

TOWN OF TEMPLE, NEW HAMPSHIRE PLANNING BOARD

MAY 2, 2012
FINAL MINUTES OF PUBLIC MEETING

Board members present: John Kieley, Ken Sullivan, Rose Lowry, Mary Beth Ayvazian, Allan Pickman, and Camilla Lockwood

Call to order by Lowry at 7:35 p.m.

Approval of Minutes: Move by Ayvazian to accept the minutes of 04/18/12 as written, second by Lockwood, and so voted unanimously.

Review of Right-to-Know Law: Kieley mentioned a presentation made to the town several years ago by town counsel Dwight Sowerby that addressed RSA 91-A: "Right To Know" (RTK) law, including email protocols. Kieley said he and Zoning Board chair John Pierce then drafted a report which summarized the points made at the meeting. He stated it was agreed at that time that email contact between town board and/or committee members was appropriate for scheduling meetings, sharing documents, and providing new information. Emails cannot be utilized for any form of discussion pertinent to the Planning Board, including working topics or to suggest changing something. The report also suggested attaching documents to meeting minutes, so all paperwork can be easily presented for review. The board discussed "gray areas", noting the RSA is vague relative to electronic communication. Kieley said Sowerby had suggested avoiding the gray areas, keeping to the point of what is appropriate. Kieley said the report information is still relevant and he will supply copies. Lowry said the work of the Planning Board is always considered public, and advised members to review the RTK law.

The topic of quorums was then addressed. Kieley stated it is fine if a couple of board members attend a meeting elsewhere, i.e. in Lempster or New Ipswich. However, if a quorum could be present then the meeting should be properly noticed (posted in two public places at least 24 hours in advance). The issue of being on private property, i.e. a site walk, was also brought up. Again, if a quorum may be attained the meeting should be posted. Lowry then mentioned the subject of "ex parte communication", where a board member may not speak as a single board member to another person who has interest in an application. She gave an example of when Adam Cohen of Pioneer Green Energy (PGE) called her, stating Cohen needs to address the board as a whole. Lowry remarked that board members must do everything as a group, and any specific task or assignment must be documented in the minutes. Sullivan asked about being contacted by a reporter, and Lowry advised differentiating between private vs. public significance. She mentioned a recent email to the board regarding a question about helicopters, and said research could be done and documents forwarded to other board members, but there could be no speculation or discussion. Sullivan commented that PGE actually has no formal application before the town and asked if this could affect the status of communication. Other board members pointed out that the Large Wind Energy System (LWES) is still the business of the Planning Board. Lockwood was asked about her experience being on a board in another town, and responded that individuals speaking out of a meeting context was a huge problem. Sullivan mentioned handling questions while campaigning for a position on the board, and Lowry reiterated that one member can present a personal opinion but cannot speak for the board. Lockwood referred to attendance at meetings or workshops and being able to indicate membership on the Planning Board. She also brought up a recent episode in a neighboring town where the Selectmen were accused of holding non-noticed "accidental" meetings, with a resultant filing of a court complaint that was later dismissed.

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Several other related topics were briefly addressed, including attendance at outside meetings or workshops, phone contact, attorney-client privilege, taping of meetings, and keeping of written minutes. Lowry referred to the existing "Rules of Procedure" and indicated they may need updating in certain areas. She suggested reviewing the duties of the Planning Board, and pointed out the board is only allowed to do what state law says it can do. Pickman agreed and said the state is the original basis of power, unless ceded to the federal government or delegated to town government.

Helicopters: Kieley said the town office had received a phone call from a resident regarding how the town might handle a request for a heliport. The initial question had been posed by a real estate agent, and the resident was unsure of a reply. Lockwood responded that unless specifically prohibited by ordinance, it is permitted. This was followed by discussion about if a heliport could be considered an accessory use, and consideration of a difference between private vs. business use. Reference was made to other small towns that have dealt somewhat with this issue. It was noted there is relevant case law to refer to should an actual proposal be brought forward at some point.

