

TOWN OF ORLAND
PLANNING BOARD MINUTES
November 7, 2016
7:00PM

I. ROLL CALL

X	JACK MACBRAYNE
X	BRENDA LEAVITT
X	CHARLES GIOSIA
X	BART HUTCHINS
X	ROGER WOOD
X	KRISTIN COOK (ALTERNATE)

Staff Attending:

X	LUKE CHIAVELLI, Code Enforcement Officer & Plumbing Inspector
A	EDWARD RANKIN SR, Chair Selectman
X	KIMBERLY ARCHER, Board Secretary

Attending Public:

II. Macbrayne called the Meeting to order at 7:00pm.

III. APPROVAL OF MINUTES FOR OCTOBER 2016:

For the October Minutes would anyone like to have any additions or comments?

GIOSIA: Motion to Approve

HUTCHINS: Second

IV. CEO REPORT

A. really slow month, issued a couple tree permits and one internal plumbing permit and that's it.

V. COMMUNICATIONS AND CHAIRMAN'S COMMENTS – No unfinished applications and no new applications have been submitted.

Dexter about a month ago, sent out notes from the meeting for the comprehensive plan . I also got a survey in the mail a few days ago, and Bart, do you have anything to add?

Hutchins:

MacBrayne: Does anyone have any questions or comments in regards to the comprehensive plan?

The one piece of work of importance that we need to do, is to elect a new vice chair of the planning board. I'm not sure how we should go about it, would someone like to volunteer.

Wood: I'd like to elect Brenda Leavitt as Vice Chair.

MacBrayne: I'll second that, are there any other nominations?

Unanimous in favor. Brenda Leavitt is now the Vice Chair of the planning board.

Leavitt: What is the plan for getting an additional board member?

MacBrayne: Are there any interested parties?

Chiavelli: Mike Malenfant had expressed an interest but is also part of the comprehensive plan.

VI. SELECTMAN COMMENTS:

VII. UNFINISHED APPLICATIONS- None

VIII. NEW APPLICATIONS - None

IX. PENDING APPLICATIONS: None

X. PUBLIC QUESTIONS and COMMENTS-

Do any of the board members know about paving in North Orland, by Johnson Road.

XI. MacBrayne: at one point they did some work on Gross Point road, and did a skim coat where they had to replace some culverts in one section. Someone that works for Bobby indicated that they ran out of paving budget.

Wood: Gilpin Road had some done.

Leavitt to Chiavelli: Have you heard anything to indicate any paving.

Chiavelli: No

"": There is a paving machine there currently.

XII. NEXT MEETING will be held Dec 5, 2016 at 7:00pm at the Orland Community Center.

XIII. OTHER BUSINESS and ADJOURN

MacBrayne: If there is no other questions, before we begin working on the wind energy ordinance, I motion that we adjourn the meeting.

Wood: Second

Meeting Adjourned at 7:14pm

WIND ORDINANCE REVIEW

We talked briefly about the best way to go ahead and review this, and Brenda if I remember correctly. Most of you were at the meeting when we talked about this when Ed was here, and he gave what was to me, at least clear direction that the selectmen would consider changes that were relatively minor, procedural or administrative in nature. But they would not be amenable to significant changes to the half mile setback or something to that order. I think that Brenda may have suggested that we review the changes that the selectman would accept. But if we skip around

I would like to propose that we start at the beginning of the ordinance and go through the whole thing, and go through everything that is basically in color that Dexter put in here.

That we go through each item from the beginning, and review each thing putting into three columns.

1.

2.

3. A topic that we need to return to in more detail.

So that we can narrow it down, and at some point, the next step could be to come back, and go over the things that we need more discussion on, and rather than wordsmith things to death. Come back at that time and create a revision of the ordinance, and the things that Dexter has here, and return to it.

Giosia: All of the red text is Dexter Johnson's footnotes on the ordinance. So I believe that we should disregard. The blue and Green is actually a part of the actual ordinance.

If I went home and said that I wrote up my part of the ordinance and showed it, I would think that we would discount all of that.

MacBrayne: There are a few things in red where he does suggest changes. The whole Section 17 that covers protecting the citizen, and I do not think that we should even cover Section 17.

Leavitt: I do agree with you up to a point, and the first time that we went through it and hash out the things that were brought up. I can see that it is pretty overwhelming. I dont want to go over this 3 more times.

MacBrayne: I agree, it will just take more time

Giosia: There are pertinent areas that need to be worked on, I dont see why we need to go over things that we have already gone over.

For instance in the definitions there are ones that are perfectly acceptable.

MacBrayne: Do we want to go over the definitions

Wood: I do not even have a copy of this. What is it? I haven't seen it.

MacBrayne: We had Tracy make color copies before.

Archer: I can make additional copies for our next meeting if you would like?

MacBrayne: Wood and Hutchins can look on together for now.

Wood: Is the Red Dexter's additions?

MacBrayne: If Charles and Brenda can share, and Bart and Roger can look on together

The first addition is for the wildlife and bird entanglement and create a definition for an abutter.

Some place usually says, that anything thats not

Such additional terms shall be given their normal dictionary definition.

