

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

1. Call to Order: Chairman David Johnson called the meeting to order at 7:05 PM.

2. Introduction of Attendees: Present were: Chairman David Johnson, Secretary Laura Chadbourne, Members Gail Bartlett, Annette Bouchard, and Bob Scott, Alternate Member Ron Kiesman, and CEO Eric Gulbrandsen. Absent: none.

Also present at meeting were:

- Mr. Richard (Dick) Trafton, Esq., of Trafton & Matzen, LLP of Auburn, Maine. Dick is the attorney representing Maine RSA #1, Inc. (which represents U.S. Cellular).
- Ms. Shannon McManus (arrived 7:45 PM), project coordinator for KJK Wireless.

3. Read Minutes from November 16, 2010 Meeting: The minutes from the November 16, 2010 meeting were read by David Johnson. Annette Bouchard moved and Bob Scott seconded the acceptance of the minutes as written. The motion passed unanimously.

4. Communication & Bills

A. Correspondence Received (by date):

1. 11/9/2010: email rec'd by Chairman David Johnson from Ms. Jacqueline Gallishaw regarding a house and property at 375 Black Mountain Rd. (detail under "New Business" below). ; Chairman responded by email that the matter would be discussed at the 11/16/2010 Board meeting.
2. 11/16/2010: email rec'd by CEO, cc: Chairman and Secretary: email sent by Shannon McManus of KJK Wireless acknowledging receipt of 11/15 email from Chairman (details below in "sent"), and that she was noting the December PB meeting date on her calendar.
3. 12/8/2010 received by Chairman: email from Shannon McManus of KJK Wireless confirming what will transpire at the PB meeting on December 21st and wondering whether to bring RF engineer to the meeting. Chairman David Johnson replied via email on 12/9/2010 (see details below)
4. At 11/21/2010 PB meeting: memo dated 11/20/2010 from Board of Selectmen passed to Chairman from CEO re: Wind Energy Facility Ordinance (see details under "New Business" section below).

B. Correspondence Sent (by date):

1. 11/15/2010: from Chairman David Johnson to Shannon McManus of KJK Wireless via email. Email noted receipt by David of the US Cellular site plans on Nov. 15th, and that the information would be on the agenda for the December 21, 2010 Planning Board meeting. At that meeting, the Board would determine whether the application is complete or whether more information might be needed. Also noted in the email was that this application is the first of its kind in Sweden, and that the Board may need expert help in understanding the materials. If the board decided to hire an independent consultant, KJK Wireless would be responsible for the charges but that the charges would be agreed upon in advance.
2. 11/17/2010: from Chairman David Johnson to Ms. Jacqueline Gallishaw, email regarding discussion at 11/16 PB meeting about property at 375 Black Mountain Rd.

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

Chairman confirmed that property can be subdivided into two lots. The email also outlined the minimum road frontage and lot acreage requirements. Finally, Chairman directed recipient to zoning regulations which are available on the Sweden web site or from the Town Office.

3. 11/29/2010: from Secretary Laura Chadbourne to all PB members and alternates: email reminding the Board of the 12/21 meeting and including process details on how to review a Conditional Use Permit application.
4. 11/30/2010: from Secretary Laura Chadbourne to all PB members and alternates by USPS First Class mail, copy of "Sabre Towers Structural Design Report", part of application package for wireless tower CUP from KJK Wireless. Expenses for copies, envelopes, and postage will be eventually be invoiced back to applicant.
5. 12/9/2010: from Chairman David Johnson to Shannon McManus of KJK Wireless, email regarding that the meeting on the 21st would be the first time the Board would review the application. Chairman also indicated that this is the first cell tower application in Sweden and all the information is new to the Board, and that more help may be needed to begin the process. Chairman indicated that the engineer may not be needed at this meeting, though Shannon was welcome to attend.

5. CEO's Report: Eric Gulbrandsen submitted the November 2010 CEO report. Gail Bartlett moved and Bob Scott seconded the acceptance of the CEO's report. The motion passed unanimously.

6. Old Business:

A. KJK Wireless CUP application review, Part I: Board to review application and determine whether it has met the following requirements.

