

TOWN OF SHELBURNE

Planning Board
Minutes of Meeting
Wednesday, Oct. 9, 2013

A duly posted meeting of the Shelburne Planning Board was held on Wednesday, Oct. 9, 2013 at 7:00 pm at Memorial Hall, 51 Bridge St., Shelburne Falls.

Present: Matt Marchese, Chair
Beth Simmonds, Vice Chair
Doug Finn, Secretary
John Wheeler
Cam Stevenson
Liz Kidder, Administrative Assistant

Absent:

Press: Cris Carl, West County Independent

Audience: Ray Hartman, Judy Truesdell, Kevin Parsons, Mike Parry, Janet Sinclair, Tom Webler, Robert Jaros

The meeting was called to order at 7:02 pm.
Introductions were made by all those present.

A motion to accept the minutes of the meeting of Sept. 18, 2013 was made by Doug and seconded by John. Vote: 4 in favor, 0 opposed, 1 abstention by Beth who was only in attendance for part of the previous meeting.

OLD BUSINESS

Windpower Advisory Committee (WAC) Report: Matt and John Wheeler, the Planning Board liaison to the WAC thanked the WAC for their extensive and time consuming efforts to produce their research report and noted their appreciation of the WAC members for sharing their expertise. Matt noted how many hundreds of hours had been spent: it has been a long journey and he said a heartfelt thank you to each and every one who signed up for this task on behalf of the town. Matt turned the meeting over to Kevin Parsons as the chair of the WAC.

Kevin Parsons stated that the WAC had finalized their report – *“Report of the Wind Advisory Committee to the Shelburne Falls Planning Board. Dated: October 7, 2013”* - on Monday night and he had emailed a copy of the original to all the Planning Board members. He also distributed an original and 5 copies to the board that he had printed at Staples. Kevin noted that the WAC did an awful lot of work and put a great deal of time into putting this report together which was unanimously approved by the committee; therefore there is no minority report to present. It does represent hundreds of hours of work by a lot of people and he wants to specifically acknowledged Mike Parry and Ray Hartman who helped by visiting towns where there are existing turbines and reviewing the information collected. The WAC held about 10 meetings with Judy Truesdell recording the minutes of the meetings.

At the beginning they discussed what would be most helpful to the Town of Shelburne and its Planning Board as they look at developing a premises use wind bylaw. They tried to understand what is meant by “small wind” for personal use, what would be the affects, and what would the Town need to protect against. They broke up into subgroups: John Wheeler, Tom Webler and Bob Jaros prepared the first section, *“Operational and Technical Matters”*; Mike Parry and Ray Hartman prepared the second section, *“Impacts”*; and Kevin Parsons and Lowell Laporte developed the third section, *“Legal considerations”*.

In regards to "Section 1" - Kevin encouraged the board to look at Attachment D – *"Status Report on Small Wind Energy Projects Supported by the Massachusetts Renewable Energy Trust"* prepared by The Cadmus Group in and dated November 10, 2008. The committee noted that there is often a significant difference between what a turbine manufacturer projects/promises and what is actually delivered and experienced by the buyer.

Anchorage New York is the perfect case study of what could go wrong. There are 3 of a specific turbine in the one town. That town wanted to do the right thing in terms of alternative energy and therefore bent the rules for the owners who installed "whisper quiet" turbines. They turned out to not be "whisper quiet" and the town is now trying to yank the permits since the turbines did not live up to their manufacturers specifications. The WAC researched how towns have tried to protect themselves from situations that end up as nuisances.

Then the WAC looked at what do our citizens, in Shelburne, need in terms of electric usage. This would really determine how big a turbine someone would reasonably need to install for individual premises use. They tried to get information from WMECO and couldn't get it so they talked to other individuals. They estimate that a 120 ft height limitation would take care of any turbine proposed within Shelburne. As far as size of the system-- the larger the size of the turbine the more sound you are going to get. Therefore, they looked at what the special permit criteria should be regarding turbine size relative to a proposed use.

The WAC couldn't find any research that has made studies of infra sound; therefore the WAC decided not to address issues/impacts from infra-sound.

