

Town of Greenwood
Ordinance Review Committee Meeting Minutes
September 21, 2017

(A digital recording exists for this meeting)

Item 1: Call the Meeting to Order/Determine quorum

Larry Merlino, Chairman
Paul Marcolini, Vice Chair
Brad Payne, Secretary
Jim St. Germain
Dennis Doyon
Jessie Fredrickson,
Rob Lally

Kim Sparks, recording secretary

Absent
Tyler Bennett
Becky Secret

Attendance: 42

Item 2: Citizen/Public comments – 10 Minutes

Skip Potter, East Twitchell Pond resident gave the Committee a list of key parameters that should be included in the ordinance. (Copy attached)

Alec Jarvis, Calpine asked where the list of key parameters came from as it was the first time he had seen it and stated that Mr. Potter answered his question.

Summer resident from East Twitchell Pond reminded the committee why they come to Greenwood for the quiet and tranquility. She stated that any industrial construction would take away from that.

Henry Stewart commented that the he thought it was settled at the last meeting to not have another sound person.

Bob Marrano stated that he had been doing some research and found that the State of Maine had been working on a law in 2011 - HR 776 an act to preserve and protect property values and he couldn't find if it ever became a law. Dennis suggested he contact our State Rep. Fran Head to research.

Item 3: Committee Member comments – 10 Minutes

Jim St. Germain stated that when the committee voted at the last meeting to not allow Calpine's sound person do a presentation, he felt this went against the doctrine of fairness. He felt that if the Committee didn't hear from both sides it would be a one sided issue and that is just not right

or fair to the business and to the rest of the people who want to hear the other side of this. Jim stated he wouldn't be in favor of 600' towers with a one mile set back but would be in favor of smaller towers with a little bit further setback. Jim stated that if they could determine a size of a tower with a setback that would protect the neighbors and animals then we should by all means do it.

Paul Marcolini stated that he hadn't been to the last two meetings as he has been working out of the country and was fortunate enough to work in Portugal. Paul stated that while in Portugal he spoke to many residents as Portugal runs about 25% of all of their electricity from alternative sources, primarily from tidal change, hydro, and wind. Paul explained that he was trying to determine what they know that we don't know. He explained that what he came away with was that they created setbacks to the communities and had some for thought in planning to limit health impacts to their residents, to limit visual impacts, and to pay attention to recreation and tourism uses in the area. Paul explained that we need to learn from those who have done this right and found it interesting that they set boundaries up to protect the recreation and tourism areas and to protect the citizens. Paul stated he was discouraged to see that this vote has come back up again and questioned leadership if they are following Robert's Rules or what format are we using. Paul stated that we are working towards transparency and fairness and he isn't sure why we are revisiting this.

Chair Merlino stated that at the beginning of these meetings Calpine asked to do a presentation and we said no and that they would have a chance in the future. Paul stated that he remembered Calpine going to the Selectmen and asking to do a presentation. Chair Merlino stated that the Selectmen said no to Calpine. Paul stated that if the Selectmen said no and they are the oversight to the ORC then they would need to revisit as to why the Selectmen said no. Kim explained that the Selectmen and Budget Committee have tabled having a TIF discussion with Calpine until after the ORC had completed their work on the Ordinance. Jessie stated that the ORC was working on writing an ordinance and this ordinance is not for Calpine it is for the Town. Chair Merlino stated that the problem was bias and that bias is everywhere and we need to listen to all the data. Dennis stated that he didn't have the answers to his questions and needs more information and doesn't think it is right for a few people to take away his right to gather more information. Jessie suggested that we bring in an independent sound engineer and not a paid Calpine representative. Chair Merlino stated this is why he asked for this discussion. Paul asked what the Committee is doing in terms of process. John Maloney stated that the Committee rules that were adopted at their first meeting states that a request for reconsideration of a decision can be made anytime by any ORC member and the request has to be made by a committee member in the form of a motion, discussed and then accepted or not.

