

**Town of Greenwood
Ordinance Review Committee Meeting Minutes
February 1, 2018**

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

Absent: Tyler Bennett, Jessie Frederickson, Rob Lally, and Kim Sparks

Item 2: Comments from the Citizens/Public

Ed Rosenberg – property owner: Ed explained that he had brought up at the previous meeting about non-residents and residents and the definition of that and how the State is reviewing the Wind Energy Act and it only references permanent residents and he thinks that we have our definition covered. Ed cautioned that as we get into discussions on flicker and property values in relation to the State, he's not sure how we will word it to make sure we use our definition and not the State's. Ed also stated that he discussed how to note that the current regulation is being used – that the correct abbreviation would be A.M.D. – as amended.

Dwayne Bennett – area businessman: Dwayne stated that over the last 21-months he has been looking over natural resources like the ice caves or one of the ponds, he would suggest that we look at the entire area as a natural resource. Dwayne explained that other Towns had referenced their entire area as a natural resource. Chair Merlino stated that the Committee would be looking at the Comprehensive Plan that already looks at that. Dwayne cautioned the Committee to watch the wording as Calpine has referred to this area as having rolling hills instead of mountains and to remember that the expedited process thru the DEP aren't part of the scenic view and are exempt from that discussion and suggested that the Committee write this strong.

Betsey Foster – resident: Betsey stated that she had a follow up on what Dwayne had stated and as to views that the National Park Service instituted a study in the last 18 months and it is ongoing at what people expect when they go to a National Park and one of the first things that came out of the study was that when people go to a National Park they want to see views with no reminder of industrial processes. She explained that the study looked at commercial wind and how far would they have to be from the National Park boundary. Chair Merlino asked if they should apply to become a National Park.

Jake Zagata – property owner: Jake explained that he is trying to work thru the Calpine application to Massachusetts and is still working on it and a lot of things have been redacted.

Jake asked if everything has been redacted how we know what we are getting and in terms of views that is a basic fundamental aspect. Jake stated that the application also mentions battery storage facility and how is that going to work. Jake stated that he feels it is going to be a serious challenge for the committee to write this without know more details about how this all will work. Jake stated that there are views during the day and there are views during the night and you are going to have towers up there with strobe lights blinking at night and what happens to the night sky.

Item 3: Comments from Committee

None

Item 4: Review Minutes of January 18, 2018 - Tabled as Kim had not had time to complete them.

Item 5: Review submission from subcommittee and decide next steps

Paul stated that what they did when they met was to start to put framework and made some topics that they would be covering. Paul explained that they had asked the Committee at their last meeting if there were any additions to that and we decided that we would break out certain components of the list and split them up dividing the work, we would individually write a specific topic or specific data within the topic area and then share and review this between the three of us before it is brought back to the full committee. Becky stated that she spoke with Tyler and he wanted to make sure everyone understood that if the Committee added more – like tonight we are reviewing Views....Tyler wants you to know that these additions will be included in the Sub-Committee’s report. Chair Merlino stated that they would be adding more for them to review as the Committee still has work ahead of them.

Item 6: Review submissions from John Maloney and decide next steps

John stated that his plan was to wait for the sub-committee to submit something but doesn’t want to confuse everything. Becky stated asked if John had everything he needed. John said he has information on the height and setbacks from the minutes. He has the language for the Complaint process and the information on the infrasound. Paul asked if John had a list of all of the areas that need to be written into for the Ordinance. Chair Merlino stated that the audible portion of the existing ordinance is multiple pages. John stated that the decibel levels that you set were based on the experts that you had complete presentations to the Committee. Chair Merlino stated that they need to add something like the current technology applies. John stated that he could get a quick turnaround for everyone.

Item 7: Discuss view and decide next steps

Chair Merlino asked who would like to start the discussion on view and its relativity to Historical sites as depicted in the Town’s Comprehensive Plan but it is his understanding that is of little value unless the sites are recognized by the State. Paul stated that it still gives them reference to significant scenic views and locations of these sites and the maps need to be updated as there are several locations that have become important to our Community since these maps were drafted. Paul stated we need to list these additions and determine if there is anything else that needs to be added to the list going forward. Chair Merlino questioned what will pass muster with the State.

