

CAMDEN PLANNING BOARD

Minutes of Meeting

December 15, 2010

PRESENT: Chair Chris MacLean; Members Richard Householder, Jan MacKinnon, Kerry Sabanty and Lowrie Sargent; Alternate Members Sid Lindsley and Nancy McConnel; and CEO Steve Wilson

1. PUBLIC COMMENT:

Ms. MacKinnon mentioned the fine turn out for Police Chief Phil Robert's retirement party was evidence of the value of his long service to the Town. It was obvious that his family was quite proud of his service and the tributes from the Townspeople.

2. MINUTES:

December 1, 2010:

Page 2: Line 35: "...development ~~is~~ if it isn't the tax payers?"

Page 4: Line 21: The word "heard" was replaced by the word "heart".

In reviewing the minutes the Board questioned the accuracy of Mr. Strout's statements beginning at Page 2 Line 15: "This was not money that had been budgeted for when they started the project and it was necessary, after these expenses had to be paid, to change the concept of the project from all affordable houses to a mix of affordable and market rate lots – that was not their original plan and they fell 10 houses behind in their goal." Mr. Sargent remembered that the original proposal for Lupine Terrace was for a mix of affordable and market rate homes – it was not the expense of the lawsuit, or the subdivision review process that forced that concept to change. It may be that the ratio of affordable to market rate homes had to change because of the unanticipated expenses, but the history of that mix was not as Mr. Strout had portrayed.

MOTION by Mr. MacLean seconded by Mr. Householder to approve the Minutes of November 3, 2010 as amended.

VOTE: 5-0-2 with Ms. MacKinnon and Ms. McConnel abstaining due to absence

3. GATEWAY 1 STATUS UPDATE

The revised Inter-local Agreement was approved for redistribution to participating Towns and is available on paper and electronically. Many of the concerns expressed by Town Attorney Bill Kelly have been addressed. The Committee took heed of the many comments received and made many changes. Mr. White is appearing before the Select Board next week to review the revisions – he is happy to pass along any comments the Board might have. The next question before the Planning Board will be whether or not to recommend endorsement of the Corridor Action Plan. White hopes to get started on working on the changes needed to the Comp Plan sometime in January so everything is ready to go to the voters in June. Rockland has adopted the Agreement and endorsed the Plan – the first town to do so. The major change to the Agreement was to remove all language insinuating that there would be a loss of local control over land use/planning issues or review authority. Language now clarifies that there will be no financial responsibility assigned member towns with regard to Gateway. There is now more flexibility in the way that towns can meet the Plan goals: Camden, for example, does not meet the acreage requirements for rural areas, but the Town will be allowed to continue as is because of other

tools they have to manage growth in those areas. He will supply copies of the Town's scoring sheets for the Board's review.

With regard to the Inter-local Agreement – acceptance is an up or down vote - the Agreement cannot be modified on a town-by-town basis. He is not sure whether or not Bill Kelly has reviewed the revised agreement. The Corridor Action Plan can be changed – towns will look at the various actions to see if they want to change their Comp Plans – they will have two years to do so.

Mr. Wilson attended some of the recent meetings and saw the Committee's willingness to compromise and personalize their acceptance (or rejection) of each town's situation.

The Transit Subcommittee, working with DOT, will hire a consultant to study transit options in the Mid-coast. The committee would appreciate suggestions and recommendations on what kinds of transit should be included in this study.

White went to Washington, DC recently to accept one of EPA's "Smart Growth Awards for Rural Areas" for Gateway 1 – one of 45 awards out of 695 submitted from 47 states.

Mr. Sargent asked Mr. White if there has been any discussion on possible fiscal constraints to the Gateway project as a result of the change in administrations and the makeup of the legislature. Mr. White said they are funded at least through 2012 for administrative costs and will soon be hiring an Executive Director.

Mr. White supports the concept because it will make for a more reasonable working agreement with Maine DOT. As long as towns are making a good faith effort to comply and meet the goals they will be retained in the program. If not, a town might lose some ability to participate in decision making, but they won't be kicked out – it is vital to the success of the effort that as many towns stay involved as possible. The Action Plan is some 200 pages long, and Mr. White recommends that the Board review the Executive Summary and Chapter #9 for a start.

