 50% that little strip all around on the rendering is not going to be farmed, so really the plan is taking out that whole chunk. Modern farm equipment will not do that little strip. By the book, you may or may not hit your acreage numbers but in reality, you wiped out that whole field. Mr. Bliss noted that R. Hilliker's opinion has authority so it is worth a lot but a couple thoughts to share: (1) he pointed out on the rendering the doughnut shape because of the requirement for the setbacks. Maybe it would be of better sense if this got shifted because the neighboring parcels to the east may not care and give the farmer who may be farmer a better farming opportunity. A more usable field, if that were a compromise for the sake of the farming community. (2) farming is more than today and tomorrow and next year, and if you are going to develop anything, you'd want it to be solar because it will be as good or better farmland 30 years and one day from now or 100 years from now having been solar than it would be 30 years and one day if it continued as agricultural because over time the farmland is not as good over time/decades but with solar will allow it to be as good. The use itself is not incompatible with agricultural. Mr. Bliss noted that they could do something about the strip if the Town would give them a break on the setback. Right now, they are compliant with the Code but if the Town wanted to be better than that to help both the agricultural and the farmer, maybe the project could be shifted. He noted that R. Hilliker's opinion was good thinking and he doesn't disagree with it. Mr. Taravella noted that if a berm were to be put in, it would take even more room; they will work with the Town of this; talking through all the concerns may come up with a better product. R. Hilliker believes that this parcel will never be farmland again. If this goes well and technology changes, the owners will re-up the lease and be in perpetuity unless technology develops solar panels that don't need to be this big. Mr. Taravella noted that five years ago the largest commercial panels were around 430 to 480 watts. Now there are 700-watt panels on panels that are about a foot bigger each direction which almost doubled capacity without doubling the overall footprint of them. If the owners were to re-up, the panels are actually only to get better as far as production and efficiency and reduce the actual size. R. Hilliker noted that our demand for electricity is only increasing so just because the panels got smaller, you would probably just add more if you got that chunk of land set aside. Mr. Bliss noted that the capacity of the line would be a factor; they would not be able to push more out into those lines and the utilities don't like to spend money to upgrade stuff. Mr. Bliss noted that one of the main considerations for any project that they look at is the allowed use and if solar isn't prohibited and you need a use variance, its hard for their company to hear that someone doesn't think they should do it there;

that's what the zoning code is supposed to state before they rent the properties. R. Hilliker stated that solar panels are not allowed there. You need a Special Use Permit to grant you permission so right now it is not allowed until you get the permit. Mr. Bliss noted that he meant things that were excluded by zoning no matter what. Solar was not excluded by the zoning.

J. Jozwiak noted that he understands R. Hilliker's concerns but farms are going down all over the place. By his home, there was Schichtel's, and McCormick potato farmer brought it all and now, after one year of planting, half the fields are empty; they're not using them and that is all prime gravel. R. Hilliker said that sounds like an owner issue; they've just deciding they're not doing it. There are land wars all around town and surrounding towns for prime farmland. These farmers are doing everything they possibly can to get more and more because there is such a demand for it. He agrees that the small farms may be going out but the big ones are getting bigger. Mr. Taravella noted that this land isn't farmed by the owner. They could just let go; he doesn't believe they would ever do that because they'd like to get use out of the land. R. Hilliker advised that this is just his opinion, and he is not against solar panels and thinks there are a lot of good spots for them even within the Town of Concord. He struggles from a philosophical standpoint of taking some of the best farmland in the Town and converting it to this project when there's other parcels (one with red brush that he can think of) that is wet and not farmland; that would be perfect; but that would be harder for the company to develop that land. This is the most profitable spot you could go. Mr. Taravella noted that the DEC won't let them go in on wetlands; R. Hilliker noted that it's not wetlands; just heavy clay ground. There are a bunch of places around Town that are heavy, wet unused ground, hidden, that would make an idea spot for this project. That's the farmer's side. R. Hilliker's other struggle with this is that it is a commercial operation. There is nothing farm about it. All these neighboring parcels brought their land in R-Ag (Residential-Agricultural) zones, including the owner of this proposed property Zittel, with the intent that it was R-Ag. You could build houses there; you can farm there. You can't set up a warehouse or a factory or any commercial operations. One could argue that it is the owner's property and he can do what he wants with it but he bought that property knowing what the use and now wants to change it. In R. Hilliker's opinion, the owner doesn't have the right to change the use unless the Town thinks it's the best option and agrees to the change. All these other people who purchased their properties around this site knowing that they are living in an R-Ag district. Furthermore, if you look at the Town's Comprehensive Plan, it says right in the Plan that Concord is a Residential-Agricultural farming community. That is what the Town of Concord is made of; so he is really struggling with doing this to those people; to say that this is ok; that all their property will change because it was lucrative for another person. Mr. Taravella played devil's advocate and said that Mr. Zittel or the farmer leasing the land had a bad relationship with one of the neighbors; they could plant cabbage in the field and just let it rot and cause problems; it would still be a nuisance. R. Hilliker noted that that would be no different than a farmer spreading manure; that's what a person signs up for when they purchase property in a R-Ag community; you sign up for manure, rotten cabbage, loud tractors. J. Zybert noted that, as R. Hilliker said, this is a commercial operation dumped into an R-Ag area. R. Hilliker told the representatives that he is not being closed minded

