



# Town of Eddington

906 Main Road Eddington, Maine 04428

**PLANNING BOARD**  
**September 22, 2022**  
**6:00 pm**  
**MINUTES**

**CALL TO ORDER:** David Peppard called the meeting to order at 6:01 pm.

**ROLL CALL:** Members present were David Peppard, Scott Newhart, Heather Grass, Craig Knight and Susan Dunham-Shane.

Motion to go into Public Hearing for the proposed Solar Energy Ordinance and revision to Section 606, District Use Chart of the Zoning Ordinance adding Solar Arrays to the listings.

**By Susan DS/Craig K 2<sup>nd</sup>. Vote 5-0**

**PUBLIC HEARING**  
**Proposed Solar Energy Ordinance and changes to the**  
**District Use Chart of the Zoning Ordinance to add Solar Arrays**

David Peppard informed the audience that they had a Solar Company approach them last August and they did not have a Solar Ordinance to deal with it, so they got the town to pass a moratorium to give them time to develop a Solar Ordinance and they got samples of about 10 other town's Solar Ordinances and put together what we have for a Solar ordinance 13 months later. It has been a lot of work. They have sought input from a number of people and he believes they are at the end of the process.

Our newest member Scott Newhart has been invaluable in this process as he put the information into the computer as they progressed and Denise is top of the line and Susan DS assisted Scott N a lot. They appreciate everyone's efforts. David P then opened the Public Hearing up for public comments at 6:06 pm.

David P explained that everyone should state their name and address as they stand to speak.

Peter Lyford, 197 Jarvis Gore, Eddington, Representative for Eddington and resident for 47 years and he has been very close to the solar movement in Augusta. He wanted to know who the developer is of this project and where the company is located. Denise K stated that this Public Hearing does not have anything to do with a particular project, but rather the ordinance that has been written. Mr. Lyford continued that this is a good deal for the land owner and some for the town and that is where it ends. He said everyone knows that their electrical rates have gone up and that is because solar and wind through net-metering get 400% over the standard offer. Standard offer is 6 cents and they are being paid 24 cents. That all goes in to figuring your electric bill. He said we will be paying for this solar array and that it is a bad deal for the citizens of Eddington. He mentioned that 6 or 7 years ago the town rejected wind and he hopes the town is taking that into consideration. His company has done 100's of 1000's of dollars' worth of

work for these companies because erosion is what they do, but he has never voted for a solar bill or a wind bill because he knows who is going to pay for it. The incentives that the state of Maine has given to solar and wind are reaching one billion dollars.

Bob Cleaves, Dirigo Solar, he is a lifelong resident of Maine and his company is based on Congress Street in Portland. The project that came before the town before the moratorium, is not a community solar project. He started his company 7 years ago. During the Lepage administration, the PUC gave them a contract at 3.4 cents per kilowatt hour to construct 100 megawatts of solar. 3.4 cents is not 400% of the standard offer, but rather 50% less than the standard offer. His company is about building utility-scale clean energy that is a good deal for Maine rate payers. In the last 12 months his portfolio has returned 2 million dollars to Maine rate payers through an auction conducted by CMP and Versant. The project that they have in mind for Eddington and why they have spent the last 1 ½ years with the Planning Board will provide that kind of rate savings. The PUC gave them an award at 2.9 cents which is the cheapest solar east of the Mississippi. Mr. Cleaves would love to talk to Mr. Lyford outside this meeting because he is looking for bipartisan support for this approach. He continued that there is a very large and valid debate about Community Solar in the state of Maine as a result of net-energy billing. He thinks it has cost the state a lot of money and he thinks there will be reform. He said that competitive bidding done through the PUC is a good deal for the state of Maine. He feels very passionately about this and that is why he is here.