Item 4: Review Minutes of August 31, 2017 and September 7, 2017

Dennis Doyon motioned and Jessie Fredrickson seconded to accept the minutes as presented. .
Vote 7-0. Minutes accepted.

Item 5: Conduct straw vote to determine a baseline on height of towers, setbacks, and audible limits.

Chair Merlino stated that he read Tyler's comments that Tyler suggested that we only conduct a vote on height and not on the other two until they have completed their research. Chair Merlino stated that he thought they should on all three and this will give us a baseline of where we are going to start with respect to these three very important areas. Chair Merlino stated that they would have a difficult time dealing with low frequency sound and what wording we will use to set limits. Jessie stated that she agreed with Tyler and Becky, that to do a straw vote is kind of a way waste of time and that it only is going to show everyone where everyone is on these and she doesn't think straw votes gets them anywhere. Jessie stated that in light of the community survey results and all of the letters from property owners we should look at what our community wants for each of those items. Paul stated that he was fine with the fact that Dennis still needed more information and to complete a straw vote on items that we still have research to do on seems to be premature at this point.

Dennis Doyon motioned that Item 5 is tabled. Brad Payne seconded. Vote 7-0. Item tabled.

John Maloney asked what type of information other than what you have, do you need in relationship to the height of towers and setbacks. Paul asked when do we know we have enough information and we are ready to deal with it. John stated that the height has impact on noise and setbacks, visual impacts and hopes there is an extension on the moratorium. Paul stated that he thinks that we need to gather all of the data, form subcommittees to review it all and then the subcommittee would report back to the full committee. Jim St. Germain stated they need to hear from the other side. Dennis Doyon stated that he would not be comfortable taking any straw votes until we go to a facility and see these towers. Jessie asked if everyone reviewed the email from Kim several weeks ago about people who live near wind towers and she feels it is just as valid as going to visit the windmills. John asked what type of information would be helpful for the committee to make these decisions and this is pretty heavy duty stuff. Chair Merlino stated that low frequency is going to be another issue. Jessie stated that in terms of research we had Paul, Betsey Foster, emails sent from other Committee members on information that they have found and the presentation from Stephen Ambrose and what next steps do we take – do we form subcommittees. Jessie asked if it helped everyone to send links to other members so we are all looking at the same thing and should we just keep sharing research. Paul stated that this is complicated and we should jump at these and we commit ourselves to doing our homework before the meetings or we form subcommittees but somehow we have to do better than we have been at getting information from both sides of the coin and share amongst our group as we move forward. Paul stated that none of us are experts on Tower height but we should all be able to read and understand and get as much information as we can on behalf of the community. Paul stated that we need to articulate a plan to move forward. Dennis Doyon stated that he doesn't have time for subcommittees and would be glad to review anything and obviously we are losing two or three members a meeting as folks are busy. Paul asked do we set up a repository of information in a more concise way that we have done before. Jessie suggested that we pick a topic for the next meeting, have everyone send their information to Kim before the meeting and Kim could make everyone copies. Kim stated that she would be glad to do that. Jim stated that height will dictate every bit of the conversation and it will help set the setbacks, audible and infrasound levels. Jim stated his concern is not with the visual part of it and we need to find out how far back these towers need to be before they are a health problem. Paul stated that he would

be fine with the next topic being height but wanted direction from the Board as to how they should proceed and if everyone should submit their research to be copied and shared with everyone. Jim stated that he doubted that Jessie data would be pro wind. Jessie stated that she lives completely off of the grid and has no electricity and she would love to have a wind mill or solar at her house and that she is totally pro wind; however she is concerned with what the community wants and with the health risks of low frequency sounds as she is one of the people who would be closest and living next to these. Jessie explained that when she started on the Committee she was thinking this was a great idea but with all of the research that she has been doing, she now has some serious questions and now thinks they don't need to be near residential facilities. Paul suggested that they all bring their data to the table and have the Committee review it and find common ground to move this forward. Paul asked everyone to complete the reading in preparation for our next meeting and to have everyone bring back two or three items in relation to the height of towers and the Committee will work on that.

