

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-1-

The regular meeting of the Mount Jackson Town Council was held March 8, 2022 at 7:00 PM in the council chambers at 5901 Main Street. Roll call was taken with Mayor Pifer, and Councilmembers Rod Shepherd, Whitney Miller, Bonnie Good, Dennis Andrick, Judy Fultz, and Roger Rudy in attendance. Also, in attendance, Neil Showalter, Town Manager; Erick Moore, Planning and Development Director; Keith Cowart, Police Chief; and Debbie Allen, Town Clerk. Darla Odom with The Berkley Group; Energix Attorney Scott Foster; and Town Attorney Jay Neal attended electronically through Zoom. Dave Moore from Cornerstone was present to provide Zoom service. Visitors included Dominika Sink with Energix, Robert and Eleanor Whitehurst, Melinda Monroe, Kay Whetzel, Tommy Keeler with Northern Virginia Daily, Randy Doyle, Ros Poplar, and Jeff Cook.

Agenda Additions/Deletions/Changes: Mr. Showalter stated he received a last minute email from Ms. Capps regarding New Business Item #1, the declaration of National Autism Awareness month. She was planning to address the Council briefly tonight but asked if she could be moved to the April meeting.

Hear from Visitors:

1. Ros Poplar stated he appreciates Councilmembers' patience and ability each has taken to analyze and make a decision tonight regarding the solar project. He stated the solar facility goes against not only the Town's comprehensive plan but the County's comprehensive plan as well. He stated watching the news recently regarding the events in Ukraine has reminded him the difference between a regime like the Soviet Union with a dictator and autocracy versus the United States which is a representative democracy. He stated this whole issue is very emotional for him and he has encountered very few people that are in favor of the solar farm. He attended a meeting last night in the museum and informally took a poll and everyone was opposed to it. He stated he assumes Councilmembers swore an oath to represent their constituents and the majority of those in his opinion do not want any expansion of the existing solar farm. He asked Councilmembers to please do their duty tonight and make the right decision.

2. Randy Doyle stated this is the third time he will have addressed Councilmembers. He lives in Edinburg and works in Mount Jackson, has read the comprehensive plan, and will share some observations and ironies. The first irony is the Planning Commission did not follow the comprehensive plan, and second they recommended approval stating the project is based on promoting environmental responsibility. Most of the discussions over the last two meetings have been new environmental issues created by solar expansion, such as marring the landscape, runoff and erosion, and solar panel toxicity. Mr. Doyle stated the word irony, as defined by Webster, is "decision making that is contrary to what is expected and has an amusing result". He stated the Planning Commission, who is supposed to direct Council in terms of doing what is consistent with the plan and what is environmentally responsible, is not doing that. He stated the comprehensive plan is a well structured document, and he did a count on the following words; "environment(al)" is found 30 times, "clean" is found 12 times, "natural" is found 11 times, and "culture(al)" is found 12 times. The goal of the comprehensive plan is for the welfare of all of its residents, but very few people are benefiting from the solar project. Mr. Doyle stated the comprehensive plan was built on the spirit of listening to its local people and asked Councilmembers to follow the comprehensive plan and that will direct them to the right decision.

Remarks & Recommendations from the Mayor: None

Remarks from Councilmembers: Ms. Good stated she handed each Councilmember a program regarding solar and agricultural landscapes that will be held on Friday, March 11 in Winchester from 10 AM – 2 PM, and urged everyone to attend if possible.

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-2-

Presentations: None

Chief of Police Report: Chief Cowart provided the public safety committee report on behalf of Ms. Fultz. The February Police Department calls were 1079; 3 were closed by arrest, a couple are pending further investigation, and there were 2 ECO's/TDO's requiring officers to remain at the hospital for a while. There were 919 extra patrols and property checks, 28 foot patrols, and they assisted other agencies 21 times, with 8 doors/windows found open in 7 different locations. Chief Cowart thanked all the fire crews that responded to the Randy's Do-It-Best Hardware fire, as there were people from Harrisonburg, Page County, and further north. Mayor Pifer stated he would like to thank the Police Department and Fire and Rescue as well for being on location a great part of the day in that tragedy. Chief Cowart stated the Fire Marshall has that case and is still working it.