In regards to audible sound- he directed the Boards attention to attachment B1 – *a letter to Ashfield residents, Ronald Coler and Andrew Wells from Green Berkshires, Inc. regarding a baseline acoustical study in the town of Ashfield conducted by Cavanaugh Tocci Associates Inc.* The WAC researched and analyzed what should be Shelburne's guidelines regarding noise impacts. The WAC feels that there shouldn't be an increase of more than 5dBa over ambient noise levels at a property line in order not to disturb neighbors. Since most of these uses will be on hilltops, neighbors who currently live there are going to be expecting quiet and peace. When someone lives along Route 2 they might have other expectations as to noise levels, but for those living on ridge tops, the WAC believes the 5dBa limit should be appropriate for Shelburne.

In regards to flicker – the WAC feels that any turbine should be sited so that there is no flicker on neighbors. They used the preamble to the Shelburne Zoning Bylaws as to their guidance in making this recommendation.

"The Shelburne Zoning Bylaws are enacted pursuant to Chapter 40A of the General Laws and the Home Rule Amendment to the Massachusetts Constitution, to promote the health, safety, convenience and general welfare of the inhabitants of the Town of Shelburne, to protect the value of land and buildings, to conserve natural resources, to preserve the Town's cultural heritage, rural character and open farmland, and to facilitate residential, commercial and industrial development in a responsible manner."

They feel that if someone wants to do this kind of electric generation, it has to take a back seat to the protection of the neighbors. Kevin referred the Board to a quote in the report made by Mark Rey, Assistant Secretary of the USDA:

"A myth has grown up in the midst of natural resource decision making that good science can, by itself, somehow make difficult natural resource decisions for us and relieve us of the necessity to engage in hard work of democratic deliberations that must finally shoulder the weight of those decisions."

The WAC notes there will be adverse impacts from the installation of a wind turbine and the Town will need to engage in a dialogue to ensure that the rights of the citizens will be protected. Tom Webler noted that the WAC recognizes that most people feel they have the right to choose their energy source. The WAC decided not to address visual nuisances or aesthetics. The WAC is not against renewable energy but their impacts need to be considered.

Ray Hartman noted that before they started this process, many on the committee had been researching large industrial turbines. They thought they would find at least some smaller turbines that would work well. But when they looked at the minimum sized turbines, those they identify in the report, they found experiences in other towns where the installation of such systems caused problems; noises were compared to a helicopter hovering overhead, impacting the residents and their animals. The WAC was surprised that turbines even that small were causing problems. Those examples would not meet the recommended sound guidelines however the turbines could meet the height and capacity guidelines. He noted that in attachment B, *"Wind Turbine Noise Complain Predictions Made Easy" by Stephen E. Ambrose.* This is a piece that has been written by several experts studying small and large turbines closely and it predicts the reactions of neighbors in relationship to changes of ambient noise levels. He encouraged the Board to look at the charts in attachment B – *"USEPA Community Noise Reaction (CNR) levels normalized to Leq for wind turbines in quiet rural areas 2011" by R.W. Rand & S.E. Ambrose.*

Kevin noted that he had emailed a packet that included the results of questionnaires prepared by WAC members as they interviewed town officials familiar with the impacts of small wind turbine installations in their communities. In the overwhelming number of situations there were no complaints. You can have the same system installed and impact on neighbors can be totally different depending upon the topography and other site conditions. He noted that the manufacturers will not make any performance guarantees--some of the installations won't be a problem and some will be--because of the individual, site specific conditions. Unfortunately, you don't know until they are installed. Therefore the WAC wants to err on the side of caution; even when you conduct site specific tests ahead of time, you still don't know what the impacts will be. With the technology that exists right now, it is buyer beware, the specifications and assurances by the manufacturer cannot be trusted.

Tom Webler noted there are tools to do the flicker analysis, but not to assess potential sound impacts. The WAC found conflicting ideas about how to do the sound analysis; there are controversies about how the sound can be measured. If the Planning Board wants, there are several members of the committee that would be willing to explore this question further. Ray Hartman noted there should be a protocol in place to deal with this in the bylaw. Kevin said the committee decided not to get bogged down in arguing this point but the discussion needs to take place in order to help design a protocol. Mike Parry noted that you can get an iPhone app to get an ambient sound level which is not a real scientific assessment, that is why there needs to be a protocol to identify what are the ambient noise levels on any specific site; what time of year, day or nighttime, when leaves are on or off, dead of winter, summer, etc. Mike suggested that the Ashfield study in the attachments (*Attachment B1*) is a good place to start. The ambient sound on Route 2 is significantly different than at a house on Bardwells Ferry Rd for example. Kevin noted that there are some turbines near airports where the residents didn't really notice a difference because their ambient noise level is normally very high.

