

Courthouse  
Emmetsburg, Iowa  
July 20<sup>th</sup>, 2021, 8:00 a.m.

The Palo Alto County Board of Supervisors met in regular session. Members present: Linus Solberg, Chair; Ronald Graettinger, Roger Faulstick, Craig Merrill, Keith Wirtz. Present: Jacob Oliver, Reporter/Democrat; Corey Harguth, KICD; Bart Knox, MidAmerican; Dan Opheim, Scott Kibbie, Lynn Schultes, County Sheriff; Peter Hart, County Attorney; Aletha King, Zoning; Neil Ankeny, Ronn Naig.

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. Abstentions: None.

Motion by Faulstick, 2<sup>nd</sup> by Graettinger to approve the agenda for July 20<sup>th</sup>, 2021, with the addition to set the completion hearing date for Drainage District No. 160. Motion Carried.

Motion by Wirtz, 2<sup>nd</sup> by Merrill to approve the minutes for July 13<sup>th</sup>, 2021. Motion Carried.

Lois Naig, Assessor, met with the Board to present the homestead & military applications, Disabled Veterans and business property tax credit applications for FY23.

Motion by Graettinger, 2<sup>nd</sup> by Merrill to approve the homestead & military applications, disabled veteran applications & business property tax credit applications for FY23. Motion Carried.

Motion by Merrill, 2<sup>nd</sup> by Wirtz to approve the project cost recap for the Public Safety Building. Motion Carried.

The Board received bids for the Sheriff Garage/Temporary Communications Center. The following bids were received: ASI Commercial Construction \$373,800 and Buhrow Construction \$254,631.91. The Board will award the bid next week.

Dan Opheim was present for public comment and asked the Board to consider other facts than just drainage regarding the solar panels.

Scott Kibbie was present for public comment regarding concerns on high traffic gravel roads.

Ronn Naig was present for public comment and asked the Board to pass the resolution to discuss drainage tile regarding solar farm.

Walter Davis-Oeth, County Engineer, met with the Board to give an update on roads. Walter updated the Board on the patching contract.

The Board considered a Resolution to approach landowners regarding drainage during the solar moratorium.

#### **RESOLUTION NO. 7-20-2021**

#### **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”) previously 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, discussions with landowners regarding drainage and drain tile locations, and other as yet unnamed activities, the wetland delineation studies being identified as the most time-sensitive of these activities; and,

WHEREAS, the Board granted PAS limited, partial exemption from the Moratorium to allow PAS to perform wetland delineation studies on June 15, 2021 (the “Partial Exemption”); and,

WHEREAS, Invenergy has requested an additional exception to the Moratorium to engage in discussion with landowners regarding drainage and drain tile locations; and,

WHEREAS, the Board, after due consideration and discussion, is willing to grant PAS, and PAS only, an additional limited, partial exemption from the Moratorium, in addition to that previously granted on June 15, 2021, to allow PAS to engage in discussions with Palo Alto County landowners regarding drainage and drain tile locations, (the “Additional 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 Additional Partial Exemption, 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 or the Additional 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 either the Partial Exemption or the Additional 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 an Additional Partial Exemption from the Moratorium as extended, in addition to the Partial Exemption granted on June 15, 2021, so as to permit Palo Alto Solar LLC to conduct discussions with Palo Alto County landowners regarding drainage and drain tile locations, 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 Craig Merrill 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 Ron Graettinger seconded the motion to adopt the resolution.

THE RECORDED VOICE VOTE WAS MADE:

Linus Solberg \_\_Aye\_\_\_\_\_

Keith Wirtz \_\_Aye\_

Ron Graettinger \_\_Aye\_\_\_\_\_

Roger Faulstick \_\_Nay\_\_\_\_\_

Craig Merrill \_\_Aye

Passed and approved this 209th day of July, 2021

MOTION CARRIED RESOLUTION ADOPTED.

/s/LJ Solberg

Chairman, Palo Alto County Board of Supervisors

Attest:

/s/Carmen Moser

Palo Alto County Auditor

Committee Reports: Craig Merrill—Care Connections; Sarah Strohman, Public Health update.

Motion by Graettinger, 2<sup>nd</sup> by Faulstick to set the completion hearing date for Drainage District 160 for August 10, 2021, at 9:15 a.m. in the Courthouse Boardroom. Motion Carried.

Motion by Faulstick, 2<sup>nd</sup> by Wirtz to adjourn. Motion Carried.

\_\_\_\_\_  
Linus Solberg, Chairman

\_\_\_\_\_  
Carmen Moser, County Auditor