

REGULAR SESSION
December 12, 2017

A Regular Session of the Carver County Board of Commissioners was held in the County Government Center, Chaska, on December 12, 2017. Chair Tim Lynch convened the session at 9:00 a.m.

Members present: Tim Lynch, Chair, James Ische, Vice Chair, Gayle Degler, Randy Maluchnik and Tom Workman.

Members absent: None.

Under public comments, Karen Johnson Leuthner, 15735 38th Street, Mayer, stated she did not represent the Hollywood Township Board, any elected officials or staff and was a relevant public watchdog. She pointed out back in December, 1999, she came to the Hollywood Township Board with her concerns on the radio tower and the CUP that was approved. She noted it was now December, 2017 and the truth has not been told on the CUP. She stated she would be reviewing CUPs in the future.

John Siegfried, Chaska, referenced the issue he brought up at the truth in taxation meeting and the classification of commercial parcels. He explained his taxes were higher than an adjacent parcel with the same valuation. He indicated he subsequently spoke with the Assessor who pointed out the Statute that related to contiguous parcels under the same ownership that results in higher taxes. He stated some awareness of this unique situation being brought to his attention earlier by the Assessor would have been appreciated.

Degler moved, Ische seconded, to approve the agenda. Motion carried unanimously.

Ische moved, Workman seconded, to approve the minutes of the November 21, 2017, Regular Session. Motion carried unanimously.

Community announcements were made by the Board.

Ische moved, Degler seconded, to approve the following consent agenda items:

Approved the payroll AS400 hosting service agreement.

Grant agreement with WeCab pending finalization of the contract review process.

Resolution #75-17, Approving State of Minnesota Joint Powers Agreement with Carver County, on behalf of Health and Human Services.

Approved amendment 1 for legal services related to the TH 41 Expansion Project-Jonathan Area Phase with Kennedy & Graven for \$50,000 pending contract review process.

Approved the Memorandum of Agreement with the Lower Minnesota River Watershed District for water monitoring services pending completion of the contract review process and related Planning and Water Management budget amendment.

Approved Sheriff's Office acceptance of \$300 donation and purchase of an AED, and approved the donation of \$50 for use at the Sheriff's discretion.

Approved the hire of a temporary LPN to backfill during staff leave in Health & Human Services psychiatry department and related budget amendment.

Approved Sheriff's request to maintain a one sergeant over complement until a sergeant is promoted to the vacant lieutenant position.

Approved final payment to OMG Midwest., Inc. for construction of the MN River Bluffs Regional Trail.

Authorized Health & Human Services' acceptance of \$250 donation for the Encore program.

Authorized Sheriff to contract with the State of Minnesota, Division of Homeland Security & Emergency Management, subject to contract review by the County Attorney/Risk Management and Sheriff's related budget amendment.

Resolution #76-17, Authorizing Settlement of Compensation to Owners for Acquisition of Real Property Interests Needed for Project #148758.

Approved combining two 0.5 library technology associate positions into a 1.0 FTE library technology associate position and eliminated a vacant 15 hour per week library shelver and related Library budget amendment.

Approved hiring a GIS intern in Public Works and related Public Works budget amendment.

Approved out of state travel for traffic engineering specialist to attend the ATSSA Annual Conference in San Antonio, TX, subject to expenses being paid for by an approved conference scholarship.

Memorandum of Agreement with MNPEA Licensed Deputies Sheriff's Office bargaining unit for 2018 cafeteria plan contributions.

Approved the SMACC 2017-2018 collective bargaining agreement.

Approved the AFSCME Public Works 2017-2018 collective bargaining agreement.

Approved the Memoranda of Agreement with the AFSCME General Unit and AFSCME Health & Human Services Bargaining Unit addressing FLSA exemption and accrued compensatory time.

Approved converting a 0.2 Employee Relations Business Partner vacancy to 0.2 FTE Employee Relations Senior Advisor and related Employee Relations budget amendment.

Resolution #77-17, Declaring Official Intent to Reimburse Expenditures for the Purchase of the former Ridgeview Marie Steiner Kelting Hospice Home with Bond Proceeds.

