

TOWN OF TEMPLE, NEW HAMPSHIRE PLANNING BOARD

MARCH 21, 2012
FINAL MINUTES OF PUBLIC MEETING

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

Call to order by Pickman at 7:32 p.m.

Pickman welcomed the two newest members (C. Lockwood and K. Sullivan) to the board. Sullivan advised that he records all meetings.

Approval of Minutes: Move by Kieley to accept the minutes of 03/07/12 as written, second by Ayvazian, and so voted.

Election of Officers: Chairman: Pickman announced he did not wish to continue any longer in the role of chairman, but would be okay with the office of vice chairman. Pickman then nominated Rose Lowry as chairman, saying he had discussed this with her previously, and felt she would be "a good listener, and a good talker". The nomination was seconded by Ayvazian. With no other nominations forthcoming, a vote was taken and all were unanimously in favor. Vice Chairman: Ayvazian nominated Pickman as vice chairman, saying he would be a good resource and support for Lowry. This nomination was seconded by Martin. With no other nominations forthcoming, a vote was taken and all were unanimously in favor. Secretary: Kieley nominated Martin as secretary, with a second by Ayvazian. With no other nominations forthcoming, a vote was taken and all were unanimously in favor.

Integrating zoning changes: The board discussed updating the Zoning Ordinance with the latest amendments, including the Large Wind Energy System (LWES) ordinance plus amendments to the Home Business section. Pickman noted the LWES ordinance was 25 pages long, and suggested adding it by reference instead of injecting the whole thing into the existing Zoning Ordinance. He said it could be viewed as separate PDF link on the town website, but other board members felt the link could be overlooked. Kieley mentioned reviewing the entire Zoning Ordinance to restructure it and make small corrections, perhaps dividing into chapters. Lowry said the voters would need to vote on these types of changes. There was further discussion of formatting the document. Pickman stated that Article IV makes up 75 percent of the whole ordinance, and thought it a good idea to review and restructure for voters' consideration the following year. Kieley made a motion to incorporate the voter-approved corrections to the Home Business section and the LWES into the master ordinance, with a second by Lowry, and so voted unanimously. After the changes are integrated, the ordinance will be emailed to members, a hard copy will be printed out for the municipal office, a PDF version will be sent to the town website, and the municipal Library will be contacted to see if they would like a copy.

Projects for upcoming year: A list was created of potential projects to consider, including:

Master Plan: Kieley noted the last revision involved many people, working as groups on separate chapters. Board members agreed it seemed like a good idea to get the public involved.

Zoning Ordinance: The entire document needs to be reviewed for inconsistencies and may benefit from being reformatted. Pickman reminded the board they need to address a difference

TOWN OF TEMPLE, NEW HAMPSHIRE PLANNING BOARD

MARCH 21, 2012
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between the definition of “multiple dwelling” in the Zoning Ordinance and the term “multi-family” under state RSA 674:43. There was brief mention of a possible upcoming request for a barn to house conversion, with a residence already existing on the property. Options for handling this type of change could include obtaining a building permit through the Board of Selectmen if all zoning criteria are met, or referral to the Zoning Board of Adjustment.

Large Wind: Review resident comments offered during the past year, and consider any changes or additions to the LWES as deemed prudent. Sullivan brought up strengthening of the bird/raptor migration language.

Noise Ordinance: Lowry stated this can be a controversial issue. Kieley said the Police Department would appreciate help to control noise from motorcycles. Lockwood said the town of Milford has a noise ordinance in place. It was agreed that noise issues can be vague and hard to enforce.

Light Ordinance: Martin said excess light can be an issue, and mentioned how the halogen lights at Re Marble and Granite were somewhat problematic but eventually resolved. Pickman said language could be built into both the Zoning Ordinance and Site Plan Review.

Site Plan Review and Subdivision Regulations: Kieley mentioned both of these could also benefit from review and updating.

Pickman commented that all these topics form a huge agenda for the year, and should be prioritized. He continued that the Master Plan is a visionary document and does not need to be approved by the voters. Martin mentioned utilizing Southwest Regional Planning Commission (SWRPC) as a resource. Sullivan stated LWES or other commercial energy should be addressed in the Master Plan. Kieley said he believes the Master Plan should be the highest priority and suggested the focus be on that document and also the LWES ordinance. He also suggested Anne Lunt be contacted to proofread the documents after the board has completed revision. Sullivan suggested the board keep the list open until the next meeting. Kieley mentioned speaking with an owner of Wildcat in New Ipswich about the status of talks with Pioneer Green Energy (PGE), and said everything seems quiet with no ongoing discussion.