Town Manager Report: Mr. Showalter thanked staffers Randy Lonas and Joey Blankenship who worked through the night to redirect all the Town water possible from all tanks and wells, sending as much water as they could to the fire site. In those few hours they sent 409,851 gallons to fight that fire, which was difficult because that building was previous cold storage and there was sawdust in the walls and cork in the ceiling. He stated Randy and Joey, along with Chief Cowart who kept him informed, deserve a lot of credit and recognition for being available and doing their very best to get as much water to that site as possible. Mr. Showalter stated he received a citizen comment from a resident on Short Street, who said she did not get the call to evacuate, like many of her neighbors did, and asked if the Town could check into that. Mr. Showalter stated preliminary reasoning is the 911 system is only tied to landlines, and perhaps it sends a less than effective evacuation message out. Chief Cowart stated the dispatch center already has a program in place called the Red System, and people can get alerts on cell phones. He suggested this could be mentioned in the water bill newsletter or the Town Facebook page. Mayor Pifer stated he had a comment from a Town citizen who got the evacuation call but wanted to know if there was a plan beyond that for evacuating the Town, which perhaps staff could look into to help the elderly know what to do in that situation.

Committee Reports:

1. Finance Committee Chairperson, Rod Shepherd stated budget season is approaching, and in talking with staff today, it is anticipated having the budget introduced at the April Council meeting, hold the public hearing at the beginning of the May Council meeting, and vote at the June Council meeting, to be effective July 1.
2. Ordinance Committee Chairperson, Dennis Andrick had no report.
3. Personnel Committee Chairperson, Roger Rudy had no report.
4. Public Safety Committee Chairperson, Judy Fultz had no report.
5. Public Services Committee Chairperson, Bonnie Good had no report.
6. Public Properties & Facilities Committee Chairperson, Whitney Miller had no report.

Consent Agenda: Approval – Minutes of February 8, 2022 Regular Meeting

Councilmember Miller MOVED, seconded by Councilmember Andrick to APPROVE the Consent Agenda above.

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-3-

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
Councilmember Good			
6 AYES, motion carried			

Old Business:

1. Update on Cases SA 21-01 and SUP 21-01.

Ms. Odom stated Council deferred action from last month's meeting on the two cases that would permit the applicant to construct and operate a utility-scale solar facility on the subject property. Complete applications were accepted by the Town last October and a joint public hearing was held by the Planning Commission on December 6. These hearings were closed and the applicant's representatives are here tonight and may have additional input. The Planning Commission offered a recommendation after their February 7 meeting, and Council deferred it at their February 8 meeting. Ms. Odom stated a Councilmember asked what timeframe they have to act on these cases, and she advised state law allows 12 months from the public hearing to make a determination.

Ms. Odom stated the subject property is 128.6 acres, and added to the adjacent zoning approved in 2018 of 529.6 acres would result in a 655.5 acre solar facility. The current ordinance was amended to adopt regulations for utility-scale solar facilities, which capped the size to 400 acres and required a one mile separation between solar facilities. The applicant is seeking an exception to these requirements to allow permitting the development of the subject property. Phase I is still under construction and since the last meeting the landscaping within the vegetative buffer area has been planted. Prior to a certificate of occupancy for Phase I Energix must also complete final site stabilization and submit for review and approval a decommissioning plan with surety. The trees are the same types of plantings and layout as proposed for Phase IV, however the planting would be seedlings, and the schedule would be altered to occur 18 months prior to the commencement of construction. Ms. Odom stated the future land use map is identified for industrial use, promoting economic development on large tracts while ensuring development is compatible with the character and history of the Town. The plan does note the importance of protecting the Town's natural beauty, promoting environmental responsibility and considering landscaping and tree retention, and to improve air quality, reduce noise and glare, and to assist with controlling soil erosion and decreasing storm water runoff. The plan further recognizes that setback areas are crucial in making space available for tree retention and landscaping. The plan provides creating greenways is a priority, and the applicant has recognized that greenway which is anticipated in the railroad right-of-way, along the southeast side of the property and are proposing to provide a landscaping buffer to occur once construction of rails-to-trails has begun.

