

**Town of Shelburne
Planning Board
Minutes of Meeting
Wednesday, November 28, 2012**

A duly posed meeting of the Shelburne Planning Board was held on Wednesday, November 28, 2012 in the Memorial Hall meeting room.

Present:

Matt Marchese, Chair
Beth Simmonds
Doug Finn
John Wheeler
Liz Kidder, Administrative Assistant
Briony Angus, Tighe & Bond
Deborah Countinho, Board of Health

Absent: none

Audience: Michael Parry, Tom Webler, Ed Blatchford, Janet Sinclair

Meeting was called to order at 7:00pm. Matt noted the meeting is being recorded by Mike Parry. Matt stated that the purpose of this meeting is wind turbine bylaw development and introduced the Planning Board's wind power consultant, Briony Angus of Tighe & Bond.

Minutes of November 7, 2012: Doug made a motion to accept the minutes as written. Seconded by John. Vote: 4 in favor, 0 opposed, 0 abstentions.

OLD BUSINESS:

Windpower Advisory Committee:

Resolution: Matt noted that in the board's packets were a draft mission statement/resolution for the wind advisory committee, excerpts from the minutes of the September Board meeting that include the discussion regarding the purpose of forming a committee and a list of those who have applied to serve. Matt asked the Board if they have had a chance to review the draft, prepared by Matt and Liz, which had been sent out by email last night. Matt read the resolution into the record and for the benefit of those present.

Matt explained that he had inserted the name of John Wheeler as the Committee Coordinator because he is the only Board member without another committee responsibility. Matt asked John if he was comfortable with that position. John replied he was if the rest of the board felt comfortable. Beth asked if he would be required to attend the meetings. Matt responded that it would be good and in fact any members of the Planning Board should feel they can attend. The first task of the committee will be to get organized. Matt discussed the need to comply with the Open Meeting Law and therefore to have a quorum. He noted that if all the members of the Planning Board want to be a part of the committee, then you are raising the number of voting committee members needed for a quorum. It was discussed whether John would be a voting

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member as well as coordinator. John noted that the Planning Board has the final decision making responsibilities so whether he votes or not was not of major concern.

Matt made a motion that the Board accept the proposed resolution as presented. Doug seconded.

Vote 4 in favor, 0 opposed, 0 abstentions.

Matt asked Liz to forward a copy of the resolution to the Selectboard.

Appointing committee members: Matt noted that the Board had held off on the appointments because Beth had not been able to attend last month. At the last meeting both John and Doug had said that they were comfortable with appointing all of those whom had applied and he asked Beth how she felt.

Beth said that she felt it was wonderful to see how many people had offered to serve and how she appreciated it and thanked everyone. Beth wanted to note that at the end of the process we have to come together and present a bylaw at town meeting. Beth wants this committee to be a positive experience both for this town and for those participating on the Committee. In the end she wants people to feel they have had a positive experience and not be turned off to participating. In the end we need to have something to bring forward to the town and it will be the town making the decision on approving a bylaw or extending a moratorium to continue working on it. She noted that a lot of very talented and knowledgeable people had come forward to serve.

Both Doug and John felt it was a good group of people and one that the town could have confidence in.

Matt made a motion to go ahead and offer a seat to the 11 applicants to the wind advisory committee. Beth seconded.

Beth noted she needs to recuse herself on Eugene Butler, a family member.

Matt called for a vote to offer a seat to the 10 applicants, those on the list except for Eugene Butler, on the wind advisory committee.

Vote: 4 in favor, 0 opposed, 0 abstentions.

Matt called for a vote to offer a seat on the wind advisory committee to Eugene Butler.

Vote: 3 in favor, 0 opposed, 1 abstention by Beth Simmonds who had recused herself.

Liz was asked to email everyone on the list offering them a seat on the committee and ask them to accept the appointment by a certain date. She was asked to attach the resolution forming the committee and the excerpts from the September meeting which included the discussion by the Board about their goals for the committee. Liz noted that she would coordinate the email with John.