Paul stated he wonders what the State Task Force will come up with and we need to focus on what areas, as a community, we think are important and to focus on what the Comprehensive Plan lists as guidance. Becky stated that she agreed with Tyler that we have to think of this as an entire area not just a certain ridge and keep in the back of our minds the words from the Comprehensive Plan to preserve the scenic views. Chair Merlino agreed and said that when that section of the Ordinance is written in need to be reflective of what our Comprehensive Plan says and this is a way to reinforce that plan. Chair Merlino stated that one of the main sections of that plan is the “Greenway” which is all of the Greenwood Road from Howe Hill Road to the Norway town line and he thinks it is 75’ of both sides of the Greenwood Road is considered the jewel of the Town. Chair Merlino stated that they would have to dust off the Comprehensive Plan and refer to it when they address view. Becky stated that she had reviewed what was in the Site Plan Review Ordinance and did go back and read the Comprehensive Plan and how important it was throughout the Plan to preserve the scenic views. Paul stated that when they met as a subcommittee was that one of the things we decided was that we were going to refer to the Comprehensive Plan when we were working on the scenic impact and under the background information we would reflect what the Community was invested in having and then they would build up from the specifics underneath it. Paul stated that they think the Comprehensive Plan helps give them some good guidance in terms of what they are looking at to maintain for our Community. Paul stated that they have had these discussions early on, and that views can be subjective but we have a reasonable description and ranking system with what is in our Comprehensive Plan and he would be in favor of taking a stronger look at that Plan and pulling that over and then seeing what we have to augment if anything. Chair Merlino suggested that is incorporated into the Ordinance. Paul said that is what he is suggesting. Becky stated that she would suggest that as well. Chair Merlino stated that they could fold it in and use some words to amplify what the needs of the Town. Paul stated that he feels they need to do an additional inventory that become part of the plan. Chair Merlino stated that they don’t have a Selectman at their meeting tonight but he will have to address that to the Select board and Town. Chair Merlino stated that they need to do more work. John stated that he is sure the Committee has read the standards in the Site Plan Ordinance on scenic views but there is one general review standard that says, “*The Board shall assess the proposed activities impact upon scenic areas and views as identified in the Comprehensive Plan.*”- this is already in our Site Plan Ordinance and then under the Specific Standards section for Commercial Wind Energy there is a section on Scenic Resources that says, “*The Planning Board may require a visual impact assessment*”. John stated that the scenic view assessment was done by a couple community members and as Paul indicated we tried to set up a way to do that instead of just saying this was a scenic area and we used a ranking system to qualify that and to change or amend the listing you should complete that under the same way and be careful when you do it as he’s not sure if you eliminate some from the list or add new ones to the list and would worry about what weight the new ones would have and hopefully if you do that it would be a community wide assessment and not just a consideration due to the impacts of a potential development. John stated that this could take some time and a scenic listing can be difficult to do and asked that the Committee give it some thought. Paul asked John what kind of criteria did you use as an algorithm as that non-partisan member. John stated that he is somewhat biased about views in Maine but his general criteria was how far you can see, what the background is, how accessible it is and those types of criteria. Paul asked if they ranked those similar to those in the Comprehensive Plan. John answered yes and he completed these in the Towns of Newry and Rangeley where recreation was important. Chair Merlino asked if population density enter into it. John answered no as there are some scenic views in urban areas and again we used ranking criteria and a view that scored one vs. a view that scored ten has a greater difference in importance to the Town, the Town’s economy and in some cases importance to the area. Chair Merlino asked if this chart would become a guide to the Planning Board. John stated it depends on what they want to do with it and that now our Site Plan Ordinance says that on any Site Plan Review Application that the Board shall assess activities on scenic areas and views noted in the Comprehensive Plan and that the activity would have undue adverse effect and the Board would require the applicant to minimize adverse

