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| CHAVES COUNTY |  | ETZ Commission |
| Date: September 20, 2022 | Meeting Minutes | Prepared by Vera Lupien |

Members Present:

Royce “Pancho” Maples
 Matthew Bristol, Vice Chair
 Mona Kirk
 Neil Roe
 Rita Kane-Doerhoefer

Guests:

Meredith Hildreth, City of Roswell P&Z
 Administrator
 Lisa Dunlap, Roswell Daily Record

Staff Present:

Louis Jaramillo
 Vera Lupien

A regular meeting of the Roswell Chaves County Extraterritorial Zoning Commission (ETZ Commission) was held at the Chaves County Administrative Center in the Commission Chambers on September 20, 2022, at 5:30 PM.

MINUTES

A motion to approve the minutes from the August 16, 2022, meeting, as presented, was made by Commissioner Kirk and second by Commissioner Kane-Doerhoefer. The motion was approved unanimously.

OLD BUSINESS

Case ETZ 2022-14

*Request for a Special Use Permit for a Community Solar
 Array Facility in C-1 Commercial District; A parcel of land in the NE4NW4 in
 Sec. 3, T11S R24E; located at 1804 E. 2nd Street; landowner- Walter
 Johnson; agent- Louth Callan Renewables LLC/ d.b.a.1804 E. 2nd Street Solar
 LLC*

Commissioner Kirk made a motion to move Case ETZ 2022-14 off the table and **Commissioner Kane Doerhoefer** second the motion. The motion passed unanimously.

Louis Jaramillo gave a brief description of the case. He stated that this property was rezoned in 2019 to commercial. The zoning of the surrounding area is commercial, industrial, and rural

suburban. It was also mentioned, if approved, a driveway permit will be needed to access highway 380 and is listed as one of the Condition of Approval. No letters of protest or support have been received.

Partick Griebel, 1000 Gold Ave. SW, Albuquerque, the attorney representing Louth Callan Renewables, the developer. Since there have been so many solar facilities being developed **Chairman Maples** requested that he highlight what might be different from this request to the average solar facility. **Mr. Griebel** made himself available for any questions the Commissioners may have, regarding this particular request.

Commissioner Kane-Doerhoefer stated to get to this parcel of land you have to drive on a two-lane highway and then proceed to ask if there was access to Alameda Street. **Mr. Griebel** stated there is no planned access on to Alameda Street.

Commissioner Kane-Doerhoefer asked who the electricity would be sold to and if they have a contract with them. **Mr. Griebel** stated the entity would be Xcel Energy, and no at this time there is no contract. He continued to explain that permits and financing of the facility need to be done prior to speaking to an entity about a possible contract. However, he did advise that they have been speaking with Xcel Energy. **Commissioner Kane-Doerhoefer** asked if he had done a study on ‘dangers electromagnetic radiation’ which, he stated no but would be happy to research any questions she may have on the topic. She inquired regarding the length of the lease. **Mr. Griebel** stated that usually in a typical power purchase lease agreement they are usually for at least twenty-years and then some provisions are made in the contract for five-year increments after that.

Commissioner Kirk asked if the 2.25-megawatt energy cannot be accepted by Xcel Energy what would happen. **Mr. Griebel** stated that the project would have to be cancelled.

Chairman Maples asked Mr. Jaramillo if Xcel Energy was going to approve thirteen of these projects statewide. **Mr. Jaramillo** stated that there was a possibility of 16 to 20 in the Xcel Energy area.

There was no opposition to speak against the project. **Commissioner Bristol** made a motion to approve Case ETZ 2022-14 with the Staff Conditions of Approval and Findings of Fact.

Commissioner Kirk second it. Motion was passed unanimously.

NEW BUSINESS

Case ETZ 2022-15

Zone Change from Rural Suburban District to I-1 Industrial, for a Solar Facility: A parcel of land in the SE4NW4 and NE4SW4 Sec.21 T:12S R24E; located at 141 Pierre Road; Landowner-Matthew and Dora Batista; Agent-Soltage LLC.

Louis Jaramillo gave a brief description of the case. He advised that the three letters of protest from Ms. Hutto had been given to them. Some of her main concerns were the Roswell water well, the antelope, and the flight zone. **Mr. Jaramillo** informed the Commission that the flight zone is not above said location. He stated due to Mrs. Hutto being adjacent to the property the ordinance does require a majority vote to approve this case. Since there was only five members present the vote needed to be unanimously.

Commissioner Bristol asked Mr. Jaramillo about the Conditions of Approval not having the condition for fencing. **Mr. Jaramillo** agreed to the oversight and included it to the Conditions of Approval being number seven.