Wind Turbine Moratorium: Matt reintroduced Briony Angus, the Board's wind consultant. Briony reviewed her role funded through a grant from the FRCOG and what she covered at the last meeting. Her goal tonight is to spell out what would specifically go into a draft wind bylaw for

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Shelburne. Briony distributed a three page handout “Current Town of Shelburne Zoning Bylaw: Considerations for Addition of a Small/For Premises Use Wind Bylaw” dated 11/28/2012 and a map showing which locations in Shelburne may have some potential for wind power production. Briony stated that she planned work through the handout this evening and then she will take the input to prepare a draft bylaw that she will present at a meeting on December 19th.

Matt emphasized to those present that we are in the very early stages of the process to develop a wind bylaw for Shelburne. The meeting with Briony in December will be a regular Planning Board meeting and he will include ample opportunity for public questions.

Briony read our current bylaw’s definition for premises use--Section 2.39:

Wind Turbine Systems for Premises Uses: *Any system of turbines, whether located on the building or the ground, designed primarily to generate heat or electricity for the principal home or business located on the lot; such systems may generate a limited amount of excess electricity for resale to an electrical utility provided the system is designed principally to supply the electrical needs of the home or business on the lot.*

Briony noted that in order to effectively implement this bylaw, the Board needs to understand what is meant by “primarily”, “limited”, and “principally”. What information will the town ask the applicant to provide that will allow the board to evaluate their proposal in regards to these three terms. This definition could apply to situations in which a large business could install quite a large turbine and still have it qualify as premises use.

Briony asked what was the Town’s intention with this language? Matt said he understood that those who prepared this definition basically borrowed language from our solar premises use definition. Matt asked Mike Parry if he had anything to add and he concurred with Matt’s explanation and gave Briony background information on how this bylaw amendment was developed. Briony stated she wanted the Board to understand that while this language makes sense for a solar application, it is much harder to use with wind turbines due to the amount of kilowatts generated. Matt said the board is open to changing this language; the board wants to present the best bylaw allowing for effective implementation by the SPGA. Briony thanked Mike for his background information and said she found it helpful to get his perspective.

Briony suggested using height and capacity as a guide to get us to the safeguards wanted by the town. Briony asked what size turbine, height and capacity, the town wanted to address in this bylaw. Beth noted that the Board really hasn’t had that discussion yet. Beth asked if Briony had seen bylaws that allow it by right up to a certain height and then by special permit for taller structures. Briony said there are examples including Shelburne’s cell tower bylaw.

Matt noted he feels there are major concerns in town as to whether a turbine would affect the health and safety of neighbors. Briony pointed out that the map shows that the Town of Shelburne does not have the potential for much large wind power, except for one area. Beth asked if there is a correlation between height and kilowatt capacity in relation to terrain and impact on sound. Briony said that the noise generators are usually higher in the air and there are a lot of factors to consider regarding the relationship of terrain and adverse impacts. The Board needs to be

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comfortable with setbacks and siting and height that they choose. Matt asked if it was common to allow a small turbine by right and Briony said yes. Briony said that at some point you need to determine what height is going to trip a size threshold. Matt asked Briony if she could identify what the trigger might be. Briony responded that she wouldn't recommend regulating anything under 50 feet.

She noted that Ashburnham's definition of small was anything less than 60 kws with a maximum height of 160 feet. It also set siting standards – the equivalent of site plan review. Beth noted that the Becket wind bylaw set 200 feet as a minimum. John suggested that Briony insert a number she thinks appropriate since it is a draft and then the Board and the wind advisory committee can work on it. Briony said that the height can also affect how she writes the rest of the draft bylaw.

Matt said he was leaning toward an overlay district and having a minimum standard under which it doesn't make sense to regulate. Briony said you may want to consider just prohibiting it from the village and just looking at rural residential/agriculture. Matt suggested mirroring our cell tower bylaw and Briony said you can even make it simpler. There was an extensive discussion on whether to address it in certain districts or to have an overlay. Matt was concerned about fairness based upon the wind resources. Briony said it would be easier to just set standards and if it meets it, then it is allowed by right and if not then it requires a special permit. Briony asked if there is a sense of aesthetic concerns in town relating to roof mounted turbines and Beth said she sensed that there is.

