

Town of Greenwood

Ordinance Review Committee Meeting Minutes

June 15, 2017

Item 1: Call the Meeting to Order/Determine quorum Chair Merlino called the meeting to order at 5:30pm.

Larry Merlino, Chairman
Paul Marcolini, Vice Chair
Brad Payne, Secretary
Tyler Bennett
Betsey Foster
Jessie Frederickson
Jim St. Germain
Dennis Doyon

Absent: Becky Secrest\
John Maloney, AVCOG

Item 2: Citizen/Public comments – None

Item 3: Committee Member comments

Tyler asked the Committee to consider Ordinances from neighboring Towns as we are all part of the same community and we should support our neighboring community.

Jessie stated that she felt the Committee should also look at the area economy and how this would not just impact Greenwood but our neighbors as well.

Chair Merlino reminded the Committee but their task is to look at the specifics of the Ordinance and work on those details.

Item 4: Reviewed Minutes of June 1, 2017 – Minutes were read and accepted as presented.

Item 5: Reviewed the revised Deficiency List provided by John Maloney, AVCOG

The Committee reviewed the paperwork submitted by John Maloney.

1-301.5 Fees

Paul Marcolini asked if the fee structure presented in this is adequate to cover the Town's overhead and time. He asked how do we know if this fits today's market? He asked if we were only looking at the fee structure as it pertains to Wind projects? Chairman Merlino stated that this would just pertain to fees for Wind. Chair Merlino asked if Kim could check with Woodstock to see if their fee structure worked out with their wind farm project.

Woodstock: Escrow \$20,000, A non-refundable Construction Application fee of \$1500 for 1-3 proposed CWTs; \$3000 for 4-10 CWTs; \$4000.00 for 11-15 CWTs; and \$5000.00 for 16 or more CWTs will be assessed to cover all Planning Board costs associated with the evaluation of the Construction Application.

S. Decommissioning

Dennis Doyon asked if there was any wording in regards to abandonment. Chair Merlino said he hadn't seen anything and would recommend they talk with John about that. Chair Merlino stated he would ask for a 6 month notification.

Tyler stated his concerns with the wording "**less salvage value of the equipment**" and who determines that value. Chair Merlino agreed and said it should be the financial responsibility of the company to remove these completely. The Committee agreed to remove that wording.

Betsey Foster stated that she would like to see that the Town be notified by the Company at least 6 months before the company ceases their operations.

7-701.3.L-Use of Public Roads

Paul Marcolini stated that this doesn't capture our intent - how do we protect private roads, State and County roads as they are outside our domain. Chair Merlino stated that the Town Attorney could direct us. Dennis Doyon questioned if the Town has the authority to review private roads. Paul Marcolini stated that the Town would want to protect all road owners. The Committee asked to have more research done to see how all roads are to be protected.

Betsey Foster stated that she didn't find any plowing responsibilities in the ordinance – if the roads need to be plowed up to the Towers. Jim St. Germain stated that if they can't get to their equipment and the private road needs to be plowed the company will have to plow it.

Paul Marcolini asked if they could get definitions of what types of road there are and then they can better understand how to determine maintenance and access, etc. Paul also suggested that the road regulations be for the entire Site Plan review ordinance not just the CWF section. The Committee questioned where these road regulations should live? In the Site Plan Ordinance instead of just the CWF section?

R. Public Inquiries and Complaints

Chair Merlino stated that the suggestion is to add the toll free telephone for folks to leave complaints/comments at.

Jessie Frederickson stated that she had attempted to get what the complaints were from the Roxbury Wind Project. She stated that when contacting the State she can only get three complaints at a time. The Committee agreed that we need to make all complaints accessible and determine what the results were. It was deemed that there needs to be more details. Chair Merlino stated that he would like to have complaints submitted to the Codes Officer, Planning Board and Board of Selectmen. The Committee asked Kim to research what Woodstock has done and see if it is working for them.

Woodstock

A. Complaint Process

All CWEF complaints shall be made in writing to the CEO, who shall provide copies to the Owner/Operator and keep a record for the Town of the complaint. Complaints involving CWEF sound, vibrations or other possible disturbances related to sound pressure require a written description of the event(s) to include date, time and subjective/objective intensity. Residents or landowners in Woodstock may file such complaints.

1. After receipt of a complaint, the CEO shall, in an expeditious manner, and in the order complaints are received, contact the complainant and the Owner/Operator, visit the site of the alleged violation, conduct other investigation he/she deems appropriate, and, within fourteen (14) days, submit a written report to the Board of Selectmen and the complainant. The CEO shall include his/her findings of fact and reasons for those findings in a report to the Board of Selectmen as to the merits of the complaint, with recommendations of actions to be taken.