Beth noted that at 35 dBA people are okay and once you get over 40 dBA more people start to have issues. Ray brought the board's attention to the last page of Attachment B that addresses noise reaction levels in quiet rural areas.

Matt noted that if no flicker is allowed, then it really takes the village area out of consideration even though those who live in the village hear the train which affects their ambient noise levels. Matt felt that one

approach for the board to take is to identify what part of the town is left after you identify the parts of town where a turbine should not be sited. Kevin noted that the current situation is that unless a property owner is given a turbine for free, you aren't going to install it since solar is so much better of an option financially right now. Kevin noted that in reality, the only location appropriate for a turbine is on the ridgelines along Route 2. These turbines could run 24/7 which is different from other uses allowed in town. If we aren't allowing other businesses to have an impact 24/7 than why should the town allow them at all.

Matt asked for any comments from the Board. John noted that most people would like to see some help for the energy situation, but the research of the WAC indicates that small wind is not effective at the present time. There are businesses that used to promote small wind turbines and they are now just switching their focus to solar equipment installations. Matt noted that the science around solar is much more settled, businesses are following the dollar and therefore it makes more sense to pursue solar. Furthermore, it is all about siting, where it is put and then you can determine if it is effective and efficient. How do you manage that in fairness to the community? Doug noted that he feels the technology is out there, he's seen them, but they don't seem to be available on the market. John noted that they were visiting friends in Salem, on the coast where there is ample wind, and they saw small turbines on a parking garage along with solar panels that provided all the energy needed for the parking garage.

Kevin noted that there is a small turbine wind certification counsel in New York. Maintaining the premises use standard is important to the WAC. Matt asked how much, 51% 75%? Kevin said the report encourages that the special permit process should start with a discussion with the applicant on what their needs are. If the applicant only needs 5KW, then the SPGA should identify/limit the size of turbine the applicant installs. This is for the SPGA to deal with— go with the smallest size system needed to meet their demand. Beth asked if they found any other town's bylaws that addressed premises uses. Kevin said they didn't find any examples and that Shelburne is really a pioneer in looking at premises use. In talking with other towns, they are looking to see what Shelburne has found. Kevin asked to have the report put on the website. Liz asked Kevin to get it to her on a thumb drive so that she can get it on the website herself or submit it to the webmaster.

Matt noted that at the last meeting we had received an excel spreadsheet that describes what other town bylaws contain regarding this small scale wind. Matt asked Kevin why this wasn't in the whole report. Kevin noted that in hindsight, it would have probably should have been bound into the report but at this point it is a separate submittal. Ray noted that the guidelines for height and size did come from the WAC's review of what other towns had experienced. Matt noted that he found the questionnaire results really helpful. Kevin said that if the Planning Board wanted to listen to a Bergey model turbine there is one at the Turners Falls Industrial Park.

Matt noted that a lot of the bylaws for a smaller turbine didn't have setback requirements in regards to flicker. For example, in Amesbury and East Bridgewater, there weren't any complaints regarding flicker. Matt questioned if it was possible to establish a setback standard for flicker. Mike Parry noted that in one town, there are 4 Bergey's fairly near each other and the elevation at which they are installed greatly influence the extent of the flicker or noise impact.

Beth asked if the length of the blade has any impact on flicker. Mike noted that the smaller turbines haven't been studied as much as the bigger ones and the small blade can give a faster flicker affect. The small windmills need electric service to manage them; when the power goes down the brake for the blades turns off and in high wind, the blades can just turn like crazy.

Matt asked Janet Sinclair, a Buckland resident in the audience, to leave the meeting due to her making comments when not recognized by the chair. Tom Webler chose to leave the meeting as well in response to the chair's action.

