

**Minutes for Town of Pawlet Planning Commission
Pawlet Town Office
Pawlet, VT**

**Monday, April 22, 2013
7:30 p.m.**

Members in Attendance:

**John Thrasher
Fred Stone
Karl Eberth
Harry van Meter
Wayne Clark
Gary Baierlein**

Others in Attendance:

**Gene Bertsche, NE Community Solar
James Glick
Ned Swanberg, Agency of Natural Resources
Hilary Solomon, Poultney- Mettowee NRCD
Frank Nelson
Jaime Lee, Rutland Regional Planning Commission
Lenny Gibson
Tim Hughes-Muse
Keith Mason
Clarence Decker
Kathy Doyle, (Clerk)**

Members not in Attendance:

**Tom Nelson not present
Eric Mach (Zoning Admin.)**

Item 1: Review of Minutes, March 25, 2013.

Minutes adopted unanimously as written.

Item 2: Gene Bertsche, re: Proposed Solar Project.

Mr. Bertsche presented a synopsis of the proposed NE Community Solar plan and current plans to expand the project as detailed on a map which was e-mailed to the PC members. He indicated that no survey plot plan is available, but that he would be happy to have a surveyor come out to the site. He stated that the project was in compliance with wetland and hydric soils and a 50 ft minimum setback requirement. John Thrasher asked what the smallest set back was for the project and Mr. Bertsche indicated that he would get actual distances to property line.

Harry van Meter stated that he objected to the way that the application was brought to the board, stating that he did not think buying the property first and then going to Public Service Board and receiving an expedited application due to the small scale of the project was a 'grassroots approach'. Harry also said he did not think the project was in compliance with the designated agriculture/rural residential district. Mr. Bertsche noted that before purchasing the property, he had conversations with surrounding landowners, since talking to neighbors and getting support was part of the process of getting the original permit. Mr. Bertsche indicated that as the developer and also a resident of the adjacent town, he has worked to make the project in compliance.

In response to questions, Mr. Bertsche stated that the type of mounting system was a "pole in ground without cement and that poles could be pulled out of the ground. He said that test borings had been done. He indicated that there was no agreement with the town regarding how the project might be decommissioned. He stated that the original project had received a certificate of public good from the Public Service Board and he would send a copy of this to the Planning Commission.

In response to questions about the type of technology, Mr. Bertsche stated that the exact type of panel would be determined closer to implementation of the project, but that a mono-crystalline cell would be used. He stated that this technology had been around for more than 30 years and that he had no reservations about the materials. Harry van Meter emphasized that he would like to see what the whole project looks like with a survey plan and proper drawing. Gene Bertsche indicated that a preliminary drawing had been sent and he would send the Planning Commission a revised plan.

In response to questions by Wayne Clark about the uncertainty of continuing government subsidies, Gene Bertsche said that solar projects receive fewer subsidies than other types of energy generation. He said that the draft insurance policy covered the investment if the manufacturer went out of business and that there was a "down time insurance clause". In response to a question about plans for further development on the site, Mr. Bertsche stated that there were no plans on this site.

John Thrasher asked if the Public Service Board requires a decommissioning fund. Gene Bertsche stated that the project has a decommissioning fund and that all the materials are recyclable.

Mr. Decker asked about the setback distance from Route 30 and Mr. Bertsche replied that he thought it was 65 feet.

Item 3: Zoning Administrator Report

No report as Zoning Administrator was not present.

Item 4: Comments from Audience

It was decided that Comments would be taken during New and Old Business to allow time for Ned Swanberg to speak.

Item 5: Jamie Lee and Ned Swanberg re: fluvial erosion hazard maps:

Jaime Lee provided an update on a status of the Unified Bylaws. She said she hoped the town would consider adopting fluvial erosion hazard zones and stream set backs and these could be addressed at the next meeting, along with the issue raised by Tom Nelson regarding setbacks in the village. After the May meeting, she will present a final draft of the Unified Bylaws.

Jaime introduced Ned Swanberg from the Agency of Natural Resources. Mr. Swanberg presented a slide presentation on fluvial erosion hazard overlays and flood hazard zones. He stated that because the town was updating their zoning it was a good time to discuss fluvial erosion hazard zones. Mr. Swanberg noted that erosion hazards are a public safety and investment issue as roads and houses built in erosion hazard areas are susceptible to being washed away as a result of floods. He discussed the National Flood Insurance Program, noting that every town has flood hazard maps, but emphasized that erosion hazard areas are not completely captured by the flood hazard zones. Zones mapped on the flood insurance maps indicate areas that have a 1% annual chance that the area will be flooded; these areas are sometimes known as the 100 year flood zone. The flood hazard maps do not consider the dynamic adjustment of stream channels over time. The "river corridor" captures the area where the river is expected to move. River corridors can be mapped based on the two phase fluvial geomorphic assessment that has already been conducted for major river reaches in Pawlet. These reach by reach assessments consider deposition and erosion and the identification of erosion hazard issues. Mr. Swanberg provided a handout on floodplain and river corridor issues. He articulated reasons for considering flood and erosion hazard areas including: avoid aggravating existing exposure; reduce current risks; preparing for emergencies; insuring residual risk. He noted that in Pawlet -- 3/4 of the 30 structures in the flood hazard area don't have insurance. He

emphasized that since the geomorphic assessment has been completed Shannon Pytlik could generate a river corridor map.