Approved the following abatements:

30.0503950	Paul Van Sloun
30.1050180	Stephen Holderman
09.8470050	Mark Dahlin
30.6601815	Marie Armani

Reviewed November 28, 2017, Community Social Services' actions/Commissioners' warrants in the amount of \$216,952.22; reviewed December 5, 2017, Community Social Services' actions/Commissioners' warrants in the amount of \$216,268.92 and December 12, 2017, Community Social Services' actions/Commissioners' warrants in the amount of \$202,934.22.

Motion carried unanimously.

Dave Hemze, County Administrator requested the Board approve the 2018 property tax levy and budget. He pointed out the increased costs due to societal impacts that related to the opioid crisis, health insurance and cybersecurity issues. He explained he was recommending a 3.9% levy increase and identified the impact to an average valued home. Hemze highlighted services provided to residents.

Dave Frischmon, Financial Services, reviewed a four year summary of levy increases, negative trends, FTEs and levy adjustments. He pointed out the \$5.00 increase in the solid waste fee to offset the budget gap due to higher volumes and increased costs at the Environmental Center and the WMO cost shift from the County budget to the WMO levy. He identified County wide levy adjustments recommended in vacancy savings, the increase in program aid and an increase in the road preservation levy.

Frischmon reviewed recommended FTEs and vacant positions to be eliminated. He recognized the Board direction on the 2018 levy and the Administrator's recommended two million dollar increase due to societal costs. He highlighted the tax impact to an average valued home over the last ten years. Frischmon outlined 2018 capital projects and funding sources.

He reviewed the long term plan and indicated Public Works was in the process of prioritizing road projects with the new transportation funds.

Karen Johnson Leuthner, Mayer, questioned the past use of the year-end savings account to purchase facilities at the end of the year.

Hemze clarified they try to clearly show what is left over at the end of the year but do not try and obtain additional levy through the year-end savings account.

Ische offered the following Resolution, seconded by Maluchnik:

Resolution 78-17
Certifying 2018
Property Tax Levy

and

Resolution 79-17
County Board Adoption of the 2018
Budget for Carver County

On vote taken, all voted aye.

Ische offered the following Resolution, seconded by Workman

Resolution #80-17
County Board Adoption of the
2019 Long Term Financial Plan
For Carver County

On vote taken, all voted aye.

Maluchnik moved, Degler seconded, to recess as the County Board and convene as the Carver County Regional Rail Authority. Motion carried unanimously

Lyndon Robjent, Public Works, requested the Rail Authority approve the 2018 Rail Authority levy and budget. He explained they were asking for a \$22,000 increase to provide a .40 FTE community service officer to patrol trail systems and to fund part time seasonal work. He stated the remainder of the funding would be used for stewardship projects.

Degler offered the following Resolution, seconded by Ische:

CCRRA #01-17
Certifying 2018 Property Tax Levy and Adoption of 2018 Budget

On vote taken, all voted aye.

Ische moved, Degler seconded, to adjourn as the Carver County Regional Rail Authority and reconvene as the County Board. Motion carried unanimously.

Jason Mielke, Land Management, appeared before the Board to review USS Lake Patterson Solar's request for a conditional use permit request for a large solar energy system up to one megawatt. He stated the land was owned by Katherine and Jill Wachholz and located in Section 19 of Waconia Township. He noted at the September Planning Commission hearing a tie vote occurred on a

motion to approve and, as a result, the motion failed. He cited reasons given by the Planning Commission to both approve and deny the CUP. He indicated the applicant had submitted additional information to address the issues that arose at the Planning Commission hearing and that was included in the Board's packet. Mielke added on December 8th they received a new landscaping plan and pointed out new proposed setbacks to be considered on the South side. He indicated he was asking for a motion to direct staff to prepare an Order for the Board's consideration at the January 2nd meeting and asked that the motion indicate whether the Order should approve or deny the CUP application.

David Watts, USS Solar, pointed out the benefits of solar gardens and recapped the history of the project. He indicated the site was set back from residents and public roads. He stated the new ordinance did not apply to this project but they were able meet the new ordinance's restrictions. He stated decommissioning was addressed, meets all the requirements of the ordinance and the taxpayers were not at risk. He indicated they agreed to raise the decommissioning fund to \$25,000 to alleviate concerns. He stated the solar garden was compatible with the rural neighborhood and the acres would be covered with permanent vegetation and screened over 1,000 feet from residences. Watts indicated there would be no daily traffic, no odor and would not be injurious to anyone. He referenced the Kirkland Appraisals analysis of property values that concluded there was no indication of impact on property values. He also referenced the Chisago County report concluding no adverse impacts.

