

Town of Greenwood  
Ordinance Review Committee Meeting Minutes

December 7, 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. Those present were:

Larry Merlino, Chairman  
Paul Marcolini, Vice Chair  
Brad Payne, Secretary  
Tyler Bennett  
Jessie Frederickson  
Jim St. Germain  
Dennis Doyon  
Becky Secrest  
Rob Lally  
John Maloney, AVCOG  
Kim Sparks, Recording Secretary

**Item 2: Comments from the Citizens/Public**

Jill Powers, property owner on East Twitchell Pond and Tebbets Mountain: regarding decibels it has been recommended by the World Health Organization that the decibel level should not be more than 25 and she thinks Maine's decibel level is 40-45. Jill requested that the Committee defer to the experts the World Health Organization. Jill also requested if they could limit the hours of operation since 76% of Greenwood's population is vacationers could we put restrictions like they would be turned off on weekends and the summer months.

Jake Zagata, property owner of East Twitchell Pond: requested that the Committee follow the World Health Organizations levels and he can't believe that we have an urban standard forced on us when we are a really quiet rural area. Jake said that you could buy equipment to measure the sound for around \$ 300.00 and wondered if it would be viable to get some donations to purchase the equipment and get it to the Codes Officer Joelle to determine what the levels are at the base of these mountains. Jake explained that he thought this was a better idea than the expense of the expert doing it for \$ 6800.00 and knows that it would be non-official but officially good.

Ed Rosenberg from Bryant Pond and property owner of East Twitchell Pond: at the last meeting when we had the sound expert come in he had put up a slide based on his recommendation - he first covered the Maine standard as 42 and for general areas in Maine the setback should be at least a half a mile. Ed explained that the speaker had visited the area that afternoon, and after seeing just how rural Greenwood is he would then recommend a setback of at least a mile or more. Ed stated that everyone here has been talking about a setback that is more than a mile but you are certainly within the standards. Ed explained that a two mile setback is defensible based on the World Health Organization standards. Ed stated that other countries use decibels of 35, so these are defensible. Ed stated that he thought it was quite interesting to have both the sound guy

and Mark Bergeron from the Maine DEP as speakers. Ed stated that Mark Bergeron reiterated that one of the options the Town could do was to have a ban but whatever standard the Town chose that is what DEP would enforce. Ed stated that he thinks a lot of Towns worry about how they would enforce these standards if the standards are more stringent than the State's.

Bill Dazell, property owner on East Twitchell Pond: we have been talking the last several months about the heights of towers and the setbacks. Bill stated that regardless of the height and setback distances that we are going to lose huge tracts of land for snowmobiling, atv, hiking, hunting, and everything because these areas are going to be fenced in with the gate locked. He stated that no one will have access to acres and acres of land that we have now in Greenwood and Bethel and they have already closed a lot of the roads up on top of the hills. He stated that the trail that runs over from Greenwood to the Irish Neighborhood Road is closed because of logging and the roads that are going in are not logging roads and he has never seen a logging road with concrete culverts and crushed rock so just be aware that you are going to lose huge amounts of land and access to it.

Jill Powers stated that she had a follow up question – regarding the sound are snowmobiles included in the decibel levels. Becky stated that the ordinance that the Committee is charged to work on is for Commercial Industrial Wind and doesn't impact you mowing your lawn or using your snowmobile. Chair Merlino stated that this is strictly a Commercial Wind Facility Ordinance.

### **Item 3: Comments from Committee**

Becky Secret stated that she wanted to express how much she appreciates the comments that all of the folks bring to the meeting and want them to know that the Committee takes their comments seriously and work to incorporate them into our discussions and thanked everyone for showing up.

### **Item 4: Review Minutes of November 16, 2017**

Dennis Doyon asked that a correction be made to section on pages 10 and 11 that the wording needs to be changed to slide # 28 that the speaker had it reversed so the minutes need to be corrected to read: all of the turbines are downwind – (not upwind) and on the next page switch the downwind to upwind.