2. If, at its next regularly scheduled meeting, the Board of Selectmen and the CEO decide the complaint is without merit, it will be dismissed, and the CEO will inform the complainant and the Owner/Operator. If the Board of Selectmen and the CEO decide the complaint(s) has merit, the CEO will assist the person in processing the issue with the Applicant/Owner/Operator to a suitable conclusion. If the complaint involves sound, and has not been corrected within fourteen (14) days of the Board of Selectmen deciding the complaint has merit and the CEO has informed the Owner/Operator, the following will ensue:

a. The Board of Selectmen will hire a qualified independent acoustical consultant of its choice who will conduct, as soon as possible, a complete attended study at the site of the complaint and/or at the Project Boundary nearest the site of the complaint, to determine both the dBA and dBC noise levels. As new technologies become available, the consultant may use unattended devices that he/she deems most appropriate and reliable. Such tests will be repeated on multiple days and during different weather conditions and wind directions so that the consultant is reasonably satisfied that sufficient and representative data has been obtained.

b. Appropriate summary reports of all CWEF sound meter/meteorological data collected during the date(s) and time(s) of the complaint and for one (1) month prior and one (1) month subsequent to the complaint, if applicable, will be requested from the CWEF. The Owner/Operator must provide this information to the Board of Selectmen within fourteen (14) days of notification.

c. Relevant monthly sound level reports from the Owner/Operator involving the CWEF will be reviewed by the CEO/Board of Selectmen, with the assistance of such Expert Consultants or Specialists as they deem necessary.

3. Findings of the acoustical consultant and summary reports and other data revealing evidence of higher sound pressure levels than are allowed by this ordinance, as

determined by the acoustical consultant and reviewed by the CEO, will be sent by the CEO to the Owner/Operator and the complainant by certified mail, with evidence of receipt given to the Board of Selectmen.

4. Higher than allowed sound pressure levels constitute a violation of this ordinance. The Owner/Operator shall submit a response to the CEO with an explanation and a mitigation plan within fourteen (14) days of receipt of the acoustical consultant's findings.

5. If the Owner/Operator fails to respond to the CEO within fourteen (14) days, and to delineate and implement a correction acceptable to the CEO and the Board of Selectmen within thirty (30) days, the Selectmen may file an enforcement proceeding and ask the Court to order limited operation, shutdown of one or more CWTs, or other appropriate remedies.

6. If a complaint related to sound pressure should continue after appropriate corrections have been made by the Owner/Operator, and which have been agreed upon by the Board of Selectmen with expert advice, the CEO shall visit the site for further information. If the continuing complaint is found to have merit, the CEO will continue the investigation and a qualified independent acoustical consultant will be hired by the Board of Selectmen to take appropriate attended sound level measurements as deemed reasonable and in accordance with the requirements of this ordinance.

7. If the complaint is deemed to have merit, but concerns issues other than sound, the Board of Selectmen shall hire appropriate, independent, qualified experts to address the matter and conduct any needed tests or investigations. The general procedure for resolving sound issues will likewise apply.

B. Enforcement

In addition to the provisions set forth above, when the CEO finds that provisions of this ordinance are being violated, he/she shall notify in writing by certified mail, return receipt requested, the person responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it. The Board of Selectmen may bring an action in the Superior Court or District Court to enjoin violators of this ordinance, for collection of penalties, for injunctive relief, and for such other relief as may be provided in accordance with 30-A M.R.S.A. § 4452. Each day that a violation continues shall be considered a separate violation.

C. Records of Complaints

The Town shall maintain a permanent record of all complaints, CEO investigations, reports by consultants and outcomes.

Item 6: Citizen/Public comments – 10 Minutes

Cathy Lowe, she would recommend that complaints come to the Town's Codes Office and not just a 1-800 phone number. She suggested an email be set up for complaints and then everything would be documented. Paul Marcolini suggested that the Town and Company get the same emailed complaint that way the Town will have record of all complaints and can follow up on how it was resolved.

Dave Fowler, Next Phase Energy, representative from Calpine stated he recommend that we contact the Town of Oakfield as they have a comprehensive protocol set up, that the company is set up to do the work not the Town, and they determine if this is an actual legitimate complaint, and there is a process and mechanism in place to get the complaint

processed and Town updated accordingly. He stated that the Company has to act on every complaint and the Town is notified of each complaint. He stated that Oakfield's process is far more comprehensive than Woodstock's.

He stated that his two cents on public roads, the applicant should identify all roads used in the project even though the Town has no authority over private roads. He stated that Applicant/Company needs to be the one responsible to maintain and plow any private roads that they company uses to access their project. He stated that from a liability stance the company can't do any maintenance or plowing on a public road – but they can on a discontinued public road. The company can't call the Town and say they can't get to their towers so they need the Town to come plow them out. Dave recommended pre-construction and post construction surveys to be done so they can determine if any damage has been done to the public roads which is done by a third party. Dave stated that he felt the Town can hold the applicant responsible to fix a private road.

Dennis Doyon asked if we could work on the Licensed Professional Engineer wording – concerned that it doesn't cover all aspects and needs to be specific to the situation or application.

Jim St. Germain asked that the Committee start reviewing the height requirements soon so that Calpine will know which way to go. He stated that he felt that the majority of this committee is against a wind project in this neighborhood and the sooner that this committee sink their teeth into these details the better. Chair Merlino stated that setbacks and height are items that need to be determined. Chair Merlino stated that they did hear from Mr. Jarvis that what the committee set for a height level could end his project. Chair Merlino said they could put this on the agenda for their next meeting. He stated we don't live in a vacuum and could look at what other Towns have done.

Dennis Doyon stated that he would also like to tour other wind projects to see what these things sound like and look like.

Chair Merlino asked if a 600' tower is allowed how does that impact the rest of our Site Plan Ordinance in relation to height restrictions.

Item 7: Set next meeting date - July 6, 2017 - 5:30pm at the Greenwood Town Office

Item 8: Adjourn – Meeting adjourned at 7:10pm.