

Minutes for Tuesday, September 15, 2020 Planning Board Meeting

Note: this meeting was held by video-conference as allowed by State of Maine emergency measures put in place in March 2020 in response to the COVID-19 pandemic.

1. Call to Order: The meeting was called to order at 7:02 PM.

2. Introduction of Attendees - present were:

- **Planning Board (PB) Members:** Bill Graham (Chair), Laura Chadbourne (Secretary), Morris Gibley, Melanie Eldracher, and alternate members David Johnson and Lynn Hopkins. In accordance with the PB By-laws, David Johnson was designated by the PB Chair to serve as a voting PB Member due to the vacant seat on the Planning Board (recent resignation of PB member Kevin Taylor).
- **Code Enforcement Officer (CEO)** Arthur Dunlap
- **Warren DeWilt**, Sweden Board of Appeals Member

Additional attendees:

- **David Galbraith**, consultant to Southern Maine Planning and Development Commission (SMPDC)
- **Julia McQueen**, Planning Board Assistant
- **Woodard & Curran** (engineering / project mgmt for Nexamp): Darren Stairs, Ashley Fletcher
- **Nexamp:** Ben Axelman
- **Walden Renewables:** Paul Williamson, Henry Weitzner
- **Flycatcher LLC:** Dave Brenneman, Rich Jordan (joined at 7:30 PM)
- **Frank LaRosa and Sharon LaRosa** property owners in Sweden and interested parties re: Nexamp solar projects

3. Minutes from the August 18, 2020 Meeting: The minutes were reviewed by the group. Melanie Eldracher moved to approve the meeting minutes as written. Morris Gibley seconded the motion. The motion passed unanimously.

4. CEO's Report for August 2020:

Arthur presented the report. Laura Chadbourne asked the following questions:

1. Re: Phil Coughlin, 289 Hardscrabble Road, Map U-6, Lot 03-02: is any of the planned landscaping in the shoreland zone? CEO: in shoreland zone but not within 100 feet of shoreline.
2. Re: Brad Nelson, 94 Pine Point Rd., Map U-8, Lot 06: on what date did CEO grant permission for the removal of 8 trees? Is it a timing issue because had expected to see the permit on the August report. CEO confirmed the permit had been issued on September 1st.
3. Re: Leon Dorval, Black Mountain Road, Map R-5, Lot 7-B: the report says something was issued but not what it was. CEO confirmed he issued an address for the property.

Laura Chadbourne noted that she had several other questions about the report but didn't want to tie up time at the meeting given the full agenda. She moved that the PB remand the August report back to the CEO to answer the questions before the next PB meeting. David Johnson seconded the motion, which passed unanimously.

5. Communication & Bills – see detail at end of these Minutes

6. New Business:

- A. The PB reviewed proposed changes to its temporary procedures for consideration of allowing in-person meetings. The PB Chair asked each member about their comfort level for in-person meetings given the continued pandemic. The PB determined that it would like to hold in-person meetings for public hearings (to allow for robust public input) but continue to have its regular monthly meetings via videoconference since many members of the Board are in an "at risk" category for infection. Laura Chadbourne then **moved that the Planning Board adopt the revised temporary procedures**. Morris Gibley seconded the motion. **The motion passed unanimously.**

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- B. The PB reviewed draft language (drafted by the town's legal counsel) for proposed amendments to the town's Zoning and Land Use Ordinance to revise the Amendment Procedure and provisions regarding Public Utilities. The proposed changes would update some procedural language and would also exempt public utilities from needing to re-apply for a conditional use should there be a change in ownership. A vote of the PB would be needed to establish a Public Hearing for public input into the proposed change, followed by the Board of Selectmen calling a Special Town Meeting.

A PB member noted that he ran a company considering a large investment such as a solar development, he would pull out of investing in the town if he didn't have assurance that the permit would not be renewed. David Galbraith from SMPDC noted that for special uses such as solar, this exemption made sense unless a change was proposed to the development itself, in which case a new review would likely be needed. The Zoning Ordinance would still allow for that.

Laura Chadbourne made a motion to **hold the Public Hearing for consideration of the amendments to the Sweden Zoning and Land Use Ordinance on Thursday, October 8, 2020** at the Town Meeting House, and that the PB Chair, Bill Graham, could act on behalf of the Board to change that date if the Town Meeting House was not available on October 8, 2020. David Johnson seconded the motion. **The motion passed unanimously.**

- C. The Planning Board then opened its review of the following Conditional Use Permit application materials for completeness:

1. Sweden Solar 2, LLC (748 Lovell Road, owner: Charlotte Riley)
2. Sweden Solar, LLC (1011 Knights Hill Road, owners: Sharon LaRosa and Frank LaRosa)

David Galbraith from SMDPC provided a summary of his report. He reviewed the Town of Sweden's entire Zoning Ordinance and Comprehensive Plan and found the applications very thorough.