**Tyler motioned and Dennis seconded to accept the minutes as amended. Vote 9-0. Minutes approved as amended.**

### **Item 5: Discussion on Audible Noise Levels & Infrasound**

**Becky motioned and seconded by Jessie to accept the World Health Organizations standards that are daytime level of 35 and nighttime level of 25.**

Chair Merlino asked if there was any discussion and does the Committee feel that the World Health Organization standards work and are they defensible as all of this will go to the voters. Tyler stated that based on what the Committee has seen from our two presenters and what Bob

Elliott provided from the World Health Organization standards and the fact that we are in a rural area. Tyler stated that he was trying to think about what might be a source of noise in our area that would be outside of these levels but it would be consistent and the only thing that came to mind was the Mt. Abram's snow guns. Tyler stated that they have the evidence to show that we are a rural area and these standards are appropriate and is defensible. Tyler stated that he doesn't think they should go any higher than that as this is something that people value – the tranquility and peacefulness of the area and these levels keep it from being intruded.

Becky stated that the noise of the snow guns is not consistent, it's not continual, and it's intermittent. Jessie stated that what is helpful and making sure this is defensible is if you go online and look up the W. H. O. standards (World Health Standards) that they backup how they arrived at those numbers so all of the information is there and has over 40 pages of information on how they came up with these numbers. Chair Merlino stated that some folks would look at this for the industry as not doable and he thinks there is a body of evidence out there to show that when the wind industry or any industry is faced with a restrictive set of rules, that is a challenge and this is an engineering thing, and for a company such as the wind power manufacturer, this is a challenge but they can change the amount of noise generated from that tower but it costs more money to do that. Chair Merlino stated that was a significant part that it would cost the company more money and they will have to do some research. Chair Merlino stated that with respect to sound, this Country has demonstrated beyond everyone's imagination that there is technology that we used to make the quietest submarines in the world but it would be a challenge.

Jim asked at what point do we need to have these sound levels and how far do they need to be from the turbine. Jim stated earlier there was discussion about the ambient sound of a library and that is somewhere around the level of 35 and asked if we want to have a more restrictive sound than that. Chair Merlino stated that one of the things that the World Health Organization looked at this with respect to ambient sound and in rural communities it is quieter than the library and that was a focal point for them. Chair Merlino stated if you look again at the challenge, the sound level measurement which is pretty well discussed with three to four pages of how it is measured but he believes that if it is at the boundary of the property where the wind farm is and if it's at a height of three or four feet and we will have to take a look at those pages in our Site Plan Ordinance with John Maloney. Jim asked how we get a current sound measurement taken that says this is our ambient sound level in these woods in this area how can we make a decision to know how much over to put it and how much over is acceptable. Chair Merlino explained that they are setting a rule and Greenwood has their levels and Dep has their levels and they are starting out at the hub and with our 2.5 mile setback then he would be surprised if they couldn't meet these levels when they are measured at the setback border. Chair Merlino stated that if they have the level set and an applicant comes before the Planning Board and disputes that there is a way they can do that and that these rules are guidelines. Paul stated that he would change one thing that Larry said that these are not guidelines that they are actually law. Chair Merlino stated that was correct they are actually law. Paul explained that he just wanted to clarify as a guideline suggests to him that there is room to maneuver. Chair Merlino stated that he thought there was flexibility in our ordinance. Dennis stated that there is only thru the Appeals process. John Maloney stated that in our Site Plan Review Ordinance if someone was to challenge it would go

to Superior Court as he wouldn't want a local Board of Appeals to try to determine if 36 or 42 is a correct decibel level. Tyler stated that trying to establish a baseline for just the proposed area would be difficult as we need to keep it more generalized and check levels in several locations and not be specific to a certain project. Tyler stated that both of the sound experts agreed that we were a rural area so he feels that going off of the standard of 25 and 35 is a good basis.

