

Election Center
Emmetsburg, Iowa
June 15th, 2021, 1:00 p.m.

The Palo Alto County Board of Supervisors met in regular session. Members present: Ronald Graettinger, Roger Faulstick, Craig Merrill, Keith Wirtz, Linus Solberg. Present: Craig Brownlee, Mark Zacccone, Neil Ankeny; Peter Hart, County Attorney; Joe Schany, Democrat/Reporter.

Unless otherwise indicated, all of the motions offered at this meeting were carried with the following vote: Ayes: Graettinger, Faulstick, Merrill, Wirtz, Solberg. Nays: None.

Keith Wirtz, Chair Pro-Tem, called the meeting to order at 1:00 p.m.

Motion by Graettinger, 2nd by Merrill to approve the agenda for June 15th, 2021. Motion Carried.

Motion by Faulstick, 2nd by Graettinger to approve the minutes for June 8th, 2021. Motion Carried.

The Board considered a Resolution limiting the exceptions to the moratorium on solar energy conversion systems.

Motion by Graettinger, 2nd by Merrill to introduce and approve the following Resolution No. 6-15-2021. Ayes: Graettinger, Faulstick, Merrill, Wirtz, Solberg. Nays: none. Resolution Passed.

RESOLUTION NO. 6-15-2021

A RESOLUTION PROVIDING FOR A LIMITED AND PARTIAL EXCEPTION TO THE MORATORIUM ON THE DEVELOPMENT, CONSTRUCTION AND MAINTENANCE OF SOLAR ENERGY CONVERSION SYSTEMS AND RELATED ENERGY DEVICES IN PALO ALTO COUNTY

WHEREAS, on March 10, 2020, the Palo Alto County Board of Supervisors (the "Board") adopted a one-year moratorium ("Moratorium") on the development, construction, and maintenance of Solar Energy Conversion Systems ("SECS") in Palo Alto County (the "County") by duly adopted Resolution No. 3-10-2020; and,

WHEREAS, because the issues underlying the adoption of the Moratorium have not yet been resolved to the satisfaction of the Board, on February 9, 2021 the Board extended the Moratorium on further development, construction, and maintenance of SECS until such time as such issues are resolved by appropriate legislation; and,

WHEREAS, Palo Alto Solar Energy LLC ("PAS") has requested limited relief from the Moratorium to conduct non-construction activities for a proposed SECS, which PAS has identified as environmental and geo-technical surveys, land acquisition, wetland delineation studies and other as yet unnamed activities, the wetland delineation studies being identified as the most time-sensitive of these activities; and,

WHEREAS, the Board, after due consideration and discussion, is willing to grant PAS, and PAS only, a limited, partial exemption from the Moratorium to allow PAS to perform only the wetland delineation studies (the "Partial Exemption"), on the following conditions, that:

- (1) PAS understands and agrees that it undertakes this activity at its own risk, recognizing that an ordinance permitting SECS in the County may or may not be adopted by the Board in the Board's sole discretion;

(2) PAS understands and agrees that the Partial Exemption does not signal in any way whether, to what extent, or under what circumstances the Board may or may not ultimately lift the Moratorium and may or may not adopt an ordinance to allow for development, construction, and maintenance of SECS within the boundaries of the County;

(3) PAS shall, by way of a written acceptance of this limited, partial exemption from the Moratorium, indicate that it understands and agrees that it will not, at any time now or in the future, utilize the Board's grant of this Partial Exemption to argue, under any theory, legal or equitable, that:

- i. the Partial Exemption creates some vested right in PAS to develop a SECS in the County; and/or
- ii. by granting the Partial Exemption, the County is estopped or otherwise prohibited from adopting an ordinance that in any way prohibits or limits the development, construction, or maintenance of any SECS within the County; and/or,
- iii. in the event that an ordinance is adopted by the Board that authorizes the permitting, development, construction, and maintenance of SECS within the County, that the Partial Exemption entitles PAS to be granted a permit to develop, construct and/or maintain any SECS within the County.

NOW THEREFORE, the Palo Alto County Board of Supervisors, following review, consideration, and discussion, RESOLVES that Palo Alto Solar LLC shall be granted a Partial Exemption from the Moratorium as extended, so as to permit Palo Alto Solar LLC to conduct wetland delineation studies for its proposed SECS within Palo Alto County.

If any section, provision, or part of this resolution shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the resolution as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

ADOPTION

Supervisor Ron Graettinger therefore moves for the approval and passing of the resolution granting a limited, partial exemption from the March 10, 2020 Moratorium on Solar Energy Conversion Systems, as extended on February 9, 2021.

Supervisor Craig Merrill seconded the motion to adopt the resolution.

