

**WEST AMWELL TOWNSHIP  
PLANNING BOARD MEETING  
June 21, 2011**

The West Amwell Township Planning Board meeting was called to order at 7:33 PM by Chairman Pfeiffer followed by the salute to the flag.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Chairman Pfeiffer: This meeting was called pursuant to the provisions of the Open Public Meetings Act. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and Trenton Times on January 27, 2011. Notice has been posted on the bulletin board at Town Hall on June 16, 2011, and has remained continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Planning Board and Township Clerk.

The following general policy statement of the Board was read into the record by Chairman Pfeiffer: The Board's general policy is to end the presentation of testimony on applications by 10:30 PM and to conclude all Board business by 11:00 PM. When necessary, the Chair may permit a reasonable extension of those time limits.

The meeting was recorded via digital recording system and a copy of the CD is on file in the Office of the Planning Board.

**Attendance – Roll Call**

**Present:** Lonnie Baldino  
Stephen Bergenfeld  
George Fisher  
John Haug  
Tom Molnar  
Sean Pfeiffer  
Hal Shute  
Chester Urbanski  
Joan Van der Veen  
Rob Tomenchok – Alt. #1  
Nella Hamtil – Alt. #2  
Engineer Decker  
Planner Hintz  
Attorney Shurts

**Excused:** No one

**Approval of Bill List**

A motion by Haug, seconded by Baldino to approve the vouchers for payment as listed on the agenda was unanimously approved by roll call vote.

**Resolutions of Approval**

It was noted that there were no resolutions listed on the agenda for approval.

## **Unfinished Business**

### **Public Hearing – Planning Board Capital Review of Municipal Solar Project**

Present for the public hearing was Bradley Campbell of Swan Creek Energy, Attorney Ed Bonanno on behalf of Swan Creek Energy, Austin Scott Engineer for Swan Creek Energy and Jeffrey Raymond of Burdsal Services Group.

Attorney Shurts explained that the Municipal Land Use Law (MLUL) provides that when public bodies are involved with spending public money they must submit/present their project to the Planning Board who has a 45 day period to make recommendations. He noted that public entities are not required to seek formal approvals from the Planning Board but rather input and suggestions. This proposed project is a Co-op consisting of the Municipal Building property, the Elementary School and the High School.

Due to their involvement with this matter during its preliminary stages, it was noted for the record that Rob Tomenchok, Tom Molnar and George Fisher recused themselves from this matter and stepped away from the dais. Mr. Tomenchok commented that at the time the contract for this project was executed he was the President of the Board of Education and signed the contract. He remarked he is no longer the President of the Board of Education but will be happy to answer any questions regarding the school aspect of the proposed project.

With regard to the public noticing, Mr. Campbell indicated they had provided public notice to the Hunterdon County Democrat and to the surrounding property owners within 200 feet of the subject site(s). It was noted that while Ms. Andrews was aware of the public notice published in the newspaper, no copies of any noticing documentation had been provided by the applicant. Attorney Shurts remarked that since the Board is simply reviewing a capital project and formal public notice is not a requirement the applicant can provide the noticing materials to Secretary Andrews for the file. The applicant agreed to do so.

Attorney Bonanno swore in Mr. Campbell and he acknowledged Lambertville Mayor David DelVecchio who was present in the public as the Chair of the South Hunterdon Renewable Energy Cooperative (SHREC) who is the sponsor of the proposed solar project. He explained the project will provide net metered power to the Municipal Building and the South Hunterdon Regional High School pursuant to a power purchase agreement entered into by SHREC and its members. Mr. Campbell noted that the agreement provides that the members will purchase the power for a period of 15 years and Swan Creek will build, own and operate the solar facilities.

Net metered was explained that on an annual basis the solar facilities will produce the same amount of power consumed by the entities involved based on the prior year's consumption/usage. Mr. Campbell noted that in addition to providing solar arrays under the power purchase agreement, they are also providing an annual lease payment to West Amwell Township, energy efficiency services and funding for energy efficiency projects to the various members of the Co-op.

Mr. Campbell explained that the project specifically includes a ground mounted solar array on the Municipal Building's property, a ground mounted solar array at the South Hunterdon Regional High School and a roof mounted solar system on the West Amwell Township Elementary School.