David Peppard asked, in regards to the different kinds of projects and who is going to be paid, should they have a provision in our ordinance that gives the town the ability to shop. Mr. Cleaves answered No, he thinks this ordinance is about land use issues and not whether energy is costly or not and what type of energy program is coming out of Augusta. He continued that those decisions are better left to the PUC and Legislature. In 2019 the legislature wanted this type of program. He does not feel towns should involve themselves in the sale of solar power. The process that they are involved in is that the Public Utility Commission announces that they are going to acquire so much energy, Dirigo solar responds to the solicitation which they may or may not win. When they win, the PUC directs Central Maine Power to enter into a contract with us at the price that the PUC deems to be a rate payer savings. Dirigo Solar has a bilateral contract with the utility that is for 20 years. (When they built their projects a number of years ago, they were competing with all forms of energy, it was not specific to solar like it is now. The legislature changed that by creating solar only solicitations.)

Bob Cleaves continued that what Mr. Lyford is talking about is a different model where the Legislature in 2019 said they are going to create a Credit Program so it will be a credit on your bill so you can have as many customers as you want as part of your Community Farm. All people need to do is sign up with the Community Solar Farm. It allowed solar developers to sell power at a much higher rate because the credit was valuable not only for the power but the transmission and distribution. He continued that as Representative Lyford correctly pointed out, whereas Dirigo Solar through the PUC process are selling at wholesale, Community Solar Farms are allowed to sell at retail. Last year the legislature put the brakes on the program and grandfathered projects already in the que and well along in terms of permitting. Bob C continued that he does not think that the future looks really great for Community Solar.

Bob C was appointed to be on the Net Energy Billing Working Group, working with Democrats and Republicans, Members of the Governors Energy Office and Phil Hardwood, the Public Advocate. He believes that they are coming to the conclusion that Net Energy Billing does not look good for the future of Maine. He does not feel that these types of issues are germane to a Land Use Ordinance. Hi is not doing a Community Solar Farm in Eddington. David P asked if as a benefit to the Town wouldn't they want to be attracting projects that are a benefit to the citizens of Maine rather than cost them more and Bob C answered sure, but he questions whether it should be part of a Land Use Ordinance. Susan DS pointed out that they are tasked with protecting the character, assets and land, and quality of life to the best of their abilities in the town. She feels that if they get into the money thing there is a lot involved. She

continued that they did the right thing in their Ordinance to require that an applicant provide proof that they have someone to sell your electricity to. Susan DS also feels that they do not want to concern themselves with the fact that Community Solar does not pay taxes on anything under 4.99 kw to the town and that the state is supposed to reimburse the Town as pointed out by Ben Birch.

Bob Cleaves wanted to emphasize that what they are talking about is a land use issue and what they are talking about is decisions that the state is making as a whole as to how they want to procure power. He agreed with Representative Lyford and the problems with the Community Solar Scheme, that it is expensive and in his opinion not necessary. For purposes of land use impacts, these projects are undisguisable of each other. For example, Dirigo Solar built a 20 acre 4.99 mh project in Palmyra. They could have qualified that as a community solar project and not paid taxes to Palmyra and charged Maine rate payers .20 cents per kWh, but instead they pay taxes to Palmyra and they are selling to Maine rate payers at .034 cents.

Representative Peter Lyford spoke against solar and wind power. He said that the calls everyone is getting to join a solar company is a Ponzi scheme. He used the project in Holden as an example where the removal of the trees that remove the carbon from the air are gone. He feels it is very destructive and he would like to see the board put no solar in Eddington. Mr. Lyford continued that the cost of everything will go up as more solar is used. He continued that they are heading to Aroostook County to take over the potato fields.

Hilma Adams, 263 Main Road, Eddington, has lived in town for many years. She was approached about a year ago by a solar company that wanted to lease 30 of her 400 acres which is a wildlife preserve. They offered her a \$30,000 for 30 years to lease 30 acres of her land. She could have done that and become very rich but she changed her mind. If she sold or leased one more lot she would have to go for subdivision and she does not want that. She has a lot of wildlife on her property. When I395 made plans to go through her property, they put in 2 wildlife paths that go under the bridge for wildlife. She feels it is important to keep the wildlife in Eddington because Eddington is country. She is not for or against solar but wanted to inform the Board as they work on the ordinance. Hilma A is happy with the recommendations for farmland and forest areas that the Board has in the ordinance.