Ms. Odom stated the applicants are seeking exceptions to the ordinance standards for setbacks, buffer widths, screening and landscaping, slopes and grading, wildlife corridor and timing to begin construction. The development of the site would be required to comply with this plan and any conditions that are imposed including the textural statement. Conditions prohibit outside storage of mulch, parts of solar panels whether functional or damaged, and other materials. They require security fencing, ensure energy storage areas are identifiable, require maintenance of any buffer areas landscaping and ground cover, and the applicants will

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-4-

have to bond for landscaping maintenance per the zoning ordinance. There is an increased setback area adjacent to a dwelling, which is the only one not owned by the property owner. Other conditions that are part of the approval would limit Phase IV to 20 megawatts, requiring compliance with all state, federal and other laws, annual soil testing and measures to reduce dust. They ensure the conditions are binding not only to this applicant but to future owners. They provide the Town access to state permits and to and for site inspections, require liability insurance, emergency operations plan, training for local emergency workers, and to comply with Town code. They establish timing for any violation responses, require annual reports and allows for the timing of commencing construction and inoperability which would trigger the decommissioning plan, limit the hours permitted for construction and decommissioning and measures to reduce noise and impacts and citizen notification when construction is going to begin. They also limit the use of overhead transmission lines and prohibit reflective material.

Ms. Odom stated since the last meeting staff has worked with the applicants who came forward with some changes to the conditions. Condition 24 has been modified to assure setbacks for construction staging and similar activities comply with the conceptual plan of February 3. Condition 34 was modified to refer to landscaping that not only is in the ordinance but in the textural statement. Condition 35 has been modified to add that the decommission plan will also include details on removal of damaged panels and storage modules not only at the end of the facilities operation but if there is any damage to these materials and modules during the facility operation. The applicants asked to add Condition 36 that would require the panels themselves must meet the standards to be classified as Tier 1 modules and that they would also qualify for disposal as non-hazardous waste per EPA standards.

Ms. Odom stated regarding the substantial accord with a 4-1 vote the Planning Commission approved, and found consideration must be given to the existing land use and expansion of the utility-scale facility, and also as conditioned found this was an appropriate industrial use in accordance with the plan. Should the Council determine it appropriate after considering public input and the Planning Commission's determination it would be appropriate for the Council to accept. Consideration of expansion of the large adjacent solar facility may be appropriate as conditioned with SUP 21-01 to mitigate impact on the utility facility on the adjacent area. The plan supports environmental responsibility and a determination could be made that this as a renewable energy source that also promotes environmental responsibility. Regarding the special use permit the Planning Commission with a 4-1 vote recommended approval subject to conditions in attachment A, except the modification to 24, 34, 35 and addition of condition 36, which were changed and added since the Commission's consideration of this case, and also with the conditions of the textural statement in attachment B. The Planning Commission found that as conditioned the impacts would be mitigated, the land use is compatible with area land uses, the facility must be constructed and operated in compliance with state and federal laws in permitting requirements, the setbacks provide separation from the adjacent dwelling and the landscaping screen from all the properties. Should the Council determine it appropriate the approval would be subject to the conditions in attachment A and B as revised. The facility as a renewable energy source promotes environment responsibility and as conditioned the facility should be located in a manner which minimizes impacts of the use on the surrounding properties and the Town.

Ms. Good asked what the final height size would be for the trees to be planted for Phase IV. Ms. Odom stated the condition is they can grow 30-40 feet in height, and the size just planted for Solar I is 2-3 feet tall now with a growth rate of 2 feet annually. Ms. Good stated the first recommendation was a mature height of 20-30 feet because homeowners did not want 40 foot trees to block the view of the mountains. Ms. Odom stated staff was told by the applicants in January the neighbor(s) no longer had this concern, it was never part of the original

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-5-

zoning case. There was a proposal to put hay and ground cover in place but that was abandoned by the applicants and property owner in January. Ms. Good stated therefore it is not known what changed regarding the tree height. Ms. Odom stated the conditions require the trees to be a certain height so they proposed a certain species to comply with the conditions for Solar I. Mr. Showalter stated the species they proposed and planted was acceptable under the conditions that were applied to the special use permit that was approved back in 2017.