4. FRIENDS of RAGGED MOUNTAIN: Discussion of Wind Energy Ordinance

Dorie Klein: 30 Dirt Road, Camden: A group of Friends prepared a comparison of wind ordinances for the Board's review. Included in the comparison are ordinances from the Towns of Dixmont, Jackson, Montville, Phillips, Southwest Harbor and Thorndike as well as the State of Maine's model ordinance. Factors compared are: Setbacks from residences, from property lines, from Special Scenic Resources, and from roads; sound limits for day and for night; and low frequency sound limits. Ms. Klein noted that this is an initial and partial and condensed comparison with many other factors affecting public health and safety that would need to be addressed in an ordinance. The group provided several other documents as well, including a letter from Scott Dickerson, Executive Director of the Coastal Mountains Land Trust, discussing the Trusts holdings in the area of Ragged and Bald Mountains and the value of these conserved parcels to the public. (All submissions are held in the Codes Office files on Wind Energy.)

The group took one particular ordinance, and using it for their model, adjusted it to address Camden's needs. This was done as an exercise to show how valuable the already existing ordinances are to developing a starting place.

The group provided pictures of some accidents involving wind turbines – although rare, accidents can happen and this needs to be taken into consideration during the drafting process. Ms. Klein described the process, and the time, some of the towns went through in developing their ordinances: Montville spent over 2000 hours and reviewed over 200 documents. The Town Attorney in Jackson is Bill Kelly, so the Board can look at Jackson's Ordinance and know that he signed off on that particular ordinance. The point is that much of the work has been done already, and the Board should take advantage of that fact.

Tim Woodworth: Rockport, Vice President of Friends of Ragged Mountain: Mr. Woodworth is an engineer who will be serving on Rockport's Ordinance Review Committee as they begin work on their own Wind Ordinance. He described how much information of a very technical nature there was to review prior to undertaking the development of an ordinance. Mr. Woodward discussed the noise level comparisons done and noted the different approaches. Phillips uses the standards for each manufacturer's turbines as determined by the federal National Renewable Energy Laboratory who rates the equipment. Then they use a pre-determined maximum decibel level (for a home in Phillips it is 30 db), and then they determine the setback distance needed to meet that level.

Mr. MacLean noted that real estate values in that setback area would be negatively impacted because it would be assumed that the noise created within that zone could be considered to be at a nuisance level – it would be very hard to sell those inner properties for development. If someone owned land but had not yet built their home, they would have to live within that zone or lose the use of their property.

Mr. Lindsley asked Mr. Woodworth if, in applying the Phillips' Ordinance within Camden, any wind turbine could be constructed – Mr. Woodworth did not know.

He believes a fair noise standard to apply would be the one the World Health Organization uses to define a noise level that interferes with sleep – that is 30 db. The major problems caused by mixing people with wind power is noise that affects sleep, and some towns have different standards for day and nighttime to address the sleep issue. One way this can be accomplished is to turn down the turbine speed at night. This results in decreased power generation, however, and this is a further problem for the developers because nighttime is often the windiest time at elevations of 400' - 500', and the best time to generate power.

There are some noise levels (dbc) below 20Hz which are below the range of human hearing. However, noise at this level can be felt within the body, so it should not be discounted. Some of this noise is caused by the hollow-tube construction of the towers. The tube acts like a flute and sends the noise through the base to the granite below where it is transmitted through the ground. The smaller towers in Southwest Harbor don't have this problem – they are 52' and 70' tall and power a school and residences at a Coast Guard base respectively.

There are also turbines being developed now that are less noisy – Vespa and GE are two companies working on this issue, and they should be rewarded with a standard that links noise production to setback requirements.

Scott Dickerson: Coastal Mountains Land Trust: He wanted to address a rumor that CMLT had a financial connection to the Town: they do not. They have never received any money from the Town, and the land they received at the old tannery site is not a money producer. They have to

oversee the property and maintain it – basically it is a wash for them. In any case they are completely independent, and they have made a considerable investment on Ragged Mountain, and they do have an interest in what happens there. CMLT hopes that during the drafting of this ordinance the Board will think holistically: there may well be places in town where a turbine's noise would be “absorbed” by the ambient noise of the area – downtown or along a busy road. He had written a letter to the Select Board discussing the value of the Trust's property on Ragged Mountain – he will be happy to provide a copy of that same letter to the Board.

