

Minutes  
September 23, 2024  
Special Planning Commission Meeting

The agenda for this meeting was posted in the legal paper of record, the Omaha World Herald, September 13, 2024.

Planning Commission Members Althouse, Tesar, Staben, Mueller, Felthousen, Sullivan, Dennis and Crofoot met as advertised. Grotrian was not in attendance. There were approximately 150 people in attendance for this meeting.

The Chairman, Alan Mueller, opened the public meeting at 7 pm & stated that the open meetings act is posted on the wall.

**Item on the Agenda** - Conditional Use Permit CU-2024-0003 – Cass County Solar Nebraska, LLC – Legal description: Multiple Cass County parcels north and west of the Village of Murray – Commercial Solar Conversion System(CSCS).

**Administrator Remarks:**

This Conditional Use permit application CU-2024-0003 is for a 265 MW Commercial Solar Conversion System (CSCS) with 105 MW of storage. This project will encompass 2,400 total signed acres across the Zoning jurisdiction of Cass County and the Village of Murray. 2,000 of these acres are within Cass County's Zoning jurisdiction with approximately 1,100 buildable acres containing project improvements representing a coverage ratio of approximately 38%.

This application meets Cass County Zoning Regulations as adopted in April 2023 - Regulations Section 8.21.05.

Mueller then asked the Representative for 1898, Alex Goedecker, to come up and speak. Goedecker went over the findings and facts that the consultants at 1898 reviewed. They were hired by Cass County to see if the NextEra project meets the ordinances for Cass County. He stated there were a few questions – one being the setbacks being 500 feet for any residential property. Conestoga Jr./Sr.

High School is located SW of the intersection at Highway 1 and 42<sup>nd</sup> Street. Modules are planned to be installed within 350' of this school, which would violate the 500' residence setback required by Cass County ordinance if applicable. There are no special use or school setbacks so this would ultimately be up to the County to accept. The environmental recommendation was to make sure they follow any additional State and Federal environmental needs. The decommissioning plan does account for decommissioning on day one with an additional updated estimate every 5 years. The BESS (Battery Energy Storage System) plan – although a moot point since it was removed from the application by NextEra – there is no O&M (Operations & Maintenance) for the BESS system, but he understood that as of today, this was removed from the application process. At this point, Mueller asked if there were any questions from the board. Crofoot had a few questions – pertaining to the school – you have received the data sheets now so you can calculate the efficiency. Has that been corrected now? Goedecker stated he had not looked at them yet. Crofoot asked him to explain a little more on the decommissioning costs and why there's not a 20% contingency fee plan. He had Ann (decommissioning expert) come up to speak on that. She said standard practice was to recommend a 20% contingency fee to cover any unexpected costs. She stated that it was not in the conditions.

Tesar asked if that was practice throughout the industry. She stated that it's just something that their company recommends. Crofoot asked for more detail on the site line diagrams. He stated that they mentioned in their slide deck that it didn't meet their criteria. Goedecker stated that it did meet their criteria – the only thing in question was whether the 350 feet setback from the school was acceptable. There wasn't an ordinance specifically stating what the setbacks should be for the schools. Crofoot also had a question on the Operations and Maintenance (O&M) on the Battery Energy Storage System (BESS) – even though it was removed – he feels it's still going to happen. Will that be included? It would be included if added later but at this point it wouldn't be needed. There is currently no O & M on the BESS right now. Crofoot asked about how the 62% of the remaining ground without the build would be maintained. Goedecker stated that they did look at the vegetation plan and they had no issues with it. Crofoot asked if the rest would be grassed and mowed or if they would do something else. Goedecker stated it would be grassed and mowed. Crofoot

asked about the review on the Single Line Diagram and the last statement that “This diagram does not appear to be an accurate representation of the Project as depicted in the Site Plan.” Goedecker stated that NextEra indicated that they were going to have the Single Line Diagram updated – that there were a few ratings missing from it. He said once it was updated, it should be closed. Crofoot also asked about the solar glare study and how this will be addressed around the school. Ann stated that they updated the Glare study and there would no glare near the school. This Glare study was done from a 3-foot height. They recommend from the middle of the panel. Sullivan asked how many batteries would be on-site. Goedecker stated that he would have to look into that. He stated that the battery storage was taken out of the project. Felthousen stated that the Conditional Use does include batteries and there would eventually have to be battery storage. Mueller asked if there were any more questions for 1898. Since there were none, he stated that Cass County Solar Nebraska, LLC could speak on the project.