The Elementary School solar will be mounted on a 12 degree angle and will not be visible from the roadway. Mr. Campbell explained there are two inverter locations that the school has approved and added that two trees will need to be removed by an Arborist and replaced on a two-to-one basis at locations approved by the school administration.

With regard to the Municipal Solar and the High School Solar, Mr. Campbell noted several challenges including compliance with the Township's Renewable Energy Ordinance, existing wetlands and the location of existing septic fields. The High School solar project will be approximately 1 megawatt and consist of about 3.5 acres of land with a few invertors. The Municipal solar project was explained to be smaller with one invertor. Mr. Campbell noted the ground mounted panels will be approximately 5' to 6' high.

Mr. Campbell remarked that the ground mounted panels will be installed at a 25 degree angle and stated that because of the existing tree lines they will not be readily visible to any residential structure. With regard to noise, he noted that the invertors are comparable to that of a residential dishwasher. Mr. Campbell indicated that the invertors are placed far enough away from any residential structures that he does not anticipate any residents being able to hear them.

The following exhibits were presented:

**Exhibit A-1:** A mounted plan depicting the roof mounted solar proposed at the Elementary School

**Exhibit A-2:** A mounted color plan depicting both the High School and Municipal solar arrays

**Exhibit A-3:** A mounted plan depicting the solar array at the High School

**Exhibit A-4:** A mounted plan depicting the solar array at the Municipal Building

Chairman Pfeiffer asked for clarification on whether or not the ground array on the Municipal property is a minor facility under the Township's Ordinance. He noted that Engineer Decker raised this point in his review memo as well. Mr. Campbell noted that the project will be net metered making it a minor facility. Chairman Pfeiffer explained that the definition in the Ordinance says that minor facilities located on the power beneficiary's premises is designed and intended to primarily offset part or all of the beneficiary's requirements for energy consumption on site and is secondary to the beneficiary's use of the premises for other lawful purposes. Chairman Pfeiffer commented that the question is if the school is the beneficiary and the Township owns the property and neither is owned by the Co-op, is the definition applicable. Mr. Campbell stated the beneficiary in this case is the Co-op, the property is owned by a member of the Co-op and he stated he believes it qualifies as a minor facility under the Ordinance.

Chairman Pfeiffer remarked the question is really one of precedence and asked what would happen if there were private land owners who formed a Co-op to sell power to their neighbors. Mr. Campbell stated that he believes because the Ordinance is not in sync with the net metering rules of the Board of Public Utilities (BPU) there will be a number of questions like this that will arise.

Engineer Decker commented that if the project is considered a minor facility the standards to be met in the Ordinance are much less whereas a major facility is a conditional use with much higher standards to be met specifically related to screening and buffering. Mr. Campbell noted that he believes the facility qualifies as a minor one and stated that they do have significant existing screening on all sides of the proposed solar within the site lines of neighboring residential structures. Engineer Decker remarked that there are homes in the Orleans subdivision, on Rose Drive, that do not appear to have adequate screening from the proposed solar on the Municipal property. Attorney Bonanno commented that there may not be as much vegetation as there would be for a major facility which provides for a 50' buffer but he noted that a major facility would allow for solar panels up to 15' high and their proposal is only for 5' to 6' high panels.

Attorney Shurts swore all of the following witnesses in at this time:

Jeffrey Raymond – Burdsal Services Group

Austin Scott – Swan Creek Energy Engineer

David DelVecchio – South County Renewable Energy Cooperative Chairman  
Robert Tomenchok – Former President of the West Amwell Township Board of Education  
Tom Molnar – West Amwell Township Mayor  
George Fisher – West Amwell Township Deputy Mayor  
Ed Bonnano – Attorney for Swan Creek Energy

There was continued discussion on whether or not this proposed project should be defined as a major or minor facility. Mr. Baldino commented in his capacity as the Township's Zoning Officer and said one of the things he will be looking for upon review of this project is the calculations associated with the amount of energy being generated and what was previously used. Mr. Campbell indicated they will provide all of the necessary documentation and explained that the BPU will certify that they are within the parameters required for net metering.

