

**Minutes of the
BOARD OF APPEALS
FOR
CHARLES COUNTY, MARYLAND
May 8, 2018**

The Board of Appeals held its regularly scheduled meeting on Tuesday, May 8, 2018 at 7:00 p.m. in the Commissioners Meeting Room of the Charles County Government Building, La Plata, Maryland.

The following members were present:

Brendan Moon, Chairman

James Martin, Vice Chairman

Sean Johnston

Lynn Green

Marvin Blake

P. Tyson Bennett, Attorney

John Mudd, Assistant Chief, Planning

Melody Weschler, Acting Clerk

Mr. Moon called the meeting to order at 7:04 p.m. with a quorum of five members.

Mr. Moon gave general guidelines for the conducting of the meeting and announced that anyone wishing to make a statement pertinent to the operations of the Board can do so at this time, excluding the items on tonight's agenda.

Ms. Kelly Canavan, party to the Dominion Cove, LNG, LP case, spoke about the untimely posting of documents to Board Docs. She also spoke as to not receiving a copy of the notice of rehearing and the decision and from the Board in a timely fashion. Mr. Moon thanked Ms. Canavan for her comments and advised that the Board will address the rules and procedures.

Approval of Minutes

March 27, 2018 – Mr. Johnston made a motion to approve the minutes, seconded by Mr. Martin, all in favor of approving the minutes.

Other Business

New member, Marvin Blake, was sworn in by Acting Clerk, Melody Weschler.

Actions by the Board

Docket #1378: Dominion Cove Point LNG

Motion for Reconsideration filed by Michael S. Nagy, Esquire, Attorney for Dominion Cove Point LNG, LP. Mr. Moon polled the Board as to if they wanted to discuss scheduling the motion at a future date at this time. Consensus was to discuss at this time. Mr. Moon reviewed the details of the Motion for Reconsideration. Mr. Moon advised that he had requested the County Attorney to advise the Board if Dominion Cove Point still needed a special exception from the Board after the FERC order came. The memorandum is posted on Board Docs and will be discussed at a later time. The Defendants in the case also filed a letter requesting matter not be addressed until after their reply to the motion is received. Mr. Moon recommended that the Board schedule a date in the future to hold a work session on the motion and the different legal opinions of the question of preemption. Mr. Moon proposed to suspend the decision for 30 days so that the Board can conduct a work session on May 22nd on the motion for reconsideration. The Board discussed Mr. Moon's proposal. Mr. Johnston made a motion to set aside the Board's decision for 30 days, temporarily, and put on the next agenda a discussion of the outstanding issues. Ms. Green seconded the motion, all in favor.

Docket #1390: MD Solar 1, LLC, a Delaware Limited Liability Company (Shugart Valley Place): Proposal to establish a 32.5 megawatt (MW) ground-mounted solar system, large (Use 7.07.200) on an Agricultural Conservation (AC) zoned parcel consisting of 537 +/- acre property located at 4850 Shugart Valley Place in La Plata, Maryland, which is accessed off of Mason Springs Road (MD 425). Staff Planner: Kirby R. Blass.

Mr. Blass presented the staff report and answered questions of the Board.

Sue Greer, Esquire, attorney for MD Solar 1, LLC, requested the Board to take judicial notice of the testimony being provided for MD Solar 1 for the second case, MD Solar 2, LLC. Ms. Greer made note that all the posting and mailing requirements have been met and submitted to the County. Ms. Greer also requested the Board receive into evidence all documents posted on Board Docs as part of the record.

Ms. Greer gave a brief overview of the proposed project.

Ms. Greer submitted into evidence exhibit #26, letters of recommendation from Mark Mudd and L. Gordon Croft, who own the adjacent properties to the project.

Mr. Edwin Moses, Managing Director of Project Development, Origis Energy, USA, 800 Brickell Avenue, Suite 1100, Miami, Florida 33131, was sworn in by Mr. Moon. Mr. Moses provided testimony regarding the project.

Ms. Greer submitted into evidence exhibit 27, a memorandum from Kelly Kunst, Westwood regarding Pollinator Habitat Planning Recommendations for MD Solar 1 and MD Solar 2 projects.

The Board asked questions of Mr. Moses and discussed the same.

Mr. Dane Bauer, Senior Vice President, H&B Solutions, LLC, 37534 Oliver Drive, Selbyville, Delaware 19975, was sworn in by Mr. Moon. Ms. Greer submitted into evidence exhibit 28, Professional Summary of Dane S. Bauer. Mr. Bauer provided testimony. Ms. Greer submitted into evidence exhibit 29, Fire Fighter Safety and Emergency Response for Solar Power Systems.

The Board asked questions of Mr. Bauer and discussed the same.

Ms. Greer presented the Board with two proposed revised conditions that the Applicant would submit to be made to the staff report if the Board grants the special exception. They are as follows:

Condition 1. The Certificate of Public Convenience and Necessity (CPCN) license from the Maryland Public Service Commission (PSC) Public Utility Law Judge shall be obtained and a copy of the signed PSC order granting a CPCN is to

be provided to Charles County prior to approval/issuance of the required future building permit.