Paul motioned that Item 5 be tabled but they could fold into that motion that the Committee will agree to share their research and bring discussion points back to the table at the next meeting and start with tower height. Seconded by Doyon.

Dennis asked if they could amend to include location of towers as they can be located in different locations on the ridgeline or on the side of the mountain. Dennis stated he would like to include the location of the towers within the landscape.

It was agreed to amend the motion to include tower location.

Vote: 7-0. All in favor of motion with amendment - motion passes.

Item 6: Discuss request from Calpine for their sound experts to come give a presentation.

Brad stated that when Mr. Ambrose came in none of the Committee had ever heard him before and that his presentation was not anti-wind but pro-neighbor. Brad stated that he was very much opposed to Calpine finding the Committee an expert. Rob Lally stated that he listened to Mr. Ambrose and agrees that he was pro-neighbor. Rob stated that it was very complicated and he didn't know with the height, sound, setbacks, and low frequency based on what Mr. Ambrose said or what another industry specialists says- that he wants to know where they agree and where they disagree and how far are they in disagreement. Rob stated that we have only had one expert here and having two experts would allow the Committee to see the variances between the two. Rob wondered if the studies are that far off and if the two would be miles apart or will there be some overlap area that they both agree on and if so we could say from certainty that we have heard from two experts and they both have said to the same degree and then we could table that as part of our discussion. Rob stated he was in favor of hearing from another expert just to see where they are similar or if they are really far apart and would be important for him to understand how the Committee sets these setbacks and height levels. Brad stated that there are two statements from Becky and Tyler who previously voted against having another sound expert come in and now they aren't here at this meeting. Jim stated he didn't understand why everyone was upset to have another voice come in. Jessie stated that she had no objection to another

independent acoustical engineer to come in and talk to the Committee. Paul stated that maybe we should table this until the other committee members are present. Dennis stated that it will never happen as it is difficult to get everyone in the committee to be present. Jessie and Paul both stated that they could attend the meetings via Skype. Dennis stated that at every committee or board meeting that he has been to it was always everyone who sat at the table that took the vote. Paul stated either Calpine brings somebody in or they go with an independent speaker. Jessie stated that they could all email Mr. Ambrose any questions and he is willing to help us. Paul asked that the Committee submit their questions to Kim for the independent engineer. Rob asked if they would be hiring someone who wasn't hired by Calpine. Rob asked if they would find someone who hasn't been hired by the wind company or by Calpine.

Dennis motioned and Paul seconded to allow Calpine to do a presentation on sound to the Committee.

Vote 2-5. Motion denied.

Item 6A. To hire an independent acoustical engineer

Dennis motioned to hire an independent acoustical engineer as soon as possible who is not on the list seconded by Rob. Vote 4-3. Motion passes.

Item 7: Questions for John Maloney regarding impact of wind specifications on Site Plan Review Ordinance.

Chair Merlino asked what the impact on other things in our Site Plan Ordinance if when we set the height of a wind tower. John stated that he didn't see anything in Site Plan Review in regards to height but we might have something in our building code. John explained that Towns are concerned with heights in relation to residential structures so they can make sure that the Fire Department can access them. John stated that they can have height limitations as long as the numbers are justified and not just pulled out of the air. John stated that some Towns have set the height limit at 100' and he would have no qualms with them setting a height limit. John stated that the Committee has reviewed ordinances from other Maine towns that have put a height limit so low that it is no feasible for a commercial wind power operation but might be feasible for residential or non-grid system towers. Jessie stated that the Town of Denmark has done that, and that commercial towers weren't allowed but they allowed 100' to 200' residential towers. John stated that they could have different noise levels for commercial wind then they do for other allowed activities in the Site Plan. John stated that he tells folks they can put whatever they want in their ordinance just like he can drive home going 100 mph and as long as he doesn't get caught he can do it. John explained that there is always a chance that someone can challenge the ordinance and he advises Towns that they need to justify the levels they choose for their ordinance. Paul asked what the process was when there is a variation from a wind ordinance and the site plan and how do those rectify. John answered that they rectify because you have a specific section in your site plan that only deal with commercial grid operation so whatever changes come about will deal only with the section related to wind power facilities. Paul asked what the procedure would be if the ordinance had two conflicting regulations. John explained that there is wording in the ordinance that states when there are conflicting regulations, the more