Planner Hintz stated the application is not clear as to whether it is a major or minor facility and commented that the formal agreement between the various entities should be included in the record at some point. Attorney Bonanno indicated there is a lease agreement and a power purchase agreement that they will provide for the file.

Attorney Shurts agreed with Planner Hintz on both points.

Engineer Decker referred to his review memo and noted the following 4 criteria that need to be complied with for minor solar facilities:

1. No roof mounted systems can extend more than 12" beyond the edge of the roof line or 12" above the highest point of the roof or structure and noted the proposed project complies
2. Setbacks to solar facilities should be consistent with building regulations and noted the proposed project complies
3. Maximum building heights must be complied with and it was noted that the proposed project appears to comply
4. Cadmium Telluride solar panels are not permitted and it was noted that the proposed panels will be poly crystalline

Engineer Decker noted that the design standards for major solar facilities primarily focus on screening, decommissioning and maintenance. He commented that with the proposed panels being on municipal property he doesn't have any issues with decommissioning or maintenance but indicated that the applicant may wish to consider additional screening for the neighboring residences.

Mr. Campbell commented that the panels will be installed on a 25 degree angle facing south—or downward which would not be in a direct sight line to the residences and specifically indicated there would be no glare. Engineer Decker clarified that screening is for aesthetic purposes on all sides of a proposed solar facility. Planner Hintz agreed with Engineer Decker and also asked the applicants to provide full sized sets of plans for the Professionals to review and keep in their files.

Planner Hintz asked if a Letter of Interpretation (LOI) will be provided from the New Jersey Department of Environmental Protection (NJDEP). Attorney Bonanno indicated there is no formal LOI and stated Princeton Hydro performed a wetlands delineation and noted they did not want a formal LOI to be done because they did not want an LOI to be prejudicial to any future use of the properties. Planner Hintz asked if Princeton Hydro provided a formal report. Attorney Bonanno commented that there is no formal report and stated Princeton Hydro merely flagged the site. Planner Hintz remarked that the only concern he has is if NJDEP comes out during construction of the solar facility and indicates they disagree with the flagged wetlands delineation. Mr. Campbell

noted they will likely be required to submit to NJDEP because of the need to cross over the public works area. It was noted they will likely need to seek a general permit from NJDEP for the proposed utility poles.

Attorney Bonanno commented that there is also a riparian buffer area along the county garage and the solar array because the creek runs into a category 1 stream.

Planner Hintz commented that the Board could make a finding that the proposed project is not inconsistent with the Master Plan. He clarified that the wording should not be that the Board finds the project consistent with the Master Plan because he indicated he does not believe the Master Plan contains anything specific about this location. Attorney Shurts added that there are some general statements in the Land Use Law that favor these types of facilities and he agreed with Planner Hintz's statement.

Engineer Decker asked about the proposed utility poles. He noted that one of the components of the Ordinance is underground utility lines and asked if there was a reason why poles were being proposed. Mr. Campbell indicated they were not installing underground utilities in an effort to avoid the wetlands buffer areas. He stated the overhead pole connections will not interfere with any of the buffer areas and remarked that there is an existing pole line at the High School which provides lighting for the fields.

Mr. Haug asked if the 15 year lease agreement corresponds to the life expectancy of the solar system. Mr. Campbell noted the solar system is expected to last 25 years and indicated that the New Jersey Legislature has established that the longest contract for solar that a public entity can enter into is 15 years. He commented that they expect that at the end of the lease they will roll it over into some type of extension.

Mr. Haug asked what happens if the roof at the Elementary School needs to be replaced and there is roof mounted solar panels on it. Mr. Campbell noted that one of the attractions for doing solar at the Elementary School is that the building has a new roof and the warranty extends through the life of the solar contract. Mr. Haug asked why they aren't proposing a roof mounted solar system at the High School. Mr. Campbell indicated the High School roof is not new and also has more heating and cooling equipment obstacles making a roof mounted solar installation less appealing.

Mr. Haug asked what happens to the solar power generated in the summer when the schools are not using it. Mr. Campbell noted the net metering is calculated on an annual basis. He remarked that the system will produce a little more energy in the summer which will be carried over as a credit. He noted the energy companies allow you to "bank" the energy. Mr. Haug asked about the rate the school will pay. Mr. Campbell explained the schools will pay a fixed rate approximately 20% below the current market with a 2% annual escalator. Mr. DelVecchio added that a request for proposal (RFP) was put out and those rates were locked in as part of the RFP. He stated Swan Creek had the best numbers in terms of all of the entities of the Co-op. Mr. Tomenchok commented that the schools also did an independent financial analysis of the proposals and Swan Creek was quite generous.