Councilmember Miller MOVED, seconded by Councilmember Andrick to APPROVE Substantial Accord Case 21-01 and Special Use Permit Case 21-01.

Ms. Good stated at the last meeting she brought forth some information from the Comprehensive Plan for the purpose of noting how this project does not comply. There may be elements of the plan that do comply, but those are not provable. She previously asked for documentation from the EPA proving the panels are safe because some information from Energix indicates that is not true. Ms. Sink stated the manufacturer has all the certifications on their stat sheets, and Energix worked with staff to add a condition at site plan approval that the burden is on them to provide documentation and verification that the panels being proposed meet specific EPA criteria.

Ms. Good stated the Comprehensive Plan is a document that has legal status in the courts, and there are many aspects in the plan where this project is questionable or not acceptable. Regarding the vision statement there are a number of items that do not qualify for the solar project. There are two sections where it might be applicable, and that is 1) to provide a safe and secure environment for all citizens and 2) to promote environmental responsibility. In the Comprehensive Plan on page 16 it states the Town has a goal to protect, preserve and promote its environmental assets, and create and implement guidelines that address environmental issues related to property, preservation, landscaping, screens and buffers, stormwater and waterways. Ms. Good stated she has documentation from the Virginia Department of Environmental Quality, which issues regulations in its Virginia Erosion Center handbook. Chapter 1 says “the typical construction site erodes at a rate of up to 100,000 tons per square mile per year. This rate is 200 times greater than erosion from cropland, and 2000 times greater than erosion from woodland”. Ms. Good stated if Council approves this new phase to add 128 acres to the already approved facility, it will be a little more than a square mile. Most solar sites are under construction for at least a year, producing sediment pollution in the form of stormwater runoff at an exceptionally high rate. It has already started, and can continue for years as this last phase is not planned to begin construction until 3-4 years from now. The land has been eroded to the point there is nothing growing there or keeping the top soil safe. Other than 1-2 people, she has spoken to no one who is pleased about the solar farm still under construction, and not interested in expanding. The comprehensive plan survey results mention protecting the water quality and resources were a top priority for our citizens, and she would like to see more documentation proving this before the project is approved. She has come across descriptions in much of the Solar I documentation, that use words like “potentially” and “probably”, which are vague.

Ms. Good stated a section of the comprehensive plan is the need for employment, approximately 3.3% of Mount Jackson citizens are unemployed, totaling roughly 70 people, and only 17% of citizens work in Mount Jackson. Mount Jackson is home to a variety of industries, and together the existing manufacturing, utility and wholesale industries contribute 272 local jobs. Between 2007-2015 the Town moved to annex significant parcels of land into Mount Jackson’s south end, per the landowner’s request, with a goal to promote this area for industrial and economic development. It involved three annexations totaling 580 acres of land, the Whitehurst property and other properties within the boundaries of that farmland.

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-6-

Ms. Good stated revenue to the Town from the solar farm will not help the people of Mount Jackson, who raise their kids, pay their bills, and need the money and jobs. Page 16 of the comprehensive plan states providing for a balanced mix of new growth including housing, commercial, and industrial development is a goal. Page 18 of the comprehensive plan states general development should be guided away from areas with natural limitations such as steep slopes, shallow depth to bedrock, floodplains, prime agricultural lands, wetlands and sinkholes. Ms. Good stated the Town has now lost over 500 acres of prime agricultural land and after reading many articles following decommissioning that land will never be prime agricultural again. The Town's future land use map designates that property as industrial, so this project would go against the plan again. Page 10 of the comprehensive plan, services by others, states electrical power is supplied to the Town by either Dominion Virginia Power or Shenandoah Valley Electric. Neither company anticipates any problem supplying the power needs of the Town and surrounding area in the foreseeable future. The power produced from the solar farm will not be going to the Town of Mount Jackson, it gets put in the line and goes wherever its needed. Ms. Good stated she read an article last week that states in the future because Dominion is required by the state to have renewable energy, they will eventually start to raise their rates to approximately \$710 more per year. She does not see solar being beneficial to the Town, there is enough there now, and it will take years to be fulfilled.