Commissioner Kane-Doerhoefer asked if Ms. Hutto resides in Hart Texas and if anyone resides on the property adjacent to 141 Pierre Road. **Mr. Jaramillo** stated that Ms. Hutto had visited the Planning and Zoning Department and spoke to him regarding moving some livestock in the future but at this time no one resides on the property. He continued to state that the fencing on the property need repair and Ms. Hutto is aware of that.

Commissioner Kirk asked if the livestock being moved to the property is in progress or more of a plan for the future. **Mr. Jaramillo** stated it was a future plan.

Dora Batista, 84 E. Ottawa Road, Hagerman, landowner. Stated her support for the proposed solar array facility. She stated that she felt that it will contribute to the development of Roswell.

Agent Joy Crossman, Soltage LLC., 8805 Jeffery Street, Las Vegas, NV. She gave an overview of the Community Solar Program submittal process. She stated she has been speaking with Xcel Energy and is trying to meet the required deadlines. She went on to say some of the benefits of the Community Solar Program that are mandated in the Senate Bill 84 are low-income residents would receive a discount on their energy, additional job opening for New Mexico businesses and the labor work force to build these facilities. Ms. Crossman continued to say that another component they are offering to the communities is continue education. They are speaking to community colleges in the state of New Mexico to develop a scholarship program and to help educate the residence of their community.

Richard Knox, Woodple Engineer Consultant, 257 Williams, Tanto Basin AZ, stated studies confirmed that there would not be a glare affecting the planes pathway. He also mentioned other studies that were included in the application such as; environmental, biological, cultural resources, and geological reports.

Commissioner Kane-Doerhoefer, asked where Soltage LLC, was located and how quickly could they get here to fix any issues that solar facility may have. **Ms. Crossman**, responded that they are located in New Jersey, and they would hire local personal to handle the everyday issues that may occur.

Commissioner Kirk asked how long would the decommission be after the useful life of the modules. **Ms. Crossman** stated that it was relatively a short period of time, maybe 3 to 6 months to remove everything. **Commissioner Kane-Doerhoefer** asked what would be done with the modules once they removed them. **Ms. Crossman** stated that they would be repurposed and sold to other entities.

Commissioner Roe asked Ms. Crossman to brief them on any water damage that may occur, as Ms. Hutto referred to in the letter of opposition. **Ms. Crossman** stated that it was similar to water falling off of a roof it would slide down the modules. She does not know what Ms. Hutto was referring to as far as “water damage.” Ms. Crossman said that the solar array modules were made of poly silicone and were not toxic to the soil or water around.

Chairman Maples asked if there was anyone that wanted to speak in opposition of the case.

Ms. Nora Hutto, 1915 Highway 194, Hart, TX. She stated that she is in the process of bring in sheep/lambs to her property and feels that the solar facility will disturb her business of raising organic, grass-fed sheep/lambs. She also mentioned that she sells meat to restaurants in Texas. She stated their fence was constructed two-months ago with a high tensile sheep-fence spending approximately \$60,000.

Commissioner Kane-Doerhoefer asked Ms. Hutto if the barn was already constructed. Ms. Hutto stated that it has been purchased but it was not up at this time.

Chairman Maples asked if there was anyone else to speak in opposition of this case. No one responded. A motion was made by **Commissioner Bristol** to approve Case ETZ 2022-15 to include the Findings of Fact and the Conditions of Approval from Staff’s Report including the number seven regarding the fence. Commissioner Kirk second the motion. The motion passed unanimously.

Chairman Maples and **Commissioner Bristol** both agreed that they didn't see any threat to the antelope or the water.

Case ETZ 2022-16

Special Use Permit for a Cannabis Production Facility in the Rural Suburban District; Tract 3, A & D of Osbourn Boundary Line Adjustment Plat; located 74 Pierre Road; Landowner Floyd Osbourn; Agent-Osbourn -Amigos Farms LLC (Chris Whitney & Freddy Nasrallah)

Louis Jaramillo gave a brief description of the case. He advised there was a change of ownership from Pierre Farms LLC to Floyd Osbourn being the sole proprietor.

Owner Floyd Osbourn, 2603 N. Washington, Roswell, NM. He stated that he went to all his neighbors and asked if there was any opposition of him having a production farm for cannabis, he didn't get any objections.

Commissioner Bristol asked if the farm had any water rights. **Mr. Osbourn** said there is 36 acres of Artesian water. The well that is on the farm pumps 600 gallons a minute.

Chairman Maples asked for clarification on the actual acreage of water that has been approved because there was a discrepancy from the form he had, and the form Mr. Osbourn stated. He also mentioned there was to be no retail sales on the property.

Agent Freddy Nasaralla, of Roswell, NM. Gave a brief description of the acres of waters that have been approved but are not included in the 12 acres that they have currently. He also stated that they understood there is to be no retail sales at this location.