Peter Lyford introduced a gentleman in the audience, Jim Lebrech that served as Governor Lepage's energy advisor. Susan DS said it is a public hearing and you don't have to be a resident to speak.

Jim Lebrech, 323 Stillwater Ave, Bangor, said there is a big controversy on solar and who is really benefitting from it. Right now with LD1711 the solar developers are getting up to 22 cents a kwh for their solar production. They get 75% of what we have to pay to maintain the whole system and they do not have anything to do with maintaining and installing poles and transformers or repairing downed lines. It is a very bad deal for the public. Last year there was an 87% increase for electricity and the solar companies get the full financial benefit of that. We could see a bigger increase this year. He continued that we get no benefit from the solar. All of the solar panels, converters etc., are produced by the Communist Chinese and the USA gets no benefit. Most of the labor goes to out of state contractors that go all over to do this. All of the profits are going to the big businesses like Next Era which owns the 500 acre solar farm in Farmington. Maine only gets the bill. They can get up to 400% above market cost to sell electricity. People don't realize that the call that offers to save them 15% by switching to their solar company will actually cost them 400% more because the solar company gets all the profit. If electricity costs more, everything will cost more. Towns and schools will have to raise taxes to pay for the increase. They claim that they do this to get off fossil fuels. He said that there is 0% chance for this. 150 buildings in New York are fed by one steam plant. It would take 500 500-acre solar farms to do the same thing. The standard capacity for solar for the year is 15%. We will be losing more businesses with this increased cost. The PUC is saying that if LD1721 passes it will cost rate payers 7.2 billion in additional cost. Mr. LeBrech suggests that if the town is dealing with any of these companies, require a list of all of the subsidies they are getting,

(Renewal Tax Credit, Production Tax Credits, Investment Tax Credit, Net-Energy Billing is bigger than all of these Federal Programs together) He continued that new laws have been put in place over many years to facilitate this. He suggested contacting your legislatures and expressing your concerns. He also recommends contacting someone to protect the town's interest if any solar projects are considered. These people do not care about green America and only care about green in their pockets. (Example, Solar farm in Farmington, if there is a 1 cent increase in cost would mean 1 million dollars in income for them.)

Rodney Kelshaw, 4 Break Kelly Drive, Brunswick Maine, he is from Flycatcher LLC, an environmental consulting firm, representing One Energy Development. He had sent a letter to Denise K and she had provided copies to the Planning Board members. The letter's goal is to suggest ways to allow more projects like theirs in town. They would like 1. P-SES's allowed in the Rural Residential Zone, 2. Remove the numeric limitation on the number of P-SES's per zone, 3. Redefining the size of the P-SESs to be in line more with the state regulations. Susan inquired about One Energy; they are out of Texas and this would be the 4<sup>th</sup> project not constructed yet. Because the state has halted activity, they were pushed out of the que. They have a proposed project on Eastern Ave in Holden. They have local approval in Corinth and Hampden. They reviewed and mapped 920 Main Road Eddington, but the cost to develop the 2 Mhz was too high so it was stopped. But enough other projects came into the que to make the project more feasible. They have not submitted to MDEP. Scott N feels that discussion on this should be done at a regular meeting and Susan DS agreed.

Peter Lyford asked if a solar project has to be fenced in. Craig K answered that yes it does with 8" x 8" agricultural fencing. Mr. Lyford said that was good for the wildlife. David P added that they also request seeding that will enhance the bees.

Hilma Adams has been watching the deer on her property for 55 to 60 years. They take the same path every year. She questioned that if there is a fence of any type that is in their path, how are they going to get through? Craig K added that the Dirigo Solar project does have a corridor or split. Hilma feels that a change may be needed to the ordinance that takes the wild life paths into consideration.