Dennis stated that he must live in a completely different area than everyone else as far as rural and that 25 dBA doesn't happen on Twitchell Pond and it doesn't happen all summer long and the folks who are here and live on Twitchell Pond know that. Dennis stated that there is noise all day long with boats going by and that is not 25 dBA and all the screaming that goes on from the kids is not 25 dBA and this is not defensible at all. Jessie stated that it is definitely 25 dBA at her house and invited the Committee to come to her house to hear how quiet it is. Dennis stated that they had the State who set a sound level and we had sound engineers and the sound engineer from last week said that Maine DEP did a great job at setting their levels and wished that Massachusetts had done the same. Dennis stated that there is no basis to set this at 25 dBA and it is not defensible and anyone can go out and pick a spot in this rural area and find a 25 dBA that is a specific spot not an area so that is not defensible. Dennis stated that Stephen Cole has all the right in the world to run his motorcycles, shoot guns, and run a gravel pit operation and people have said to me isn't there a way to stop that on weekends and I say it is Stephen's property and he gets to do what he wants to do on his property and he is not hurting anybody at all. Stephen Cole stated that sometimes the shooting isn't him. Dennis stated that it is over in his general area and people have asked isn't there a way to stop that and I tell them they can go give it a try but he doesn't think it is possible. Dennis stated that all he is saying is that 25 dBA, Twitchell Pond is a wonderful place and he loves it but it's not 25 dBA and if you stand near it where are you going to pick your spot to get 25 dBA and it's not there so it's not defensible. Dennis stated he knows he is in the minority but he is going on record that it is not defensible.

Becky stated that when they talk about the noise on Twitchell Pond and it not being 25 – 25 is the nighttime level and noise on Twitchell Pond from a boat going by isn't heard 24/7 and we have to look at is the sound something that is going on 24/7, all the time continually as it could be with wind towers as compared to something that is intermittent and the standard they set for daytime was 35. Becky stated that there may be activities in the community that don't meet the 35 daytime level but it is not continuous and that is why we are regulating these sound levels specifically to an industrial wind farm ordinance and this doesn't reflect on motorboats, people shooting guns, and there is a way to try to get some times set on weekends and you could pass a noise ordinance. Dennis stated that a noise ordinance would not happen and reminded everyone that wind turbines do not operate 24/7 365 days a year – so the argument that the continuous use year round all of the time is not valid. Becky stated that all of them don't run but some of them might be running. Dennis stated that if the wind is not blowing at a certain miles per hour then the turbines do not operate, they are not turning and not generating any noise and the direction of the noise depends on where is that ambient sound is traveling so it is never in any one spot or one direction anything -24/7 365 – no it's not there. Paul stated that what they are trying to do without getting into how many hours the noise is around your home or our homes, but what we try to do is to not pull something out of the air. Paul explained that we have one from the World

Health Organization, one from the State and he feels it is in their best interest to choose one that is along in the line of an established line that has already been justified and if they try to start mixing and matching along the way that is where it becomes difficult to defend the position. Paul stated that whatever they choose since it is part of the State or the W.H.O. it gives us a sounder footing it doesn't mean that it can't be challenged. Paul stated that he isn't sure we are gaining a lot by talking about what time of day, how many kids are yelling, or how many hours they run and that we are looking for a more global perspective so if this is challenged we can say this decision is defensible and was made in the best interest of our neighbors.

**Becky motioned and seconded by Jessie to accept the World Health Organizations standards that are daytime level of 35 and nighttime level of 25.**

**Vote – all those in favor: 6**

**Vote – all those against: 3**

**Motion passes.**

Chair Merlino stated that the audible levels during the day were set at 35 and the day is from 7am to 11pm and the levels for night were set at 25 from 11pm to 7am.

Chair Merlino stated that they now need to discuss low frequency sound as it is a known problem.

Becky motioned to set the infrasound level to be zero (0) at the perimeter.