Watts pointed out the letter from Doug Mutcher, Westwood Professional Services, addressing concerns related to stray voltage. He referenced articles published on electromagnetic fields and indicated no health issues were found. He highlighted information from the Minnesota Farm Bureau and Minnesota Farmers Union showing that solar was compatible with the ag community. He stressed they met the criteria in both the old and new ordinance.

Colleen Hollinger, Prairie Restorations, stated USS Solar has been diligent in assuring that the vegetation would be managed well. She indicated native pollinator habitat would be created and no toxic waste would be produced by the panels. She stated this would preserve farmland and return soil to a natural prairie.

Rob Davis, Fresh Energy, pointed out the County has had a unique relationship with the monarch butterfly and pointed out an article published in National Geographic in 1976. He stated millions of habitat acres have disappeared. He noted this private investment in habitat was rare and urged the Board to support due to the positive impact to the environment.

Kiara Bolton, Menahga, Minnesota, stated she was a beekeeper and her experience with pollinator friendly solar habitat and bees has been incredible. She pointed out the loss of bees every year and the need to create a healthy habitat. She stressed the project would provide a healthy habitat and this was an opportunity for private funding a healthy habitat for bees.

Travis Bolton, Menahga, indicated he is a farmer and beekeeper and his hives have thrived next to solar arrays. He thanked USS Solar for creating a healthier habitat and asked the Board to approve the project.

Watts concluded they have met all the relevant criteria, have made voluntary efforts to meet the criteria of the new ordinance as well, and asked the Board to approve the CUP.

Reed Richardson, US Solar, clarified the type of fence that is typically used.

Loren Huepenbecker, representing Waconia Township, stated an 8 foot chain link fencing should be used to withstand heavy snow falls. He stated the trees they are proposing to use will lose their leaves so there would not be screening. He believed the escrow fund should be more than \$25,000 as it would cost more than that to take down and referenced the salvage value he estimated when removed. He stated the panels would be obsolete in 25 years, the value would not be what the applicant suggests and the cost of removal will be high. He asked that the decommissioning amount be raised.

Watts stated they could leave the type of fencing up to the discretion of the Board and it is USS Solar's responsibility to maintain. He indicated the site would still be screened due to the mesh of branches.

Mike Franklin, Minnesota Conservative Energy Forum, stated his group has been very interested in the development of clean energy and they have had discussions related to decommissioning. He explained they did not believe, as elected officials, decommissioning should be an issue as that standard would not be applied to any other business.

Karen Johnson Leuthner, Mayer, noted the ordinance is county wide but only two Commissioner Districts are burdened with solar gardens and having the three other districts vote was unfair. She stated solar gardens do not blend in with the rural character. She referenced a consumer guide for subscribers and what problems could occur.

Nadine Ditsch, 14175 102nd Street, Cologne, stated the shoreland district runs through the solar garden and industrial uses are prohibited in shoreland. She stated this property will be used to produce a commodity and it is industrial. She pointed out the building eligibility she had and the decreased value of her property she would see. Ditsch stated she was never contacted by USS Solar and asked the Board to reject the proposal.

Jill Wachholz, landowner, referenced the letter she submitted and was excited to be partners on the solar garden project. She pointed out the benefit to homeowners and that the location does not use prime ag land. She stated she appreciated the township's concerns and understood the decommissioning costs would ultimately fall on them. She suggested the \$25,000 seemed to be in line with other projects that were approved. Wachholz stated the panels are warranted for 25 years and asked the Board to approve the project.

Matt Wessale, 32 West Lake Street, Waconia, voiced his support for the project and other projects. He stated solar and data centers are new technology and important that the County capture the economic benefits. He stated projects like this increase the tax base and create new tax streams. He encouraged the Board to think about the long term vision and benefits this can provide.

Suzanne Melichar, stated she owned property to the North of the proposed site. She referenced the addendum she prepared for the Planning Commission meeting and subsequent memo to the Board listing her concerns. She questioned if any research had been done on these solar companies or if they were registered with the Better Business Bureau. She pointed out another solar garden where work had been started, progress ceased and another company now took over the project. Melichar questioned the number of feet the project was to be away from her property and stated this discrepancy should be researched. She questioned how many more solar gardens the County could take on and still keep part of the County in ag production.