Bob Jaros noted that a property owner can spend a lot of money installing a turbine, but if it doesn't meet the standards in the town's bylaw, regardless of the manufacturer's specifications, the owner needs to understand they may have to take it down. Matt suggested there should be a contract between the buyer and installer. Ray and Bob said the Town needs to be ready to address this issue; the buyer's need to be aware of the problem with the representations of the turbine sellers and understand their responsibility, as the land owners and holders of the special permit, to meet the Town guidelines. Matt remembered that when Mr. Fields' made his presentation, he said that his site was the best in Shelburne but it would only be running at 25% efficiency.

A motion to extend the WAC charter for another 40 days was made by Matt and seconded by Beth.

Matt noted that his intent in this extension was to allow the Board time to review the report, digest it and have the opportunity to get back to the committee with questions.

Vote: 5 in favor, 0 opposed, 0 abstentions.

Matt gave a heartfelt thank you to everyone on the committee and hopes that when we go to town meeting in the spring with a bylaw, it will be a joint presentation.

Solar zoning bylaws – proposed solar advisory committee update: Liz noted that we had received an email from Pat Stevenson, Dragon Hill Rd., and Tom Miner from the Conservation Commission, volunteering to serve on the Solar Advisory Committee. Matt and the board decided to wait until their next meeting to see if more people will volunteer to serve. Matt asked Liz to contact the two and send them copies of our draft bylaw.

Kevin noted that he represents the applicant for the proposed Rowe commercial solar energy facility; Mike Loin is with Bertin Engineering and is the consultant for the Rowe project. He has also been a consultant for other large scale solar projects; he has seen the good, the bad and the ugly in regards to solar zoning bylaws. Kevin reported that in Mike's opinion the Rowe solar bylaw is the best he has seen--it is defined and thorough. Kevin recommended that Shelburne take a look at it. Kevin felt that Shelburne could just take it as written and incorporate it into Shelburne's bylaw. Kevin said Mike Loin is a really good engineer with a strong background in siting such facilities. Kevin will give Matt his contact information so that Matt can reach out to him for input. In Kevin's experience, the "big boys" in solar would only want to invest their time, energy and money for 2-3 megawatts installation at a minimum. Some of the big players only want to invest in 6 megawatt facilities. Kevin said that the Heath bylaw is limited to 1 megawatt. He feels that if Shelburne really does want to see industrial solar, then the Town should look at the possibility of up to a 6 megawatt facility which would require 12-18 acres because of the costs of the upfront investment needed to get such a project off the ground. Mike noted that is the question for the town – does the town want to see a large commercial solar facility installed in Shelburne.

Matt asked Liz to get the Rowe solar bylaw off of their website and distribute via email to board members.

Community Energy Strategies Pilot Program update: Matt noted that in the Board's packet there is information on the community forum that is going to be occurring on Oct. 22nd. Matt asked Mike if he went to the initial meeting. Mike reported that there were 5-6 people from Shelburne of the maybe 50 present. It was very clear that everyone there was looking for options for alternative energy sources. Mike said there was very little discussion of wind with much more discussion about other alternative energy sources. Mike noted that the most important issue raised was that there is no one place for a resident to go that has

good information on the full range of possible energy sources for their home. The consensus was if the state wants to help, they should develop an information clearing house. John noted he had attended and that it was really a brainstorming session to identify what people really wanted.

Draft Subdivision Regulation review : Liz Kidder reported that she had attended a meeting held in Leyden that included a presentation by Jeff Lacey regarding Natural Resource Protection Zoning . Jeff is a professional planner who is also a member of the Shutesbury Planning Board which has adopted this zoning approach. While this presentation was for Leyden, Liz made copies of the handouts for the Board. As the handouts state

Natural Resource Protection Zoning (NRPZ)" is the most protective zoning in Massachusetts for areas where the retention of natural resources and promotion of resource-based economies outweighs typical suburban development. Unlike most cluster zoning, NRPZ is offered by-right, whereas more conventional, land-consumptive development requires a special permit. Significantly greater design flexibility is offered to landowners. NRPZ is a low-density approach where 65-90% of the land must be permanently preserved; it complements the work of land trusts, freeing them to focus funds on lands where no amount of development is appropriate. NRPZ is the cornerstone of conservation-friendly zoning."