Matthew Jones came up to speak. He introduced the presentation that he wished to share. He stated also that they removed the batteries from the application to give the board time to research on the technology. They have been working in Nebraska since 2013. The slideshow covered how solar technology works. It covered this particular project and how it would bring approximately \$31.8 million dollars in tax revenue in 30 years to Cass County. It will provide 345 construction jobs and approximately 5 full time operations & maintenance jobs. I would supply enough energy to power 54,200 homes annually. April 2019 was the first time they started looking at Cass County for a project. March 2021 they signed their first landowner agreement. Planning Commission voted 7 to 0 to recommend the Solar Regulations in January 2023 – they were approved in March 2023 with a 3 to 2 vote by the Board of Commissioners. Planned construction start up is April 2027 with a target startup of December 2028. The tax revenue would be approximately \$1 million per year - \$235,000 would go to Cass County, \$700,000 would go directly to the Conestoga schools. Site plan shows exactly what they plan to build – with 265 MW of solar energy across the land that was mentioned. Built with the natural form of the land so as not to disrupt the soil or trees. He talked about the GIA (Generation Interconnect Agreement). This is something that everyone has to get in order to interconnect any project whether it’s a gas peaker, a nuclear plant, a solar plant – everything has to go through a GIA process which usually takes about 5 years. Q position is a certain number assigned to each applicant to track the progress of the application. He discussed soil preservation, water runoff, vegetation management plan, plant and tree buffers. To close, they appreciate all of the time spent going through the 400+ pages of the encyclopedia on solar and would ask for your consideration in recommendation to approve the permit application. He then asked if there were any questions. Felthousen asked why they took the battery storage out of the Conditional Use application. Jones stated that they got the sense that since this was a new thing, the County wants more information and that they didn’t have adequate time to review and get comfortable with the information provided. Since they didn’t want this to get in the way of moving forward with the project, they decided to take it out for now and bring it back at a later time. Felthousen asked if this was something that needed to be part of this solar program? Jones stated that OPPD could talk more about some of their needs and how they plan their resources – but they see batteries as being an important part of their energy makeup in the future. Felthousen mentioned the given size of these batteries – 24 large containers – 40 feet long, 10’X 10’ very, very large batteries and there’s only one in the country and that’s in California – is that true? Jones stated it wasn’t true – they have batteries all over the country. He says they are no different then laptop, phone or Tesla batteries – only on a bigger commercial scale. He also wanted to clarify that they did remove the batteries from the application. Dennis asked if they had the specs on these batteries. Felthousen stated that if the batteries need to be part of the project, then that needs to be part of this Conditional Use application. Dennis stated that they requested specs on the batteries a time or two and they didn’t get any response from them, but they had the specs to decide which batteries they were going to use. Felthousen stated, if they are safe, it’s not a big deal – but from talking to some local fire departments, they are scared of what they are seeing with these batteries. Jones stated that they have the specs, but when you are building a project and you’re not planning on starting until 2027, and you have 100’s of millions of dollars in materials that you need to procure to build a project for