Roscoe Kent, Main Road Eddington asked how tall the fence will be and Craig K answered 8'. Mr. Kent said a deer can clear an 8' fence. Roscoe K added that there are a lot of wildlife in the area of the proposed Dirigo Project.

David P wants people to understand that they did not have an ordinance to regulate this. They had a proposal come forward so they worked very hard on the regulations. He personally does not support wind or solar power. But for the Town, they needed to develop something to regulate projects that will come forward. David P feels that what they came up with is good. It can be changed at future Town Meetings.

Roscoe K added that being an assessor of the Town he has an interest in what the affect may be on taxes in the town with solar projects. David P stated that early on they were told that that is a concern of the tax assessor and Selectmen.

Motion to come out of Public Hearing

By Scott N , Heather G 2<sup>nd</sup>. Vote 5-0.

### **NEW BUSINESS:**

**OLD BUSINESS:** Susan DS wanted to continue her questions to Mr. Kelshaw; Number 3, Redefining the size of the P-SES to be more in line with the State. (They recommend medium being 10-20 acres) He said it was in reference to site law.

Review Enforcement Section of Solar Ordinance, Section 110, The Board discussed the wording Susan DS prepared and agreed to the following wording:

## **Section 110 - Violations, Complaints and Penalties:**

**110.1** In this section, “violation” means a violation of this Ordinance, or a violation of a SES Site Permit issued under this Ordinance, or a violation of a SES Operational License.

**110.2** Violations of This Ordinance. It shall be unlawful to construct or operate any SES or part thereof in violation of any provision of this Ordinance, a SES Site Permit, or a SES Operational License; any violation thereof is punishable, upon conviction, in accordance with 30-A M.R.S.A. § 4452(3), and shall include attorney’s fees and a penalty to address economic benefit as provided in 30-A M.R.S.A. § 4452(3)(D) and (H). All fines assessed under this Ordinance shall inure to the benefit of the Town of Eddington. Each day a violation exists or continues shall constitute a separate offense.

**110.3** Any resident of the Town, real property taxpayer to the Town, or Town official may file a written complaint with the Town Clerk alleging that a SES Permittee, Owner or Licensee has committed or is committing a violation. Such complaints shall be forwarded to the CEO.

**110.4** The CEO shall preliminarily review the complaint. The CEO may request information from the SES Permittee, Owner and/or Licensee, the complainant, and any other person to assist with this review.

**110.4.1** Following preliminary review the CEO may take one or more of the following actions:

**110.4.1.1** Dismiss the complaint.

**110.4.1.2** Through the Planning Board, conduct a public meeting to determine whether the alleged violation(s) have occurred, and what remedial action should be taken.

**110.4.1.2.1** Prior to such meeting, notice of the meeting shall be given to the SES Permittee, Owner, Licensee, as applicable, and the complainant. The SES Permittee, Owner, Licensee, as applicable, and the complainant, and any other person, may appear at the meeting and may offer testimony and other relevant evidence, and may be represented by any attorney.

**110.4.1.3** Determine that the alleged violation(s) has/have occurred and what remedial action should be taken.

**110.4.1.4** Impose conditions on the SES Site Permit, Owner and/or Licensee to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof.

**110.4.1.5** Recommend to the Select Board that the matter be referred to the Town’s attorney for prosecution seeking that the SES Site Permit be suspended until such time as a plan, satisfactory to the CEO, is implemented that will discontinue the violation(s).

**110.4.1.6** Recommend to the Select Board that the matter be referred to the Town’s attorney for prosecution seeking that the SES Site Permit and/or Operational License be revoked and that decommissioning of the SES be directed if the CEO

concludes that no reasonable modification can be made to the SES to discontinue or prevent violations.

**110.4.1.6.1** Take no action, if the CEO concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.

**110.4.1.6.2** Following any of the above actions, the CEO’s written decision shall be furnished to the SES Permittee, Owner and/or Licensee, as applicable, and to the complainant.

