

Town of Greenwood
Ordinance Review Committee Meeting Minutes

July 6, 2017

(a digital recording exists for this meeting)

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
Jessie Frederickson
Jim St. Germain
Dennis Doyon
Becky Secrest
John Maloney, AVCOG

Absent: Tyler Bennett

Kim updated the Board that Betsey Foster had resigned from the Committee due to personal reasons. Chair Merlino stated that was unfortunate as Betsey had a lot to offer the Committee. Chair Merlino stated that would leave the Committee at eight members and that they really need an odd number of members. Kim explained that she would discuss this with the Selectmen at their next meeting on July 18th and get another member appointed before the next ORC meeting. Kim stated that Dave Scanlan had been appointed by the Selectmen as a regular member but Dave moved to Alaska – which then caused a regular member opening and then Alternate Becky Secrest was appointed as a regular member into Scanlan's position. Kim explained that she had heard that Rob Lally of Mt. Abram was interested in taking Dave Scanlon's position and that Kathy Ford Paquette had also asked to be on the Committee.

Item 2: Citizen/Public comments – 10 Minutes

Wentworth (Skip) Potter, summer resident on Twitchell Pond: Skip stated that he had read the Town's Comprehensive Plan where he sees the goal of the Town is to maintain the rural nature of the Town, to keep the scenic vistas and ridgelines uncluttered. He stated he thinks of the Ordinances as having a supportive role of the Comprehensive Plan and what doesn't register with him is how on earth wind turbines support anything in the Comprehensive Plan. He stated this was his question to the Committee.

Chair Merlino stated that the Town previously attempted to pass a Land Use Ordinance that was supported by the Comprehensive Plan with the help of John Maloney of AVCOG- the ordinance went down in defeat by the largest voter turnout ever. John Maloney stated that if the Town has a town-wide zoning ordinance it would have to be supported by the Comprehensive Plan. He

explained that Greenwood does have a Site Plan Review Ordinance that currently has some standards for wind power but by State Law does not have to support the Comprehensive Plan but Greenwood's ordinance specifically says that during any review the Planning Board would need to determine if the application was consistent with or supported by the Comprehensive Plan.

Skip Potter asked if there was a requirement for the Town to have a wind turbine ordinance or could they just say they don't want wind in their Town as it doesn't follow the Comprehensive Plan. Chair Merlino stated that he worked with a group from area towns on wind regulations and these regulations were approved in the Site Plan Review Ordinance amendments a couple of years ago. John Maloney stated that Kim and the Town of Rangeley had asked the MMA legal department if Towns could ban wind projects and their response was that under state law, and federal law, and interstate commerce laws you can't outright prohibit wind power and other uses that they might not like....you can't prohibit adult businesses, you might make it tough for them to come to Town and zone them to certain areas of Town but you can't outright ban them at this point in time. Skip asked if the Committee had any thoughts on wording in the ordinance for updates in technology in the future and would need to be updated continuously. Chair Merlino stated that the Committee is working on updating the ordinance and to make the language clear as they possibly can and that this is a multi-stage process.

Susan Perham, a summer resident on South Pond asked what the advantage to Greenwood would be to have wind turbines. Chair Merlino stated that one advantage would be the added value to the tax base. Member Paul Marcolini stated that until we know what this looks like as a plan and until the wind companies come in and looks at our plan, he thinks those are the component parts that we need to be addressed before we can weigh things and say what is good or what is bad. Paul stated that the Committee is tasked with coming up with a fair and equitable ordinance that supports the people and supports business. Paul stated that he felt it was premature to say here is what you get as we haven't even created the rules and it would be unfair to the company and unfair to you as we don't have any specifics for either side to determine what is right for them. Susan asked if this was going on someone's private land. Chair Merlino stated that Calpine would be leasing lands – the bulk of which is owned by the large corporation Weyerhaeuser.