effect. John stated that going on that this Community is not that Land Use regulation friendly, but with a residential project to his surprise the Planning Board limited the height of the structures in the view shed so it would peak up above that. John stated that there are a number of ways to do this. John stated that the Comprehensive Plan, the people that work on it, and getting the public input will reflect a value and whatever that value may be if it is important enough to preserve is a whole other discussion. Chair Merlino asked if Jim and Dennis had anything to add. Becky asked Dennis and Jim if they thought the visual impact was an important thing. Dennis stated that he had stated in the past that he thought it was a subjective thing and that he has people on his road that will be looking right at these towers and they say they don't mind them and they actually like looking at them. Dennis explained that he had one person tell him he wished he could buy a camp in Roxbury so he could watch them and that is why he is saying it is subjective as some people like them and some people don't and who do you put ahead – who has more validation to their point than another. Paul stated that it is a consensus decision that came out of the Comprehensive plan as it isn't written for one side or the other and should not be laid out as it is one side or the other and we need to come up with the middle ground using the criteria that John has suggested and let the pieces fall into the criteria and make judgement based on the criteria and not on an individual preferences. Dennis stated that they asked for his opinion so he gave it. Jim stated that a lot of this meeting has been about personal preferences and it is nowhere near going to the middle in order to find common ground to get things to work. Jim stated that since the first meeting that they have had there has been no looking for common ground and we have a strong anti-wind bias for any number of reasons and that is fine. Paul suggested that he say it a different way – to let the data speak for what the data says and if you wanted to refute any of the sound studies that we have done you have had an opportunity to do that and I haven't seen that happen. Paul stated that if they wanted to refute any of those things that are non-subjective – he hasn't seen any other data being brought to the table from the medical problems on down the line. Paul stated at some point there has to be a subjective decision that is made for things like visual and sound wasn't subjective it was based on two experts that we had come speak to us and whether you agreed with them or not the data still supported the decision and it's a bit unfair to say as you did that it all subjective as it is just not true. Paul stated that he thinks this is a subjective part and they piggy back off the work that others have done on the Comprehensive Plan and evaluate that as it is something the Town has already approved and is in favor of and at least in the development of it. Paul stated that he thinks they have something in hand rather than building something from the ground up. Chair Merlino stated that the voters will decide that. Dave Fowler stated that Calpine submitted data to the contrary on sound. Paul asked Dave if this is part of his ten minutes at the end. Dennis stated that there were people who spoke at the last meeting so if Paul was going to jump on Dave Fowler he would have to jump on everyone. Paul stated he would.

Chair Merlino stated that they would continue their discussion on view and asked everyone to bring something substantive and more information for them to write something about this for the draft for their next meeting. Paul stated that we need to be clearer on how we pose a question and the first question should be do we approach the Selectmen to expand the mapping areas that we looked at and the second question would be how much of the Comprehensive Plan wording do we pull into the new ordinance and the third question is within the existing ordinance what language do we drop in as well – so we have three component parts that are going to fit into one statement on visual and how it impacts the Community. Paul stated that he thinks they should pick off a piece of those at a time and make a motion tonight to have Larry approach the Select board and the next step as Committee members would be to go thru the language in the Comprehensive Plan and the existing ordinance so that we can speak to the specific language that drawn across at their next meeting. Dennis stated that they didn't need to do that because the Comprehensive Plan is already part of the overall Site Plan Review Ordinance so you don't need to draw it over as it would be like drawing over into anything as it is already part of the overall Site Plan Review. Dennis stated that when anyone comes for an application the Comprehensive Plan is already there included so as a person who would have to administer that

it doesn't make any sense at all. Paul stated that his reasoning for doing that was so that they would have a complete ordinance with wind or not and that reflects the same verbiage. Dennis stated that they have a complete ordinance with it being in the Site Plan Review process that is as complete as you can get and covers every application as the Comprehensive Plan is in there. Paul stated that they need to reference that in a way that will reference across. Paul stated that what we have talked about is that there are different Articles in different parts of the Ordinances that do not come together in common language and that is what he is looking at so that there is one set of common language. Paul stated that Dennis might know that the Comprehensive Plan is included in one ordinance but he doesn't know if it is included in all of the Ordinances. Paul explained it would be best to have all of our Ordinances have the same language so that they all communicate the same way. Becky stated that she agreed that even if they don't pull all of the verbiage in we have to note it so that when someone is looking at the wording of the effect on scenic resources that they are required to go review what is in the Comprehensive Plan so it will need to be noted or footnoted where to find the Comprehensive Plan. Dennis stated if you have a whole and you go and take certain parts of it to put into it you are excluding other parts and you'll end up saying these are the parts for this specific ordinance. Instead, you should be referencing the entire Comprehensive Plan and to him administratively from the Planning Board end it doesn't make any sense at all as an applicant can say this is all you are asking for in the Wind Ordinance and it makes no sense to him that they would do it that way.

