

TOWN OF ORLAND
PLANNING BOARD MINUTES
May 4, 2015
7:00PM

I. ROLL CALL

X	JACK MACBRAYNE
X	DEXTER JOHNSON
X	BRENDA LEAVITT
X	CHARLES GIOSIA
X	ROGER WOOD
X	KRISTIN COOK (ALTERNATE)
X	BILL ORCUTT (ALTERNATE)

Staff Attending:

X	EDWARD RANKIN SR, Chair Selectman
X	RALPH GONZALES, Selectman
	LESTER STACKPOLE, Selectman
X	GERALD GUSE, Code Enforcement Officer
X	TRACY PATTERSON, Board Secretary

Attending Public: Travis Bullard, Pamela Latarte, Norman Latarte, Charles Eichacker (Ellsworth American), Shawn Mercer, Janet Bazile-Bajkowski (Dedham), Steven Crawford.

II. Macbrayne called the Meeting to order at 7:03pm.

III. MINUTES OF April 6, 2015 MEETING

Motion to Approve: Johnson

Second: Leavitt

Approved by unanimous vote.

IV. COMMUNICATIONS AND REPORTS

A. John Jones spoke with Johnson about building a warehouse storage unit on his property on Acadia Highway behind the Mountain View Variety for storage of product/bottles. Guse added that the measurements of the building would be 40ft x60ft.

B. Guse received a complaint on a property owned by Rev. Ron Hutchins regarding the condition of the property. Guse spoke with the owner regarding the complaint, and upon following up the issues had been corrected.

- C. Guse received an anonymous letter stating uninhabitable conditions of a property on Oak Hill Road. Rankin stated that he was also aware of this property, and that the issues have been corrected.
- D. Guse received a complaint that “Lanpher’s Junk Yard” is in violation, however the complaint gave map and lot number of the neighboring property. Guse went to residence and only found one car without a plate, some trailers, and boats.
- E. Mike Beckett on the Gilpin Road is making plans for new building to sell bait fish out of. Guse instructed him to contact the Planning Board.
- F. Pat Dow is building a Lobster/Seafood shop and has the pad laid, well in, and plumbing beneath. He obtained a permit, there is a question on when the permit expires.
- G. Danny Sanborn has a large greenhouse he is reportedly selling vegetables out of. Guse spoke with him regarding needing a permit to sell.

V. UNFINISHED BUSINESS

- A. MMA Planning Board Workshop is scheduled for June 18, 2015 in Bangor. MacBrayne, Wood, Giosia, Cook, Orcutt, and Johnson are planning to attend.

VI. OTHER BUSINESS

- A. Discussion of the scope of the Wind ordinance review.
 - a. MacBrayne distributed ‘Orland Wind Energy Review Synopsis’, and read the document which described three possible avenues for the wind ordinance review.
 - i. Option One: Stop the Wind Ordinance Review
 - ii. Option Two: Stop the Wind Ordinance Review for a specific period of time.
 - iii. Option Three: The Planning Board agrees to add specific wording to any future proposed revision. MacBrayne stated that he spoke with the Selectmen and the Town Attorney, Pottle, to determine the correct wording.
 - b. Leavitt stated that she had believed that the review would be for practice, and it has escalated to a revision. And expressed concern that the Planning Board had not started making a checklist which is needed to review an application. MacBrayne responded that he believed everyone agreed some changes were needed, such as the noise standards to bring the ordinance in line with the state.
 - c. Johnson stated that MacBrayne had intended the review of the ordinance to be for familiarity. Stated that he had been through the wind ordinance several times which facilitated noticing where the wind ordinance could be improved, and he made a list of those changes. Johnson stated that he and MacBrayne both made lists and agreed changes should be made, both with the understanding that any application received would be reviewed under the current ordinance.

- d. Cook stated option three was reasonable.
 - e. Giosia stated that there was a lot of information to think about, and didn't want to make an instantaneous decision. He stated that option three was continuing the way they the Planning Board has originally thought when they began the revising.
 - f. MacBrayne adding that the wording could effect future applications legally, and that change is needed to assure potential applicants and Orland voters that what they are doing doesn't amount to a moratorium.
 - g. Wood stated that the review was meant for educational purposes and not to propose changes to the ordinance. Clarified that the revisions would not effect any application received, as any application would be reviewed under the current ordinance.
 - h. Giosia clarified option three. MacBrayne added that any application received would be grandfathered to the current ordinance despite any future retroactive wording.
 - i. Johnson discussed content versus completeness of an application.
 - j. Leavitt explained that content is the side by side comparison, whereas completeness is a check off list to ensure everything is there that need to be.
 - k. Johnson expressed his desire to go through the ordinance and make changes.
 - l. Wood stated that the selectmen have said they don't want changes, the town has voted down the moratorium, and he doesn't think they should change the ordinance.
 - m. MacBrayne expressed that option three would address, and eliminate the concern that any future application might be held to retroactive changes. Leavitt added that the language is meant to show the intent of the Board.
 - n. Wood and Johnson questioned how the language would commit any future Planning Board from holding another vote to overturn the language discussed. MacBrayne answered that they are agreeing to include the agreed upon wording in any future revisions. And, that it is the first step in a revised ordinance. He stated that is will help with public perception. Cook added it will give continuity.
 - o. Johnson stated that option three will help with the public relation problem, and that this is not a de facto moratorium, but that there are equal people in town that think the wind ordinance needs changes.
- B. Leavitt made a motion that "At any time in the future, should the Orland Planning Board forward to the Selectmen a proposed revision of the Wind Energy Facility Ordinance for the Town of Orland, Maine, said revision must contain the following language in Section 5. – Applicability: 5.4 Any wind energy project to be built in the Town of Orland, for which there is a pending application prior to the effective date of this Ordinance, shall be governed by the provisions of the Wind Energy Facility Ordinance for the Town of Orland, Maine which became effective on March 15, 2011." Johnson seconded the motion.

