

**Town of Greenwood
Ordinance Review Committee Meeting Minutes
January 18, 2018**

(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
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 - Jill asked if it had already been discussed if they could limit the number of turbines in a certain area – like could they only be allowed to have 10 or 5 turbines in a certain area. Jill stated that she feels that greater numbers of turbines increases the sound and impacts the view. Chair Merlino answered that if the setbacks the Committee has recommended are passed by the voters, the number of towers will be reduced. Chair Merlino stated that the developer would need to determine if 13 towers will fit on the mountain with meeting all of the setback requirements. Chair Merlino asked if easements would be considered in the setbacks. Becky stated that they had set the setback as 1 mile per every hundred feet of tower height to any non-participating parcel. Chair Merlino asked if easements were not allowed. John Maloney stated that the non-participating in the critical piece of this. Jill stated potentially there could be 13 turbines there if there is enough land. Chair Merlino stated yes, unless it doesn't fit from a geographic perspective. Jill asked if they would consider that there could only be a certain number based on view. Chair Merlino stated that the Committee is still working on view. Chair Merlino asked that folks review the current ordinance and the Committee's task is to make these words more clear.

Item 3: Comments from Committee

None

Item 4: Review Minutes of December 07, 2017 – Minutes were read and accepted as presented. All in favor: 9-0. Motion passes.

Item 5: Receive, edit, discuss and approve a report from the subcommittee on the rationale of our position.

Paul Marcolini stated that Tyler is the Chair of the subcommittee and the meeting was recorded. Tyler explained that they have not put together a draft yet, but they decided to work on a rationale for every item they changed in the proposed updates to the Ordinance and to list out the facts and findings. Tyler asked if everyone could look at the outline they have drafted and let them know if the full Committee would like to see something different. Tyler stated that the subcommittee will be reviewing the piles of information that the Committee had been working on for reference. Tyler explained that they were going to base their work on what the Town of Montville had done. Tyler stated he wanted to make sure the full Committee was all set with the outline that they had prepared before they do more work. Chair Merlino asked if anyone had any questions or comments. Tyler explained that the list is short and simple at this point but this will grow as they review the Committee's work. Paul stated it was their intent to each take one of the big topics and to write up a piece on it and then review each other's work. Becky added that the sub-committee meeting is open to the public. Paul asked if the Committee had any suggestions or changes to the outline. Chair Merlino stated that they were ok to proceed as everyone is on board for them to proceed.

Item 6: Discuss and decide Infrasound levels using the acoustical engineers suggested ordinance as a guide

Chair Merlino asked that the Committee read the current ordinance and that there is already several pages in this Ordinance that deal with sound – pretty detailed stuff. Chair Merlino stated that they need to decide on a level and what parts of Mr. Bahtiarian's work will you like to include. Chair Merlino stated that we don't have the level of definitions in our current ordinance that Mr. Bahtiarian has submitted. Chair Merlino recommended that John Maloney fold Mr. Bahtiarian's definitions and fold them into our current ordinance as this is information that technically minded people would key in on. Tyler stated he would agree to that completely and asked if John had reviewed the section on infrasound. John stated that he had. Tyler asked John if he felt that this was worded correctly for an ordinance. John stated that the important part is to get the technical part included and that can be done. Chair Merlino stated that our ordinance refers to a qualified engineer but Mr. Bahtiarian includes the word qualified but then defines what qualified means. Chair Merlino stated that they would also need to update the information on what they use for instrumentation. John suggested that you can continue to use the recognized ANSA reference. Chair Merlino asked if everyone was ok with using the ANSA reference with is a recognized national organization. Becky asked if they should include the current ANSA or most current ANSA so we are always right there. Chair Merlino stated that he thought that was already part of ANSA's protocols for revisions and doesn't think the Town needs to add any language. Paul asked John that once they do any upgrade on a standard, that next point or bullet becomes the standing or replaces what you have already written and then becomes the most current. John stated that you need to include a provision if there is a new standard and it's accepted by ANSA that it will be used. John stated that he would work on adding that language. Chair Merlino asked everyone to consider the measurement procedure. Jim stated this was a measurement for after the fact. Dennis agreed. Jim stated that they needed a preconstruction sound analysis and after that all they can go by is the data from the equipment company. Chair Merlino stated that is already in our current ordinance – Section K of the existing Site Plan