Ms. Good stated in the paperwork from Solar I the following terms are vague:

"In light of the last few paragraphs it ought to be unsurprising that a simple and clear cut calculation of the energy and environmental impacts and benefits of the end of life stage of these panels is destined to remain somewhat elusive."

"CdTe modules will very likely be recycled after being decommissioned."

"Current CdTe air emissions and wastewater effluents are well below the local regulatory thresholds."

"Under normal operation First Solar CdTe modules do not pose any environmental or health risks."

"The only aspect of the life cycle environmental performance that has been identified to be a cause for some concern is the projected demand for copper, which is used comparatively in large quantities in the electrical field."

"CdTe is encapsulated between sheets of glass and is unlikely to leach out."

"Recycling is the most sustainable manner to handle the modules at the end of their useful life. The social and economic benefits encompass aspects such as avoidance of potential environmental impact."

Ms. Good stated since the solar project began, the developers working with the Whitehurst's changed hands several times. She has read up to 22 fraud alerts on First Solar, and does not know if they are going to be around long. Energix has been in business for 15 years, but they have never decommissioned a solar facility, so they are new at this as well, and does not want the Town to find out the hard way something was missed.

Ms. Good stated there was a comment last month about the roads not being good enough for new industry. The Town will not get road improvements until VDOT determines a beneficial reason to. Road improvements were not made for the solar site because it is not an industry with heavy traffic. She stated she spoke with Route 11 Chips who had 30 employees when they first opened, has grown to 45, and no one has any complaints about the company or the roads. She stated it is interesting to follow the money for a small business, for example, in 35 years Burger King will provide the Town a minimum of \$2,924,000, whereas the solar farm averages out to \$107 per acre. Ms. Good stated she feels the people of the Mount Jackson deserve to get some of the money using new businesses to employ them. She stated the Comprehensive Plan has been shredded, and to say this project is in compliance with substantial accord is minuscule at best.

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-7-

Mr. Shepherd asked for clarification on the agenda regarding the public hearing for the siting agreement. He asked if the siting agreement will be part of the approval of SA 21-01 and SUP 21-01, or a separate vote altogether. He asked if Council were to approve the solar project could a risk be taken of the siting agreement not being agreed upon. Mr. Neal stated it is two separate items, two separate votes, and the code encourages a siting agreement but it is not mandatory. If Council votes against the special use permit there is no reason to discuss the siting agreement. If Council votes for the special use permit, and an agreement is not reached on the siting agreement in theory the project can move forward without it. Mr. Neal stated the siting agreement is fairly flexible, that in zoning there has to be communication between the governing body and the applicants which can be uncomfortable. Items in the siting agreement do not have to be directly connected to the solar project, they can relate to things in the capital improvement plan or other budget items. The siting agreement puts the negotiation between the developer and the Town out in the open, and gives teeth by incorporating the special use permit.

Mr. Shepherd asked if the siting agreement is connected to these two cases to allow the solar project to continue, and does it become a contract with the project once approved. Mr. Neal stated it does not become a contract with the developer if Council approves the special use permit, but does become a contract with the developer when Council has a public hearing and then votes to approve the agreement. Mr. Shepherd stated the agenda tonight is to have a public hearing next on the siting agreement, which must happen before the siting agreement can be voted on. Mr. Shepherd asked if item 2 on the agenda should come before item 1, so Council can have clarification with citizens comments on the siting agreement, and then include that as part of the approval of the solar project. Mr. Neal stated the agenda tonight calls for a public hearing on the siting agreement, not consideration of the siting agreement as an action item, so in theory Council can vote next time, or Council may defer for reasons such as the tax/revenue issues which are extremely complicated.

Mr. Shepherd asked if Council votes to approve the solar project tonight, where does that leave the siting agreement. Mr. Neal stated said Council can have the public hearing and vote tonight, or have public hearing tonight and defer the vote until next meeting. Mr. Shepherd asked if the applicant is then required to follow the siting agreement. Mr. Neal stated once the siting agreement is agreed to by the Town and signed then it is a binding legal contract. Mr. Shepherd asked what happens if the applicant does not agree to sign the siting agreement. Mr. Neal stated then no agreement would be reached. Mr. Neal stated Council can also defer the vote on the special use permit until it is certain the siting agreement is agreed to by both sides, but he does not anticipate a disagreement on the siting agreement. Mr. Shepherd stated he is of the philosophy if something can go wrong it will, and personally would feel more comfortable if the siting agreement was tied in tighter to the special use permit and the whole project. Mr. Neal stated speaking for himself, he is mostly comfortable with the siting agreement, but the revenues paid to the Town as well as some other items related to M&T tax versus revenue share is a little unclear to him, and the statute on this is complicated.