Item 3: Committee Member comments – 10 Minutes

Member Brad Payne stated that he would like to make a motion that we amend the agenda with height of the towers and the setbacks until we hear something from Paul. Brad explained that Paul has gathered some information and the Committee need to hear it before we make a decision on those two important decisions. Member Jessie Frederickson seconded the motion and stated she's not sure how they can address the motion. Member Dennis Doyon stated that he wasn't aware that the Committee was ready to make any recommendations and we were going to wait on those big decisions until we were all able to complete site visits so we could hear and see towers. Chair Merlino stated that there was a lot of information that Betsey gathered for the committee to review before any discussion could be done. Paul stated that he agreed that looking at noise is just a small portion and there are other factors to consider. Brad asked if the height of the towers have any impact on noise. Jessie stated that the higher towers have broader low

frequency or more implications of low frequency. Paul stated that the motion on the table is to amend this agenda so we can start to pick off some of the things that will lead us up to an educated decision on behalf of the Town on height and setbacks. Member Jim St. Germain stated that these are the most important things, that the Committee needs that data and that most other things are really not a big issue. Paul stated that he agreed and that the Committee needs to decide what other pieces of knowledge that we need prior to making that decision. Paul stated he would propose doing an introduction tonight to what he has found then I would like the Committee help steer me in a particular direction as to what they need. Paul said he would be willing to do a quick overview..nothing in depth and then if the committee chooses he could pull a presentation together for next time.

Chair Merlino stated that there was a motion made to amend the agenda – any other discussion. Dennis asked Brad to clarify what he was looking for. Brad stated that Paul was going to give the Committee a brief overview of the information that he has on noise as it relates to the height of the towers and the setbacks. Brad stated that he thought before we make decisions on that we learn as much as we can and that he knows very little about it. Dennis asked if he was looking to give Paul some time. Brad stated yes. Dennis asked if he wanted to strike height of towers from the agenda. Brad stated he would like to add Brief Overview from Paul on the agenda. Chair Merlino asked for a vote on the motion to amend the meeting agenda to allow Paul to do a brief noise overview. Vote: 7-0. Motion passes.

Item 4: Review Minutes of June 15, 2017: It was motioned and seconded to approve the minutes as presented. No discussion. Vote: 7-0. Minutes accepted as presented.

Item 5: Review the specific items from Site Plan Ordinance from last meeting

Paul asked that the future meeting agendas be structure differently to help the members prepare for meetings. Paul suggested that it be helpful if we broke down things that are informational, things that are decisions, and things that are up for discussion.

- A. **Fees:** Paul stated that at our last meeting that Kim explained that we aren't really getting dinged and that is an amount that is appropriate and that the Planning Board and Selectmen have options to adjust these fees if they ever needed to. Paul stated that he doesn't need anything further on this. Dennis stated he also thinks we are at a point to be done with this one that the fee structure drafted by John can be used in the amended ordinance. It was motioned and seconded to amend the fee structure to use the fees submitted by John Maloney. Vote 7-0. Copy attached.
- B. **Decommissioning:** Chair Merlino stated that they would need to include the word abandonment as he had read this in an easement between a home owner and a corporation for a wind project in a neighboring town. Chair Merlino stated that the company also has to return the site to its original condition. Dennis stated that at the last meeting they had discussed a six month prior to the decommissioning and cease of operations that the Select Board be notified that the process is going to start and that within 12 months the