2027, you don't have a permit yet, you don't have a customer yet, you don't buy the batteries until you are closer to the 2027 construction. Crofoot stated that it was his understanding, whenever that happens, the batteries are going to be an integral part of this project. Jones stated since they need more time to go over the information and specs, the batteries doesn't have to be part of this application. For this project in particular, they are not tied to the batteries. They don't need to have the batteries right now. Crofoot stated that this project is built around batteries. As far as he can see – with this project – you can't have one without the other. Therefore, the batteries should be part of the application. It should be presented as an entire project. Dennis stated that they were supposed to decide without the specs. Jensen stated that what they sent today (September 23) was a brochure that explained the UL (Underwriters Laboratories) rating and such but 3 or 4 pages is not a data sheet. Jones stated they provided a spec sheet that represents what the standard is for the project that they are building right now in the area. The spec sheet they provided is a representation of what they are currently putting in Pierce County. You don't spend money on supplies if you don't have a permit. Felthousen stated that they aren't asking them to buy the supplies – they are just asking for the specs. Dennis stated we don't want specs on a Pierce County project – they want specs that pertain to the Cass County project. Crofoot asked about the difference in the nameplate capacity from the application to the slideshow. Jones stated on leased land, there are improvements that increase the tax value of that property. They work with the County Assessor to assess the difference and generally increases the nameplate capacity MW cost. Crofoot stated that he talked to people in Lincoln and they claim that taxes don't actually get paid until the energy is generated by the solar – if that's the case, then you don't generate any money for the county until you start producing energy. Lee Greenwald with Baird Holms confirmed this. Crofoot asked What happens to the nameplate capacity tax if we have a hailstorm? Greenwald states you will still get paid even if they aren't producing energy. Crofoot stated that this isn't what Lincoln told him. Greenwald stated that the tax revenue is based off of the capacity of the project not the actual generation of the project. Crofoot asked if they considered dual use of the ground by growing crops or allowing livestock. Jones stated that it is something that they might consider. Dennis asked how you can project the cost of the batteries when you don't know the cost of the new technology? Jones stated that they have a lot of experience, and they are able to project what they expect the cost to be. Dennis asked him how long they own their projects. Jones stated from start to decommissioning. Mueller then asked if there was anyone from the gallery that wished to speak. Twenty-three (twelve were opposed, 10 supported this project - one was neutral) came up with the following comments/questions:

#### **OPPONENTS:**

- NextEra is currently involved in an 8-million-dollar lawsuit.
- CEO makes 12 million dollars per year.
- They received 150 million dollars in free money from the Government.
- An offer was made for the easement on land, owner refused – they came back and offered a slightly larger amount. Still refused.
- Agreements ask to be held harmless for sounds, visuals, light, flicker, shadow, vibration, EMF interference after stating there is no glare, noise, EMF's.
- Concerns on chemicals leeching into soil and water.
- Who will monitor their compliance?
- Who is the expert on the batteries?
- This should be tabled until all the questions and concerns are addressed.
- What efforts have been made to consider the cultural and climatological aspects?
- Has there been a competitive bid for storage providers?
- The company was not prepared for the meeting – should be tabled.
- Only 5 full time jobs.
- Their job requirement that they live in the community is a 60-mile radius.
- Tax revenue is just us paying more money for things.
- There is no guarantee they will use local contractors.

- Off gases from the batteries are dangerous.
- Battery fires can't be put out – they let them burn out.
- No proof of rehabilitation of decommissioned sites.
- Data centers use a lot of energy.
- Any violations of the CU Agreement should come with a \$5000.00 a day fine from an escrow account set up in advance to cover such fines.
- Dust control – roads will need to be treated to keep dust down.
- Any rock put on the roads should be paid by NextEra with the Roads superintendent deciding when it is needed.
- CO2 pipelines need to be placed through some of these parcels and placement allowed by NextEra.
- Setbacks from County roads will need to be maintained so trees do not grow into the setback area and snow doesn't block the road and become icy.
- They will eventually have battery storage and these problems will have to be addressed.
- This is not an "American" project if all the panels and supplies come from China.
- Why solar? Nuclear is more efficient.
- Federally subsidized projects still come from taxpayer money.
- Incomplete application. Should be tabled.
- Glare studies should be done at all angles.
- They have accumulated over 30 million dollars in fine violations since 2000 – for nuclear safety regulation violations, OSHA violations, environmental violations and a pending 15-billion-dollar campaign finance violation.
- Safety should be the # 1 issue.
- 350 feet from school is too close.
- Planning Commission member should take more time to make the right decision.
- Can conditions be added to the agreement?
- What does Cass County want our future to look like?
- Solar grazing possibilities should be considered.