John Maloney stated that he needed some clarification as he didn't know what she meant by the perimeter. Chair Merlino stated that is the boundary of the property. Jim stated that we had use non-participating property line in our setback standard. Chair Merlino stated that the sound expert that had done infrasound measurements in Falmouth Massachusetts – the house was a ¼ mile away from the towers and they measured in and out of the house and they tried using barriers to divert and the measurement was still the same inside the house and then he measured it a mile away - a mile away from that turbine it was zero (0). Chair Merlino stated that they might want to amend the motion to zero or not detectible. Rob stated wasn't there a problem with defensibility. Tyler said the sound engineer said they tossed it out in court. Rob stated that they just set the noise levels pretty low and he can't imagine that the infrasound at that level and by meeting the other levels negates infrasound issues at the boundary lines and takes care of itself on its own. Paul stated that one, two, or three of them need to research that some more. Paul stated that with our setback it might take care of itself but seeing that it is non-defensible we should go back and look into the data to see what we can find and perhaps as the speaker said he would entertain questions and at least get an opinion from him as far as doing our own due diligence on our own. Jessie stated that she felt that they do need to say something and not just leave that out. Paul stated that he agreed but felt that the Committee wasn't ready to say it right now. Paul stated that in his research he had found that with our setback distance he thinks it eliminates the infrasound but he needs to research that further. Chair Merlino asked if they were going to table this motion until the next meeting. Becky stated that she agreed to table her motion until further research could be completed. Kim stated that she would contact the

consultant. Jessie asked if everyone wanted to review different weightings for different frequencies. Paul stated that the motion to table has to pass before they can go onto further discussion.

**Becky motioned and Tyler seconded to table her previous motion on infrasound until the next meeting. Vote 9-0. All in favor.**

Item 6: Discussion on preparing findings and rationale on Setbacks, Tower Heights, and Decibel Levels.

Chair Merlino stated they could do decibel but only on the audible. Chair Merlino asked Tyler if he had a chance to work on this. Tyler explained that he hadn't written anything yet and that he feels that their rationale for setbacks and noise levels are all going to be tied together. Chair Merlino stated that this was a request from the Attorney in the event that we have to defend our position on setback, height, and decibel levels. Becky stated that they have to document their findings and people have done presentations and brought forward information from the World Health Organization. Chair Merlino stated these are for the protection of the people, their health and wellbeing and the protection of our animals domestic and wild. Paul made a suggestion that this is a perfect time to form a subcommittee of a couple of people to put together the wording instead of sitting here and throwing out things won't accomplish much right now. Paul asked if they could work with Kim to have a subcommittee meeting as she doesn't think it would be a long meeting and that document would get brought back to the Committee. Paul stated we need to identify that there is going to be a subcommittee, who is going to be on it, when are they going to have the meeting and Kim will need to post it. Jessie asked if this was like a formal letter to the community. Paul explained that it would be a letter to the Attorney. Chair Merlino stated that the Committee work will go to the Selectmen and from them to the Town Attorney for review before a public hearing and a town vote.

John Maloney asked what the Attorney going to be using this for and how technical does it have to be and are you going to cite all of the studies that you reviewed and he wonders what the purpose is. Kim explained he wanted a brief description as to how they arrived at those numbers. Paul stated that he felt it was worth to add citations as justification as to what the position is. John Maloney asked if the Attorney going to override the work of the Committee saying you should be at 42. Chair Merlino stated that the Select board is the one that is going to decide and he is the one who is going to advise them to say yes or no or he might say it looks good to me. John Maloney asked if the Selectmen will have to go thru all of the citations and make their own decision. Chair Merlino stated that this is strictly for defending the position and the voters are going to decide on the position this will help us prepare for the public hearing. Paul asked what John was thinking. John stated that he can understand why the Attorney would like this so if the Committee came up with some arbitrary item he could reference this document and then if there is an application, and a law suit the courts are going to ask for this position on how did Greenwood determine these positions so he sees the value of that but is concerned about all of the effort that everyone has done but then a three board member of Selectmen could axe it all. Jim explained that the Selectmen have asked this committee to amend the ordinance with updated commercial wind regulations. Jim stated that he thought if they all did their due diligence and we get whatever we can presented and as long as it is legally binding, the Selectmen are not going to want to go thru all of this. Jessie explained that she attended one of the Selectmen's meetings and found them to be receptive and supportive of our efforts. Tyler stated that the Selectmen did extend the moratorium. Chair Merlino stated that they need a subcommittee and asked Tyler if he was going to be on it. Tyler stated that he guesses he is on