Briony noted that if some turbines are allowed by right and some trigger a threshold for a special permit then the building permit would be the first step in the permitting process. Liz mentioned that the ZBA is currently revising their special permit procedures and she would get her a copy. Briony will use the cell tower bylaw as a model for the wind since there is a site plan review process. Briony is going to look into other examples of bylaws relative to roof mounted turbines. Matt noted that the type of turbine at Diemand farm would still have to meet requirements related to sound and health impacts. Matt asked Deb of the Board of Health if she thought there were specific health concerns regarding roof mount turbines. She said that she has visited several small turbines while they were running on the Cape and is collecting extensive information so that she can participate in discussions on specifics when they are presented.

Matt said that he is envisioning an applicant submitting initial information similar to a basic building permit application that is reviewed by the building inspector/zoning enforcement officer. Beth asked if Briony has seen any bylaws requiring a sound study for small scale turbines. Briony responded no. Briony said it is for the board to decide at what size threshold is the town going to require a sound study. Briony noted that both Ashburnham and Worcester both reference the state standards for sound.

Briony moved on to siting standards to be addressed specifically – height, appearance, signage, setbacks, noise, visual, and flicker. Briony reminded the board to consider what the boards are going to have to go through in terms of reviews of the applications; are there going to be studies and reviews prepared by professionals for both sides? Sometimes it is easier to come up with

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setbacks as the starting point of the review; normal dimensional setbacks and then fall zone. Beth suggested go for the more conservative to start with. As a place to start, Matt suggested 1.5 of the height of the turbine. Briony suggested as an example, that if you are proposing a turbine within 3000 feet of a residence other than the house on a property than a noise study could be required. Briony asked if our BOH had any noise standards and Deb responded not at this time. Briony reviewed options in approach that the Board should consider. She also suggested to study other noise generators in Town for comparison or to just use the states standards. Matt said as a starting point just use the state standards. Beth asked if there is any way to tie the standard to changing technology. Briony said that if you reference a state standard then if that standard changes, our standards do as well. Briony then asked how would the Board want to enforce a noise standard? She suggested the committee could look at what other noise generators are in our area for a start to develop a comfort zone and identify at what threshold we want to require a study.

Briony noted that for flicker there is an industry standard that most towns use. What language does the board want to use in relation to flicker as well as appearance and visual impacts? Briony noted that when you use certain language, you have to think about who is going to be responsible for having it considered reasonable. Beth asked how much it would cost to do a study on flicker. Briony said it is cheaper than noise but there are only a small group of businesses that have the software to do it. There was a discussion about who pays for studies if there is a problem after it is in operation.

Visual impacts, do we want to include this? Matt said maybe this can be covered by setbacks. Beth said she felt the bylaw should focus on health issues. The board felt that getting into the aesthetics was opening a whole different discussion.

Briony asked again what should be the trigger for requiring a special permit rather than allowing by right and what information has to be submitted by the applicant – such as engineering plans, noise and flicker studies. The Board said that they envision the Planning Board being the SPGA for wind projects. Briony suggested mirroring the ZBA's special permit procedures. There was a discussion on whether to require balloon studies where an applicant puts a balloon at the height of the turbine so that you can determine from where it will be seen. The consensus of the board was not to include such a requirement.

The first step of the application process could be to prove you meet the basic standards so that your project is allowed by right. If an applicant misses on one or two areas on the list, should the applicant be able to apply for a waiver from the SPGA? Briony noted that you can define certain types of waivers that could be granted in the bylaw. A general discussion occurred regarding waivers. Matt said that from a draft point of view, he'd like to see a waiver option as part of the mix.

Briony noted that in Shelburne's cell tower bylaw there is a requirement for a financial surety related to decommissioning. Briony noted it is standard in most large scale wind bylaws. Matt suggested tying a requirement into a length of time the turbine is not in use. Briony will use

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language similar to that currently in our bylaw; if not in use for a certain length of time it will be dismantled by and at the expenses of the owner.

Briony asked about fees for reviews such as in 16.9 of cell tower – does ZBA have a separate fee for that? Liz said she would check with the ZBA and get back to Briony.

Briony asked if she should work on any language in regards to large scale wind and the board said it is already prohibited and therefore no.