LWES Application Request Update: An update was given regarding the continued interest shown by a resident for possible erection of wind turbines on his property. It was noted copies of both the Small Wind Energy System (SWES) and Large Wind Energy System ordinances had been conveyed to the resident. Also, the status of developing a LWES application had been explained, with a copy of the first draft of the application provided. Upon request, a note was written on the top of the draft application form stating that no final version was yet available as of 4/25/12. Lowry reminded the board that a SWES application form needs to be created as well as the LWES form. Sullivan stated he has obtained a copy of the Site Evaluation Committee (SEC) energy facilities rule book, which he said contains pages of rules plus a section on application. Sullivan described a step-wise approach to the application process, with certain information being submitted up front and permits being obtained separately. Sullivan suggested Ayvazian review the SEC list and application. He continued that if the town's application seems too rigorous, the town could get zoned out and the SEC could take jurisdiction. Lockwood and Kieley agreed to help Ayvazian format the town's LWES application. They were cautioned about being considered a sub-committee, which would require posted notice of their meeting and taking of minutes.

Review of Master Plan: Kieley said the Master Plan (MP) is incomplete due to zoning ordinance changes, such as the addition of Workforce Housing, Mountain Zone PRD, etc. He also stated the MP is weak in the areas of protection of mountains and wildlife. He said the MP for the town of Antrim recognizes the need for renewable energy, and Lowry said this must be clearly stated by towns, as the SEC must consider the town's wishes. Sullivan said if the MP is to be meaningful, it should support alternative energy more than wind energy. Kieley suggested this would be a good area to request help from Southwest Region Planning Commission (SWRPC). Lockwood said she had several suggestions from her recent review of the MP, including: review of community services, inclusion of the Natural Resources Inventory (NRI) and a water study of the Souhegan watershed, CSA's and right-to-farm, sandpit areas, transportation, community outreach such as use of a charette model, bridges, and traffic. Ayvazian mentioned talking to the Temple Economical Energy Committee (TEEC) regarding a program called

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“Transition Town” which advocates use of local resources and business to promote self-sufficiency. Lowry stated engaging townspeople in the MP process is important.

List of Questions for SWRPC: Lowry asked board members to contribute to a list of questions for Lisa Murray of SWRPC, who is scheduled to attend the May 16th meeting. It was noted the questions should be non-specific and on general subjects the board wishes to consider. Suggestions included: example of a model Master Plan, organizing a Zoning Ordinance by chapters, range of permit fees for wind energy, criteria to use outside professionals and experts, access to SWRPC maps, and obtaining demographic information. This was followed by brief discussion of workforce housing and affordability of homes in the region, houses for sale within the town, and sprawl vs. “thoughtful village planning”.

Antrim SEC meeting: Kieley said he and Sullivan had attended a public meeting in Antrim concerning large wind. Kieley said there were seven SEC people present and they controlled the meeting. The wind developer, who had fourteen representatives at the meeting, made a presentation. Only the SEC was allowed to question them directly, and the public was invited to submit questions on cards. Kieley also said the developer’s expert did not seem able to provide answers, and noted they have not yet actually built any large wind projects. Kieley felt the meeting was disorganized, with no Antrim Planning Board officials present, and the public’s questions only being addressed very late into the evening. Kieley said the Antrim Board of Selectmen (BOS) had previously negotiated a tax agreement during a non-public session. Kieley said the SEC does consider input from towns and takes all data to weigh deliberation, and if the project is deemed not good for the town it will not be allowed. However, the SEC has not turned one down yet. Kieley offered to send out a copy his meeting notes to board members. Sullivan stated the BOS does seem to have some standing with the SEC, but not so the Planning Board, who in Antrim were denied intervener status. Sullivan continued that if the proposed Temple project is less than 30 megawatts the town may keep jurisdiction, but if over 30 megawatts the SEC will take over. He said change can be approached through petitions and legislative change of the law, and suggested the town should fight the system even if the project is a 30 megawatt project. He continued there is currently a bill in the legislature to study a revision of the SEC process. There was mention of determining an accurate 30 megawatt threshold for wind farms, as some actually only produce 12 megawatts, and a “nameplate” 30 megawatt project should actually be just that.

Move to adjourn by Pickman, second by Ayvazian, and so voted at 9:33 p.m.

Minutes submitted by Betsy Perry