1. **Has the property owner of record made the application?** Unclear. Board discussed that the owner of the property is Sweden Realty Trust, Howard and Joan Buker Trustees. The applicant is KJK Wireless, acting as contractor for U.S. Cellular. The applicant has submitted a letter from Howard and Joan Buker dated April 28, 2010 authorizing U.S. Cellular and its agents to file an application. The letter does not indicate the Map and Lot Number for which this authorization applies; nor does it mention the Sweden Realty Trust. The Board will request that a new letter be submitted, indicating the specific Map and Lot # and that the Owner is the Sweden Realty Trust as indicated by the Town Tax records. In addition, a letter from U.S. Cellular will be requested, indicating that KJK Wireless is an authorized agent for U.S. Cellular. Dick Trafton committed to obtaining a revised letter for the Board with requested information.

Dick Trafton outlined that a company called "Maine RSA #1, Inc." a Maine corporation, does business as U.S. Cellular. Since Maine RSA #1 does not appear on any correspondence, application, or other paperwork submitted so far, the Board asked that the legal link between Maine RSA #1, US Cellular, and KJK Wireless be explained in writing.

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

Dick Trafton also offered a copy of the lease between property owners and US Cellular / Maine RSA #1 (financial information blacked out for privacy). Lease outlines road maintenance schedule among other information. Board accepted offer for copy of lease.

2. **Has the Conditional Use Application fee been received by the Board?** Yes. A check for \$50 dated October 10, 2010 from Shannon McManus (not KJK or U.S. Cellular) has been received by the Board in accordance with the most recent Sweden Permit Fee Schedule (revised 2009). The check will not be deposited until and unless the application is accepted by the Board.
3. **The board must determine what submittals are required and if they have been included with the application. Following is a list of items to be considered:**
 - a. **Plan of area showing contours, reference to Mean Sea Level, high water elevation, ground water conditions, bedrock slope or vegetative cover.**
 1. Contours at 5 ft. intervals are shown on Construction Drawings dated 8/23/10, page C-2
 2. Reference to Mean Sea Level – on Construction Drawings dated 8/23/10, page C-1, “General Notes” box.
 3. High Water Elevation – not specified; probably not applicable due to high elevation of site
 4. Ground Water Conditions – some information noted on Construction Drawings dated 8/23/10, pages C-2, C-3 (wetland areas noted).
 5. Bedrock Slope or vegetative cover – vegetative cover not noted on Construction Drawings but was discussed verbally by group. Dick and Shannon stated that the access road and site areas are forested. The Board Members and CEO believe this to be true as well. The Construction Drawings dated 8/23/10 note the approximate locations of clearing areas (pages C-2, C-3, C-4, C-5, C-5A)

Erosion Concern: It was noted that the Board is concerned with potential erosion created by road construction. CEO noted that the Department of Environmental Protection (DEP) should review these plans. Dick Trafton believes the plans have already been submitted to DEP, and offered to send a copy of the DEP application to the Board. Dick also noted that other towns considering applications for wireless towers make the DEP approval a condition of the approved CUP prior to any construction starting. Board accepted Dick’s offer to send copy of DEP application to all Members.
 - b. **High intensity soil survey.** Board agreed that this is needed but it has not been submitted. Dick / Shannon agreed to provide information to Board.
 - c. **Plan of area showing location of existing and proposed buildings, parking areas, traffic access, driveways, piers, open spaces and landscaping. Plans of buildings, sewage disposal facilities and water facilities.** Shannon presented the construction drawings page-by-page to

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

the Board Members. The Construction Drawings (dated 8-23-2010) show the above information, with the exception of piers, sewage disposal facilities, and water facilities, none of which are needed for this project as the site is unmanned, with no water usage or sewage needed.

- d. **Any other pertinent information necessary to determine if the proposed use meets the provisions of the ordinance.** Board reviewed each the questions below to determine whether sufficient information was available in the application to answer these questions.

B. KJK Wireless CUP application review, Part II: Board reviewed the below questions to determine whether there was enough information in the application to answer the questions. Questions are from Zoning Ordinance Sect. XIII Subsection E (Page 49), outlining the Factors Applicable to Conditional Uses.