David Johnson has an engineering background and found the information in the application very thorough. He has done a lot of research regarding what other towns have done for solar, and also reviewed resources available from municipal sources like SMPDC. Concern is that the projects be a viable success but sometimes things fail. So it's important that the town have conditions that will ensure success. The applicants have applied for money with the fifth largest bank in the world, MUFG bank (Mitsubishi). Would be interested in knowing who the contractor is once that is decided. We'd want to ensure electrical requirements are all met. Fire safety would also be a consideration. Will contractors have bonding and have availability to complete the projects? Decommissioning plans will also be important. We have estimates today but may be different costs in the future, would want to consider having escalators that the town can review on a regular basis to ensure the correct amount of funds continue to be available for eventual decommissioning. Maine DEP has also done a lot of work to review these proposals which helps us have more comfort with the package contents.

The PB reviewed then reviewed the following questions to determine the completeness relative to both applications.

As required by the Town of Sweden Zoning and Land Use Ordinance, Article XIII "Conditional Use", prior to declaring the application complete, the Board is to review the application and must find that the applicant has met the following requirements of the Ordinance. The following questions were reviewed to determine completeness of the application:

1. **Has the property owner of record made the application?**

Yes. Nexamp is the authorized agent for landowners for both properties and both applications. Evidence provided by Nexamp includes executed lease agreements authorizing Nexamp to act on behalf of the landowners for the applications.

2. **Has the Conditional Use Application fee been received by the Board?** The PB had determined at their August 18, 2020 meeting that the initial fee for the CUP application would be \$125, with additional expenses expected, to be reimbursed by the applicants. The \$125.00 was received via check from the applicant on August 27, 2020.

3. **Has the following information been received?**

a. **Plan of area showing contours, reference to Mean Sea Level, high water elevation, ground water conditions, bedrock slope or vegetative cover.**

The applications include all this information except Mean Sea Level. The information was determined to be adequate for the purposes of these Conditional Use Permits.

b. **High intensity soil survey.**

A high intensity soil survey was included in each of the applications.

c. **Plan of area showing location of existing and proposed buildings, parking areas, traffic access, driveways, piers, open spaces and landscaping.**

A plan of the area showing location of existing and proposed buildings, proposed solar installations, fences, parking areas, traffic access, driveways, open spaces, and landscaping was included in each application. The Board agreed that the application information is adequate for the purposes of these Conditional Use Permits.

d. **Plans of buildings, sewage disposal facilities and water facilities.**

Plan of proposed buildings were included in each application. The board agreed that sewage disposal facilities and water facilities are not required for these Conditional Use Permits.

e. **Any other pertinent information necessary to determine if the proposed use meets the provisions of the ordinance.**

The Board required information about the following: surety bond or equivalent, financial backing for the projects, decommissioning plan with cost estimates, and other information as required by the Maine Department of Environmental Protection (DEP). The DEP Site Location of Development Activities (SLODA) application submitted by the applicant to the Maine DEP was provided to the town and contains this information. The Board agreed that the application information is adequate for the purposes of these Conditional Use Permits.

Laura Chadbourne made a motion that the Board **accept the application for Sweden Solar 2, LLC as complete and hold a Site Walk and Public Hearing to consider the application on Tuesday, October 20, 2020.** David Johnson seconded the motion. **The motion passed unanimously.**

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Planning Board members then asked questions about the bond for the projects:

1. Is the bond amount enough? Total decommissioning amount is around \$182K but the bond amount appears to be \$85K. Nexamp stated that the \$85K was probably an older number and only for one of the properties. The number should be doubled to apply to both. Additionally, Nexamp assured PB that the bond amount would match the total decommissioning amount.
2. How does the bond work? Who holds the bond? Nexamp and SMPDC: Maine DEP holds the bond. If the town needs to draw on the bond, the town would work with the DEP.

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The PB Chair, Bill Graham, then thanked several people: Julie McQueen for her work to help the PB; she took care of a lot with SMPDC. Thank you to David Galbraith from SMPDC for reviewing the CUP applications so thoroughly and in short order. Also thanked David Johnson who put a lot of hours into researching the applications and potential conditions of approval that the PB might consider. Finally, Bill thanked Laura Chadbourne for her detailed minutes and experienced guidance on process for CUP applications.

The Board then determined the dates and times for the Public Hearing and Site Walk for the two CUP applications:

Tuesday, October 20th, 2020; 4 PM Site Walk, followed a 5:30 PM Public Hearing at the Town Meeting House followed by the Planning Board's regular monthly meeting.

The Board also noted that they would likely not be voting on the CUP applications on October 20th, given the expected volume of questions and considerations that would be discussed that evening at the public hearing. The PB has an additional 30 days after the public hearing to decide on the applications and would likely take advantage of that time. The applicants also expressed that they would want the town to vote on amending the Zoning Ordinance (as discussed earlier in the evening) before the PB voted on the CUP applications.