John stated he wanted to make a point about the Comprehensive Plan that there is a performance standard in your current site plan review ordinance that the Planning Board has to consider on any application it reads, "*The proposed project is in conformance with the Comprehensive Plan and other applicable ordinances.*" John stated that one of the things for numerous reasons is that sometimes people say that in the Comprehensive Plan you can find something for both support or against a topic and there have been a number of law court decisions in Maine that spells that out. John stated that there is a preamble that is being prepared by the subcommittee that will state the basic reasons for the sound levels, setbacks etc. and some of this scenic stuff could be worked into that. Becky stated yes that is definitely one of the items they are working on and visual is one of them. John explained that when this Site Plan Ordinance was put together it wasn't an easy task and the Town went thru some difficult discussion on scenic views and how to regulate them or not regulate them and if this is a concern maybe there needs to be some more direction written in the ordinance for the Planning Board to consider when they are looking at these. John stated that a number of years ago this was a hot topic. Dennis stated that it was overwhelmingly destroyed.

Chair Merlino stated that he would entertain a motion and he would like to add something to the motion that when he goes to the Select board and asks them that we revisit these sites from the list and at the same time he gets our permission to ask for an extension on the moratorium. Becky stated that she felt that they need an extension. Chair Merlino stated that they could have it if they needed it and he thinks they are coming close to the end of the first extension. Becky stated so moved to ask the Selectmen to update the maps in the Comprehensive Plan and to request an extension on the Moratorium for Commercial Wind applications. Seconded by Paul.

John stated if he was going to the Selectmen, what are they going to base their decision on. Dennis stated he didn't know. John asked if the Committee was looking for them to hire someone to do it, appoint someone to do it, or is this Committee going to do it. Dennis stated those changes would then have to be voted on by the entire Town. John stated that he wasn't sure. Dennis stated that if there are changes made to the Comprehensive Plan the Town will have to vote on that. John said if they were going to add to it, then yes the Town would need to vote on that but he thinks the Town can go out and get that information. John asked Larry how he was going to present that to the Selectmen and if the Selectmen say no what does that mean and does it mean this is issue would then be ignored by the Committee and go with what you got. Dennis said yes. Chair Merlino stated that he thinks that is what would happen but he thinks that

they have already asked Mr. Mills to come up with that Historical list and he isn't sure what their plan was in respect to that but am thinking it would be to fold that into the Comprehensive Plan in some manner and/or to go to the State to see if these places can be put on the Historical Register. John stated that as far as this Committee goes and what needs to be done, do not wait for the State to decide on these things. John stated it is unknown what the Selectmen will decide and how that will impact the timeline. Becky stated that it can be expressed to the Selectmen that it came up in the Committee that a Commercial Wind Facility could have an impact on scenic views and given the fact that since the Comp Plan was written things have changed that it might be appropriate to look at areas that could be impacted by Commercial Wind Facility anywhere in Town given that there are new trails, new vistas, and new views that would give them something to base their decision on. Becky asked if that made sense to John. John answered yes, as long as being advised of this there isn't bias from whomever does this scenic survey and it is for more than just towers sticking up as you could get an application next week that would have impacts on your scenic views and scenic locations. Chair Merlino agreed and stated we have to consider the overall impact on the entire Site Plan Ordinance for all types of applications. Becky stated that they could say the visual impact on our scenic views from any industrial project or large scale residential project. Chair Merlino asked if there was any other discussion. Chair Merlino called for the vote – all in favor. Motion passes.