1. **The use will not have an adverse impact on the spawning grounds, fish, aquatic life, bird or other wildlife habitat.** Board noted that wetlands are indicated; therefore, the Board may seek to obtain professional advice on what the Board should require to answer this question.
2. **The use will conserve shore cover and visual, as well as actual, access to water bodies.** The proposed use is not in an area where this applies; the site is not in a shoreland or natural resource protection zone.
3. **The use is consistent with the Comprehensive Plan.** Board may need more information from application, especially regarding erosion control and overall environmental impact, to answer this question.
4. **The need for a particular location for the proposed use.** Board will need copies of the "Radio Frequency Study" from KJK to determine whether this site is indeed necessary for the proposed use of a wireless tower.
5. **Traffic access to the site meets the standards contained in this Ordinance, and traffic congestion has been minimized in accordance with performance standards in this Ordinance.** Board noted that land use does not generate traffic; however, two driveway permits will be needed: one local permit and one state-issued permit.
6. **The site design is in conformance with all municipal flood hazard protection regulations.** Board to verify by looking at the town Floodplain Map
7. **Adequate provision for the disposal of all wastewater and solid waste has been made.** The nature of the application does not necessitate a provision for adequate disposal of all wastewater or solid waste.
8. **Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.** Board requested that the applicant provide more detail on management of the diesel generator including fuel storage and disposal.
9. **A storm water drainage system capable of handling a 25-year storm without adverse impact on adjacent properties has been designed, and will be put into effect and maintained.** It may be necessary to obtain

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

professional advice on what the Board should require to answer this question. Section X. Performance Standards U. Storm Water Runoff (page 32) should be addressed. Chairman to contact SMRPC for help with this question.

10. **Adequate provisions to control soil erosion and sedimentation have been made.** Applicant may need to provide an erosion control plan. Chairman to contact SMRPC for help with this question, and Section X. D. (page 20) should be further reviewed as part of SMRPC review.
11. **There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes.** Given that there is fuel on site, a professional opinion should be obtained to determine what, if any additional fire protection precautions may be necessary. Chairman to contact both SMRPC and town Fire Chief (Fire Chief should provide a written statement with his findings).
12. **The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development such as, but not limited to, noise, glare, fumes, dust, odor and the like.** The Board requires more information from the applicant on how they intend to provide adequate protection to neighboring properties from detrimental features of the development such as, but not limited to, noise, glare, fumes, dust, odor, and wireless radiation. Applicant agreed to provide additional information on decibel level of site structures (i.e., generator, air conditioners); additional information on generator in terms of when it would run (i.e., create noise) and whether it would produce fumes/odor, and where and if generator fuel would be stored; additional information on traffic / trucks to site – how often, how loud. Provide any other information helpful to the Board determine impact of detrimental features listed above.
13. **All performance standards in this Ordinance applicable to the proposed use will be met.**
 - **Section X. Performance Standards E. Historical Sites and Structures (page 21).** The Historical Society will be invited to the site walk and requested to make a report for the record. In addition, applicant offered to provide NEPA report (National Environmental Protection Act) which addresses environmental and historical impact. This report is very thick; Board agreed that a single copy sent to Secretary would be acceptable.
 - **Section X. Performance Standards K. Off-Road Parking 2. Landscape Buffering (page 26)** Applicant outlined parking on Construction Drawings dated 8/23/10, page C-5 and C-5A; landscape buffering will consist of existing surrounding forested area.
 - **Section X. Performance Standards M. Public Nuisances 1.c regarding activities which may cause undue disturbance to abutting property owners (page 27):** addressed above in #12.
 - **Section X Performance Standards P. Roads and Driveways 3. Private Ways or Roads. (page 30).** There was discussion about whether access road would be considered a private road or a driveway. A Private Road would be subject to Subdivision Regulations Article 11, Street Design Standards (pages

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

40-46). CEO advised the Board that in his opinion the access road would be considered a driveway, not a private road.

- **Section X Performance Standards Z. Wireless Communication Facilities (page 37).** Standards addressed in the following manner:

- **X.Z.3:** “The height of any communication tower shall not exceed the height of the existing vegetation surrounding the base of the tower without a radio frequency analysis prepared by a registered professional engineer indicating the proposed height is the minimum needed to provide reasonable service for the intended purposes.”: KJK Wireless has committed to providing said Radio Frequency Analysis.
- **X.Z.3:** “The maximum height of any tower shall not exceed 190 feet. The height of an antenna shall be included in the total height limitation as allowed for a communication tower.” Tower height is specified in Construction Drawings dated 8/23/10, page C-7.
- **X.Z.4:** “The tower shall be set back from all property lines a minimum of its height.” Tower setback is indicated in Construction Drawings dated 8/23/10, pages C-1, C-2, C-5A.
- **X.Z.5:** “The tower shall not be lit”. No tower lights indicated on any page of the Construction Drawings.
- **X.Z.6:** “The tower shall remain unpainted galvanized steel or be painted gray or silver.” Tower material indicated on Construction Drawings dated 8/23/10, page C-7, note #10: “Tower shall have galvanized steel finish.”
- **X.Z.7:** “At its base, the tower shall be no wider than four feet. No individual member of the tower may have a diameter or thickness larger than four inches.” Tower dimensions indicated on Construction Drawings dated 8/23/10, page C-7.