The expectation for upcoming activities was recapped:

10/8/2020	Public Hearing for input on amendments to the Zoning Ordinance
10/20/2020	Site Walk and Public Hearing regarding the two CUP applications
11/7/2020	Tentative date for Special Town Meeting for a vote to approve amendments to the Zoning Ordinance (meeting must be called by the Board of Selectmen after the 10/8/2020 Public Hearing)
11/10 or 11/17/2020	Planning Board votes to approve, approve with conditions, or deny the CUP applications

Site Walk logistics were then discussed with the applicants. The following was determined:

1. Site walk is expected to take about an hour to review both properties.
2. Site walk participants should be told to park along Knight's Hill Road and meet by LaRosa driveway at 1011 Knights Hill Road. From here, both sites can be accessed on foot.
3. Darrin Stairs will bring large copies of the aerial view of the properties with the approximate placement of the two solar developments (with the intention of showing that the solar developments are only a portion of each property). These plans can be referenced at the site walk by members of the public.
4. Darrin will also bring handouts of the projects (can put both on one handout) to orient people who attend the site walk. Some people may not be able to hike into the properties.
5. Darrin Stairs will ensure flags are placed where the access roads will be and also where the transmission lines would be run.

7. Old Business:

- A. None

8. Announcements:

- A. The next regular Planning Board meeting is scheduled for Tuesday, October 20, 2020. It will occur after the Site Walk (4:00 PM) and Public Hearing (5:30 PM) at the Sweden Meeting House, using appropriate social distancing protocols.
- B. The Planning Board has a vacancy for one member with term ending in March 2021. A member may be appointed by the Board of Selectmen.

A motion was made to adjourn the meeting. The Chair adjourned the meeting at 8:52 PM.

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Respectfully submitted,

Laura Chadbourne,
Secretary, Sweden Planning Board

Correspondence Detail:

Correspondence Received and Sent (by date):

1. Ltr (emails) dated 8-14-2020 to 8-19-2020 between PB Secretary and Joe Bergantino confirming discussion between them about Map U-7, Lot 2. Discussion related to fact that if this lot were split into more than 2 lots now or within 5 years, then the lots would be subject to state and local subdivision laws and require PB approval.
2. Ltr (email) from PB dated 8-18-2020 to Walden Renewables and Flycatcher LLC. Email confirms process for submitting a Conditional Use Permit, including that application materials must be submitted to board members by mail at least 14 days ahead of a scheduled PB meeting. Future PB meeting dates were provided. Re: Map R-08, Lot 3, 5SS LLC.
3. Ltr (email) from PB dated 8-19-2020 to Darrin Stairs of Woodard and Curran, requesting additional information required by the PB in order to consider the Conditional Use Permits for Sweden Solar, LLC and Sweden Solar 2, LLC. Email also confirmed initial application fee of \$125.00, nothing that additional costs would be expected and applicant would be required to cover those additional costs. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.
4. Ltr (email) to PB dated 8-19-2020 from Darrin Stairs of Woodard and Curran, providing online links to DEP Site Location of Development Activities (SLODA) for Sweden Solar, LLC and Sweden Solar 2, LLC, and two additional links to DEP Comments about the SLODA. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.
5. Ltr (email) to PB dated 8-20-2020 from Darrin Stairs of Woodard and Curran, noting that they would send the town a check for the CUP fee, and attaching lease option agreements for Sweden Solar, LLC and Sweden Solar 2, LLC. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.
6. Ltr (email) to PB dated 8-25-2020 from Kevin Taylor, PB Member, resigning from the PB.
7. Ltr to PB dated 8-25-2020, containing the full paper copy of the submission to DEP of the DEP Site Location of Development Activities (SLODA) for Sweden Solar, LLC and Sweden Solar 2, LLC. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.
8. Ltr (emails) dated 8-25-2020 to 8-26-2020 between PB Secretary and Rich Jordan of Flycatcher LLC. Rich had asked for link to the August 18th PB meeting video recording, which Secretary provided. Re: Map R-08, Lot 3, 5SS LLC.
9. Ltr to PB dated 8-27-2020 from Woodard & Curran which was check in the amount of \$125.00 to the Town of Sweden to cover initial CUP application fee for Sweden Solar, LLC and Sweden Solar 2, LLC. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.
10. Ltr (emails) dated 8-28-2020 to 9-6-2020 between David Galbraith of Southern Maine Planning and Development Commission (SMPDC), PB Chair, Secretary, and PB assistant. Emails confirm David's plan to review the CUP applications for Sweden Solar, LLC and Sweden Solar 2, LLC for the Town of Sweden

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in an interim planning capacity. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.

11. Ltr (emails) dated 9-5-2020 to 9-12-2020 between PB Secretary and town office employee. Employee received call from Owen Haskell requesting to review a survey map and passed it to PB. PB Secretary contacted "Randy" from Owen Haskell Surveyors company, who confirmed he was able to find the information he was looking for online and was all set. No map/lot mentioned.
12. Ltr (email) to PB dated 9-9-2020 from David Galbraith of SMPDC, attaching his review of the CUP applications for Sweden Solar, LLC and Sweden Solar 2, LLC, broken down by all relevant sections of the town's Zoning and Land Use Ordinance. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.
13. Ltr (emails) dated 9-11-2020 between PB, Woodard & Curran, and Nexamp. PB asked for executed copies of the lease agreements between Nexamp and the landowners for Sweden Solar, LLC and Sweden Solar 2, LLC. Copies of the executed agreements were forwarded by Ben Axelman of Nexamp. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.