decommissioning be completed. Dennis stated that the Committee discussed previously the salvage value component. Jessie asked if they made the decision to call out the words less salvage value of the equipment and to not even allow that. Dennis stated that is in the decommissioning and they talked about striking it but it has an economic impact. Dennis asked if he could have some verification if he should say something wrong – that the salvage value will be far greater the first five years of the equipment than what the salvage value will be 20 years down the road. Dave Fowler, Calpine representative, stated that typically it's based on salvage value not reusable value. Mr. Fowler stated that reusable value will be higher if it still had a lot of life expectancy and typically it's always straight up salvage value for the metal and scrap. Dennis stated that we heard that taking out salvage value completely that the company then has to have a larger bond. Jessie stated that scrap value changes frequently. Becky asked if it was the concern that the wind farm company would have to pay more for their barn. Paul stated that they are shooting in the dark not knowing what the salvage value will be of these in 10 to 20 years out. Becky asked if there is any idea of what the increase would be to the bond if they pulled out the salvage value. Chair Merlino stated that another impact will be that there will be material changes in the future. Paul stated that when you stuck with doing the best you can, I would suggest we look at other communities to see how they have addressed it or if they addressed it. Paul stated that we needed to be on the conservative side of the bond and asked John what other Towns had done. John stated that within six month the Selectmen get written notification and we can work in the wording to protect the Town during abandonment and decommissioning. Paul asked if there is better language to return the land to its original status. John explained that the prebuilding inspection from engineers will have the condition of the property documented. John stated that with the application you will see what improvement they are planning and then you will ask what the total costs for this would be and then the engineers will calculate these numbers for the bond. Paul stated that it makes sense at the time of the application to require something along those lines the applicant should submit something. John stated yes this should be submitted at the time of the application. Dennis asked if there should be some wording that not all improvements have to be returned to pre-application conditions...like a road improvement ...you don't want the road to be returned to the pre-application status. Becky asked if site specificity pertain to any new roads that are constructed that may or may not be valuable to the Town. John stated that any road built has to be built to Town specifications. Dennis stated that the Town doesn't want to take over any new roads. Paul asked how they deal with a road that accesses a ridge and when the business is done we don't want a road there yet there is a road where future housing can be done...how we look at that under road development. Dennis said you have to determine if the road is public or private and it will be hard for the Town to tell a private road owner what to do with their road. John stated that the Town would have to vote to accept any new road. Becky stated that if it becomes a Town road and built to Town specs then the Town would have to plow it. Kim stated that is why most Towns don't vote to accept new roads. John said he would work on this some more and get it back to

us. Dennis suggested the decommissioning plan be developed at 6 months prior to the ceasing of the generation of electricity. Jim stated that it is better to work in the woods when the ground is frozen. Paul stated that this really isn't the Town's problem to worry about the company and that the Town just needs to protect the Town's people. John stated that the Planning Board will have to approve the decommissioning plan. Paul asked to recap what they agreed to: agreed to 12 months, agreed to a potential bond increase towards the end but we don't have an amount yet, a description of restoration to be submitted at the time of the application, submittal of a decommissioning plan 6 months prior. John stated he would also work on the abandonment piece. Chair Merlino stated that they will table this until John is next available.

- C. **Public Roads:** John discussed his proposed changes to amend the current ordinance to bring it in line with current State standards and that Kim sent out road definitions information to everyone. Jessie asked if the Ames Road and Horseshoe Trail were both public easements. Kim stated that the Ames Road and Horseshoe Trail were not Town Roads. Dennis stated that this is a broad overview of what any applicant would have to bring to the Planning Board. John stated that there would have to be a preconstruction determination submitted. Dennis stated that it states a licensed professional and questioned if it should be more definitive like a qualified licensed professional. John explained that the Planning Board could question the qualifications of the professionals doing the work. Dennis asked if there was any State data available that would inform us what companies have these qualifications. John stated that AVCOG could help with determining if the engineer had the needed qualifications. John stated that the applicant will have to submit a road plan to the Planning Board that could include private and public roads and it will be up to the owners of the private roads if they will allow the applicant to use the road. Chair Merlino asked if the wording in the road section sufficient. It was motioned and seconded to approve the wording on road supplied by John Maloney. Vote 7-0. Motion passes.
- D. **Complaints** – Chair Merlino asked Jessie if she had any updates on her research and that he agreed that everything should be run through the Town. Jessie stated that she liked the idea of the complaints going straight to the Town and having the process online. Chair Merlino stated that the Committee needs agree that all of the complaints are done thru the Town and become part of the public record. Jessie asked who would be responsible for this at the Town level. Kim stated that the Town Manager and/or Codes Officer would be. Paul stated that the complaint would come to Kim via email, then Kim could then send the company a copy of the email and expect to hear a response which Kim would then share the person who filed the complaint and we have completed the circle and everything is documented. Becky stated that they would need to include the increased cost of time for the office. Paul stated that there needs to be transparency. Dennis stated he was in favor of an online complaint form instead of a 1-800 phone number. Becky asked if the form that is online be mailed in as some folks don't have access to the

