

Goodhue County Land Use Management

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To: County Board
From: Land Use Management
Meeting Date: December 1, 2020
Report date: November 24, 2020

Discussion: Solar Energy Systems (SES) Bonds

At their November 16, 2020 meeting the Planning Advisory Commission discussed utility-scale SES bonds and whether bonds should be required between the landowner and the Solar Company or should be held by Goodhue County. To date, the County Board has not exercised the ordinance option to require a utility-scale SES project to provide a bond between the Applicant/solar company and the County. Typically, the Solar Company and the landowner will establish a bond contractually as part of the lease agreement for the site. The County has generally required that private financial surety be maintained as a condition of the Conditional Use Permit approval.

The Goodhue County Zoning Ordinance Article 19 Section 6 Decommissioning (Attached) specifies that a decommissioning plan should be prepared by a competent party and that the financial resources available to pay for the decommissioning be identified in the plan. Solar companies will provide this information to the landowner prior to the establishment of the array. Article 19 Section 6 Subd. 4 provides the County Board the option to require an Applicant to provide financial security in the form of a cash escrow or irrevocable letter of credit up to 125% of the proposed decommissioning costs.

The Planning Advisory Commission requested that staff review adjacent Minnesota counties' financial surety practices for comparison. Attached are staff's findings, communications with other Zoning officials, and communications with the Applicant for the solar projects that were considered at the November 2020 Planning Commission meeting.

Attachments:

November 16, 2020 Planning Commission draft meeting minutes
Compiled SES Bond research
[Goodhue County Zoning Ordinance](#)

Dodge County – Performance bond or cash escrow in the amount of \$20,000 shall be submitted to the Department for the purpose of addressing any issues from correcting nonfunctioning basins or long-term maintenance activities. The project owner is responsible for all issues with, and long term maintenance of the stormwater facilities. The bond/escrow shall be active and maintained at \$20,000 for the permitted “project life” as indicated in the CUP application.

Dodge County also requires Decommissioning Financial Assurance after issuance of the CUP and prior to construction. “The Permittee shall submit a Performance Bond or cash escrow in the amount of 110% of the estimated cost of decommissioning or \$200,000 per MW, whichever is greater, to finance the Decommissioning and Restoration plan of the solar energy farm. The cost of decommissioning and the required escrow fund shall be updated to reflect the current cost of decommissioning in years 10, 20 and 30 (if applicable) from the date the permit is issued. The performance bond shall be set up as “continuous until cancelled” and automatically renewed on an annual basis for the life of the project. Dodge County shall receive annual notification upon renewal.”

Staff reached out to Dodge County staff and will update the Board with any additional information provided by Dodge County if received before the meeting.

<https://www.co.dodge.mn.us/EnvironmentalServices/Chapter%2016%20Performance%20Standards%2007-14-20.pdf>

Le Sueur County – The Board of County Commissioners shall require the posting of a bond to ensure proper decommissioning. They also require an itemized decommissioning plan be submitted to staff. Bonds have been required for \$25,000 as recently as October 2020.

Goodhue County staff reached out to Le Sueur County Zoning Administrator Josh Mankowski who provided answers to staff questions via email (attached).

<https://mn-lesueurcounty.civicplus.com/DocumentCenter/View/3256/Sec-19-Land-Use-Performance-Standards?bidId>

Martin County – Ordinance states “The Board may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.”

http://www.co.martin.mn.us/images/Ordinances/Renewable_Energy_Ordinance.pdf

Olmsted County – No performance bond or surety is specified in the Ordinance.

https://www.co.olmsted.mn.us/planning/ordinances/cozonord/Documents/ARTICLE%2010_2017.pdf

Renville County – Ordinance requires a decommissioning plan for all utility scale solar projects. The County Board may require the posting of a performance bond, letter of credit, cash deposit or other security to cover the cost of decommissioning. The Board has required a bond of \$200,000 for all projects.

Goodhue County staff reached out to Renville County Environmental Services Director Scott Refsland who provided answers to staff questions via email (attached).

[https://cms2.revize.com/revize/renvillemn/Environmental/Chapter%2002%20-%20Zoning%20Regulations%20\(Rav.%2001-28-2020\).pdf](https://cms2.revize.com/revize/renvillemn/Environmental/Chapter%2002%20-%20Zoning%20Regulations%20(Rav.%2001-28-2020).pdf)

Rice County – Staff communicated with Rice County Zoning Administrator Trent McCorkell via phone: Bonds for Utility Scale SES are required for all projects prior to building permit issuance. Bond of \$50,000 for site reclamation and any road damage. The County is the holder of the bond however some sites hold letters of credit. If a project is sold to another company the County is not concerned as long as the CUP has been recorded at the County. The solar company is required by

bond language to let the County know of any sales of the project. Bonds are on automatic renewal until expiration. If the bond is set to expire staff gets a notification.

Mr. McCorkell stated some companies prefer to hold the money in an escrow account. He stated that he has a staff member dedicated to tracking the bonds each year and making sure they are up-to-date. He said the County Board determined the County should hold the solar bonds because a landowner could always walk away from the property leaving it in tax-forfeiture.

Stearns County – Zoning Ordinance requires: “The applicant shall submit a financial guarantee in the form of a letter of credit, cash deposit or bond in favor of the County equal to one hundred twenty-five (125) percent of the costs to meet the requirements of the decommissioning plan. The type of guarantee is subject to the Board’s approval.” The Board has been requiring a \$125,000 bond for projects.

Staff reached out to Stearns County Environmental Services staff and received a response from Heidi Winskowski via email (attached).

Steele County – Zoning Ordinance states: “Decommissioning plans shall outline the anticipated means and cost of removing the system at the end of its serviceable life or upon its becoming a discontinued use. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the system.

The Board may require the posting of a bond, letter of credit, or the establishment of an escrow account to ensure proper decommissioning.”

<https://www.co.steele.mn.us/Zoning%20Ordinance%20with%20Admendments.pdf>

Wabasha and Winona Counties – No performance bond/surety specified in Ordinance.

<https://cms9.revize.com/revize/wabasha/planning%20and%20zoning/Zoning%20Ordinance/NewChapter18-CUPIUP.pdf>

<https://www.co.winona.mn.us/sites/co.winona.mn.us/files/files/Ordinances/Ordinance41.pdf>

Wright County – Ordinance states: “The agreement shall require the applicant to create an escrow deposit or furnish an irrevocable letter of credit or a certified check as is determined by the County Attorney, County Engineer, and County Administration. The amount of the deposit or security is to be based upon the estimate of the total cost to remove any infrastructure and reclaim the property to its original condition at the conclusion of the solar energy farm. The salvage or resale value of the infrastructure shall not be used in calculating any offset or credit against the estimate of the total cost to remove the infrastructure and reclaim the property to its original condition. The deposit or security shall equal 150% of the estimate of all costs to remove any infrastructure and reclaim the property, plus any amount deemed necessary by the County Engineer to protect any public infrastructure during the construction or decommissioning of this project. This amount may be reduced or increased upon approval of a County Board resolution based upon such consideration as the size of the project, past performance by the applicant and/or financial credibility of the applicant, but in no case shall the amount be less than 50% of the estimate. On request of the applicant, if evidence is presented that the described work and improvements have been paid for, the amount of the deposit may be reduced in a sum equal to the estimated cost of the reclamation work so completed.”

https://codelibrary.amlegal.com/codes/wrightcounty/latest/wrightco_mn/0-0-0-4137#JD_155.108

Staff also reached out to the most recent Utility Scale Solar project Applicant, Cindy Larson O'Neil with ReneSola Power. Attached is an email received answering some general questions asked by staff.