#### **PROPONENTS:**

- This should be built so people can enjoy the benefits.
- Will benefit the rising costs of inflation, county services, new tax resources for school, County projects, emergency services, other County supported services.
- Soil gets a needed break with this.
- Some are offended by people's reaction to solar.
- Money received from the land leases will help with retirement.
- Property owners should be able to choose how they use their land.
- People afraid of new technology.
- Enhances the opportunity for a diversified portfolio for Nebraska utilities.
- OPPD is experiencing unprecedented growth and power demand. In the next 10 years, they will double their energy system. They must guarantee diverse existing energy sources to provide consistent, uninterrupted power to customers.
- Roads need work – revenue from this will help.
- Family has been in Cass County for 150 years. Farms then had horses, beef cattle, milking cows, hogs, chickens and a large garden that produced most of the family's food. Today, Cass County farms are primarily corn and soybeans with minimal livestock. The decision to sign lease agreement with the solar company was decided to help diversify their farm income.

#### **NEUTRAL:**

- When they initially heard about solar, they were 100% opposed. However, since they raise sheep and had heard about solar grazing, they decided to do some research and see what it entailed. They asked around, talk to NextEra and thought they could get behind it. They

are still up in the air about it but think it would be a great possibility to consider for Cass County.

Mueller then asked if there were any more comments or questions. Since there were none, he closed the public hearing at 8:57 pm. He then asked the board if there was any discussion or questions they may have. Felthousen stated in his opinion, they couldn't make a decision tonight based on the fact that they don't have all the information needed – he suggested tabling this for a month or two until they have all the information available for the batteries. Since that's what the Conditional Use is calling for, they need to get all the information including the specs. Mueller suggested making it a condition that there be no battery storage on this Conditional Use application. Felthousen feels we need to have all the information up front even if it's added on at a later date as an amendment. Dennis asked who took the initiative to pull the batteries off of the project - NextEra or the Zoning office. Matt Jones stated that it was his decision to pull them off of the project. He stated that they were pulled because more information was needed and if that meant postponing the decision on the batteries to get more information, he wanted to make that call. He wanted to be sure that all the needed information was provided. He stated that you don't need a battery to run a solar project. Tesar stated that since he knows nothing about the batteries, he just wants to ensure that they are safe and what is in them. Jones brought Josh Adams up to talk about the batteries. He discussed testing done on the batteries. He stated they would meet all standards required. Jensen asked what the oldest battery setup is in the country at this scale and how long it's been in production. Jones stated he could get him a list of all of them. Muller asked what the protocol is when one starts on fire. Adams stated number one was safety – they would not spread to another battery, so they let it burn out. Mueller asked if there were any more questions. Since there were none, Althouse made a motion to close the hearing. Seconded by Dennis. A roll call vote followed with the following votes: Althouse - aye, Tesar - aye, Staben - aye, Mueller - aye, Felthousen - aye, Sullivan - aye, Dennis - aye and Crofoot – aye. Hearing close with 8 ayes and 0 nays. Felthousen made a motion to table the review of Conditional Use permit CU-2024-0003 to review more information on batteries, offsets, roads, dust and any of the regulations at 60 days. Seconded by Crofoot. A roll call vote followed with the following votes: Althouse - nay, Tesar - nay, Staben - aye, Mueller - nay, Felthousen - aye, Sullivan - aye, Dennis - aye and Crofoot – aye. Motion carried with a 5 to 3 vote. Crofoot made a motion to adjourn. Seconded by Dennis. A voice vote followed with all members voting aye. Meeting adjourned at 9:17 pm.

Linda Brouhard  
Recording Secretary

\*These minutes will not be approved until the next Planning Commission Meeting and are subject to change.