Ms. Sink stated she understands the hesitancy, but if Council were to vote on the special use permit tonight and vote on the siting agreement next month, since the special use permit has certain exceptions, they only apply if the siting agreement is passed. In other words, it is in the best interest of Energix to sign the siting agreement. Mr. Foster stated the terms of the special use permit become an exhibit to the siting agreement, binding those two documents together. It is key in this case because there is specific information in the siting agreement legislation that allows matters to be addressed, that are either not clear or features of the project that are somewhat inconsistent with the zoning ordinance. This is a nice clean way to do that and it puts both the applicant and the Town in a good position by approving those two things together.

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-8-

Mr. Shepherd stated it sounds like two sharp attorneys are saying the same thing, that the siting agreement should be tied to the permit. Mr. Neal stated one concern he had was if this project was sold how would the Town know the buyer is familiar and aware of their obligations. There is language in the siting agreement which says notice has to be given to that party, the Town has to get proof they received that notice, and if that process is not followed the Town can declare the purchaser of the project and their agreement is void. Mr. Foster stated to answer Mr. Shepherd's question on process, often they have applications processed where there is the hearing on the permit, the public will speak, the public hearing on the permit is closed, the board will act, a separate public hearing is opened on the siting agreement, and the process is repeated. He does not think a procedural issue would be created if Council were to act on the permit without yet having had the siting agreement public hearing. Mr. Shepherd asked Mr. Neal if he is comfortable with that description. Mr. Neal stated the code requires the public hearing on the siting agreement be before the siting agreement is voted on, it does not say when the vote has to be taken. If Council is more comfortable deferring both, do so, if Council is comfortable with the special use permit but want to defer the siting agreement, that is an option as well.

Mr. Showalter stated it is the intention of staff to ask the Council to defer the public hearing and consideration of the siting agreement until next regular meeting. He stated he was a CPA in public practice for over 10 years with a national firm and himself, Ms. Odom, and Mr. Neal have all been looking with diligent eye at how the revenue sharing provisions of state law apply to this agreement. There are also rather involved complicated calculations that are related to the determination of property taxes because with a solar facility there are many exemptions and changes in rates that have to be considered. Mr. Showalter stated staff has zoomed with some outside resources to try to reach a comfortable position but he is not ready to say to they have completed due diligence on the agreement. There is a chicken and egg situation in that the conditions of the approved special use permit are part of the siting agreement and so it is hard to give a final determination on the siting agreement without knowing all the conditions of the special use permit, should they affect the siting agreement.

Mr. Shepherd stated understands and does not want to leave the siting agreement on the table to be forgotten about and not voted on as part of the special use permit. He asked Mr. Neal if Council can procedurally temporarily table the approval of the substantial accord and special use permit, finalize and vote on the siting agreement, then return to consider the two cases. Mr. Neal stated he believes Council has that option. Mr. Shepherd stated he suggests table the substantial accord and special use permit, move on to public hearing on the siting agreement and vote on it. Councilmembers reminded Mr. Shepherd that staff is asking the public hearing on the siting agreement be deferred until next month. Mr. Showalter stated up until this point staff has been under the impression the substantial accord and special use permit determination would come first. He is not sure he would recommend to Council putting the public hearing and siting agreement in front of those two cases, but it is a new idea he has not had time to think about. He stated the siting agreement is a mute point if the special use permit it not approved. Mr. Foster stated from his perspective representing Energix, he sees no problem with Council acting on the permit tonight, and returning to complete the siting agreement later tonight or at the next meeting. In his opinion this permit will not be whole until the siting agreement is approved, it is the last missing piece.