Ms. Van der Veen commented on the location of the proposed Municipal solar array and asked if any site studies were done with respect to the Saturday recycling activities that take place in that area. Mr. Campbell stated that he was not aware of any site uses that would interfere with the proposed location of the solar array. Mr. Fisher added that the proposed solar location is the best spot due to the existing septic field and does not require any blacktop to be disturbed. Mr. Fisher remarked that the field is currently too small to use for anything else at this time and stated that the solar array is small enough that it could be moved in the future if need be.

Mr. Shute inquired about security fencing. Mr. Campbell clarified that there will be 6' high fencing around the ground mounted arrays and stated the fencing will not contain barbed wire.

Mr. Baldino referred to the riparian buffer near the proposed solar array at the High School and asked if they will have the required 300' buffer. Mr. Campbell noted that they will have to cross the riparian buffer with at least 1 or 2 utility poles and indicated they will not be clearing any trees to do so. Attorney Bonanno indicated they will need either a permit by rule or general permit from the NJDEP to locate the poles in the wetlands area.

Ms. Van der Veen asked if any studies were done regarding the screening of the arrays from the Orleans residential development. Mr. Campbell noted again that the panels will be facing away from the development but indicated they would be amenable to considering additional screening if the Board suggested it.

Chairman Pfeiffer asked about signage on the security fence. Mr. Campbell indicated there will be a sign containing information about the facility and who to contact in the event of an emergency.

Chairman Pfeiffer opened the floor to public comment.

Cheryl Leslie of 5 Milkhouse Lane came forward and asked how many feet the proposed Municipal solar array will be from her road. Mr. Campbell indicated the solar array will be approximately a quarter of a mile away. Engineer Decker noted that the solar array is about 400' to the closest Orleans lot line according to his calculations.

Chairman Pfeiffer asked if Mr. Campbell testified that there will be zero decibels of noise at the property lines. Mr. Raymond stated that in his opinion Ms. Leslie will not hear any noise from the property line. It was noted that no formal noise studies have been performed. Chairman Pfeiffer commented that depending on whether or not the solar project is considered major or minor makes a difference as to how noise is measured in the Ordinance and indicated it may be useful for the Board to know when making recommendations.

Wayne Hunt of 342 Mt. Airy-Harbourton Road came forward and indicated that he has a commercial hunting preserve on the property adjoining the High School and his hunters are required to be 450' away from all structures. Mr. Campbell noted that he believes there is at least 400' between the proposed solar array and Mr. Hunt's property line and indicated they will agree to move the array if necessary to address Mr. Hunt's concerns.

Kevin Leslie of 5 Milkhouse Lane came forward and asked if public funding will be used for the proposed solar project. Mr. Campbell stated that the public funds used are those which the electricity from the system generates. He noted the revenue from the electricity and the anticipated revenue from the Solar Renewable Energy Certificates (SREC's) is what will be used to finance the system.

John Aneskewich of 144 Rocktown-Lambertville Road came forward and expressed concern regarding the screening for the proposed solar panels at the Municipal building. Engineer Decker noted that the proposed panels appear to be less than 100' away from the Northeast corner of Mr. Aneskewich's property. Attorney Bonanno commented that they are amenable to consider additional screening in this location if the Board recommends it. It was noted that Swan Creek will meet with Mr. Aneskewich to go over the detailed layout of the proposed solar array on the Municipal property.

Jeff DiPano of 314 Mt. Airy-Harbourton Road came forward and expressed his preference for underground utility wiring rather than poles. Mr. Molnar commented on the power lines to the High School and said that any

new lines being installed should take into consideration the height of farm equipment used to farm the fields in that area.

Chairman Pfeiffer asked what rent will be paid to the Township for the school solar project. Mr. Campbell stated they will be paying \$30,000 annually. Chairman Pfeiffer equated this to having a 3 million dollar ratable. Mr. Hunt asked how many acres of land the lease agreement is based on. Chairman Pfeiffer remarked that he believes it is based on about 50 or 60 total acres not including the back 30 wooded acres currently listed on the Township's Recreation and Open Space Inventory (ROSI).