Ordinance- Control of Noise. Ed Rosenberg stated that there seems to be some confusion of two different things and what you are referring to is dbA and what he is proposing to write about is dbC for infrasound which you can only do after the Towers go up as you need pressure to start with and then it can only increase by 6 dbC. Ed Rosenberg explained that what we have in our ordinance is about dbA not dbC and this is why you want a pre-construction measurement. John stated that section K was taken from the State DEP standards and asked if he were to be a commercial wind farm developer, as part of my application my engineers would have to say what the infrasound levels will be for this project – as we have stated that infrasound can't be measured until the Towers are up but the Planning Board will need technical information when the application is submitted. Paul stated that there will be one sound measurement as the project begins – the ambient noise level and the second is what the Tower would produce as infrasound and the Board would use that as a benchmark. John stated that the applicant would submit that information and the Planning Board would have a peer review of that and determine if that was in fact what would take place and then you could measure it. John explained that whatever the standard the Committee sets is the standard that would have to be met and once the Towers are built those measurements would be taken and enforcement might be needed if the standards are met. Chair Merlino stated that they mention a protected location around the perimeter of the property. Tyler asked if John was going to make this a subsection of the Noise section in the ordinance. Chair Merlino said that John can work this into our current ordinance without making a subsection. Chair Merlino asked if the Committee wanted to include Mr. Bahtiarian's work on infrasound. John stated that the sound pressure level is stated in Mr. Bahtiarian's work and asked if this is the infrasound level that the community wants - what is the infrasound structure level and is the Committee satisfied with the 6db level. Chair Merlino stated that the Committee does need to answer that. Chair Merlino stated that the 6db was a recommendation by Mr. Bahtiarian. John stated that the subcommittee will justify this. Tyler stated they would certainly do that. Chair Merlino reminded everyone that this is a recommendation by an acoustical engineer and asked if the Committee was in agreement with this level. Becky stated that this was one of the reasons why we asked for acoustical engineers to come present to our Committee. John asked the Committee to review the following section:

LIMIT

No wind turbine(s) shall produce an Infrasound Pressure Level, which is 6 dB higher than the background Infrasound Pressure Level at the primary blade pass frequency and blade-pass frequency harmonics. All measurements are taken on any adjacent residentially used property, or on adjacent land zoned to permit residential use. Measurements inside a building or residence may be performed assuming the building owner allows access.

John stated that the Town doesn't have zoning, and questioned if infrasound could impact businesses or animals. Jessie suggested that it read that "... all measurements are taken on any adjacent land". John asked if an office building could be impacted. Becky stated they could be and that isn't residential. Chair Merlino asked if they use the word protected location and then make a definition for that. John stated that protected location in his mind is the same as non-participating. John stated that if the towers are up and running and someone wanted to build close to the Towers there should be an infrasound measurement taken – buyer inform themselves. Chair Merlino asked the Committee if 6db was ok. Jessie stated that she reviewed

her notes from previous meetings and there is information in Steve Ambrose's presentation and perceptible level is 2-3 db and a noticeable level would be at 6 db. Chair Merlino stated that Mr. Ambrose said that the setback we have set would cover this and if we refer back to what Mr. Bahtiarian says and he emphasizes that 1 mile from the tower in Falmouth it was zero. Becky stated she thinks that was a 450' tower in Falmouth. Dennis stated that the Falmouth tower was 360' tall. Becky motioned and Brad seconded to set the infrasound pressure level at 6 db as suggested by acoustical engineer, Michael Bahtiarian. Vote taken and motion carries.

Item 6a: Discuss and decide how to approach view in the ordinance

Chair Merlino stated that view is a critical topic and we have a Comprehensive Plan. Chair Merlino stated that the Town has not done anything in several years to implement the Comprehensive Plan into a Town Ordinance. Dennis explained that the State Planning Office required Towns to implement their Comp Plans but the State Planning Office no longer exists. Chair Merlino stated that would probably be why we have had no pressure from the State to implement the Comp Plan. Chair Merlino stated that our resident Historian, Blaine Mills came up with a list of Historical Sites and this is part of our Comp Plan and he has found out that this is just a piece of paper until it is approved by the State so it doesn't become an official historical site. Chair Merlino asked if the Town was working on getting these places recognized by the State. John stated that the historic site on a National Register would be under the Dept. of the Interior and it really doesn't do anything. John explained that it might have implications if you were going to use Federal funds then you would have to meet certain criteria. John explained that a designation as a Historic Area is mostly just a ceremonial procedure. John explained that our current Site Plan Ordinance has a section:

Historic Locations:

The Board shall consider the proposed project's impacts on historic buildings and sites as identified in the Greenwood Comprehensive Plan. When a proposed project will include a historic building or site the applicant will design the project to minimize the impacts on the historic building or site.