Condition 3. The Applicant shall submit the executed Interconnection Service Agreement ("ISA") between the interconnection customer – MD Solar 1, LLC – and PIM and SMECO prior to issuance of the required Use and Occupancy ("U&O"). Approval of the U&O shall not occur until such time as the ISA is executed and provided to the County.

Mr. David Bugelman provided testimony regarding the Interconnection Service Agreement.

Mr. Kirby Blass answered questions of the Board. He advised that the County does not have any issues with the modifications as requested by Ms. Greer.

8:50 p.m. – 9:00 p.m. - Break.

Mr. Moon opened the floor to the persons signed up to speak at the public hearing portion of the meeting. Mr. Moon sworn in each individual and the following people spoke:

Walter "Buddy" Poyner, La Plata, Maryland
Linda Redding, La Plata, Maryland
Kevin Grimes, La Plata, Maryland
Bonnie Bick, Oxon Hill, Maryland
Joan Manewell, La Plata, Maryland
Holliday Wagner, Accokeek, Maryland
John Hungerford, La Plata, Maryland

Ms. Greer and Mr. Bauer provided additional information regarding the project following up on issues brought up by the public.

The Board asked additional questions. There was no further discussion on the matter. Ms. Green made a motion approve the special exception with the changes as noted to condition 1 and condition 3, seconded by Mr. Johnston, all in favor.

Docket #1391: MD Solar 2, LLC, a Delaware Limited Liability Company (Ripley Road): Proposal to establish a 27.5 megawatt (MW) ground-mounted solar system, large (Use 7.07.200) on Rural Conservation (RC) zoned parcel consisting of 299 +/- acre property located at 6795 Ripley Road, La Plata, Maryland, which is accessed off of Hawthorne Road (MD 225) and Poorhouse Road. Staff Planner: Kirby R. Blass.

Mr. Blass presented the staff report. There were no questions of the Board.

Sue Greer, Esquire, attorney for MD Solar 2, LLC, requested the Board to take judicial notice of the testimony provided for MD Solar 1 for MD Solar 2, LLC. Ms. Greer made note that all the posting and mailing requirements have been met and submitted to the County. Ms. Greer also requested the Board receive into evidence all documents posted on Board Docs as part of the record.

Ms. Greer submitted into evidence exhibit 25, a memorandum from Kelly Kunst, Westwood regarding Pollinator Habitat Planning Recommendations for MD Solar 1 and MD Solar 2 project; exhibit 26, Professional Summary of Dane S. Bauer and exhibit 27, Fire Fighter Safety and Emergency Response for Solar Power Systems.

Ms. Greer gave a brief overview of the proposed project.

Mr. Edwin Moses, Managing Director of Project Development, Origis Energy, USA, 800 Brickell Avenue, Suite 1100, Miami, Florida 33131, was sworn in by Mr. Moon. Mr. Moses provided testimony regarding the project.

Mr. Dane Bauer, Senior Vice President, H&B Solutions, LLC, 37534 Oliver Drive, Selbyville, Delaware 19975, was sworn in by Mr. Moon. Mr. Bauer provided testimony.

The Board asked questions and discussed the same.

Ms. Greer presented the Board with two proposed revised conditions that the Applicant would submit to be made to the staff report if the Board grants the special exception. They are as follows:

Condition 1. The Certificate of Public Convenience and Necessity (CPCN) license from the Maryland Public Service Commission (PSC) Public Utility Law Judge shall be obtained and a copy of the signed PSC order granting a CPCN is to be provided to Charles County prior to approval/issuance of the required future building permit.

Condition 3. The Applicant shall submit the executed Interconnection Service Agreement ("ISA") between the interconnection customer – MD Solar 1, LLC – and PIM and SMECO prior to issuance of the required Use and Occupancy ("U&O"). Approval of the U&O shall not occur until such time as the ISA is executed and provided to the County.

Mr. Kirby Blass answered questions of the Board. He advised that the County does not have any issues with the modifications as requested by Ms. Greer.

Mr. Moon opened the floor to the persons signed up to speak at the public hearing portion of the meeting. Mr. Moon sworn in each individual and the following people spoke:

**Sheryl Jones, La Plata, Maryland
Linda Redding, La Plata, Maryland
Kevin Grimes, La Plata, Maryland**

Ms. Greer provided additional information regarding the project following up on issues brought up by the public.

The Board asked additional questions which were answered by Mr. Moses and Mr. Bauer.

There was no further discussion on the matter. Mr. Johnston made a motion approve the special exception with the changes as noted to condition 1 and condition 3, seconded by Mr. Martin, all in favor.

Other Business

The Chairman adjourned the meeting at 10:30 p.m.



Melody Weschler, Acting Clerk



Brendan Moon, Chairman