that subcommittee. Becky stated that she would be able to help and asked if Paul would be interested. Paul stated that he would be but it is all calendar driven due to his work schedule. Kim stated that they would need two weeks to post the notice. Tyler said they would meet after the holidays and suggested Jan. 3<sup>rd</sup>. Chair Merlino asked if three members were enough. Paul stated the number of members would be up to the Committee. Chair Merlino asked the Committee if three members were enough for the subcommittee. Everyone answered yes. Chair Merlino stated that the subcommittee is formed and will report back to the full committee at their next meeting.

### **Item 7: Discussion on wording in Ordinance for John Maloney**

Paul asked if the letter they write for the Attorney satisfy John in terms of information. John Maloney stated he would have to review the letter to know. Paul stated it seems like the same knowledge based material that we can share with John may cut the workload from the standpoint of not replicating workloads. John stated maybe what he needs are in the minutes like the setbacks and tower heights with participating or non-participating land owners. John stated that is why he was asking about non-participating - so if I'm leasing a large piece of property the person who is leasing it to me is participating. Chair Merlino answered yes. Paul asked John if he had a boiler plate that he was working off of. John answered no not really and would be making changes to our current provisions that are in our Site Plan Review Ordinance.

Chair Merlino stated that he thinks they will need to discuss view at their next meeting so they will add that to the next agenda along with the low frequency noise. Tyler asked regarding view if he meant the visual appearance. Chair Merlino stated they need a discussion on the view and the Comprehensive Plan, and historic sites. Chair Merlino provided the Committee with a couple of pages from a workshop that he went to and asked them to take a look at them for discussion at the next meeting. Chair Merlino stated that these give direction on what the Planning Board can look at when deciding the view. Chair Merlino stated that his colleague, Dennis Doyon said views can be very subjective and he agreed that it very much is. Becky stated she agreed that it is very subjective but however in the Comprehensive Plan it is talked about quite extensively and in a number of places as something as being critical to the people who approved the plan. Becky asked if this is something they can discuss this evening. Chair Merlino stated it wasn't on the agenda but it will be there for the next meeting. Chair Merlino stated that might conclude the Committee's work and then it will be up to the voters to vote. John Maloney asked what would be helpful for the Committee to start discussing the visual stuff. Chair Merlino stated that they have documentation, the Comprehensive Plan, and guidance of what Planning Board do from the workshop literature.

Paul stated that Mark Bergeron from the DEP discussed that there were two points where there were challenges that came to the DEP and they were on visualization and it might be worth it to contact Mark for the court case numbers and we pull them to review to see what the outcomes of the court cases were. Chair Merlino stated that one was a court case and Mark said the other was a Committee. Paul stated they should be able to find a court case and committee minutes to review. Becky stated that at the last meeting we talked about this, and asked Kim if she asked DEP to take a trip up to Horseshoe Trail. Kim stated she was told by our CEO that Jeff Kalinich from the DEP would be doing an inspection up there this week and she hasn't heard back from anyone about any outcomes. Becky asked if he has a report if it could be submitted to the committee and asked if that was relevant. Chair Merlino asked with respect to what they are doing now. Dennis stated that it wouldn't have any bearing. Chair Merlino stated that speaks to

the Moratorium and legal thing and Attorney General and they say they are logging which is self-regulated. Dennis stated that logging is not self-regulated.

