

Minutes for Tuesday, August 18, 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 7:04 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. Absent: Member Kevin Taylor. In accordance with the PB By-laws, Lynn Hopkins was designated by the PB Chair to serve as a voting PB Member in place of Kevin Taylor.
- **Code Enforcement Officer (CEO)** Arthur Dunlap
- **Patrick Carty**, Sweden Selectboard Member

Additional attendees:

- **Walden Renewables:** Paul Williamson
- **Flycatcher LLC:** Dave Brenneman
- **Nexamp:** Ben Axelman
- **Woodard & Curran** (engineering / project mgmt for **Nexamp**): Darren Stairs, Ashley Fletcher
- **Frank LaRosa, Sharon LaRosa, and Charlotte Riley**, property owners in Sweden and interested parties re: Nexamp solar projects
- **Richard Hopkins**, Sweden citizen

3. Minutes from the July 21, 2020 Meeting: The minutes were reviewed by the group. Morris Gibley moved to approve the meeting minutes as written. Laura Chadbourne seconded the motion. The motion passed unanimously.

4. CEO's Report for July 2020:

Arthur presented the report. Morris Gibley moved and Lynn Hopkins seconded the acceptance of the CEO report for July 2020. The motion passed unanimously.

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

6. New Business:

- A. PB members reviewed process for Conditional Use Permit applications in the Town of Sweden** (Article VIII, pages 47 – 50 in the Zoning and Land Use Ordinance). Concern was raised by applicants regarding Article VIII.B.4. which states: "The permit is automatically terminated with any change in use of the property, change in ownership of the property, or change in occupancy of the property." Landowner agreements are assignable, so the risk of having to seek reapproval down the line in a 30 – 40 year investment is a big issue. The PB notes that the town needs to be protected – what if the development was sold to an entity that wasn't financially healthy? PB agreed that this clause needs to be looked at so that there is some reassurance to the applicant that they could assign the business as long as the town is protected. All agree that planning for future uncertainty is needed.

Walden Renewables representative spoke up and noted that the town's concerns are largely covered in the Maine Department of Environmental Protection (DEP) application. The State of Maine has full authority to verify and oversee those aspects of the project. Small towns who don't have ability to hold a decommissioning bond defer to DEP because assurances are in place for the state and that simplifies the process. Project has to perform for the life of the performance requirements unless some circumstance arises where owner comes forward to apply for a variance for a change in the permit. Do not expect to have to change the design/foundation in the future and would not do that without approval of the state or town.

It was asked what is the strategy if company goes belly up after solar installation put in place. Nexamp: there is a decommissioning bond for this specific purpose and is required by DEP for anything over 20 acres, so they have agreed to this with DEP. Happy to have the town take a look at the language, can provide that during the application process. Do not prefer having a bond for the state and then also for the town. PB member noted that some bond companies have gone out of business, too, so the town needs to be careful.

PB asked: do you have signed contracts with CMP / customers? Nexamp: hoping to qualify for a state program for community solar program, but need to have permits in place to apply for it. Talking with potential takers but don't have signed contracts yet. Will have those in place before financing and building the project. Will not be Central Maine Power (CMP) buying the power, will be households, municipalities (including potentially Town of Sweden for discounts on electric bills), small businesses, etc. That process isn't finalized but something they are working on.

Power will go onto CMP's grid, but interconnection agreement (permission from CMP to tie the power into the grid) isn't signed yet but is close – that will put power on the grid. Then the power offtake – who is buying the power - would not be CMP, that would be residents, businesses, and municipalities.

PB: if CMP needs to put in new equipment, who foots the bill? Nexamp: the grid in Maine is first come, first served for independent companies like Nexamp. CMP can't say no, but they do a study of the impacts of putting the power on the grid. Then they can come back with a list of updates needed to put the power on the line, then a price, then applicant would pay for the improvements. This is reflected in the estimated cost in the application. There is always a risk that cost could exceed the return on investment. Nexamp feels likely it will work out based on initial conversations with CMP.

PB: the schedule in the applications doesn't make sense, proposed schedule starts in August. Nexamp: yes, not correct; the applications were compiled a few months ago and schedules need to be updated.

PB: the total of the two projects is ~10 MW. Total showing on each application is \$16MM for a total of \$32MM. Is that correct? Nexamp: no, the cost is \$16MM for BOTH projects, not \$16MM each. DEP considers the two projects one application, hence one total cost of \$16MM but reflected on each application.