Erik Johnson, 9081 Degler Circle, stated he was an engineer involved in solar energy and was present to support this project as well as other solar development projects within the County.

Kelly Kunz, Waconia, voiced her support for the project. She stated she has seen projects going up and USS Solar did a good job of responding to the public's concerns and making adjustments to their plan. She stated this was a great opportunity for the County and provides benefits by providing pollinator habitat and permanent ground cover.

Coleen Hollinger, Prairie Restorations, pointed out the benefits of native habitat and improvements to the water quality that occurs.

Kathy Anderson stressed they need to look at the application and see if it meets the standards of the existing law. She stated the County was not compelled to do anything by the State and the State provides for 10 megawatts or fewer to be under local jurisdictions. She stated consideration of property values is permitted and the Board is required to consider adjacent property values. Anderson indicated the ordinance states that industrial uses are prohibited in the shoreland district. She stressed a signed interconnection agreement is required. She questioned the decommissioning and noted the requirement to remove all structures and foundations. She stated foundations, as per the permit, would only be removed to two feet. She referenced the Chisago County's Assessor report on land sales and questioned if properties were sold to the solar company and why so many properties were sold. She stated this does not meet the 1,000 foot required setback to a feedlot. Anderson added, because a landowner was willing to enter into a lease agreement, this does not change zoning on property and this is not zoned commercial, industrial or for any other structure.

Loren Huepenbecker noted the people commenting in favor of the solar garden did not live next to a solar garden.

Duane Wolff, 15455 102nd Street, Young America, stated he has lived in Camden Township all his life. He explained when he applied for a permit in the late 1990s he met all the criteria and the neighbors demanded an EAW. He indicated, as a result, he dropped the project and that forced him out of business. He stated that was unfair and did not think this project should be approved.

Ische recognized the County has been sued both when they have approved and denied solar gardens but they try to judge them individually based on the facts before them.

The Board discussed, if this were to be approved, adding a condition to require an 8 foot chain link fence and to add screening on the South side.

Watts agreed he would be open to those conditions.

Maluchnik moved, Degler seconded, to direct staff to prepare an Order approving the USS Lake Peterson application for the Board's consideration at the January 2nd Board meeting and include an 8 foot chain link fence and screening on the South side as a condition.

Maluchnik cited his reason for the approval included the decommissioning being in an appropriate amount, environmental impacts of the materials had been addressed, no problems with ordinance requirements, no adverse impact to property values, no stray voltage issues according to science, compatibility with the neighborhood and comp plan, fencing was addressed and the applicant had addressed site issues.

Degler also recognized the County had been sued for both approving and denying these requests but he believed there was a stronger position to go forward with this application than reject.

Workman disagreed with the approval as they were not compelled to approve by the State, not zoned commercial/industrial, project is taxed as commercial/industrial, the LU4 policy to preserve ag land, the lack of an interconnection agreement, not 1,000 feet from a feedlot, policy LU16 undue restrictions for solar was intended for residential uses, LU 19 not an essential services and violation of 152.251, A, B, H, I and probably D.

On vote taken on the above motion, Degler, Ische, Lynch, Maluchnik voted aye. Workman voted nay. Motion carried.

Steve Just, Land Management, appeared before the Board to review USS Westeros Solar LLC's request for a large solar energy system. He reviewed the location in San Francisco Township and indicated the Planning Commission recommended denial. He indicated the solar garden would be located on approximately 8-9 acres and reviewed the Planning Commission's findings for the denial. He pointed out the additional background information included in the Board packet and the notable change to move the solar array 950 feet from the neighboring property. He pointed out the location of the feedlots and dairy operation from the solar garden. Just clarified they were looking for a motion to direct staff to prepare an Order for the Board's consideration, with the motion to indicate whether the order should approve or deny the application for a CUP.

David Watts, USS Solar, pointed out the previous application that also addressed decommissioning, property values and pollinator friendly habitat would apply to this application as well. He stated the Planning Commission denial was based on the new ordinance which does not apply to this project. He indicated they made changes to the site plan and their design now meets the ordinance under which they applied and the new ordinance. He pointed out the additional setback from the Forberg residence and the modified screening plan. He stated it was compatible with the rural neighborhood, there was no relationship to stray voltage and solar, no livestock on an adjacent parcel and there would be no impact on property values. He indicated they would be open to a road use

agreement with the two townships. He indicated the Township's comp plan does not override the County's ordinance and solar gardens are permitted on ag land in Carver county.