John stated that our current ordinance does reference the Comprehensive Plan and does have a Historical Locations section. Chair Merlino stated that another thing they need to recognize is when they put this into the Site Plan even though it is targeted for wind power it is just not for wind power it is for all business and we need to be sure we are careful in our wording to support the Comprehensive Plan and would ask the Committee to review the lists and the Comprehensive Plan, review our current ordinance and determine if we already have enough covered. Chair Merlino asked if the Committee feels it needs more work then bring your suggestions to our next meeting for discussion. Chair Merlino asked if the Committee would like to table this until the next meeting. Paul suggested that Chair Merlino restate the homework for the Committee before calling for a vote to table it. Chair Merlino stated that the homework would be to first review the existing Site Plan Review Ordinance for wind power with respect to view and determine if it needs to be revised and if so come up with that language and bring it to our next meeting for discussion. John stated that the Comprehensive Plan also has several maps and one is labeled Scenic View Locations and View sheds and our current ordinance says that these are the areas that you should consider and one of the issues that may come up is when the Comp Committee

was looking at that it was noted that views are based on the eye of the beholder. Dennis stated it could be subjective. John explained that the Comp Committee took the lists and used a scoring system to do it. John stated that when the Committee looks at this, they need to consider what does the Comprehensive Plan say about your scenic views and vistas are in your town. John explained that the issue could come up when you are reviewing a project wind power or a 20 story building, under your current ordinance it says those are the areas in the Site Plan Review Ordinance that these standards would kick in - as we shouldn't be writing an ordinance on a view location saying it is a scenic view and there are things to consider: Is that reflective of what is important for scenic locations in Greenwood and if not maybe you need to revise it, some might feel there are too many or not enough. Chair Merlino stated that one of the key elements from the Comprehensive Plan was to maintain the greenway down the Greenwood Road from the Howe Hill Road to the Norway Town line and one of the issues from the folks that voted against the Land Use Ordinance that was proposed to support the greenway, residents defeated the proposal stating it was too restrictive, too confusing, and many other reasons. Chair Merlino stated that most of that greenway is already in the Shoreland Zone as most of that road is already within 100' of a water body. Chair Merlino stated that the greenway is still there and the Shoreland Zone Ordinance gets updated by the State almost every year. Tyler asked John when the scenic view map was done. John stated it was done in 2002. Tyler asked if there were any changes to add since 2002 like Maggie's Nature Park and the parcel owned by the Land Trust off of the Richardson Hollow Road. Tyler motioned that we table this item until the next meeting. Brad seconded. Vote all in favor – motion carries and tabled until next meeting.

Item 7: Comments from the Citizens/Public

Betsey Foster – Greenwood resident: Betsey stated that recognizing scenic views and noting historical places are two very different procedures. She explained that the State recognizing something that is designated as a scenic view is done by the State and the Town would submit the information. She stated that once the place is designated as a scenic view by the State there are particular actions that come with it; but it is a whole process that might be considered in the future. She stated that her other topic is on low frequency, infrasound, or non-audible sound; for measurement of it infrasound magnifies inside a structure so measurements should be taken outside of the structure as well as inside. Betsey stated there were comments about what other Town's ordinance say and she has done some research on some national Town ordinance written for sound and almost none of them have anything for infrasound because infrasound is so new so there is not enough information. Betsey stated that when you mentioned infrasound being non-detectible at a mile away, that was for Falmouth and quite a long time ago and for a 360' tower and the taller the tower is the more infrasound there is. Betsey stated that 360' tower would have very little infrasound so she thinks it is a moot point and non-detectible in a science sense doesn't mean there is nothing there it only reflects the limit of the equipment and doesn't mean that it isn't there.

Ed Rosenberg – property owner: Ed stated that something came up in an earlier discussion that he would like to add to. Ed stated that back to discussing the dba that measurement is taken before the project is started and he thought the time or place to put it in is when the developer comes to Town and asks for a MET Tower permit to require that the developer give the Town the \$ 7,000 so the Town can hire an acoustical engineer to do a background sound check and

thinks it is a good idea to make it part of the MET Tower permitting process. Ed stated that this way they will have a background before anything is done. Chair Merlino asked if it was to check for the ambient sound levels. Ed answered yes, and it is done and paid for by the developer and it is just part of the process. Ed also suggested to John that they use the wording “ latest revised standard” as he has seen that written that way in many ordinances he had read. Ed stated that one of the proposed rules from the State is that the latest wind energy act and it changes and on the last day of the comment period there was something written about flicker that didn’t seem correct - what they are saying in the proposed rule is that the only people it applies to is permanent legal residents so if you had a million dollar home on Twitchell Pond looking towards the towers and you are not a legal resident of the State of Maine - they don’t have to come with solutions to your problems of flicker coming in your windows. Ed stated that he spoke with Mark Bergeron from the DEP and Mark explained that they didn’t want to include someone who just had a shack out in the woods and Ed explained that many people are from away and many have plans to make updates and build their dream home now and what the State is saying is that the developer doesn’t have to consider these non-resident owned properties in their protection measures to protect them from flicker. Ed stated that he is hopeful that the State will pick up on his comment and include all lots for protection.