restrictive regulation would prevail. Jessie stated if we set a dbl of 30 how would that impact any other sounds in Town. Jessie asked if they could create zones. Everyone responded no to zoning. Jessie asked if they set that limit on the wind towers would someone be able to operate their chainsaw which would have a greater sound and that there seems to be a lot of misinformation in the community. Jessie stated that she has heard from people that they think that this committee is putting restrictions on what people can do with their own property because of the sound restrictions. John stated that residential noise would not be impacted by any commercial wind facility noise levels set by the Committee. John stated that residential noise could be considered a nuisance and people could still have solutions to resolve those issues without involving the Town. Dennis stated that Towns could enact noise ordinances that would limit all noise in Town but this Committee would only be reviewing noise in relation to Commercial Wind operations. Jessie stated that someone from the snowmobile club told her that they couldn't play their radio at night because of the noise level restrictions that the committee will be setting. Chair Merlino asked if we set a height for wind towers would we have to back and revisit cell towers. Dennis stated that the wind towers have their own separate chapter in the ordinance so the cell tower regulations will not be impacted by any wind regulations. Chair Merlino asked if we had a height limit on cell towers. John Maloney explained that most Towns don't have a height limit as most are 200' or below to meet the FAA regulations.

Item 8: Review memo to Board of Selectmen regarding moratorium extension

Chair Merlino stated that he will be submitting a memo to the Board of Selectmen requesting an extension to the moratorium. The Committee agreed that an extension was needed as there is still quite a bit of work ahead of them.

Dennis motioned and Brad seconded to have Chair Merlino forward a letter to the Board of Selectmen requesting an extension to the Wind Facility Moratorium. Vote 7-0. Motion passes.

Item 9: Public hearing on Moratorium extension, Tuesday, October 3rd at 5:30pm

Kim informed everyone that there would be a Public Hearing on the Moratorium extension at the Selectmen's Meeting on October 3rd.

Jessie asked if she could go back to Item 7 as she had a question for Tyler who wasn't in attendance. Jessie read an email from Tyler who had questions about the impact of wind specs within the Site Plan Review Ordinance.

This keeps coming up and I'm not sure of its implications when some of these specifications are specific to commercial wind. How difficult is it to remove this ordinance from the Site Plan Review Ordinance and make it a separate ordinance. I am asking this with the idea that even if we remove the Commercial Wind ordinance from the Site Plan do they work together

John Maloney answered that the process that Greenwood will use is because they don't know if they want to have standards that would identify or allow a grid scale permit John explained that

we could be drafting an ordinance that makes it good for commercial wind or you could draft it to make it bad or not feasible for them to do a project in Greenwood. John reminded the Committee that we can't outright ban them but we can write the ordinance to either encourage or discourage them. John stated that he thinks Tyler is asking if we should have an independent standalone ordinance for wind - versus being incorporated within the Site Plan Review. John stated that the regulations could be removed from the Site Plan Review and to do so would require a Town vote to remove them from the Site Plan and then vote to adopt a separate Commercial Wind Ordinance. John explained that any commercial wind applicant would need to complete a Site Plan Review so it just made sense to put them together. Paul stated that he felt that Tyler's concern is that one of the ordinances will supersede the other and listening to John's response he doesn't feel it is necessary to separate the two.