Mr. Shepherd asked if Council can approve the substantial accord and special use permit contingent upon adopting a siting agreement. Mr. Foster agreed that is the way it would work if Council were to not act on the siting agreement tonight. Mr. Neal agreed and stated the motion should be made to approve the special use permit subject to reaching an agreement on the siting agreement with the applicant. Ms. Odom stated the

Mount Jackson
Town Council Regular Meeting
March 8, 2022

-9-

motion would also be subject to the conditions in the staff report in attachments A and B. Mr. Showalter agreed the conditions are an integral part of the siting agreement. Mr. Neal stated the motion would then be to approve the permit with all conditions recommended by staff, contingent upon entering into an agreeable siting agreement with the applicant.

Councilmember Miller MOVED, seconded by Councilmember Andrick to WITHDRAW the previous motion to APPROVE Substantial Accord Case 21-01 and Special Use Permit Case 21-01. There was no vote taken.

Ms. Good stated the substantial accord is different from the special use permit and the siting agreement, and does not think Council should combine SA 21-01 into that same motion. Mr. Neal stated the code does provide if a siting agreement is entered into, it acts as substantial accord. He stated if Council votes not to approve the substantial accord, and then enters into a siting agreement, the siting agreement provides that it is in substantial accord. Mr. Shepherd asked for clarity the exact path Council needs to take because all three of these items need to be connected together for everyone's comfort level. Mr. Foster stated if Council would want to separate 1 or 2 items, it could find that the project is in substantial accord with the comprehensive plan, then approve the special use permit conditioned upon entering into a siting agreement, then have the public hearing tonight or next month and vote after.

Councilmember Shepherd MOVED, seconded by Councilmember Andrick to APPROVE Substantial Accord Case SA 21-01.

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
	Councilmember Good		

5 AYES, 1 NAY, motion carried

Councilmember Shepherd MOVED, seconded by Councilmember Andrick to APPROVE Special Use Permit Case SUP 21-01, Including all Conditions Recommended by Staff, Subject to Adoption of and Approval of a Siting Agreement.

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
	Councilmember Good		

5 AYES, 1 NAY, motion carried

2. Public Hearing on OFW Solar Farm Siting Agreement

Mr. Showalter stated staff recommends tabling this until next month.

Mount Jackson
Town Council Regular Meeting
March 8, 2022
-10-

Councilmember Shepherd MOVED, seconded by Councilmember Andrick to TABLE the Public Hearing on OFW Solar Farm Siting Agreement - Reset for April 12, 2022 at 7:00 PM.

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
	Councilmember Good		

5 AYES, 1 NAY, motion carried

New Business:

1. Resolution R-01-2022 – National Autism Awareness Month – Item moved to next month.
2. Rescue and Fire Support.

Councilmember Shepherd stated February 2022 is the third year in a row there was no legendary turkey and oyster dinner because of the pandemic. Rescue and Fire works hard all year on fundraising activities and COVID requirements have shut down their social hall for two years, which has cost them over \$37,000 in lost revenue for the various events hosted there. Mr. Shepherd proposed any contributions citizens make to Rescue and Fire, the Town will match dollar for dollar for the next few months. Rescue and Fire will receive and track donations and provide the Town a confidential report. Councilmembers agreed to a ceiling of \$40,000, and this should be advertised in the water bill newsletter.

Councilmember Shepherd MOVED, seconded by Councilmember Good to APPROVE the Town Match Dollar for Dollar any New Contributions Made to Mount Jackson Rescue and Fire, Up to \$40,000, Until June 15, 2022.

Mr. Rudy stated in conjunction he would like to see Council receives a consistent monthly report from Rescue and Fire. Mr. Shepherd agreed and added in regards to the tragic fire and loss of the hardware store, there were 60+ firefighters involved in suppressing that fire, half of those being volunteers. He stated there was also a very large propane storage facility next door threatening to go up at any moment.

Robert Whitehurst stated if Council approves this motion tonight he will donate \$2,000 to Rescue and Fire.

ROLL CALL VOTE:

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Councilmember Fultz			
Councilmember Miller			
Councilmember Andrick			
Councilmember Shepherd			
Councilmember Rudy			
Councilmember Good			

6 AYES, motion carried

Motion made by Councilmember Andrick to adjourn the meeting at 8:40 PM.