THE RECORDED VOICE VOTE WAS MADE:

Linus Solberg __aye_____

Keith Wirtz _aye_____

Ron Graettinger __aye_____

Roger Faulstick _aye_____

Craig Merrill _aye_____

Passed and approved this 15th day of June, 2021

MOTION CARRIED RESOLUTION ADOPTED.

/s/Keith Wirtz

Chairman, Palo Alto County Board of Supervisors

Attest:

/s/Carmen Moser

Palo Alto County Auditor

Motion Scheduling Public Hearings

A MOTION SETTING PUBLIC HEARING(S) TO CONSIDER AMENDING THE SEPTEMBER 27TH, 2016 WIND CONVERSION SYSTEM ORDINANCE

WHEREAS, the Palo Alto County Board of Supervisors met in regular session on September 29th, 2016, in the Palo Alto County Courthouse and approved the enactment of the Palo Alto County Wind Energy Conversion System Ordinance with provision for a 1,500 foot setback from permanent residential structures, and provision for a limit of 550 foot in total wind turbine tower height; and,

WHEREAS, the Board of Supervisors met in regular session on October 24th, 2017, and conditionally approved the Wind Energy Conversion System Site Plan Review and Approval Application for Permit for 170 wind turbines; and,

WHEREAS, the Board of Supervisors having reviewed the construction and operation of those 170 wind turbines over the last 44 months, the Supervisors now intend to reconsider and amend their September 27th, 2016, Wind Energy Conversion System Site Plan Review and Approval Ordinance provision of 1,500 foot setback from permanent residential structures, and to increase and substitute that setback to one half mile (2,640 foot) in the September 27th, 2016, ordinance; and,

WHEREAS, the Board of Supervisors having reviewed the construction and operation of those 170 wind turbines over the last 44 months, the Supervisors now intend to reconsider and amend their September 27th, 2016, Wind Energy Conversion System Site Plan Review and Approval Ordinance to amend the 550 foot total height provisions and in its place to substitute provision for a total wind turbine tower height of 600 foot in the September 27th, 2016, ordinance; and,

WHEREAS, Iowa Code 331.305 requires publishing notice of the public hearing to amend an ordinance at least once, not less than four (4) days or more than twenty (20) days, before the date of the proposed amendment to the ordinance hearing in one or more newspapers; and,

WHEREAS, Iowa Code 331.302.6(a) requires the proposed amendment to be considered and voted on for passage at two meetings of the Board of Supervisors prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than a majority of the Board of Supervisors.

NOW THEREFORE, BE IT MOVED that following review, consideration and discussion, that the Supervisors determine to schedule and to publish the necessary hearings to accomplish these proposed amendments to the Wind Energy Conversion System site Plan Review and Approval Ordinance, and that three (3) hearings shall be scheduled for the adoption of the proposed amendment.

NOW, THEREFORE, BE IT FURTHER MOVED that the Palo Alto County Board of Supervisors hereby sets the first of three public hearings to consider amending the September 27th, 2016, Wind Energy Conversion System Site Plan Review and Approval Ordinance.

The first of three hearings will be held June 29th, 2021 at 8:30 am,

The second of three hearings will be held on July 6th, 2021, at 8:30 am, and

The third of three hearings will be held on the 13th of July 2021, at 8:30 am.

The Palo Alto County Auditor shall cause a copy of this motion to be placed of record with the official newspapers of general circulation in compliance with Iowa Code 331.305, at least once, not less than four (4) days or more than twenty (20) days before the date of the request for hearing on the amendment of the Wind Energy Conversion System Site Plan Review and Approval Ordinance.

Supervisor Linus Solberg therefore moves and Supervisor Roger Faulstick seconds the motion to schedule the hearing(s) for considering amendments to the September 27th, 2021 Wind Energy Conversion System Site plan Review and Approval Ordinance.

THE RECORDED VOICE VOTE WAS MADE:

Keith Wirtz __aye_____

Ron Graettinger _aye_____

Roger Faulstick _aye_____

Craig Merrill _aye_____

Linus Solberg _aye_____

Motion passed and the three hearings on the proposed amendments, scheduled this 15th of June, 2021.

MOTION CARRIED.

/s/Keith Wirtz

Chairperson, Palo Alto County Board of Supervisors

Attest: /s/Carmen Moser

Palo Alto County Auditor

Motion by Merrill, seconded by Graettinger to approve the joint drainage district levy with Pocahontas County. Motion Carried.

Motion by Merrill, seconded by Faulstick to adjourn. Motion Carried.

Keith Wirtz, Chair Pro-Tem

Carmen Moser, County Auditor