Rights Based Ordinance: Sullivan explained his proposal for an RBO and handed out printed information. He had previously emailed a sample RBO document to board members. Ayvazian suggested the issue should be the purview of the Board of Selectmen, not the Planning Board, and that the town attorney should be involved. Kieley mentioned the town of Sugar Hill, NH has just passed an RBO. Sullivan commented that Sugar Hill wants to stop the Northern Pass project from “messing up” their community. Kieley said this might be a town meeting issue for voters, more than a Planning Board issue. Ayvazian said an RBO mandates local control and pre-empts state and federal jurisdiction. Sullivan said he was suggesting the board consider such an ordinance, not promote it. When an audience member asked about the style of an RBO, Sullivan said it is tailored to each community. He continued that a group known as Community Environmental Legal Defense Fund (CELDF) can provide assistance. Sullivan said he believes an RBO provides “another fence” between the wind developer and the town. He suggested a member of CELDF could come speak to both the Planning Board and the Board of

TOWN OF TEMPLE, NEW HAMPSHIRE PLANNING BOARD

MARCH 21, 2012
FINAL MINUTES OF PUBLIC MEETING

Selectmen to explain concepts and answer questions. Pickman asked Sullivan if there has been any test in court; Ayvazian said there has been a case in PA concerning fracking. Sullivan related an instance of a challenge to allowing commercial water removal from a New England town that was stopped with CELDF involvement. He stressed that a town should ultimately get to decide what they want to allow. Connie Kieley commented that this does seem like a Planning Board issue, and should be addressed in the Master Plan. Lowry said she thinks it is more of a Board of Selectmen matter. Pickman stated that under the state constitution, municipalities can only do what the law allows them to do, and the state relinquishes rights to the federal government. He continued that the towns can say anything they want, but if state law does not allow, the town's wishes carry no weight. Sullivan told the board there is a need for a continued strategy to deal with PGE and the proposed LWES, and said taking a look at an RBO could help head off PGE, who could be meeting with the state. Ayvazian said the board could talk about it, but she thought it was not the right vehicle. Lowry commented that citizens have more power than the Planning Board. Pickman said an RBO is a "declaration of independence", and thinks it will not hold up in court. Sullivan replied that the Site Evaluation Committee (SEC) does not have the power to override Temple. Lowry said the Planning board has done what it can, and citizens need to get involved. Kieley then suggested the board learn more, and have CELDF come in to speak to both boards. Sullivan offered to set this up. C. Kieley referenced reading minutes of SEC meetings, and suggested citizens will be unable to go against the SEC. Ayvazian spoke about the SEC being revamped and will have to give more consideration to public interest and input. J. Kieley said he will ask state representative Jen Daler to look into this, and Sullivan agreed to next approach the Board of Selectmen.

Lot line merger: Sullivan presented a proposal to merge two contiguous lots he owns in the Stonegate Farm Planned Residential Development (PRD), and had previously submitted an application and other documents. Pickman said as part of a PRD there may be tax implications as well as being affected by covenants. Kieley stated this would be a tax issue for the Board of Selectmen. Martin said he felt the covenants would not allow this, but Sullivan countered that he had reviewed the covenants and feels there is nothing within to prevent lot consolidation. Kieley said since there were a certain number of lots created in the PRD and an agreement between landowners, a merger may change shares and what is owed to the association. Sullivan stated he has the right and wants to joint his two lots to minimize taxes. Kieley noted if the two lots are joined, they cannot be subdivided again, as per the covenants. At this point, upon a question from an audience member, Sullivan recused himself from the board. He said he would like this merger accomplished by the end of March. Kieley asked Martin for his opinion, and Martin said he had no prior knowledge of this proposal, and as an abutter and the PRD developer, recused himself from the board. Kieley stated the tax issue falls to the Board of Selectmen, the assessment is a Stonegate landowners' issue, and the Planning Board issue is the merger of lots. It was stressed to Sullivan that under the covenants only one residence could be on the lot, and the land cannot be subdivided again. Also mentioned were the costs for shares of road upkeep, etc. as well as there being an existing access easement through the lots. Pickman read RSA 674:39-a "Voluntary Merger" out loud. Ayvazian moved to accept the merger of the two lots (8A-2-3-8 and 8A-2-3-9), with a second by Pickman. At this point Kieley asked for an amendment to be inserted in the merger acceptance letter that the lots cannot be subdivided in the future per the PRD covenants. So moved by Ayvazian, and seconded by Lowry. A vote on the amendment showed three in favor, Pickman opposed, with Sullivan and

TOWN OF TEMPLE, NEW HAMPSHIRE PLANNING BOARD

MARCH 21, 2012
FINAL MINUTES OF PUBLIC MEETING

Martin recused, and Lockwood abstaining. The vote to approve the merger was then called, with four in favor, with Sullivan and Martin recused, and Lockwood abstaining. Sullivan asked a couple of questions about deeds and lot numbering. The final acceptance letter will be written and sent to Pickman and Lowry for signatures, and then Pickman will record at HCRD before the March 30th deadline. Sullivan then stated, for the record, he objects to the insertion of the language regarding the covenants, saying it was not needed as the RSA sufficiently covers. Kieley noted the entire covenants title along with date should be utilized in the letter.

Move to adjourn by Sullivan. There was a second by Kieley, but before voting he asked other board members to consider a 7:00 p.m. start time for meetings instead of 7:30 p.m. After discussion it was determined it would be a hardship for several members to make the earlier start time, so no change was made. The vote was unanimous to adjourn at 9:03 p.m.

Minutes submitted by Betsy Perry