### **Item 8: Comments from the Citizens/Public**

Gill Bastien, property owner on Twitchell Pond: not sure how many read his letter to the editor last week. He stated a lot of discussion tonight on sound from turbines but what hasn't been mentioned are we talking about one turbine, or 13 turbines. Dennis stated that it doesn't matter. Gill stated that he felt it does make a difference as it would amplify the sound if you have 13 all working at once. Gill asked if that would make a difference in your decision on decibel levels. Chair Merlino stated if all 13 are running and you are at the property line they have to meet our decibel levels or something will have to happen. Gill stated that according to his research, the higher the turbines the greater the noise both audible and infrasound and asked that the Committee take that into consideration.

Mrs. Bastien, property owner of Twitchell Pond: 600' towers using the vestas model is designed to run more continually so the idea that it isn't going to run isn't true. She explained that these are designed to run continuously. She reminded everyone that technology is changing and maybe in the future these could run quieter and it's not up to them to dictate to the Town but the Town to dictate to them what needs to be done.

Stephen Cole, resident on Cole Road: stated that there is quite a bit of history in the area of the ice caves as they are historic to this area and they are on Long Mountain. Stephen stated that Horseshoe Trail Road was the stagecoach run from Newry and these locations do have a historical importance to the Town. Paul asked if Kim could get them a list of the Historical sites that are in the general area. Kim said she would be glad to. Jessie asked how someone would do that. Tyler said they are all online. Kim said she would get copies.

Bill Dalzell, East Twitchell Pond Road: Asked how many people in the audience had been to the ice caves. About half of those in attendance raised their hands - @ 20. Bill suggested that we ask our last two guest speakers what Towns have good wind ordinances and get copies for the subcommittee to use.

Stan Leonard, East Twitchell Pond Road: When it comes to infrasound, I know you just set the setbacks but how have you figured it on 600' towers. Chair Merlino explained that the Committee set the maximum tower height to 250'. Stan asked the infrasound being non-detectible at one mile where did we get that reference. Chair Merlino answered that was from the Acentech sound person, Michael who gave us that. Stan asked if it was from a tower in Falmouth and what size was that. Paul stated that the minutes state that is was one of the Falmouth Massachusetts towers and the height was 360'. Stan thanked the Committee for their work and for answering his questions and for stating that 600' towers are out. Chair Merlino stated that this has to go to a Town vote but this is what the Committee will be recommending.

Dwayne Bennett, Bethel resident: Tug Hill, New York has 200 – 300' windmills and a new problem they are having is that the windmills are complicating Doppler radar and this summer they had a tornado touch down and no one had any warning due to the interference with the radar. Dwayne stated that the landscape is destroyed out there and no one wants to go visit so call an area Chamber or Land Trust that has towers nearby and find out what they think.



Chris Paris, property owner on East Twitchell Pond: According to the news there are people from that Embassy in Cuba who have permanent brain damage from infrasound.

Brad Payne, Committee Member: Asked if we can set a time limit that this ordinance can't be repealed for two years. Dennis stated that at any time someone can petition the Selectmen to change their ordinance – you just can't infringe on someone's right to appeal the process.

Dylan Labelle: a non-resident stated that all summer long from the sound of the destruction of the clear cutting what these guys are doing is atrocious and is environmental, it's horrible, and it is super loud and asked if there are any ordinances against that. It is has to be them getting ready for the windmills. Jim suggested that they talk to the State Forestry Dept. as they deal with logging issues. Paul stated that the recommendation of the DEP was to contact the Forest Service in that they are legal in what they are doing as it is a logging operation and they continue to claim it to be for logging and that falls outside of this Committee.

Jill Powers asked if they could move the next meeting to after Christmas instead of before Christmas. Chair Merlino stated that they would be sticking to their schedule and meeting on Dec. 21<sup>st</sup>.

**Item 9: Set next meeting date - December 21st- 5:30pm at the Greenwood Town Office**

**Item 10: Adjourn - Meeting adjourned at 6:45pm.**