- a. The motion passed in a 4-0-1 vote. Leavitt, Wood, MacBrayne, and Johnson voted 'yes'. Giosia abstained from voting.

VII. PUBLIC QUESTIONS and COMMENTS

- A. Pamela Latarte questioned who was responsible if the blasting destroyed her water supply since her well is close to the construction site. Guse responded that the same question came up in Verona when they were building the bridge, and there were no issues, even with the home beneath the bridge. Latarte elaborated original question to include if arsenic contaminates their water, and they are unable to use it. MacBrayne read from the ordinance and determined that the question could not be answered from the ordinance.
- B. Crawford also voiced his concern over his well. Cook suggested the town attorney may be able to answer that concern.
- C. Mercer asked the Planning Board if any concerned citizens have voiced their concern about the Planning Board revising the ordinance, or come to the meetings. He expressed that if there was any opposition, the Planning Board should know. Leavitt responded that she has had comment that "We've already voted."
- D. Pamela Latarte commented that the moratorium "Only lost by 5 votes."
- E. Mercer expressed disappointment, and "Major concern" with the option three decision, stating that while reviewing the ordinance a serious problem could be found that needs to be fixed, and the Planning Board had tied their hands. Leavitt responded that there could be a vote to reverse the vote if there was a big change that needed to be addressed immediately.
- F. Patterson stated that she has heard from residents wondering why the Planning Board was revising an ordinance that had been voted on, approved, and had a moratorium voted down. She said that most citizens in town believe that Wind energy in the Town of Orland was approved and didn't think it was necessary to come to Planning Board meetings regarding wind energy because their vote had determined their wishes. She also added that a close vote does not invalidate the results, or undermine the voting process.

VIII. NEXT MEETING will be held June 1, 2015 at 7:00pm at the Orland Community Center Conference Room.

IX. ADJOURN

- A. Motion to Adjourn regular meeting and begin Wind Ordinance Review: Leavitt
Second: Wood
Approved by unanimous voice vote.

X. REVIEW OF THE WIND ORDINANCE

- A. MacBrayne began with 6.3, suggesting rewriting it to make it cleared in relation to state law and our ordinance. Sample wording such as “unless the conflict is a State of Maine law or regulation.” Leavitt stated that there is probably already a law saying that. MacBrayne agreed that State Permits will require applicants to meet State requirements.
- B. Wood stated that the Planning Board has no right to make any changes. Leavitt responded that they were making recommendations.
- C. Johnson stated that the Ordinance has many opportunities where the Planning Board can grant waivers and thinks that waivers should be the exception over the rule.
- D. Giosia recommended that in 9.4.1.A the 10 day deadline be changed to a longer period of time. Leavitt disagreed, saying that the 10 days is only to go down the checklist to see if the application is complete, then the application is to be forwarded to a Planning Board Meeting. MacBrayne added that the decision basically has to be made at the meeting unless the 10 day deadline is changed.
- E. Johnson asked if Guse would be responsible for section 9.4.2.A. MacBrayne recommended making the pre-application meeting a requirement, and change CEO to the Planning Board, and also lengthening the time frames.
- F. Leavitt recommended that since the Planning Board is doing a review in case they get an application, then they should be focusing on what they would do if an application comes in.
- G. Johnson suggested that where the Ordinance allows for extended time frame with the agreement of applicant, that the words “with the agreement of applicant” be removed. MacBrayne stated that new wording would have to be put in to protect the applicant from the Planning Board dragging out an application. Also added that the Tables in the Ordinance would have to be changed if any changes were made.
- H. The Planning Board discussed the Public Hearing time frame, and the ability to continue a hearing.
- I. Discussion on Notice of Abutters lead to Leavitt’s recommendation to send out the notices as soon as an application in received.
 - i. Cook asked if neighboring town abutters get input. MacBrayne said it’s a “Good Neighbor Policy” to notify them so they can attend the hearing.
 - ii. Leavitt recommended defining the term “Abutters” before an application is received.
 - iii. Johnson suggested that procedures of notification should be standardized, and recommended a one mile radius.

XI. ADJOURN

- A. Motion to Adjourn: Johnson
Second: Leavitt
Approved by unanimous vote at 8:45pm