about this; they could change his mind. Mr. Bliss noted that the people who bought this land want solar and the others are neighbors. Neighbors who don't have the investment here to pay for their retirement, their kids' college or whatever the case may be. If the owner were here and the members were telling him that they didn't think he could do anything but farm the land because it's good farmland...R. Hilliker said he told him right to his face. Mr. Bliss said he didn't know if that was a fair thing to say to anybody. Is it fair to say that you can't get a different job because that's important and I'm not going to let you get a different job, you wouldn't be happy. There's a lot of power that needs to be exercised in light of the existing law which says for the company to come here and to tell the Town what they are doing and if it meets the Code and there are no other major problems like an endangered animal, then the presumption is that the company gets the permit (not to tell the Board what they are doing). R. Hilliker noted that that is why he is here; that's why he's raising these concerns; doing his job. The taxpayers in the Town pay him to sit here and he is not doing his job unless he analyzes this to the best of his ability. He may not necessarily be smart enough to understand all the technicalities but he is going to his best and uncover as many stones as he can because the taxpayers in this Town don't deserve anything different. The members have to go into this looking from all eyes not just because this design or that design fits this, isn't right for our Town. This is the first one so this project would set a precedence. Mr. Bliss noted that the important thing about that precedence is that the Town will be making them follow the Code without any variances; they are following that Code and the Town is not giving them any special treatment. They are following the rules set by the Code. Without getting political, he continued that utilities are of a limited lifespan and we have to do something about that or our grandkids are in a lot of trouble. Mr. Bliss noted that he thinks that that is why he holds this job; that he believes that these are good for the big picture. One could say so is farming and, of course it is. R. Hilliker stated that agreed with everything that Mr. Bliss stated but is this the best spot for this in our community. Mr. Taravella explained the considerations that go into selecting a parcel. The utility company has a limited number of substations and those substations have a limited amount of capacity. If you find a substation that has capacity, now you can move outward from that substation. Do those lines have the capacity to handle the electricity? Most of them don't. They need at least 13.2 kilovolt lines. A lot of rural communities are 4.6 and the higher, bigger ones are 34 which can be used but they are not common in this area. There may be other parcels that check all the boxes: poor farmland, not a wetland, no endangered species, but if the power can't get from that land to the substation, it doesn't work. There are only a limited number of places that they can be put. Those are the considerations that go into the site selection. Chairman Edbauer asked if there were other site selections that were done in the area that you have. Mr. Taravella said not in Concord. Mr. Bliss said that they could let the members know this information; if there are any other spots. Chairman Edbauer noted that he agrees with R. Hilliker that this is prime land and we know that there is a need for solar power; we understand that and we agree with that, but we are not sure that that is maybe the best place for it. R. Hilliker doesn't want anyone to think that he is anti-solar. J. Zybert asked if they were approached by the landowner or did the company approach a certain number of landowners. Mr. Bliss is speculating the latter because that is usually the way it works. An analysis is done of everywhere in the State and Town by Town, grid by grid and substation and will decide if there are opportunities

there maybe one, two or three. The company will then ask those one, two or three owners to see if they have any interest and usually, they don't hear back from them but in this case, he's speculating that they did hear back. Infrequently the owner comes to them to see if their land can be used. Usually, they can't because of the specifications noted earlier by Mr. Taravella. Mr. Bliss noted that they can ask their origination team what happens just to provide the information to the Town as to how many properties were looked at in this area. In answer to the question of does it have to be in this location, the answer is probably if we are going to be in this Town, yes. D. Dains asked where the substation was? Mr. Taravella said it was Cobble Hill 548; he did not know the exact location of this substation; it may not even be in the Town. The transmission lines will carry it a dozen miles or so. The Cobble Hill substation is the only one that they are able to use. This is considered community solar. Mr. Taravella doesn't really like some of the tactics of the utility scale where there are hundreds of megawatts and they just run rapid right over the Town. These projects put in their own substations; this company does not have that ability; they need to use the infrastructure that is there and use the land that fits those pathways. Chairman Edbauer noted that he thinks that this is R. Hilliker's concern that we are setting precedence; what's to stop them and all the farmland disappears. Mr. Taravella explained that at least with community solar, you are limited by what's available with the lines and this is what is available to them. Council Member Drake noted that if you go six miles down the road, NYS is pushing a 250-megawatt project with 10% in the Town of Concord, the rest is in Sardinia. The state is steamrolling the Town. Mr. Taravella noted that that is the point is making; he doesn't like those tactics.