Matt thanked Briony very much and was very impressed with how much was accomplished in a short time noting it was only 9:12pm. Matt said he is looking forward to our next meeting in December when Briony would present her draft bylaw. Briony said that she would use 60 kw and 160 feet as a starting point in the bylaw since we have to start somewhere. Beth asked if we could go back to the drafters of the language for solar to get their intent in regards to the terminology used. Both Matt and Briony pointed out that the language was appropriate for solar since you produce less energy but not useful for wind bylaw language since there is a large difference in the amount of energy produced.

Other Business not reasonably foreseen 48 hours prior to the meeting: Matt read an email that was received this morning from Peggy Sloan, the Director of Planning for the FRCOG, asking us if Shelburne wants to be included in a regional application for a “Community Energy Strategies Pilot Program”. The Overview of the program is as follows:

Under a new pilot program, MassCEC, in partnership with the Department of Energy Resources (“DOER”) Green Communities Division, will help communities identify and enable local opportunities for clean energy development. The Community Energy Strategies Pilot Program will assist up to five municipalities and/or Regional Planning Agencies to identify and develop strategies for implementing the mix of clean energy projects and incentives best suited to address local interests, needs, and opportunities for clean energy development.

The Community Energy Strategies Pilot Program is based on the principle that the ideal approach to clean energy comprises a combination of energy conservation, energy efficiency and renewable energy generation. A wide variety of existing programs administered by MassCEC and DOER provide financial and technical assistance to support multiple renewable energy generation and energy efficiency technologies. The potential for individual technologies varies from community to community and depends on a number of factors including municipal budgets, geography, age of housing stock and other buildings, and feasible renewable energy siting locations. The Pilot Program supports a planning process that combines resource assessment with broad stakeholder involvement to align the community’s clean energy needs and priorities with its available clean energy resources and potential.

Matt noted that this is one opportunity in which the Town could get assistance and we would more likely be successful to be part of a regional grant than going in by ourselves. He noted that Peggy needed immediately since the letter of intent was due on Friday of this week.

Doug made a motion to send a letter of intent to Peggy Sloan at the FRCOG to participate in the grant application. Seconded by Beth.
Vote: 4 in favor, 0 opposed, 0 abstentions.

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Matt asked Liz to notify the selectboard of our interest and to explain the program to them.

Briony asked when to get us a copy of her draft to review before the meeting on Dec, 19th and it was decided she would try to get it to us by the 10th so that the board can see it before their meeting on the 12th.

Read Mail: the Board read mail that had been received since the last meeting which included notices on public hearings in other towns, a notice regarding an all-boards meeting on Dec. 17th. Matt noted he may be away and did anyone on the board want to represent the Board. Liz suggested putting it on the agenda for the meeting on Dec. 12 to see if there are any concerns the board wants to present and determine who can attend the meeting.

Liz noted that she had talked with Brock Cutting about reviewing Subdivision Control Regulations and he didn't have the time but also it really wasn't his area of expertise. He said that his former partner at Dodson Associates, Peter Flicker, had more experience with subdivision control but was not a resident of Shelburne and not likely to volunteer. Liz had talked with Peggy Sloan about grant opportunities and the only grants available are the FRCOG Technical Assistance Grants like the one we are using to hire Briony. The FRCOG will be sending out a notice about grants for next year in December to the Selectboard and we should make a list of the type of assistance we would like and include that in our discussion with them. It was noted that the Open Space Committee will also be seeking one of these grants to help update their Open Space Plan and there is only going to be so much money available. Matt asked Liz to talk to Terry and ask her to notify us as soon as the information about this grant program is received.

John asked if the wind advisory committee should meet soon. Matt suggested encouraging them to attend on the 19th to hear Briony's presentation. At that meeting, the Board should be ready to assign some specific tasks to the committee.

Public Comments: none presented.

Next Meeting: Thursday, December 12th at 7PM.

Doug made a motion to adjourn the meeting. John seconded.

Vote: 4 in favor, 0 opposed, 0 abstentions.

The meeting was adjourned at 10:36pm.

Respectfully submitted by:

Liz Kidder
Administrative Assistant

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