internet. John stated that he wasn't sure how many complaints come in and asked Kim who would be taking care of the complaint. Kim stated that she would be sending the complaint to the Codes Officer. Paul stated that if there are frequent flyers...those who continuously call to complain, these calls need to be brought to the attention of the Town's leadership the Board of Selectmen. Paul asked who would be paying for this and he feels that the cost gets incurred by the organization. John asked if the Town would be sending a bill to the organization every month or is the part of the regular business for the Town. Paul stated that they need to factor in all of the time of the Town Manager, Codes Officer and Board of Selectmen. John stated that this might be part of the Community Benefits package and he will check into this. Paul asked if the Town could form a repository for complaints with public access to those complaints. Paul stated that he envisions a program that has a web based complaint form, time in the office, and the sharing of the transparency. Paul asked if they could pull off all of the identifiers – name and address – any descriptors get pulled off the form. Dennis stated that there should be an identifier as the Town they are from. Paul stated that he felt that the general public would not want to know who filed the complaint but would want to know what the complaint was. Paul stated that Kim and the Town would have a copy of who the complaint came from but he didn't feel that the identifiers were necessary to the general public. Jessie stated that when she reviewed the Woodstock complaints and found it very revealing and needed those identifiers to help her determine what location had the most complaints about sound. John stated that he would need to do some research on this, which the Town has to be transparent about most everything. Chair Merlino stated that they would table this section and let John do some more work on this for us.

- E. **Noise overview from Paul** – Paul stated that had reviewed some medical literature for some information that the Committee had asked for. Paul explained that he started digging into the literature and found that there is a lot of information out there on both sides of the issue. Paul stated that there is information on those who don't favor wind having all sorts of health issues and on the industry side there is no documented health problems. He stated we would need to define what a health issue is. Paul stated that on each end of the spectrum, folks have completed what they call peer review. He stated another problem is he is finding that none of the data is prospective and all of it is retrospective. Paul explained that there has not been a study done with wind towers specifically that looks at that...the studies are done after someone has complained or shown that the illness is a result of the wind farm. He explained that both sides also differ on what the decibel frequency should be, what peer review should be, and what health issues are. Paul explained that there isn't a lot of recent data or good studies out there on health issues. Paul explained that he can't find any direct correlation that because of low frequency noise you will get heart disease or because of low frequency sound you've increased your stroke potential. Paul stated that he hasn't been able to find any good study out there. . Paul stated he is also concerned about the quality of life. Paul stated that there is one study out there that shows that low frequency noise increases blood

pressure and heart rate. Paul asked the Committee for guidance on what they would like him to research. Paul explained that the wind industry is also changing so quickly that what information that is out there is outdated so we are left with a pool of questionable data. Paul stated that a quote that stuck with him in his research from a physician in regards to the wind industry - it feels like we are in the same place we were with cigarettes in the 1950's - not enough data to know if there would be health concerns and that more research was needed to know if there are in fact would be health issues. Paul stated that here's no good or substantial data out there. Paul explained that there is a lot of data out there on high frequency transmission lines and maybe they would have to review some of that literature. Paul stated that he felt that the Committee didn't want research on specific health issues but what we are really doing is to decide as best we can on what data we have what to do on height and setbacks. Paul said he is willing to come to the next meeting with a half a dozen or more articles but it will be tough to draw any conclusions. Paul suggested that he look at all comments on health. Chair Merlino stated that he had done a lot of research on this as well and there is a lot of data out there. Paul said he also looks to see how many times this paper has been used in other articles and to check the citations. Becky asked of all the articles that Paul has read, what the most recent date is. Paul answered he has read so many he would say 2015. Paul stated he would ask them to think about what is acceptable as health issues and impact on life and what are valuable studies that have been recently done and to compare apples to apples. Jessie said they could see the medical information filtering back up into Government – Canadian Government hired consultants to double check these medical complaints. Jessie stated that she has data from a Rhode Island set of recommendations for wind ordinances and it looks at these issues we are talking about: low frequency sound and their recommendations are specifically sited to help mitigate these medical issues that are being quantified. Dennis stated that our case would be different as these towers would be different than the ones in the Rhode Island study. Paul stated that is what one of the problems is. Becky stated that there is enough information out there to raise cause for concern and we need to look at this and be very judicious at choosing whatever we decide to choose what is the best for the community where we live and thinking that the unknown is the unknown and that is the scary part of the whole thing we have to make our best guess and to air on the side of caution. Chair Merlino stated that we also have to consider that we have wildlife out there, day hikers and campers – do we require a fence to be put up. Paul stated that we need to decide what is reasonable in terms of health impact for some and then we will be forced to make our best guess on the setbacks because there is no current data. Paul stated that he thought that is what the other Towns did is to come up with a buffer and that seems to make sense with what they understood and that is what we are going to be left with. Brad asked Paul if the impact seem to be related to the height of the tower as it seems the taller the tower he would think the greater the setback. Paul stated that most of the material he has read 600' towers are not described. Chair Merlino stated that Betsey Foster had shared with him that there is noise that some folks can't hear and that it does impact their health and that there are several