Commissioner Kane-Doerhoefer asked 1. how many people would be living in the house that is on the property, 2. where would they be getting their electricity and 3. how many employees would they foresee hiring. **Mr. Nasaralla** stated that 3. they are planning on hiring 5 to 15 people and 2. 3 people living in the three-bedroom home that is on the farm; 1. will be receiving their electricity from Central Valley Electric in three phases.

Commissioner Bristol and Commissioner Kirk questioned the security on the premises regarding the security being a person or a dog. **Mr. Nasaralla** stated that they will be building a 6' fence around the property. The material of the fence is still not decided but will comply with state requirements. They will be adding a guard shack with a security guard on post 24/7. Though they do have dogs, they will be using people for their security.

Commissioner Kane-Doerhoefer asked if they were planning on digging another well on the property and if they had already started on that project. **Mr. Nasaralla** stated that they will be

digging another well later in the future, and they have not started on this project. Commissioner Kane-Doerhoefer felt she had seen that project started.

Commissioner Kirk asked what is the square footage of the house that is on the property and would they be renting it. **Mr. Nasaralla** stated the house was about 2,100 square feet and three people will be living in the house, which they will sign a lease for it. Commissioner Kirk asked if they were going to be part of the acronym SWAP, which Mr. Nasaralla said no.

Commissioner Roe asked if there would be surveillance camera on site and if the state would be checking on the facility. **Mr. Nasaralla** stated that they are planning on having cameras and that the state does monitor the activity of the facility.

Agent Christopher Whitney 2100 Ristra Rd, Roswell, NM made himself available to answer any further questions they may have. He stated he supports this Special Use it would give job opportunities to the community, and overall medical relief for varies ailments to people.

Commissioner Kirk made a motion to approve **ETZ 2022-16** with the staff's Conditions of Approval and the Findings of Fact, emphasizing number 3 that states they need to comply with Article 25. **Commissioner Roe** second the motion. The motion passed by a vote 4-1; **Commissioner Kane-Doerhoefer** against.

Case ETZ 2022-17

Zone Change from C-1 Commercial District to I-1 Industrial, for a Community Solar Facility: Parcels 3, 4, 5A, 7, and 8 of Ramage-Owen 2008 Boundary Survey; 5700 block of Green Court (vacant); Landowner Thomas and Tasia Ramage; Agent-Soltge NM DevCo. LLC

Louis Jaramillo gave a brief description of the case.

Agent Joy Crossman of Soltage LLC., made herself available for any questions. She stated that both this case and the Batista case are very similar to one another.

Chairman Maples asked if there was anyone hear to speak against or for the case. There was no response.

Commissioner Kirk made a motion to pass ETZ 2022-17 to include the staff's Conditions of Approval and the Findings of Fact. **Commissioner Roe** second the motion. The case passed unanimously.

Case ETZ 2022-18

Special Use Permit for a Community Solar Facility in the Rural Suburban District; NW4SE4 Sec.21 T:11S R:24E; located 431 East Mountain View Road; Landowner WETCO, LLC; Agent-Consolidated Edison Development, Inc.

Louis Jaramillo gave a brief description of the case.

Agent Gregory Carey from ConEdison Development, 9449 Washington Street, Massachusetts gave a brief description of their company. Mr. Carey stated Michael Espiritu, President of Roswell Economic of Development was in the audience in support of the solar facility.

Commissioner Kane-Doerhoefer asked who the electricity would be sold to and who would be fixing any issues that may arise from the solar panels. **Mr. Carey** stated that they would hire locally, and Xcel Energy would be buying the electricity.

Calder Ezzell, 41730 Hondo Channel, Roswell, NM spoke in support for the solar facility. He felt that the Agent was well known and had a good reputation.

Chairman Maples asked if there was anyone wanting to speak against the case being presented, there was no response.

Commissioner Kirk made a motion to approve case **ETZ 2022-18** with the staff's Approvals of Condition and Findings of Fact. **Commissioner Kane-Doerhoefer** second the motion. The motion passed unanimously.

Case ETZ 2022-19

Special Use Permit for Community Solar Facility in a Rural Suburban District; located Tract 1 of Cooper Boundary Survey; 1401 S. Brown Road; Landowner Siri Kay Cooper; Agent-Consolidated Edison Development, Inc.

Louis Jaramillo gave a brief description of the case. He also mentioned that he received a phone call of protest from Rene Shaw of 4506 W. McGaffey, Roswell, NM. She stated she was against the proposed solar facility due to it being so closed to residential.

Commissioner Kane-Doerhoefer asked which residents she was referring too. Mr. Jaramillo stated she lives along McGaffey Rd.

