

TOWN OF SHELBURNE
Planning Board
Minutes of Meeting
Wednesday, December 12, 2012
Memorial Hall

A duly posted meeting of the Shelburne Planning Board was held on Wednesday, December 12, 2012 at 7:00 PM.

Present: Matt Marchese, Chair
John Wheeler
Doug Finn

Absent: Beth Simmonds – she had notified Matt and she will be here next week.
Chuck Washer

Audience: Mike Parry, Judy Truesdell

Press: Cameron Graves

Meeting called to Order: 7:06pm

Read and Approve Minutes: Motion to approve the minutes of November 28, 2012 as written was made by Doug and seconded John. Vote 3 in favor, 0 opposed, 0 abstentions.

OLD BUSINESS:

Wind Turbine Bylaw Development – Matt reviewed the latest submittals from Briony Angus in preparation for her meeting on December 19th.

- Briony's email describing the materials she has prepared, 12.10.12
- Draft Small Wind Bylaw Outline 11.28.12
- Small Wind Bylaw Considerations 11.28.12
- Potential Changes to Existing Bylaw 12.12.12
- Draft Shelburne Small Wind Bylaw 12.10.12

Matt restated that this is a draft bylaw that Briony will be presenting at next week's meeting at the school. Matt asked the board to make sure they review it, especially the purpose and applicability sections.

Windpower Advisory Committee --John Wheeler said Eugene Butler, Mike Parry, Ray Hartmann, Judy Truesdell, Robert Jaros, Thomas Webler, Kevin Parsons had all accepted the invitation to serve on the wind advisory committee. Liz Kidder reported that Lowell Laporte of the ZBA had notified her that he would like to serve as a voting member. Deb Andrews has withdrawn for health reasons and neither John nor Liz had heard back from Ken Eisenstein or Nancy Albertson. John will follow up with the 2 who didn't respond. Matt noted that Bev had offered to attend the meeting on the 19th at 6:45 to swear everyone in and give them their open meeting law information packet.

Matt said he hopes the members of the wind advisory committee would attend on the 19th so that they can have the opportunity to hear Briony's explanation of how the bylaw was developed. Liz was asked to forward the materials from Briony to the committee members so that they can review them before the meeting as well.

Matt asked if there were any questions at this point from the Board. John said he had one question - in the draft it states that the Planning Board is the SPGA for the wind bylaw. John noted that if the Planning Board is the SPGA they will have to develop their own special permit procedures. Briony noted in her notes that the Board may want to adopt the ZBA procedures that were just updated. John asked if there is a reason

why the Planning Board should be the SPGA instead of the ZBA? Matt said in general the ZBA reads the bylaw and then applies the standards. The current Planning Board will gain a great deal of knowledge about wind energy systems during the process of developing the bylaw. Therefore, Matt thought they will have an in-depth knowledge of the intent of the bylaw and its nuances for the next few years. If there is a proposal for a small wind energy system in the near future, the Planning Board will also then have the opportunity to experience implementing the bylaw. It will let them find if there are any parts of the bylaw that need improvement. Once the Board knows the bylaw functions effectively, the Town may choose to turn over the SPGA responsibilities to the ZBA. Matt noted that in other towns, the Planning Board is often the SPGA and the ZBA deals with variances and other zoning appeals. In the end it will be up to Town Meeting.

Matt reminded the Board that this next meeting is the last chance to meet with Briony and to take advantage of the opportunity to get as much information from her as possible.

John noted that he has been asked when the committee is going to meet and he will organize a meeting as soon as he hears from the last two possible members. Matt encouraged John to contact him if he has any questions about coordinating the committee.

Community Energy Strategies Pilot Program update: Matt noted that at our last meeting the Board voted to include ourselves in a regional application through the FRCOG. Matt read the email from Stacy Metzger:

"Dear Partnering communities: we are very excited about the potential opportunity to work together on the new MassCEC Community Energy Strategies Grant. I expect this grant will provide very valuable technical assistance for each of us in planning for a clean energy future and have a positive impact in the planning for the region as well.