variables to consider also, temperature, humidity, and direction of the wind. Dennis stated he was in favor of Paul working on this. Paul stated that he would start with a wide aperture in terms of describing what the health issues are and to start a laundry list of some of those that come out in the articles. John asked if the articles are written in layman's terms. Paul stated they are all over the place. Paul asked if he could have an hour at the next meeting for him to present his findings.

F. Height of Towers and Setback requirements – Tabled

Item 6: Citizen/Public comments – 10 Minutes

Dwight Mills, resident on Gore Road: Dwight questioned that when the committee considers heights and setbacks do they also consider the visual impacts. Chair Merlino stated that they will always consider visual impacts. Dwight said he felt he would be impacted greatly as these will towers would be his new view. Dwight stated that if the towers are built on Tibbets Mt. he feels his property value will drop.

Mr. Jonathan Glass, resident on Twitchell Pond: Mr. Glass stated that he was impressed with the discussion at this meeting and that he the discussion about health issues versus the quality of life and that he is a physician as well and he understands about health issues is one thing but feels that the quality of life is really, really important. Mr. Glass stated that he got the sense that we couldn't stop this unless we make this so onerous for the power company that they don't want to do anymore. Mr. Glass asked if the Town can't stop them with a ban. Chair Merlino stated that is correct. Mr. Glass stated that he would implore the committee to consider that the quality of life is just as important as health issues or more important. Mr. Glass stated that the Committee wouldn't say yes to putting in a coal fired plant as this is a health issue but this quality of life issue for a place like Maine for the summer residents. Mr. Glass stated that he is a summer resident so he can't vote on this. Mr. Glass explained that his family has been coming here for generations and he would implore the committee to make the ordinance onerous to stop this from happening. Paul stated that he felt both the health issues and the quality of life were definitely linked and equally important. Becky stated that she echoed their statements and felt that a poor quality of life can lead to poor health.

Cathy Lane, Albany resident: Cathy stated she had a question about the escrow account that it could be refurbished at 50% so if it 75% was used it would only be brought back up to 50% and questioned why it wouldn't be brought back up to 100%. Dennis explained that he Planning Board could require that it be brought back to 100%. Cathy asked about the road repair and how could you make the company pay for any damages to the roads if you don't have it in escrow somewhere. Dennis explained that is already in the Site Plan Review Ordinance and that is why we hire engineers for pre and post construction inspections. Cathy stated that she had been reading up on the noise levels and she found that the ambient noise level is 40 decibels is pretty standard in the urban area but we don't live in an urban area and asks the committee to consider this. Cathy

stated that bigger towers do mean bigger noise as they are bigger in general and bigger machines typically make more noise. Cathy stated as far as setbacks that Germany has a setback at least a kilometer and the manufacturers issue setbacks standards and they suggest that you don't bring your kids near it as they can blow up. Cathy asked that we look at what other Towns have done. Paul stated it's important that we all be informed consumers and being informed is what is going to drive this. Cathy stated that this isn't just a wind problem that it is also a land use problem and the Town doesn't have to reinvent the wheel. Chair Merlino stated that there are many moving parts with this and that they all appreciate all of the work that John has done.

Item 7: Set next meeting date - July 20, 2017 - 5:30pm at the Greenwood Town Office

Item 8: Adjourn – Having no further business, it was motioned and seconded to adjourn the meeting at 7:45pm. Vote: 7-0. Meeting adjourned.

Becky Secrest said that Patriot Wind Towers is having a tour of the Wind Farm in Woodstock if anyone is interested in attending.

Submissions: MMA Roads Manual/definition of Roads

Letter from Summer Resident, Skip Potter