Ms. MacKinnon asked if Camden's High Elevation Standards in the Zoning Ordinance would preclude a tower on Ragged Mountain. Mr. Wilson believes it would, but Mr. Lindsley noted that Camden does not own the top of the mountain – that portion is in Rockport. The Town does not have a specific wind ordinance and the question has come up previously whether or not the State can step in when there is that void. Would the absence of a wind ordinance render the High Elevation Standards moot? Mr. Wilson reported that he was attempting to get those answers.

Ms. Kline asked the Board to consider whether or not they wanted to include small home turbines/farm turbines in the ordinance. The group suggests that the ordinance should be all-inclusive, but does not think that turbines at sea need to be addressed at this time.

Mr. Householder believes that small turbines should be addressed in any ordinance. He thanked the group for all the materials they provided.

The Board discussed their next step: Asking whether an ordinance dealing with wind is appropriate or not and if so, how does it fit into the Zoning Ordinance as a whole. Mr. MacLean suggests there is significant interest in a wind ordinance, but believes the most compelling question is whether or not a local ordinance could be overridden. Mr. Lindsley thinks they should look at the limits of what could be built in Town – what will the various cut-offs be for height and noise, etc. Mr. Householder agrees that there is significant interest in Town and believes they should take a look at an all-encompassing ordinance. Mr. Sargent and Mr. Sabanty agreed the Board should go forward. Ms. MacKinnon is interested in exactly what “fast-track” means – what is it and what does it mean to towns? Mr. Sargent believes that regardless of the State's ability to override local ordinances, the Board needs to move forward. They don't want to be faced with a large project coming to Town and have no say in what happens. The Board suggested that Mr. Wilson ask Bill Kelly for his opinion on the matter, especially since he has had experience elsewhere. Ms. McConnel also thinks they should move forward and shares concern about State's ability in override. She has many questions, and one is to understand better how to assess actual proposed savings and costs vs. returns. Mr. Lindsley would like to personally hear from someone on Vinal Haven about their experience.

The Board discussed what kind of track to put this ordinance creation on – where would it fit in their list of priorities for other work. Because of the magnitude of the work involved, and the amount of technical information to review and understand, the Board agreed they would begin work and see where they are without setting a time frame. Mr. Lindsley noted that much of the work and much of the research has already been done – he doesn't think it will be that difficult to make good progress quickly. Members discussed perhaps holding some extra work sessions, and Mr. Wilson suggested that nothing on their current ordinance work list is so urgent it cannot wait. Mr. Sargent noted that the Board will need to be working on Gateway 1 which is to be ready for June, and that will take a great deal of their time. He wants to hear from proponents of

wind and from the public – he can't see how they can do all this in time for June, even by holding extra workshops.

Mr. Wilson mentioned that the Board always has the option of requesting a moratorium if they have begun work but just can't finish in time for Town Meeting. He did note that many businesses won't submit applications if they know an ordinance is being drafted because of the uncertainty that adds to the process.

Ms Kline informed the Board that the Friends had attended the most recent presentation by the Ragged Mountain Redevelopment group and had asked Rick Knowlton and John Scholz, members of the team, whether or not wind turbines were part of the proposal, now or in the future – their answer was a firm “No”. They are not nervous about any pending proposals for wind development, but do think that the issue deserves time and attention now and hopes the Board will begin moving forward.

There are many similarities within the ordinances the Board has been given to review, and the Board agreed they should begin by hearing from someone involved with siting turbine developments so they better understand where in Town they might be faced with the prospect of development. Perhaps they could place different limits on towers/turbines in different areas of Town to address different situations. Mr. Wilson will see if he can reach someone who has siting experience.

Scott Dickerson suggested that the Board look to the Energy Committee for information. They brought in a company who had installed turbines to work with them and they should have good records of what they learned.

The Board agreed that they would like to hear from someone “pro” wind and then have a couple of work sessions on the more technical issues as well as a Public Information Meeting to hear concerns. They'll start, hopefully, with the siting expert at their meeting on January 5th.