Ms. Van der Veen suggested a combination of underground wiring and utility poles. Mr. Campbell remarked that this type of installation is easier said than done but indicated they would look into this option. Engineer Decker suggested a better approach might be to install poles in the farming areas with underground wiring done at the High School. Mr. Campbell noted that there are existing poles at the High School because of the field lighting and stated they will be replacing those poles with new ones.

Engineer Decker asked about access to the proposed solar sites for maintenance after construction. Mr. Campbell indicated there is an existing road access that the municipality has an access agreement with the County to use. He explained that the County property was originally owned by the Township and the Township retained an access easement as part of the conveyance. Mr. Hunt clarified that the statement that the County property was owned by the Township is incorrect. Mr. Campbell remarked that regardless of whether the property was privately owned or publically owned, there is an easement on record giving the Township access. Mr. Fisher commented that the property is privately owned but the Township has negotiated an easement to provide access.

Mr. Urbanski asked about the angle of the panels with regard to the pictures/exhibits provided. Mr. Campbell indicated the artists are not engineers and stated the renderings are not intended to be exact replicas. Mr. Urbanski asked if the hunting which is currently allowed on the Municipal property is going to interfere with the proposed solar project. Chairman Pfeiffer remarked there has been talk about some type of lease arrangement to generate revenue. Mr. Campbell noted that they consider hunting on the property to be incompatible with the solar project because of possible damage to the panels from potential gun fire.

Mr. Haug asked who is responsible for the solar panels. Mr. Campbell explained there is an operation and maintenance obligation in the purchase agreement. It was noted that the cost to operate and maintain the site(s) is at Swan Creek's expense.

Mr. Baldino asked if the solar array is proposed to be situated in the front yard of the Municipal property because accessory structures are not permitted in front yards under the Ordinance. Planner Hintz commented that they appear to be close to the front yard. Attorney Shurts remarked that in terms of zoning requirements this project does not need to comply with every requirement however because the Municipality is an applicant, the project should come as close to compliance as possible.

Jeff DiPano of 314 Mt. Airy-Harbourton Road came forward again and asked if the panels are fixed or if they will move with the sun. Mr. Campbell indicated the panels are fixed. Mr. DiPano then asked what happens if there are complaints over the solar facility a year from now. Mr. Campbell indicated he doesn't believe there will be any complaints but if there are they will respond accordingly.

Mr. Fisher commented that he wanted to try and clarify the comments regarding whether or not this project is a major or minor one. He remarked that both of the entities will be receiving power from the system and the

entities are on contiguous parcels and it will be a net metered system so it should be considered a minor facility. Chairman Pfeiffer noted that the question refers to the way the Ordinance is written. He stated that it refers to the power beneficiaries premises and the High School and the Township Building are not in common ownership. Chairman Pfeiffer remarked that if all three of the Board's Professionals cannot provide a clear answer on this point then perhaps the Ordinance needs to be clarified and noted he is not questioning the merits of the project but rather questioning potential issues that may be raised from a procedural view point.

Chairman Pfeiffer summarized that there have been a number of issues raised, specifically:

1. Some sort of sound measurement at the property line
2. Buffering from surrounding residences
3. Signage should comply with the identification requirements
4. Sets of engineered plans should be submitted for the Board file and the Board's Professionals

Attorney Shurts commented that a letter should be generated to memorialize that this matter is in compliance with Section 31 of the Land Use Law which requires referral to the Planning Board prior to public monies being spent.

Chairman Pfeiffer referred to Mr. Campbell, indicating he had reviewed his website and commented that he has worked for the Environmental Protection Agency (EPA), was the Commissioner of NJDEP and the Chair of the Lambertville Environmental Commission and asked at what point Swan Creek became involved in the SHREC process. Mr. Campbell stated that SHREC was one of the entities that submitted a response to the RFP. Chairman Pfeiffer asked if Mr. Campbell was involved in the SHREC process prior as a Consultant or in some other capacity. Mr. Campbell explained that he was involved early on as a volunteer and then recused himself prior to the RFP. Mr. DelVecchio added that Mr. Campbell was initially consulted for his expertise in this area but once SHREC was up and going he was no longer part of the process. Chairman Pfeiffer remarked that he believes the project is a good one and merely asked the question to avoid possible future concerns.