We will gladly take the lead on preparing the application for submission. We have created a checklist of information that would be helpful to receive from each community in support of the grant application and that is attached. I am also attaching the Community Solicitation document which provides a more detailed description of the grant application requirements.

We have started preparing the grant application and will incorporate additional information as we receive it from you. This is a very condensed application period (applications are due 12/21) so please feel free to send supporting information along as it becomes available. Please let us know if there is anything we can do to help."

The Board reviewed and made notes of information needed by the FRCOG. Matt noted that the Board needs to designate a "Community Project Leader" who will represent the town on the regional grant. Matt said he would call Stacey at the FRCOG to discuss with her what type of time commitment and tasks would be required of this person and he asked Liz to put this on our agenda for the meeting on the 19th. Matt asked Liz to contact the Selectboard and get Matt on the agenda for their meeting on Monday evening so that he can present information on this application and to seek their support.

December 17th All Board's Meeting: Matt reviewed the invite from the Selectboard to attend the annual all board's meeting here at Town Hall on Monday at 5:45pm. Matt will give an update on solar, wind, subdivision, and general zoning revisions. Liz suggested discussing the expected RFP from the FRCOG relative to technical assistance grants for next year and the goals of the Planning Board. Liz also mentioned some technology issues and Matt will bring up whether the staff can have direct access to the town website for posting information.

Draft Subdivision Rules & Regulations: Matt noted it would be nice to get a small amount of money to do another review of the 2008 draft and update it if needed. Liz noted that she had asked Peggy if there were any grants available for this and she said the only opportunity would be the Technical Assistance Grants from the FRCOG.

General zoning bylaw revision process: the Board continued their review of a list of suggested zoning bylaw revisions discussed with the ZBA at a joint meeting on September 13, 2012. Matt said the Board would vote on these proposed changes at the January meeting.

- **Section 6.2 Special Permits-Rules and Regulations:** - last line of that paragraph should have “shall have 30 days” changed to “shall have 35 days”.
- **Section 2.5 Bed & Breakfast** [definition] – delete “Bed & Breakfast establishments which can accommodate five or more persons per night will be required to meet additional Building Code requirements related to fire safety.”
- **Section 2.27 – Municipal or Non-Profit Trail** –The first line of the definition should be changed to read: “Any trail, walkway or pathway open to the general public and intended for non-motorized, except mobility assisting devices used by handicapped persons, recreational use.”
- **Ordinances vs. bylaws:** there are numerous references to “ordinances” in our current bylaw. All of these need to be found and changed to “bylaw.” Matt will contact Donna and find out if we can just do that since towns only have bylaws or if each of the changes need to go before town meeting.
- **Section 4.3. Table of Use Regulations**—for these three special permits in the RA district add an asterick to say “except as land designated as Chapter 40a section 3, as allowed by right.”
 1. “Agricultural Manufacturing with 5,000 square feet or less of enclosed floor area” (Agricultural & Recreational Uses)
 2. “Kennel or Animal Shelters” (Business Uses)
 3. “Sawmill” (Industrial Uses)

Matt noted there were other suggestions relative to the use table which could lead to extensive discussions. He proposed taking these up at the January meeting. Also at the January meeting, the Board decided to start looking at the suggested changes proposed by zoning enforcement officer and building inspector Jim Hawkins.

NEW BUSINESS:

Committee Updates:

Open Space: Doug reported that the Open Space Committee has their surveys ready to mail. They are looking for the funds to cover the cost of the postage and deciding when is the best time to mail them. Matt asked Doug to find out what is the minimum number of responses needed statistically to consider their results as a fair representation of town opinion. He encouraged them to use this number in the mailing or press releases so that people are encouraged to respond. Matt asked if they are going to ask the selectmen to use the reverse 911 system to ask people to look for and respond to the survey. Doug said he would check and report back in January.