Liz noted that this approach had been mentioned by Peggy Sloan at our last meeting and that the Shutesbury Zoning Bylaw is available online. Liz had contacted the Shutesbury Town Clerk and obtained digital copies of their subdivision regulations as well. Since the Board was seeking other examples of subdivision regulations to review, Liz thought the Board may want to compare matching regulations in a town with flexible zoning options.

Matt asked Liz to review both the Shutesbury bylaws and the subdivision regulations to chart any relationships between the two in regards to the flexible zoning option and to have this for the Board at their next meeting.

NEW BUSINESS

Shelburne Community Development Strategies Review: The board reviewed the draft strategies and had the following questions: Is there an intent to pursue a master plan? Is there anyone working on this? Beth had a question about the affordable housing plan and strategies which listed this as a Planning Board activity. Liz should ask the Selectboard if they are asking us to work on these.

COMMITTEE UPDATES

FRCOG Planning Board: Cam said he has sent in his contact information to the FRCOG but hasn't received any notices yet or attended any meetings.

Open Space: John said he has been to some of the meetings. He noted that the reasons to do the open space plan is that there is grant money available from the state for programs and to get that money you need to have an up-to-date plan. The open space survey was done last year and the results showed that people in town were overwhelmingly in favor of preserving open space. He noted that there are a lot of people who are putting a lot of work in on finishing this open space plan.

Matt noted that at last month's meeting the Board had reviewed and voted on several action statements for the Planning Board to carry out as part of the open space master plan. Matt said the Board had received an email on Tuesday noting that the Open Space Committee (OSC) had made some revisions to them and David Schochet wanted to come before the Board tonight to discuss those changes. Matt noted that this request was received after the agenda was posted and without enough time to appropriately post this agenda item. Matt said he was open to whether the board wants to take up the changes tonight or to wait until the next meeting.

Cam said that since people may want to hear the discussion then maybe we should wait. Liz noted there will also be a public information meeting where it will be presented before it is adopted. Matt noted that one of the reasons he ran for office was to ensure open discussions in well noticed meetings – he didn't want to hear about things being discussed without the residents being notified about the meetings and specific agenda items. However, he is not opposed to some discussion tonight.

David Schochet said they just finished their edits on Monday night. Tonight he just wants to present how the OSC has modified the Planning Board submittals to make them consistent with other sections of the action plan. He knows that the Planning Board was not notified before last night. He noted it could be part of the update of committee activity. Matt asked when are they going to hold a public hearing. David noted they want to go to public hearing no later than November 10th since their funding with the FRCOG must be spent by the end of the year which includes the printing of the plan. So, the OSC is hoping to just review the modest format changes tonight. David noted that the board voted on it at last meeting and he has taken that info and put it into the action plan and he just wants a confirmation that they dealt with our information correctly.

Beth suggested that there be a meeting of the Planning Board just to address this review. The Board scheduled a meeting for Wednesday, Oct. 23rd at 7Pm for the sole purpose of addressing the edits to the open space plan as it relates to activities to be undertaken by the Planning Board. Matt asked Liz to attend and to post the meeting.

Long Range Planning: Doug reported that they finally had a meeting, however, they have lost half of the members and Leo Ojala is now the chair. Their task is to look at the properties/buildings owned by the town to discuss how they are being used, determine if they need renovations, and to track the maintenance and use of all the buildings in town. They started with the Library which is already working to raise the funds for needed renovations. The committee is meeting next at Cowl Gym and they are investigating the ownership of the garages adjacent to the Visitor's Information Center.

OTHER BUSINESS NOT REASONABLY FORESEEN 48 HOURS PRIOR TO THE MEETING - None presented.

Read Mail – the Board reviewed notices of public hearings from neighboring communities and a notice of Citizen Planning Training Collaborative Fall 2013 Workshops.

Public Comments: none presented.

Schedule next meeting - Wednesday, Oct. 23 at 7pm just to deal with the Open Space Plan. The next regular meeting will be Wednesday, November 13th, Liz will be away but she will prepare materials and post the meeting. Beth volunteered to take minutes.

Doug moved to adjourn the meeting which was seconded by John.

Vote: 5 in favor, 0 opposed, 0 abstentions.

The meeting was adjourned at 9:10pm.

Respectfully submitted,

Liz Kidder
Administrative Assistant

Minutes of meeting held Oct. 9, 2013 Approved: _____ Date: _____ 7