Item 10: Set next meeting date: - October 5, 2017 - 5:30pm at the Greenwood Town Office

Brad stated that one of the other things that will be coming before the Committee is the financial impact this project will have on property taxes. Brad asked if Kim could invite Mike Rogers, State Assessor to a future meeting. Brad stated that he would like to know how this will impact the Town in relation to future monies from the State. Brad stated at some point the developer is going to come and tell the Town what they will do for us and he thinks it would be a good idea to hear from Mr. Rogers exactly how we will be impacted. Brad asked what happens if the Community votes down our ordinance. John explained if the amendments go down then the existing ordinance is still in place. Dennis asked if the moratorium ends at the vote and asked for a legal opinion. Chair Merlino asked if Kim could get a legal opinion on this for the Committee. Kim stated she would contact the Attorney for clarification.

Item 11: Citizen/Public comments – 10 Minutes (time permitting)

Betsey Foster, Greenwood resident stated she had questions for Committee member for Rob Lally and Calpine. Betsey stated that Calpine filed a bidder application with Mass Energy and one of the forms in the application, Betsey stated that Kim had noticed that there were months blocked out on the application that maybe related to the ski season so she asked David Fowler if he had some sort of agreement with Mt. Abram and he said that was confidential. Kim stated that she didn't ask Mr. Fowler if he had an agreement with Mt. Abram that she just asked him if he could explain what the chart meant. Betsey asked Rob if he could give them any feedback on the matter. Rob stated that he has no agreement with Calpine or any other company regarding wind or anything like that – absolutely nothing. Betsey asked if Mr. Fowler could give them some information about those winter months. Rob stated that he didn't understand what she was talking about in regards to those winter months. Betsey stated that Kim could explain it better. Kim stated that she had received a copy of the application from Skip Potter and Tyler. Kim explained that in the application there was a chart and December, January and February was blocked out and someone questioned if that had to do with the ski season and their thought was that the towers would be shut down during the ski season so to not interfere with Mt. Abrams skiers. Kim asked Mr. Fowler if he could explain and he said it was confidential. Rob said he could not speak for Calpine as he has no agreement with them. Rob stated he is like everyone else on the Committee here trying to get more information and the Mountain has a lot of interest in how this will impact our skiing and future housing that we will be building up there. Rob

stated that they are interested in finding out what the impacts of this will be. Betsey asked if Mr. Fowler could answer the question. David Fowler stated that it was proprietor information that was withheld and has absolutely has nothing to do with the ski season and all the applications submitted are like that not just Calpine's.

Bob Marrano, property owner asked about the Committee looking into doing a visual impact study. Bob asked the Committee to keep this in mind for future consideration. Bob stated that Calpine is not the other side, each one of us depending on which way we think is the other side. Bob stated that Calpine could be one of six wind companies sitting there and should not be given preferential treatment and allowed to speak or have their specialists speak to the committee. Chair Merlino stated that Calpine has made donations to area snowmobile clubs which they are allowed to do by law. Jessie stated that they have made two donations, one to the snowmobile club and one to the Greenwood Fire Department. Kim explained that there has been no donation to the Greenwood Fire Department. Bob stated he understood that they could do that but he wants everyone to be reminded that it will be the individuals who pass or don't pass this ordinance not Calpine.

Skip Potter, property owner stated that he had submitted a letter to the Committee with some 54 signature with a set of parameters and wondered if those things were ever going to be addressed. Chair Merlino stated that the Committee would be getting into the specifics of the ordinance in the next few meeting and all of this will be discussed.

Ken Cole, resident of Greenwood stated that several years ago he served on a Town's Comprehensive Plan Committee and so he understands how much work there is to do on the Committee level. Ken asked if the Committee considered having alternate members to help fill the voids when someone is absent. Ken explained that he had good luck working with subcommittees and wondered if this committee had given that some serious thought. Ken stated that at the last meeting there was a gentleman who claimed to be an acoustical sound engineer and asked if the Committee would consider inviting him in to speak to the Board. Ken asked Kim if she knew who that gentleman was. Kim answered that it was Crawford Best who summers in the Irish Neighborhood.

Item 12: Adjourn

Dennis motioned to adjourn and Rob Lally seconded. Vote 7-0. Meeting adjourned at 7:15pm.