John Thrasher asked how much area is in question. A map was distributed to show flood hazard areas and tributaries. Ned Swanberg said that the "river corridor" would be identified based on the size of the river and the energy, and the lateral area needed to accommodate the movement of river and maintain equilibrium conditions; it is not a specific set back. He also indicated that in addition to flood hazard areas and corridors, the town should consider set backs and buffers to protect water quality and habitat. He noted that town regulations vary in terms of stream setbacks and there is no state wide guidance. He mentioned that communities that adopt river corridors receive more government assistance if there is a disaster. He mentioned that Shrewsbury, Dorset, Sunderland, Manchester are examples of towns that have adopted river corridors. Ned indicated that he would send more information. The consensus of the board was that they would consider these issues at the next meeting. Jaime Lee agreed to provide a map of the conserved lands to determine how much of the land that might be included in the flood and erosion hazard and stream set backs is already conserved.

Fred Stone asked what is done about errors on maps. Mr. Swanberg answered that the river corridor maps can be corrected and that model bylaws and a variance process exist, such that a landowner could provide data to change the maps. Hilary Solomon from Poultney Mettowee NRCD who participated in the Pawlet fluvial geomorphic assessment, emphasized that data had been collected for each relatively homogeneous reach of the river (similar soil, valley width etc) and that the corridor width would correspond to the conditions along each river reach.

Item 6: Tim Hughes-Muse, Vermont Land Trust Project.

Tim Hughes-Muse discussed the proposed conservation of the property. Brian and Justine Denison plan to sell a portion of the 39 acre property to Mr. Hughes-Muse and a portion of the forested land which contains significant natural communities to The Nature Conservancy (TNC). John Thrasher mentioned a letter from the Vermont Land Trust (VLT) indicating an interest in conserving property. John Thrasher noted that the PC has been asked to write letters indicating whether or not the conservation of this property conforms to the town plan. A motion was made that the Planning Commission is in favor of the transaction and that it conforms to the Pawlet Town Plan. All members present voted in favor with one abstention (John Thrasher). The Clerk agreed to write a letter to TNC and VLT in support of the project.

Item 7: Old Business:

Harry van Meter commented that the proposed Solar Park does not conform to the town plan, since it is not agricultural and residential in character and that it is planned for a scenic byway.

Harry made a motion that the Planning Commission write a letter to PSB indicating such non conformance. Fred Stone seconded the motion.

Discussion: John Thrasher noted that the town plan calls for the promotion of renewable energy. Harry van Meter mentioned that another developer had come to the Pawlet Energy Committee requesting guidance regarding where the Energy committee might like to see the development of a Solar Park. The Energy Committee indicated they would like to see such development in the Commercial/ Industrial zone.

John Thrasher raised concern regarding the terminology in the statute -- 30 VSA Section 248 B1. He said the Statute uses the phrase "unduly interferes with the orderly development of the region". John noted that if the PC makes a motion he would recommend it address whether the proposed project "unduly interferes with the orderly development of the region", not whether it conforms to town plan. Karl suggested they provide reasons why the project does not conform to the orderly development of the region. Harry amended the motion to reference the statute. John Thrasher asks what the reasons are. Wayne Clarke indicated that the proposed development is on prime agricultural land and along a scenic route. Hilary Solomon noted that "orderly development would occur in industrial zone". Lenny Gibson noted that the future land use map indicates that the proposed project is found on areas designated as 'prime agricultural soils'.

Fred seconded the amended motion to write a letter to the PSB providing reasons why the proposed project unduly interferes with the orderly development of the region. The motion carries 5:1. John Thrasher was the dissenting vote. Harry will draft a letter to the Public Service Board.

John Thrasher reminds the Board that it was appropriate to send out materials ahead of time via e-mail but that the Board should continue to discuss items during meetings.

Wayne Clark passed out a memorandum for discussion. He referred to the last page regarding writing regulations.

John Thrasher noted that under state statute the Planning Commission does not have control of energy generating facilities which is regulated by the Public Service Board. It was noted that the Vermont League of Cities and Towns website describes how town should respond to energy applications. John Thrasher noted that Don Campbell, VLT, has suggested that the town should write ordinances regarding value of agricultural land.

The board was polled as to who would like to write ordinances. It was determined that Jaime Lee be asked about whether or not her services would be available to help in the drafting of bylaws. .

Item 8: New Business

Hilary Solomon requested the opportunity to speak with the Board about a grant application. She was invited to come to the June meeting.

Item 9: Set Agenda for Next Meeting on May 27, 2013 at 7:30.

Approval of minutes; Zoning Administrator's Report; Comments from audience; Finalize Draft of Bylaws; Schedule Public Hearing; Old Business; New Business; Set Agenda for Next Meeting.

Respectfully submitted by: Kathy Doyle