He concluded this met the new and more restrictive ordinance and asked the Board to approve the CUP.

James Forberg, 17675 Market Avenue, read into the record a letter he previously submitted to the Township and Planning Commission. He stated the project would have a major effect on his quality of life, that the location was unsuitable and it would have a negative impact on the natural beauty of Market Avenue. He stated there was no real benefit except to the absentee landowner and suggested there were other locations better suited. He indicated he would be deeding his property to his daughter in the future and hoped to continue a family heritage on his property.

Kris Trenary, Glencoe, pointed out they already have bees and monarchs on their property. She referenced the studies done on electromagnetic fields and noted the solar gardens operate 24 hours, seven days a week. She stated a solar industrial project does not make sense in an area zoned agriculture and there were more appropriate places for this. She believed the applicant was asking for special consideration for what is already agricultural and the residents moved there because it was an ag community.

Krista Woestehoff, landowner, read a letter into the record her husband prepared voicing support for the project. She stated the applicant has demonstrated that they meet the requirements of the ordinance. She believed the decommissioning could be worked out between the landowners and the solar developer and they are ultimately responsible. She stated solar gardens improve agriculture and did not understand why this use would be incompatible to the community. Woestehoff added solar gardens are not injurious to the neighbors, there was little traffic, no odor and no damage to property values. She encouraged the Board to look at ordinance and asked the Board to approve.

Larry Johnson, 16675 Market Avenue, stated this was all prime farmland and the idea that ag land gets blamed for chemicals for a decrease in bees is irrelevant. He indicated the site is surrounded by farmland and the site would not be maintained and turn to boxelder, ash trees and ragweed. He questioned taking land out of production for the benefit of an absentee landowner and large solar company.

Colleen Hollinger, Prairie Restorations, stated they grow their own seeds and native prairie seeds would be planted and pollinators will find this land. She displayed a photo of the types of plants that would be established. She indicated they would not see foxtail growing and they manage the site.

Lee Muehlenhardt, 18375 Market Avenue, stated he operated a dairy farm $\frac{3}{4}$ mile from the site and voiced his concern with stray voltage and electromagnetic fields. He questioned who would be checking to see if there would be a problem. He pointed out tile line running through the site, expressed concern if that broke and did not support the project.

Dick Olson, Hancock Township Chair, clarified the sections of the road that were maintained between Hancock and San Francisco Townships. He stated, if this were approved, they would like to see a 40-foot culvert and dust coating.

Reed Richardson, USS Solar, stated there would be 36 acres of farmland remaining and there were other landowners that use tools to preserve ag land. He pointed out the policy and position of the Farm Bureau supporting this type of use on ag land. He stressed there was not a scientific relationship between stray voltage and dairy operations. He stated they would be open to a larger culvert and dust mitigation.

Ische stated they look at each application individually and was not in favor of this site. He cited his reasons for the denial were similar to those cited by the Planning Commission in that the proposed use would be injuries to the use and enjoyment of other property in the immediate vicinity; the use would not be compatible with the rural neighborhood, the San Francisco Township Board did not support the request and the proximity to a dairy operation. Workman stated he did not believe the County ordinance or comp plan allowed solar arrays on ag land and the request not meeting findings A, B, H and I of Section 152.251 of the zoning code. Lynch indicated he did not support as access to the proposed solar array would be located on a township road and the Township did not support.

Ische moved, Workman seconded, to direct staff to prepare an Order for denial for the Board's consideration at the January 2, 2018, meeting. Ische, Lynch, Maluchnik, Workman voted aye. Degler voted nay. Motion carried.

Degler moved, Maluchnik seconded, to go into closed session at 1:05 p.m. to discuss pending or threatened litigation. Motion carried unanimously.

Mark Metz, County Attorney, clarified the Board would be going into closed session pursuant to Minn. Statute 13C.05, subd. 3 (b) to discuss pending or threatened litigation involving the manufacturers and distributors of opioids.

The Board adjourned the closed and Regular Session at 1:35 p.m.

David Hemze
County Administrator

(These proceedings contain summaries of resolutions/claims reviewed. The full text of the resolutions and claims reviewed are available for public inspection in the office of the county administrator.)