14. **The proposed use will be compatible with all uses permitted in the underlying Zone and on abutting properties.** The application applies to Map R-4 Lot 10-B which is in a Rural Preservation Zone; Board may need more information from applicant on erosion control and environmental impact as requested in questions above.

15. **The proposed use will not have unreasonable impact upon Municipal facilities.** Board will request review by town Fire Chief.

C. KJK Wireless CUP application, Part III: Vote. Based on information discussed above, Board voted on whether to accept the application from KJK Wireless as complete. If not complete, Board would also seek professional advice of SMRPC in reviewing application. Gail Bartlett moved and Bob Scott seconded that the Board NOT accept the application as complete, and to forward to SMRPC for further review. The motion passed unanimously.

Chairman noted that the KJK Wireless application package will be sent to SMRPC along with a request for review of application. The Board will get a quote from SMRPC for the

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

technical review. The Board will require that a check for the technical review fee, made out to the Town of Sweden, be sent to the Chairman of the Planning Board before the review is begun. Any unused funds will be refunded to the applicant. The Board will do what they can to help keep the cost of such a review to a minimum but there may be additional review costs to be borne by the applicant.

Additional note re: emergency transmitter: applicants offered to allow town to put emergency transmitter on tower for town/municipal use. CEO to contact Wayne Miller, town Emergency Management officer.

List of deliverables due from KJK Wireless:

Items forthcoming from KJK Wireless. Copies to be sent to all Planning Board members by mail:

1. Revised letter indicating that the property owner of record has authorized wireless tower application. The revised letter must indicate the Tax Map and Lot number, as well as the legal property owner of record. In addition, this letter will outline the relationship between US Cellular, KJK Wireless, Maine RSA #1, Inc. and the property owner.
2. Copy of land use lease between US Cellular (and/or Maine RSA #1) and the property owner (financial information will be kept hidden).
3. Copy of DEP application made for this project.
4. More information on where fuel will be stored in the shelter (amount of fuel, how and where stored – i.e., in generator tank, separate tank etc.). Also provide more information on when generator will run (i.e., once a week, what day(s), hours etc.)
5. Noise generation information – i.e., decibel level of all machinery in compound
6. High intensity soil survey.
7. Radio Frequency Analysis.
8. Generator spec sheet.
9. ONE COPY ONLY to PB Secretary Laura Chadbourne: NEPA report outlining environmental impact of project.

7. New Business:

A. Wind Ordinance Memo: Along with the CEO's report, Eric Gulbrandsen passed along a memo from the Sweden Board of Selectman, outlining that the Board will put forth an amendment to the Sweden Land Use and Zoning Ordinance for a Wind Energy Facility ordinance. Copies of the proposed ordinance will be sent to PB members ahead of the January 18, 2011 PB meeting so that it be on the agenda for that meeting.

Minutes for Tuesday, December 21, 2010 Planning Board Meeting

Additionally, memo notes that a public hearing will be scheduled for 2/15/11 to allow the proposed ordinance to be put to vote at the 3/19/2011 Town Meeting.

B. Road condition issue: PB member Annette Bouchard commented that there were a lot of logging trucks on Black Mountain Road and wondered if the trucks were causing road damage. CEO Eric Gulbrandsen had previously checked on this issue and determined that the property owner and loggers were conducting their business correctly and that the issue is with the road itself, i.e., a town issue, not a property owner violation.

8. Announcements:

A. The next regular Meeting is scheduled to take place on **Tuesday, January 18th at 7:00 PM** at the Sweden Town Office.

B. The board still has an opening for one alternate (an alternate serves a one year term). Should anyone express interest, they can be appointed by the Selectmen.

Laura Chadbourne moved and Gail Bartlett seconded that the meeting be adjourned at 9:48 PM. The motion passed unanimously.

Respectfully submitted,

Laura Chadbourne
Secretary