B. Presentation was given by Darrin Stairs of Woodard & Curran (PowerPoint (PPT) presentation was subsequently emailed to the town for filing). Key points are contained in the PPT and the following additional points and questions arose:

Larosa property project (Sweden Solar 1): some grading is planned on the Larosa property (wiggly lines right hand side of plan). The solar panels for this property will be fixed.

For both properties, there will be full stormwater treatment as required by DEP, including conservation buffers to deal with the minor amount of stormwater runoff.

Riley property (Sweden Solar 2) – panel would be tracker system (panels are the same as Larosa but different racking system). Can do this because there is very little grade on this property.

Woodard & Curran can provide a copy of the full site location of development permit application (contains decommissioning plan). PB asked for an emailed link to the materials as well as one full paper copy to be sent to the Sweden Town Office.

Looking to be operational summer/fall of next year.

PB: what is number of panels? About 13,500 for each one. Actual equipment installation takes only 3-4 months.

Any timber clearing will be done outside of the bat breeding season, ideally winter.

PB: question re: soil drainage – noticed some wetlands, streams, and poorly drained soil. Is any of that impacted? Nexamp: No. Plan has a 100' buffer from Popple Hill stream. Not building near wetlands.

Question from citizen: it seems like you're making a parking lot out of glass. There will be immediate runoff of water when it rains, so it will sheet off the panels in quick volume. How do you account for that? Nexamp: the ground under the panels will be meadow afterwards, so even though panels are impervious, the underneath has meadow/grass and helps rainwater re-absorb, unlike a parking lot where there the water runs quickly until there's an edge. DEP considers this into the analysis and approval of the design. In addition, these sites are pretty flat, so water has a chance to reabsorb fairly quickly. Will have level lip spreaders put in at the edges to gradually re-absorb water.

Nexamp mentions that they own and operate about 50 of these sites and runoff has not been an issue to date. Some permits have clauses to remediate if water issues occur but has not been an issue.

PB: what about snow? Nexamp: panels warm up as the sun hits them. If moderate amount of snow, will melt off. If heavy snow, might have to live with reduced output until warms up, or send someone out to the site to remove the snow.

Citizen question: what is watt density of panels? Nexamp: these are 480-watt panels. PB: Project loss per year due to etching of glass? Nexamp: about 0.5% per year decrease in output expected.

PB: Technology upgrades, do you contemplate switching out the panels in the future with no re-permitting? Nexamp: this is the permanent layout of the project, location will not change. If higher wattage panels available when installing, would order those. Once installed a project, that's a cost spent, then earning the investment over 20+ years. So while equipment improves, for each project, the investment is already made, so wouldn't plan to change them in year 1, 5 or 10. Maybe beyond the horizon when the panels are paid for, might consider changing out some panels, but if redesigning the site, would seek a new permit for that.

Citizen question: inverter and transformer stations appear to have grading around them, concerned about damage? Nexamp: grading around them is for drainage and the buildings are weatherproof, built to be on the ground, hasn't been an issue.

PB: do you have to mount the panels in concrete? Nexamp: no – directly in soil. Will drive posts in (based on geo-soil testing to know how deep to go).

PB: how are panels connected to inverter? Nexamp: underground connection. Wires from panels to underground trenches, meet up at each row to a combiner box, then circuits to the inverter pad, typically in the center of the array to minimize electrical loss. Then moves into inverter from DC to AC, then to transformer, which takes it from lower voltage in array to higher voltage to feed into line – still underground – from transformer to road. Then will surface right near road to a couple of poles to complete the connection, including meter and some other equipment.

PB: what about hail? Nexamp: installation is built to withstand hail, no issues to date.

Nexamp asked if there were more questions. They then asked if there was any other information the PB needed from the applicant.

Planning Board member Morris Gibley made a motion that the applicants supply the following:

- 1. Proof that Sweden Solar 1 and 2 are authorized representatives of the respective landowners of the properties proposed to be developed in the applications; and**

2. **A check in the amount of \$125.00 to the Town of Sweden, representing the initial fee for both CUP applications. This is an initial fee only and the PB fully expects additional costs to be incurred in order to properly review the CUP application. The applicants will be responsible for these expenses, either by covering the anticipated cost up front or reimbursing the Town of Sweden for these additional expenses.**

Lynn Hopkins seconded the motion. The motion passed unanimously.

Woodard & Curran asked what the next steps are for the Town of Sweden in the review process. PB plans to work with SMPDC who will be reviewing application for us. The town may need more information or it may not. Bill Graham will be contacting the PB Assistant for help not only with this work but also to plan next steps for the PB to pick back up on updating the town's Zoning Ordinance and Subdivision Regulations.