R. Hilliker asked what is their closest active solar project? Could you share the location. Mr. Taravella noted Hanover at Rt 5 @ Rt 20. R. Hilliker would like to go see them; drive by. Mr. Taravella noted that they were trying to arrange a tour for their company of that facility. He can't promise anything, but he will try to organize a tour of that facility. The members would like to do a tour if it could be arranged. R. Hilliker would like to hear the transformers and Mr. Bliss noted that he would have to get really close. Mr. Taravella will ask but no guarantee. S. Ransbottom will check for any other facilities nearby. The one in Pomfret may not be fully constructed yet.

The representatives asked the members if there were any improvements that the company could do in their submission other than tabs for ease in locating pages. How else could the packet be improved? Chairman Edbauer stated that the submission was put together really well and a good presentation. R. Hilliker noted that he wished he would have allotted a little more time to review it; he didn't expect it to be so detailed. J. Jozwiak noted that it is more detailed than other projects. Mr. Taravella lives in Orchard Park so if the Board would like him to come back at any time, either a meeting or an informal meeting, he could meet the members. He grew up in this area and this is his backyard too. R. Hilliker noted that he is friends with Ken, the property owner, and had a long conversation with him about this project; the pros and the cons. Mr. Taravella advised that his contact information was provided in the submission.

There were no other comments/questions. Mr. Taravella noted that the invitation to contact him is open to all of them. Chairman Edbauer stated that members would like to take him up on the tour of the Hanover facility. Mr. Taravella will ask, but there are no guarantees. Chairman Edbauer noted that a tour would help the members better understand and as mentioned earlier, the Planning Board is the face of the community and the members will try to do what is right for the community. Mr. Taravella thinks it would go over well with our community if the members could say they went over to tour the facility; he will ask his team if the tour can be organized.

Mr. Bliss asked what was expected at this time? Would they be coming back next month? Mr. Taravella noted that their company would like to open the SEQR process because it is a time-consuming process. Opening SEQR doesn't ultimately preclude the Town from saying no but it is a timely process that they would like to get started. They can provide any additional information that the Town may want or need. Mr. Bliss asked what else the members may want if they come back next month or later? Would the members want a presentation or other information? Giving the members time to digest the information reviewed tonight. Chairman Edbauer stated that the members will digest what was reviewed this evening. The company will look into a berm for those two parcels (Hartman and Krzemien). Mr. Taravella will try to reach out to these two property owners to see what they may want for screening and if a berm is the way that they would like to go.

J. Jozwiak noted that if this project goes through, the company want to have the fire company chief, the fire department, come to see the dos and don'ts in case there was a fire. Mr. Taravella noted that the Code does require an Emergency Response Plan and that is included in the submission. At this point, nothing is final because the permit has not been approved. R. Hilliker noted that the members have to now talk amongst themselves and come up with comments/questions. Chairman Edbauer noted that he would ask Mr. Taravella to try to encourage his company to allow the members to have a tour. Mr. Bliss noted that there are other towns that they have worked with to get their approval but the facilities have not been built yet. R. Hilliker would like to see the finished product. Mr. Taravella was involved in the one on Broadway but that was not a RIC project.

Chairman Edbauer told the representatives that the members appreciated them coming in tonight and providing all this information. It was a good exchange. He thanked R. Hilliker for doing such a good job. R. Hilliker said that this is very, very important and he feels the members have to really think about what we are doing and the Town's Comprehensive Plan. Mr. Taravella advised that he will ask the interconnection team to see what the existing capacities are on the substations that lead here to give the Town a ballpark look of what really would be feasible; hypothetically, if there are two substations that serve the Town and if this project gets approved, he believes that this will max out the substation so it would limit the build out to one more of these and that would be that. He's not speaking of utility scale projects because they do not do those but he can ask his team to look at what substations are around and is there any more capacity. R. Hilliker noted that he hears what they are saying about capacity today but he attended

a Southtowns Planning Meeting presentation which indicated to hit all electric by that certain date, we need to upgrade our whole grid system so there may not be capacity right here today but in ten years there might be. He's looking at this as a whole system in the future, not just this project. Mr. Taravella said he can only speak as to what is there today. Utility company upgrades goes to the company and it doesn't always make dollars and cents, if the developer isn't going to make money on it, they are not going to do it.

Mr. Taravella thanked the Board and to reach out with any other questions or if the members would like him to come back to another meeting. Chairman Edbauer asked them to reach out about a tour. The RIC representatives left the meeting at 8:28 p.m.