Wind advisory committee: John asked if the Board was going to prepare a list of tasks or charges for the wind advisory committee at the meeting on the 19th. Matt said yes, after Briony’s presentation and asked Liz to put this on agenda for that meeting.

Other Business not reasonably foreseen 48 hours prior to the meeting:

Budgeting letter from the Board of Selectmen. The BOS has heard that Gov. Patrick is planning major cuts in local aid that could affect this fiscal year’s budget. Matt also noted they could propose up to a 2.5%

increase for Liz. The Board needs to work on their budget at the January meeting, going through it line item by line item.

Mail: Matt read email from Deb Andrews notifying the Board that she had broken her arm and would be unable to serve on the Wind Advisory Committee; and a Community Development Block Grant public hearing notice.

Public Comments:

Mike Parry asked whether the Community Energy Pilot Program will mirror and encourage Shelburne's participation in the Green Community Program. He is concerned that this program may encourage expediting the permitting of both large and small scale turbines. Mike noted that the Mass Clean Energy is for all "green" energy approaches and he is very concerned about participating in this program, especially if it leads to expediting the permitting process for large scale wind turbines.

Mike also asked why the planning board wants to take charge of the special permitting process for wind turbines. When has the Planning Board ever suggested this before? He is concerned about the perceived conflict of interest of several members of the board and is concerned about how the town will react to this proposed.

Matt noted that the state Zoning Act allows the planning board to serve as the SPGA and in many other towns the PB has a much more robust role as the SPGA. At this point it is a draft bylaw that will eventually be voted on by town meeting. This Board has not spoken to the other town boards about this. There are going to be many meetings where this can be discussed. As far as perceived conflict on the part of one or more board members – where there has been a conflict, some have recused themselves and others have reviewed their status with the State ethics commission and filed the appropriate paperwork with the Town Clerk.

In regards to Mass Clean Energy, Matt thanked Mike for sharing his concern. At the present time, Shelburne has a ban on commercial wind and it would take a 2/3rds vote of town meeting to change that. Matt's understanding of the Green Communities program is that you don't have to address or allow every possible type of green energy. There is a list of things the town could do, but the town doesn't have to do all of them. It is not just up to the Planning Board to work on the green community's designation, several of the items would need to be addressed by the Selectboard. Liz will forward the web links to Mike on the pilot program.

On Planning Board as SPGA, John noted there will be opportunities to discuss this with other boards. Matt noted that he has a lot of respect for Shelburne's Zoning Board of Appeals and recognizes their experience in granting special permits. He did note that the ZBA is appointed by the Selectboard and the Planning Board is an elected body. Residents need to consider whether they want an elected board or an appointed board to oversee this particular special permit responsibility. The technical aspects of wind are something that the planning board is in the process of having to learn in order to develop the bylaw. As a result, in the beginning, this board will have more understanding of the nuances of the bylaw. Both John and Matt stated that there are very capable people on the ZBA and there will be opportunities for further discussion.

Next meeting will be December 19th when Briony will present her draft small scale wind turbine bylaw. The next regular meeting of the Board will be Wednesday, January 9. Matt noted he will be away and he will ask Terry whether he can chair the meeting by telephone.

Doug made a motion to adjourn the meeting which was seconded by John. Vote: 3 in favor, 0 opposed, 0 abstentions.

The meeting was adjourned at 9:05pm.

Respectfully submitted by:

**Liz Kidder
Administrative Assistant**

Documents discussed:

Briony's email describing the materials she has prepared, 12.10.12

Draft Small Wind Bylaw Outline 11.28.12

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Potential Changes to Existing Bylaw 12,12,12

Draft Shelburne Small Wind Bylaw 12.10.12

Community Energy Strategies Pilot Program: Pilot Community Solicitation 11/09/12