Agent Gregory Carey from Consolidated Edison Development Inc., 9449 Washington Street, Massachusetts gave a brief description of the project and stated that he felt it would have a low impact on residential neighbors.

Chairman Maples asked if anyone was present that wished to speak in opposition of the proposed solar facility.

Hiram Hudson, 1305 S. Brown Road, Roswell stated that some of his neighbors did not get notified. He stated that signs were used before to notify neighbors of projects coming up and they didn't see any signs in that area. He also wanted to know how long is the Special Use Permit for. **Chairman Maples** answered Mr. Hudson and told him that a Special Use Permit is not transferable but is the lifetime of the owner that owns the property. **Mr. Jaramillo** did intercede and mentioned that if the owner does not develop within ten years, the Special Use Permit is nulled and void.

Hiram Hudson also mentioned several concerns: antelope, vegetation, fencing, shotgun pellets falling on their solar panels due to hunters shooting at geese and sandhill cranes. Mr. Hudson asked if Consolidated Edison Development is on file with the Secretary of State to do business here in New Mexico and feels that since his house is less than a 100' from his front door his electric bill is going to rise due to trying to cool his house.

Chairman Maples asked Mr. Jaramillo to respond regarding the notice of letters. **Mr. Jaramillo** asked Mr. Hudson if the signature on the certified receipt was his signature. **Mr. Hudson** stated it was, but he was referring to some of his neighbors that did not receive a notice.

Edward Martinez of Zia Engineering and Environmental Consultants, 755 S. Telshore Blvd. Las Cruces, asked Mr. Hudson to identify where his house was on his map that he presented. Mr. Hudson did so, and the Commission asked Mr. Martinez to share the location with them. He then continued to explain the disbursement of the heat that the solar panels. He stated that the heat would dissipate within matter of several hundred feet. **Commissioner Kirk** asked if he knew of any studies dealing with collection of heat from different type of material such as concrete, brick comparable to solar panels. **Mr. Martinez** stated that he did not know of any such studies but felt that the color and the mass of the material would play a big role in the collection of heat.

Mr. Jaramillo stated that the nine certified letters that were sent out on September 1st, five receipts were returned and one (Mr. Gutierrez) was undeliverable and the other three haven't been returned.

Randy Jennings, 32 Laquinta Lane, Roswell, stated his concerns; he would like to have a right of way of at least 30 feet to be able to work on his fence, hurdle cows, or turn around big machinery. He stated that he is willing to come up with an agreement due to that the owners are good friends of his. He continued to state that he harvests his corn crop and there will be semi-trucks going up and down the dirt road next to this project. Mr. Jennings mentioned that his fields get fertilized during the winter so there will be around 200 to 300 hundred trucks driving

around these dirt roads. He also talked to his ariel that spray for herbicides and pesticide and they stated that they can only fly north and south, and they can't do much about the overspray that will occur on the solar facility.

Edward Martinez felt that they could accommodate Mr. Jennings concerns.

Patricia Gundersen, 1305 S. Brown Road, Roswell, NM, stated her concerns 1. were with the herbicides and pesticide landing on the panels if any fumes would be disseminated into the air and the hazardous of that, 2. raised taxes, 3. heat to close to her livestock, 4. glare that may affect her home, 5. value of property to resell, 6. effecting their ground water, 7. obstruction of her land view, and 8. EMF-people with pacemakers might be an issue for them. She mentioned they didn't receive any plans beside the notice she would like to know what the panels will be constructed of and asked if an environmental study had been done or could be done.

Commissioner Kirk stated that it sounded like the neighbors have questions for Consolidated Edison Development. **Gregory Carey** stated that they would be happy to talk with the neighbors.

Calder Ezzell stated as a member of the Chaves County Commission he apologized to the ETZ Commission that there is still not a solar specific ordinance, however, he is working on it. He stated that Chaves County has a vast of vacant land that are zoned industrial that solar facilities should go in this way it is not affecting people's homes.

Randy Jennings, he wanted to know if cellular phones would be affected by electromagnetic fields. **Chairman Maples** said they do get effected but it is very minor, they have investigated it before.

Commissioner Kirk made a motion to table case **ETZ 2022-19**, so the agent and the owners have time to meet with the neighbors and address their concerns. **Commissioner Bristol** agreed and second the motion. **Chairman Maples** voiced his concerns that he felt that he was on opposition of this case due to this solar array facility being so close to residential property. The vote passed by a vote of 3-2; **Commissioner Kane-Doerhoefer** and **Chairman Maples** voting against.

OTHER BUSINESS

None

Since there was no other business to come before the Commission, the meeting was adjourned at 7:35 PM.

Approved this _____ day of _____, 2022.

Chairman

Attest