John Aneskewich of 144 Rocktown-Lambertville Road came forward again and asked what the cost of energy will be for the High School. Mr. Campbell indicated they are currently paying 17 cents per kilowatt and after the project they will pay about 8.6 cents per kilowatt. Mr. Fisher added the Township currently pays 19 cents per kilowatt and the rate will go down to about 8 cents per kilowatt.

Mr. Urbaski asked how Swan Creek will make money on the project. Mr. Campbell explained that it is their hope that the revenue from the electricity, the revenue from the SREC sales and the revenue from the various Federal incentives will exceed what it will cost Swan Creek to finance the project.

A motion by Haug, seconded by Urbanski to close to the public was unanimously approved.

A motion by Urbanski, seconded by Van der Veen to authorize Secretary Andrews to draft a letter to the Township Committee supporting the proposed capital improvement project and finding that the project is not inconsistent with the Master Plan and recommending that the noise levels be measured at the property lines, signage identification comply with the Ordinance requirements, additional buffering be considered to shield the adjoining residences and fully engineered plans be submitted to the Board and the Board's Professionals was unanimously approved.

Chairman Pfeiffer thanked all those involved with the project indicating again that he believes it will be good for the Township and he thanked Swan Creek for listening to the Board and the resident's concerns.



Planner Hintz and Engineer Decker were excused from the meeting at this time, 9:29 PM.

Mr. Molnar, Mr. Fisher and Mr. Tomenchok returned to the dais.

#### **Discussion – Community Facilities Plan Element Update**

Chairman Pfeiffer indicated he had sent the final draft copy of the Element over to Planner McManus to review and she had no comments. Chairman Pfeiffer remarked that the question still pending is the regional total column and Planner McManus doesn't believe it is necessary to have it in the Element. It was noted that the Board will hold a public meeting to adopt this Element at its July meeting.

#### **Discussion – Economic Plan Element Update**

Mr. Shute provided an overview of the latest draft of this Element. There was some Board discussion on relief from minor subdivision requirements, relaxing the restrictions for home based businesses on larger parcels and the possibility of the EFC School potentially paying for some Municipal services. Mr. Shute indicated they will continue to work on the Element.

#### **Discussion – Conditional Use Ordinance Review Status Update**

Chairman Pfeiffer reported that he, Mr. Baldino and Mr. Haug have created a draft Ordinance based on a consolidation of comments received from previous Board Planners and the desire to make the Ordinance consistent with what is currently contained in the Land Use Ordinances.

It was noted that a definition of what a public utility is needs to be clarified with regard to screening. Height standards in the wireless telecommunications section need to be reviewed and the language/guidelines regarding accessory dwellings needs to be reviewed.

Chairman Pfeiffer indicated he will send the draft Ordinance to the Board's Professionals for their review and input and the matter can be further discussed at the Board's July meeting.

Chairman Pfeiffer asked Mr. Fisher and Mr. Molnar if the definition of major and minor facilities in the Renewable Energy Ordinance needs to be reviewed. Mr. Fisher indicated the definition currently in the Ordinance came from the State's definition. Chairman Pfeiffer commented that Planner Hintz had indicated that the definition in the Township's Ordinance is different from what he has seen in other Ordinances. Chairman Pfeiffer remarked that the definition originally came from the Environmental Commission and he asked Ms. Van der Veen if she could ask them for recommendations on clarifying the definition. Attorney Shurts added if the definition is part of the State Statute it may be pre-empted and while it was not a big issue with tonight's application, it may be if a private applicant comes forward.

Attorney Shurts was excused from the meeting at this time, 10:18 PM.

#### **Approval of Minutes**

A motion by Haug, seconded by Baldino to approve the minutes from the Board's 5/17/11 meeting was approved with no revisions noted.

#### **Adjournment**

A motion by Baldino, seconded by Urbanski to adjourn was unanimously approved.

The meeting adjourned at 10:19 PM.

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Maria Andrews, Planning Board Secretary