Item 8: Comments from the Citizens/Public

Betsey Foster – Greenwood resident: Betsey stated in talking about views being subjective as John Maloney stated previously, the National Park Service now takes views out of the subjective category and there is a bonafide way to measure views. She explained that when she talked with the National Park Service from the Grand Canyon he said in likelihood they would share some of that and John may have already talked to them. She stated that it is no longer a subjective issue.

Rosemary McLean – Greenwood resident: Rosemary asked if Paul could mention his three items as she hadn't had time to record them. Paul stated that the three points were to:

1. To approach the Selectmen for guidance on updating the listings and maps from the Comprehensive Plan and to establish where Mr. Mills is in updating the Historical list,
2. Visit the language in the Comprehensive Plan to see what specifically out of there what we can use, and
3. Make any changes to that using it as a template

Jill Powers – property owner: Jill stated that in regards to views being subjective or not subjective isn't there a way to measure say maybe with a test balloon or a survey and wouldn't that take it from a subjective item to more factual item. Jill asked what part of the process would somebody have to follow when they apply for some type of industrial permit – would they be required to fly a balloon for everyone to see and vote on. Chair Merlino stated like a drone. Jill said yes, something that folks could see during the daytime and nighttime and wouldn't that take it from the subjective to a more concrete opinion. Chair Merlino stated the entire thing about view is difficult to work with. Jill asked if there could be a process written into the Ordinance so that the view would become less subjective and more concrete. Dennis stated as a point of reference that was tried on a project that he worked on when he was on the Planning Board in Bethel for a specific cell tower and it didn't work because you just have a balloon and there was no way to reference what the finished product looked like. Becky stated that she takes Jill's points as valid and there might be other ways to show what an impact will be like a visual impact

study and the technology is there. Jill asked what part of the process would that be applicable would it be after someone had applied. Dennis answered it would be during the application process. Jill asked if that was currently written into the ordinance. Dennis answered yes it would be during the application process and it is very difficult for the applicant to come up with anything until they have the exact locations of the tower sites. Dennis explained that if they have the Tower location sites determined the Board can ask for a visual impact study. Jill asked if that would then just go to the Selectmen. Dennis said it would become part of the application to the Planning Board. Jill asked how someone from the Town could review this. Becky stated that once it is submitted to the Planning Board it is a public document and anyone can come view it. Jill asked if this impacts 76% of the population, does all 76% get to view this or just the Planning Board. Dennis stated it is just like this meeting here anyone can speak under the public comment and we go from there it is the same process. Chair Merlino stated that the process when it is a big project requires that the Planning Board take it to hearing where the Town has an opportunity to voice their concerns. Chair Merlino asked if the Planning Board has to vote after the Public Hearing. John answered there is usually a certain amount of time after the Hearing that the Planning Board would vote on the project. Dennis explained that usually after an application is deemed complete it can then go to a hearing and then the Planning Board has a certain amount of days after the Public Hearing to vote. Chair Merlino stated that the Town doesn't vote. Chair Merlino asked if they voted for Duane's Retreat and he remembers having a hearing on it. Jim stated that it never went any further so it was put on hold. Chair Merlino asked if the Town voted on that. Jim stated the Town never voted on that. Dennis stated that the Town doesn't vote on these. Jill stated that she heard that Calpine was meeting with the Selectmen and wondered where she could get more information on that. Chair Merlino suggested that Jill contact Kim for more information and she will make the information available if it is available.

Dave Fowler – Calpine Rep: Mr. Fowler asked what the motion was for – what was Larry supposed to do. Chair Merlino explained that he would meet with the Selectmen to discuss the updated historic sites list from Historian Blaine Mills and how that would impact the Comprehensive Plan and then to discuss an extension on the moratorium. Paul stated that this would be still information gathering and the question would be what are they wanting to do with the information.

William Dalzell – property owner: William Dalzell asked if the Committee would consider a financial impact analysis to the Community and a potential Economic impact to the Community.

Jake Zagata – property owner: Jake stated it also is the fact that this if for the futures of this region.

Item 9: Set next meeting date – February 15th- 5:30pm at the Greenwood Town Office

Item 10: Adjourn – Jim motioned to adjourn the meeting at 6:48pm and seconded by Becky. Vote all in favor and meeting is adjourned.