**110.4.2** An appeal from the decision of the CEO or Select Board may be taken to the Appeals Board by the SES Permittee, Owner and/or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof and must be filed with the Town Clerk within 30 days after the final action of the CEO or Select Board. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof as well as due notice to the SES Permittee, Owner and/or Licensee, as applicable, and the complainant. Given the complexity of this type of project, all appeals shall be considered as appellate procedures. The action of the CEO or Select Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the CEO’s or Select Board’s determination.

**110.4.3** An appeal from a final decision of the Board of Appeals shall be made to Superior Court in accordance with M.R.Civ.P. 80B.

Scott N will rework the changes and numbers and forward it to Denise K.

The Following Sections of 601 District Use Chart were updated to the following:

P-SES (Principal Solar Energy System) Small-Medium	P	P	P	P	N
P-SES (Principal Solar Energy Systems) Large	P	P	N	P	N

Utility Scale BESS (Battery Energy Storage System)	P	P	P	P	N
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Private Scale BESS (Battery Energy Storage System)	C	C	C	C	C
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Scott N recommends that we make a change to restrict P-SES at medium and large scale and BESS to Utility Scale Projects pursuant to the PUC only and No Community Solar at medium and large scale. This will eliminate at a medium and large scale any Community Solar. Susan DS feels that doing this to the medium scale projects is not necessary since they are only 2 acres. Scott N agrees as long as they keep the threshold. Scott N continued that everyone that spoke had good points, but he felt the gentleman from the energy council had dated information and the gentleman from Flycatcher had produced his letter with an agenda. Bob C clarified that large scale Community Solar Projects would be called Net Energy Billing. A Utility Scale project can be either a Net Energy Billing Project or a project that gets a contract pursuant to the regulations from the Public Utilities Commission. Scott N suggests adding a Note to Section 104, District Use Chart of the Solar Ordinance stating that Large Scale P-SES Net Energy Billing Projects are Prohibited. The following changes will be made to the chart:

Large-Scale Note 3	Y/SPR(1)	Y/SPR(1)	N	Y/SPR(1)	N	N	N
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**104.3 Note 3 – Net Energy Billing Projects Prohibited.**

Susan DS feels this change may make some people unhappy if they want to have a community solar project on their property. Bob C said this is not likely to happen because there is no capacity on the grid for new community solar projects and the legislature has repealed the program from what they did last year, so that anything new is not going to qualify. 1.99 mw projects may still be allowed. (35-A MRSA Section 3209-A)

Scott N will have the changes done by Monday 9/26/22 so that David P can review it and call with his opinion. The rest of the Board will meet 9/27/22 to review the changes and accept them when done. Denise will email the new changes to the Selectmen. There is a notice going in the paper this weekend for the Selectmen’s Public Hearing on October 4, 2022. The new changes will be noted in red on the website and the newest version of the Solar Ordinance will be available Wednesday, September 28, 2022 in the office and on the website. The Special Town Meeting will be October 18 or the 25, 2022, to vote on the new ordinance.

**PUBLIC ACCESS:** Hilma Adams attended a realtors meeting today and they were informed that Janet Mills has signed a new document pertaining to lot sizes, rentals, and single family homes that is going into effect next April, but people can start doing it now. Part of it states that mother-in-law apartments will be allowed as 2 units. Other changes were reduced frontages and lot sizes to provide more areas where people can have 2 units, 3 units and 4 units on a property. She does not have details but she wanted to let the Board know. These changes are proposed because Maine has a housing shortage. Susan DS said they had made some of the changes to the ordinance last year. Hilma said Shawna Hinkley may have received some more information on this last week.

**UNFINISHED BUSINESS:**

**AGENDA FOR FUTURE MEETINGS – HOUSEKEEPING**

**DATE OF NEXT MEETING:** The next meeting will be on September 27, 2022.

**ADJOURNMENT:** Motion to adjourn at 7:48 pm.      **By Scott N/Heather G 2<sup>nd</sup>. Vote 5-0**

Respectfully Submitted,

Denise M. Knowles