5. CAHO PRESENTATION on AFFORDABLE HOUSING

Dana Strout, CAHO Treasurer, had written to the Board on December 3rd, responding to questions raised by the Board at their December 2nd meeting. In that letter Mr. Strout and Joanne Campbell, president of CAHO, offered to conduct a 2 hour presentation on the subject of affordable housing – the obstacles and financial components they must deal with. The Board discussed this offer:

Mr. MacLean does not think that there will be an opportunity to apply the ordinances to affordable housing development in the near future, but Mr. Sargent informed the Board that affordable housing plays into Economic Development goals and that CEDAC is looking at this issue as one that needs to be addressed. What bothers Mr. Sargent is that CEDAC's growth projections that set the goals for affordable units needed are based on figures from Midcoast Regional Planning Commission which are not reasonable – he thinks the number of units needed should be adjusted downward. In addition, there is nothing that the Planning Board can do to reduce the cost of housing – the subject is not within their jurisdiction, and it is not worthwhile to spend so much time when there is other work to be done. Mr. MacLean still wants to understand exactly what it was about the Board's proposed amendment that would “drive a stake through the heart of affordable housing” – that question remains unanswered, and the Board should request that any supporting information be provided in writing. He suggested that the Board send a letter

to Mr. Strout asking for specific information on the impact of the proposal since nothing the Board has heard or seen so far addresses that issue directly and specifically. The Board also suggested that Mr. Strout make the offer for the presentation to the Select Board since they are the ones with jurisdiction over funding.

6. DISCUSSION:

1. *Site Plan Review pre-applications:* There were none

2. *Minor Field Adjustments:* There were none

3. *Possible Amendments for June (2011):*

Zoning:

a) Home Occupations: The Board will hold off working this amendment for now.

b) Combined fast food and sit down restaurants: There is on-going discussion about some creative parking solutions and Mr. Wilson thinks it would be good to wait to see how this issue might look when those ideas are better formed. He will come back to the Board when the information is available.

c) Maintenance: The new building code has a Certificate of Occupancy that the Town can use to address certain situations – they are not bound to enforce the code, but it will be available if needed. The Board will see what the Code – and the new administration in Augusta – brings

d) Housekeeping amendments – nothing is urgent to move to June at this time.

Subdivision:

a) Water Supply for Fire Safety

b) Acceptance of Roads

Mr. Wilson has a letter from the Fire Chief regarding the uncharged hydrant in Mountain Arrow Subdivision, and he has sent a Notice of Violation to Trygve Bratz. Once he receives proof the letter was received – or refused – he goes to the Select Board to request a fine that can range from \$100 to \$2500/day. The Chair hopes that whatever penalty is assessed encourages Mr. Bratz to put the hydrant in service to put an end to the fine.

4. Possible Planning Board Attendance Policy

The Chair noted that the issue of attendance had come up and he had been asked to put this item on the agenda for discussion. The first question is whether or not a policy is needed and then whether or not it should be voluntary or compulsory.

Mr. Lindsley: Should have a policy that with the exception of sickness, a member should not be absent more than three times in a year.

Mr. Householder agrees. The policy should cover regular meetings, but it should also apply to work-sessions as well as all other meetings not regularly scheduled; the work done at those meetings is just as important.

Mr. Sargent: The Planning Board is the second most influential Board in Town and it entails a lot of learning on the part of members. There is a need to understand how issues develop over time. The Board is very diverse and each member has their own view. All seven members benefit when all seven members participate – the Board makes better decisions when this happens. He thinks it sets a bad example when a partial Board is asked to make important decisions – applicants need to believe they got a fair hearing and townspeople need to know that their concerns are being fairly considered. He thinks that members should miss no more than 2

meetings in a year – being gone more than that puts an unfair burden on the other members to do the work.

Mr. Sabanty: There should be standards for attendance.

Ms. McConnel: She realizes that it is her frequent absences that brought the subject to the table. She explained to Mr. Nims when she inquired about the vacancy on the Board that she spent part of each winter and fall away. Until recently she had family living overseas and also made trips to visit grandchildren. All this was made known when she joined the Board because she was concerned that she might not be able to be an effective member. Mr. Nims thought that with her many years of Planning Board experience elsewhere that she could contribute when she was able to attend and, since no one else was interested in the position at that time, she took the seat. She will be happy to step down if someone else wants to serve because she cannot meet the standard of having just two unexcused absences a year.

Mr. MacLean suggested asking the Select Board's opinion to see if they have any objections. He will try to attend the next meeting of the Select Board on January 4th. If they approve the soonest a policy would go into effect is next July, after the renewal appointments to the Board have been made.

Mr. Wilson was asked to see if Bill Kelly could attend a meeting to discuss the legal questions that have come up regarding wind ordinances.

There being no further business before the Board they adjourned at 8:00 pm.

Respectfully submitted,

Jeanne Hollingsworth, Recording Secretary