ITEM #7: Code Update

Chairman Edbauer advised that since it is already late, the members will not work on the Code Update this evening.

ITEM #8: Business from the Members

1) Chairman Edbauer asked CEO Roberts the status of the Mobile Home Park renewals. CEO Roberts did a first inspection of both Parks last week and will be sending letters to the owners. He noted that neither Park is that bad. There is nothing major. This is his third year as Town CEO and this is the best so far. Some skirting, some trash. There are a couple abandoned trailers but since the park owner is not the owner of the trailer, the park owner cannot do the repairs. The road base at the Perkins Park is decent; there are a couple bad sections in the road but he is confident that the park owner will make the necessary repair. The road base at the North Street Park is not so good and there are bad sections in the road. Any gravel used to fill the potholes will just come back out. To do the repairs would be an expensive task for the park owner given that the trailer park doesn't generate that kind of money. CEO Roberts will follow up with the park owners and report back to the Planning Board. At the February Planning Board Meeting, the members made a motion to table these renewals until the June meeting to allow the park owners time to fix any issues. There was no action taken tonight.

2) Chairman Edbauer noted that there is a property on Transit Line Road owned by Cook which has abandoned vehicles and asked CEO Roberts to investigate. It is unsightly and doesn't want to set a precedence by letting it continue. It's been there two years.

3) Secretary Schweikert advised that the Town received a complaint regarding the Burke Winery on Trevett Road. A neighbor said that there was music late into the evening and vehicles parked on the roadside. When the Special Use Permit issued, the Town made it a condition that no parking on Trevett Road was allowed. R. Hilliker asked how that would work? Do Burkes police themselves? Does the Town send the police down to give out tickets? Since Trevett Road is a county owned road, Erie County would need to be involved to have "no parking" signs installed. The Town

cannot put the signs up. At the time of the application, the Burkes noted that there would be another alternate lot for overflow parking. CEO Roberts will reach out to Mr. and Mrs. Burke to discuss to let them know that the Special Use Permit is in jeopardy and report back to the members.

4) Secretary Schweikert advised that she met with the owner of 12326 Kern Road who had been asking about a slaughterhouse operation at that location. The owner will raise animals there but will not be slaughtering at the property. It is prohibited in the Town Code. They would not be raising animals in the Winter. They are allowed to raise the animals in the R-Ag zone. They will be putting up a fence for the animals and also a fence for a vegetable garden. CEO Roberts will be in contact with the owner to discuss a shed for a walk-in refrigerator for storage of vegetables, not meat. The owner will take the animals to Bonds Meats and be packaged.

5) J. Jozwiak advised as an FYI that Horschel purchased lands on Waverly Street behind the Senior Center and also acreage on South Cascade by Gui's Lumber. Horschel also is putting on addition on their facility at 180 Zoar Road. D. Schweikert received the Village Referral for this addition and will scan it to the members for their review.

6) D. Dains questioned if the property at the intersection of Trevett Road and Genesee Road is a legitimate business. This property is owned by Frank Giordano. CEO Roberts had a discussion with Mr. Giordano and the owner advised that the materials on site are his own material and it is not for sale; he is not retailing the material. CEO Roberts noted that this might be a place to change the zoning to Commercial. The members do not want to consider a zoning change; it is R-Ag and the neighboring parcels are all R-Ag. The Town does not spot zone.

7) Council Member Drake noted that the Town did have one prior solar project application but it was submitted at a time when the Town had just changed the law for solar and the application did not meet the new law. The project did not proceed. R. Hilliker advised that the Town will be setting the precedence now for any future solar projects so the members need to do their due diligence on this current solar project; this would set the precedence for the whole Town with this one project. R. Hilliker continued that everyone knew this land was farmland when properties were purchased and everyone has a right to do what they want with their land but they do not have the right to change the zoning. The Town has to decide if it is the best use of the land for the Town. J. Jozwiak noted that it is the Planning Board's job to make sure the proposed project follows the Town Code. Chairman Edbauer noted that RIC Energy representatives are working with this Board on this project. R. Hilliker noted that the Town has a Comprehensive Plan and does this project fit into that Comprehensive Plan? Does it meet Town Code? Does it meet the Comprehensive Plan and the direction the Plan wants the Town to go? B. Luno advised that there is a solar project in McKinstry Road at Block Road in Delevan if any of the members want to drive over to see that project.

ITEM #9: Motion of Adjourn

J. Jozwiak made the motion, seconded by J. Zybert, to adjourn the meeting at approximately 9:08 p.m. All in favor. Carried. The next meeting will be Tuesday, April 2, 2024.



Darlene G. Schweikert
Planning Board Secretary