John Steeves – property owner: John stated that there is such a thing as an inverse square law that applies to all forms of energy including infrasound. He explained that it is the squared of the distance away from the source of the energy and it doesn’t matter what kind of energy it is it will be diminished by distance so you can apply it to any kind of energy source the inverse square law applies. John stated that our acoustical engineer would have to use that in his computation. John stated that this thing about infrasound goes away with distance. Chair Merlino stated that he has said that. John stated that he is reactive to the lady next to him. (Betsey Foster) Betsey stated that he had said the same thing. John asked if she had considered the distance. Betsey stated that she didn’t mention distance just the health effects. John stated that as far as flicker goes the sun has to be at a certain angle before you get flicker. Jessie stated that it depends on the time of year.

Jill Powers – property owner: Jill stated that if Ed is right about that non-resident thing the Committee needs to jump on that and get it corrected. Jill asked if the sub-committee is public and if there is an agenda. Chair Merlino informed Jill to check with the Town. Tyler explained that they don’t have a set schedule. Kim stated that she would email the date to Jill. Tyler stated that they haven’t set the meeting date or time yet. Jill asked if there are any changes made to the scenic view map if she could get a copy and would like to know if flicker would be discussed when they start reviewing scenic views. Chair Merlino asked if the map could be placed on the Town website. Kim said she would make that happen.

Patricia Dalzel – property owner: Patricia said she heard a rumor that Calpine would be doing a presentation to the Board of Selectmen and if that was true when was that going to happen. Chair Merlino stated it was scheduled for February 6th at 5:30pm at the Legion Hall. Patricia asked if flat landers were allowed to attend. Chair Merlino stated that it was a public meeting.

William Dalzel – property owner: William asked about the Historical Site listing and how it was made or is this listing just for property that would be impacted by wind towers. John Maloney stated that the listing is for all properties in Town. Mr. Dalzel stated that he didn’t see the ice caves on the list. Jim stated that the ice caves were on the list and a number of them will never see a wind tower. Mr. Dalzel asked why Hayes’s house wasn’t on the list. Chair Merlino stated that they could ask Mr. Mills and find out.

Jake Zagata – property owner: Jake explained that he had arranged to have a public showing of the movie Windfall and thought it was a balanced documentary that they would like everyone to see to help educate folks so that they can make an informed decision and vote. Jake stated that he feels this is an opportunity to get people out so they can make their own decisions. He hopes this will encourage people to come and maybe he will plan on future showings. Jake would encourage people to come or get others to come and to spread the word about the showing. Jake stated that he can't vote but he can ask those that can to come out and vote their heart and their choice.

Stan Leonard – property owner: Stan stated that he had one observation if you think there will be a lot of people interested in the Calpine presentation you should have it at the Legion Hall. Chair Merlino stated that this would be up to the Selectmen to determine where to hold the meeting as it is a Selectmen's Meeting.

Chair Merlino stated that there will be two more gatherings that will have to take place. There will be a hearing after the Selectmen take what the Committee has done and after the lawyer has reviewed it will go to a public hearing and he hopes that the voters attend and ask questions. Chair Merlino explained that after the public hearing a Town Meeting will be scheduled calling for a town vote. Jessie asked if the subcommittee will be doing a presentation on their work. Paul stated it would come from the full committee. Jill asked if there was a timeline for that. Chair Merlino stated that he isn't able to at this point as they still have work to do as a committee. Jill asked if the voters will have time to review it before the vote. Chair Merlino stated that the Attorney has to approve it and then the Town will make copies available to everyone. Chair Merlino stated that the Annual Town Meeting is in May and asked that everyone look for something in May or maybe a Special Meeting.

Chris Powers – resident: Chris stated that the scenic views plan was drafted in May of 2002 and it occurs to him that it was drafted way before commercial wind mills were even built in Maine and thinks this is a valuable tool moving forward.

Brad Payne asked if the Town can extend the moratorium. Kim explained that the Town can extend the moratorium as many times as is needed until the Town has their work completed.

Jessie asked if they could touch on flicker at the next meeting. Chair Merlino stated he could see about that on the agenda. Jessie stated she could prepare for that.

Item 8: Set next meeting date – February 1st- 5:30pm at the Greenwood Town Office

Review wording from John Maloney

Item 9: Adjourn - Jim St. Germain motioned and Dennis Doyon seconded to adjourn the meeting at 7:08pm. Vote - all in favor. Meeting is adjourned.