Cook: sometimes in orland an abutter is different, sometimes cover someone who is across the road.

Does anyone have any objections for adding those definitions?

Wood: is that noted specifically in the body of the ordinance?

Cook: Most of the definitions will be according to the wind energy industry. I dont think that most people have the book on wind energy industry terms.

MacBrayne: Frankly this definition that is in red I would disregard it. Lets go down to the historic area, and review that. I say that we should delete this and remove the trail that isnt even in Orland.

In reviewing minimum setback for Type1 and Type2 Turbines, that we may have missed. It clearly defines it in the definition is discussed within the body of the ordinance.

The next comment from Dexter discusses planned residence. All applicable land use and building permits have been issued and the permits themselves have not expired. Dexter's comment is that you do not need a building permit for Orland, as long as its not in the shoreland zone, you could have it quite built until you need a plumbing permit.

Hutchins: For electrical the most that you have to do is Have CMP sign off on the electrical. But there is no need for a permit.

MacBrayne:

Leavitt: Where does this refer to in the Body?

MacBrayne: It deals with setback, if a planned residence was within the setback, the residence would have to get a permit to build within the

Cook: Planned residence is an ambiguous term.

MacBrayne: If we leave that definition as it is, even someone who has gone to get a plumbing permit would have standing that there was a planned residence.

The only way to fix this would be to require a building permit for any resident of Orland. The selectmen attempted to change this a couple years ago and it got shot down.

Wood: It could be a real sticking point, if a resident had no permits,

Leavitt: This is going to cause some real issues, if someone has a planned residence

MacBrayne: we could change the definition to not including required permits, I believe that it has to be something that would require a significant commitment from the property owner. Either a slab or a foundation, or something indicating that building was going on.

Cook: In other words someone who has something as a camp or something informal doesnt really cover them in this.

MacBrayne: Yes they would be. I'll see.

Wood: Where does it say in the ordinance about planned residence?

MacBrayne: I believe that it would be found under setback.

Leavitt: Setback is in section 13.2 and I see nothing under there.

Wood: I do not either.

Leavitt: In order to change that we need to see what it is referenced from.

MacBrayne: I'm confident that it is in there, but I'm just not sure where it is. At least in mine there are no other changes in definitions. Does anyone else have any changes in definitions?

The next thing will not be

In the ordinance, under 5.0 Applicability, we need to add a new 5.4. Remember in May of 2015, we adopted the grandfathered language, if someone applied for a permit, the ordinance changed after we started the review of the applications, the conditions of the old ordinance would pertain, not the old ones.

It is in the minutes of May 4, 2015.

Then under 6.3, I suggested that we add language: If there is a conflict between ordinance and state recommendations,

we need to clarify if it is a state of maine law or regulation, we would follow state law.

Leavitt: We should ad that if it is a state law or regulation is more stringent that we follow that.

Hutchins: If the state regulations are not as stringent than the town or municipality, as long as the regulations are followed you can go above and beyond with the

Giosia: In Section 6.1 it shows that in that case that state law would apply.

Leavitt: In the wording here, it does not apply to state.

MacBrayne: when a permit is required, replacement of a wind turbine with a like-kind replacement, should meet any current noise regulations that were required at the time of the initial install.

If the requirements are lowered, you follow

Leavitt: In regards to the new regulations if we havent changed our ordinance yet.

MacBrayne: The next section is covering the fee schedule, there was never an intent to have it in section 8, because there would have to be a town meeting any time that you would want to change any of it.

Since the applicant is required to submit an electronic application, and it would be nice to see the application projected. But it isnt anything that belongs in the ordinance.

Changes to pending applications, the language in here calls for 30 days or 60 days, that we change 30 days to 40 days, and sometimes there are 5 weeks between meetings. If we leave it at 30 we would have to call a special meeting. So the suggestion is to change it to 40 days and cover it at the next meeting. Then Dexter has made some comments about various things.

There was one thing under permit, section 1.a, that the planning board would respond in writing if the application is complete, or if there was additional information required of the applicant.

Chiavelli: sometimes you will not see the missing information that is required until you review it at the planning board meeting.

MacBrayne: We should change that

Chiavelli: Unless you want to change the wording to substantially complete.

MacBrayne: 40 days, One meeting to show that the application is complete and 40 days to show whether they have submitted all required information.

The discussion that we just had was for type 1 wind

Under A the current wording is that the applicant was “strongly encouraged” to meet with the CEO, and to change we should reword it that the applicant is required to meet with the CEO and have the planning board approve it.

Leavitt: is that for us or for them? If we have a company coming in, and submit their application, this is probably not their first rodeo. I think changing the wording is strictly for us.

MacBrayne: It could be a small business, but type 1B or 2 would be for a smaller business.

Wood: I think it should be required, for all applicants.

MacBrayne: Section D, talks about holding a public hearing and so on. If they decide to hold a public hearing for a Type B, change that 60 days to 100 days. It gives you 3 months instead of 2 months.

Leavitt: Why would need 100 days after reviewing the application.