- C. **Update from Maine Municipal Association (MMA) training:** Laura Chadbourne provided a brief update of learning from the MMA webinar for PB and Board of Appeals training on 7-30-2020. Lynn Hopkins attended as well; both found the training well worth the time. They learned that once the state's emergency measures are lifted (i.e., once the pandemic is no longer an issue), municipal bodies will no longer be allowed to run meetings by video conference. While applicants are not required to attend Planning Board meetings in person, it is a best practice when possible. Towns are not required to accommodate requests for non-physical meeting attendance (i.e., "phone in") from applicants once board meetings return to in-person. In fact, most towns, including Sweden, do not have the technology to make remote attendance in an in-person meeting work.

7. Old Business:

- A. **Timber harvesting potential violation:** a citizen had reported a potential clearcut timber harvesting violation at Map R-6, Lot 6 (178 acres). CEO had not been able to walk the property. Bill Graham tried to hike in but could not see fully if there was too much area that had been clearcut. A drone or helicopter would likely be needed to determine if a violation had happened.
- B. **Planning Board administrative assistance:** Bill Graham asked that PB Secretary share a draft job description for administrative assistance to the PB. Laura will send the draft to all PB members and will put this on the agenda for review at the next PB meeting.

8. Announcements:

- A. The next regular Planning Board meeting is scheduled for Tuesday, September 15, 2020 at 7:00 PM at the Sweden Town Office or via video conference.
- B. The Town of Sweden elected two new Board of Selectman (BOS) members at a special Town Meeting on Saturday, August 15th. The new BOS members are Alberta Ridlon and Patrick Carty (who attended this PB meeting).

A motion was made to adjourn the meeting. The Chair adjourned the meeting at 9:14 PM.

Respectfully submitted,

Laura Chadbourne,
Secretary, Sweden Planning Board

Correspondence Detail:

Correspondence Received and Sent (by date).

1. Ltr (email with scanned letter attached) from PB dated 7-22-2020 to the Sweden Board of Selectmen (BOS) outlining concerns regarding the 7-22-2020 posting for an Administrative Assistant to the BOS and PB without any consultation with the Planning Board. Letter was cc'd to the BOA and Budget Committee.

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2. Ltr (email) from PB dated 7-22-2020 to representatives for Walden Renewables, Flycatcher, LLC, and Woodard & Curran, attaching a memo dated 7-22-2020 from Southern Maine Planning and Development Commission (regarding SMPDC's review of the Town of Sweden Zoning Ordinance and Comprehensive Plan re: solar development), and providing instructions for submitting an application for consideration of Conditional Use permitting. Re: Map R-08, Lot 3, 5SS LLC.
3. Ltr (email) from PB dated 7-22-2020 to Rich Jordan of Flycatcher, LLC, providing a link to the video recording of the 7-21-2020 PB meeting. Re: Map R-08, Lot 3, 5SS LLC.
4. Ltr (emails) dated 7-22-2020 to 7-23-2020 between PB and Paul Williamson of Walden Renewables. Email thread provides conditional use process-related answers from PB Secretary to questions from Walden. Emails also confirm that the application fee for the CUP application is not determined until the PB votes on the appropriate amount, so for the applicant not to send money yet. Re: Map R-08, Lot 3, 5SS LLC.
5. Ltr (emails) dated 7-26-2020 to 7-27-2020 between PB and Rich Jordan of Flycatcher, LLC asking for Appendix C / Phosphorus Control Standards for Sweden. PB responded with the information. Re: Map R-08, Lot 3, 5SS LLC.
6. Ltr (email) from PB dated 7-27-2020 to the Sweden Board of Selectmen (BOS) requesting answers to questions the PB has on three topics appearing in BOS minutes over the past few months: remediation for a timber harvesting violation (Map R-05, Lot 52); damage to Trull Brook Road (no map or lot available); and a utilities right of way (Map R-07, Lot 16-A-1). Letter was cc'd to the Budget Committee.
7. Ltr (emails) dated 8-3-2020 to 8-10-2020 between PB and Darrin Stairs, PE of Woodard & Curran. Mr. Stairs provided an alert that they had mailed applications for solar development to the town office. A link to the materials was also provided. He also asked that they be able to appear on the 8-18-2020 PB agenda. PB Secretary confirmed placement on the agenda and informed applicant that each PB member required a set of application materials by mail. Mr. Stairs confirmed on 8-10-2020 that the packages would be sent out ASAP. Re: proposed solar projects at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.