MacBrayne: Determining that it is complete, just shows that the applicant has submitted everything that the law requires, but we would need more time, after you determine that it is complete, to thoroughly review all of these things.

Cook: Roger, how long did it take you to find out about sound?

Wood:

Cook: would you have needed 100 days?

Wood: I was just looking for information on sound and what’s entailed. It means different things to different people, not just based upon decibels, but other things in addition to decibels.

The way I understand it, these wind turbines are all rated based upon the sound that they put out.

MacBrayne: My thought is, when you look at all of the requirements in here, I do not believe you could gather all of the information that you need for a type 3 turbine in 90 days. I think we are better to give more time and not need it, and it gives you the ability.

Cook: Would that be for types 2 and 3?

MacBrayne: Yes.

Cook: Would that be 100 days before a public hearing?

MacBrayne: That would give us 100 days before we would have to submit all of the information at a public hearing.

Wood: Type 3 Turbines are a pretty big deal.

MacBrayne: The next section, I suggested 65 days instead of 60, just based upon the meeting schedule. This next section covers applications for wind energy facilities, Brenda suggested that we send letters immediately after receiving the application to any residents regarding the wind energy facility. If we put the wording in there to require that letters be sent within a minimum of 10 days. We would send the letters to the abutting towns, they cant do anything about it, but it is more for a courtesy.

Section 9.6 Public Hearing, first of all it says that the notice of the public hearing is published at least once in the newspaper for the municipality. One thing you wont see written on here, and it came to mind when I was going through this again. What about adding a requirement to put this notice on the town website.

Leavitt: If we are saying that it has to be put in the newspaper, why dont we go with Bangor Daily News, where that is more of a local area newspaper.

MacBrayne: Johnson wondered if it should be in multiple town newspapers.

Leavitt: If we are talking towns that are abutters to the municipality, we should submit it to the Bangor Daily News, due to Dedham, Holden, etc.

Wood: Did it say that we have to use the Free Press?

MacBrayne: No. Why dont we change the language to say that we should require it to be published in at least 2 local papers. At some point we're going to need to add language that covers facebook, twitter, and other social media.

Cook: According to Sharon Bray, she stated that The Enterprise was the Orland Paper of Record.

MacBrayne: I'll ask the Town Clerk what it says in ordinance. This section states that the notice has to be sent by certified mail to residents and municipalities within 1 mile of the proposed turbine. And abutting municipalities. Should Orland be required to notify residents. In the notes, Leavitt had been recorded as saying that the current wording should be left alone.

And then Dexter discusses a ½ mile requirement for informing the residents. Section 9.7 , discussing professional services, the planning board can retain professional services, by getting an estimate of the cost, and the applicant can deposit the estimated cost, and it will be put in escrow to pay for the services. Leavitt and Johnson both stated that there should be escrow accounts created for every applicant.

Leavitt: I dealt with this in Brewer, there is a flat amount that you submit, and the money goes directly into escrow, and covers the fees. What I would suggest that you go through this, and you check and see which technicians or those that you would like to hire.

MacBrayne: Once you receive the application, you wont even have time to do what the application suggests. I wonder if there is a way to do it based upon a percentage of the estimated project.

Leavitt: we are probably going to want to meet with someone who is an expert in sound, and pay them for an hour of their time.

Cook: Maybe a percentage would be a good idea. Maybe we should request the estimated cost of development and potentially base the escrow amount on that.

Wood: Is there a general escrow for projects?

MacBrayne: We do not have anything under general escrow, other than this.

Leavitt: The city of Brewer does this. Maybe you should contact a chairman on the planning board of Brewer to see how they start their escrow?

MacBrayne; Maybe we can specify a type of account for each class of turbine. A percentage based upon the type, and if it is exhausted, that they'd have to re-up.
I think I have an idea of what we want to do here, so maybe the thing to do is to put some language in there, and revisit it .

Leavitt: The way that the escrows are done, it shows that if any additional funds for professional services are required that the applicant would be responsible for covering those costs.

MacBrayne: Access: The CEO will have access to the property at all times, and will have the training and a fee schedule for any additional training.

Leavitt: If I'm the applicant, I would complain that it was not my responsibility to provide funds to train the CEO.

Wood: I agree, its not the applicants responsibility.

Chiavelli: I would agree that the selectmen need to set the fee schedule, but that it not be part of the ordinance. If I have to be out there inspecting all of the time, that the selectmen create that fee schedule .

Leavitt: All of Dexter's comments are a selectmen issue. And should be handled by them.

MacBrayne: Section 9.6 if you violate the terms of the ordinance. CEO should be in contact with anyone who is in violation of the permit. It does not specify how long you have to notify.

Wood: It would take longer to verify a violation than it would to give letter of notice.

Leavitt: How about we say within 5 business days.

MacBrayne: Under 3 Dexter has another comment from the minutes. Johnson asked how long that the town has to proceed with enforcement. The board agreed 30 days, and the information does not precipitate a change of anything.

We are at the application submission requirements that has a fair amount of comments and things in here. I do not believe we will be able to finish this tonight. We can resume at this point next time. All in agreement.

REVIEW SESSION ADJOURNED at 8:30pm.