

**Town of Eliot  
REGULAR PLANNING BOARD MEETING MINUTES**

**March 22, 2011 7PM**

**ITEM 1 - ROLL CALL**

Present: Present: Steve Beckert – Chairman, Jeff Duncan – Vice Chairman, Chris Place, Dennis Lentz, Larry Bouchard – Alternate and Greg Whalen – Alternate.

Absent: Dwight Snow.

Greg Whalen was appointed as a voting member for this meeting.

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

**ITEM 4 - REVIEW AND APPROVE MINUTES AND INVOICES AS NEEDED**

**MOTION:**

Chris Place made the motion to approve the minutes of the February 15<sup>th</sup>, 2011 Planning Board meeting, as written.

Dennis Lentz seconded the motion.

**Vote: 3-0, (Jeff Duncan abstained due to absence from the meeting) Chair concurs.**

**MOTION:**

Dennis Lentz made the motion to approve the minutes of the March 8<sup>th</sup>, 2011 Planning Board meeting, as written.

Jeff Duncan seconded the motion.

**Vote: 4-0, Chair concurs.**

**ITEM 5 - REVIEW OF "NOTICE OF DECISION" LETTERS, AS NEEDED**

The Board reviewed and issued the following notice of decision letters as written:

- Seacoast Baptist Church – day nursery
- Charles LeCompte – expansion of non-conforming structure in the Shoreland zone.

**ITEM 6 - PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED**

- A Public hearing – Amendments to Chapter 1, General Provisions, Chapter 33, Planning and Development and Chapter 45, Zoning, of the Municipal Code of Ordinances of the Town of Eliot, Maine to increase the maximum height of structures only in the Commercial/Industrial zone from 35' to 55'.**

Steve Beckert explained the rules of a public hearing and gave a brief summary of the proposed ordinance amendment.

**Public hearing opened.**

Mary Fournier, 16 High Meadow Farm, stated that she hadn't read the proposed ordinance and asked if it was the same as the one that was voted down at the last town meeting.

Steve Beckert stated that the ordinance increases the maximum height of buildings in the Commercial/Industrial zone only and clarifies the definition of "height of a structure".

Mary Fournier asked if the ordinance had been worked on by JT Lockman of Southern Maine Regional Planning Commission.

Steve Beckert stated that the ordinance was drafted by the Planning Board and the Board of Selectmen would decide whether or not to place it on the town meeting warrant. He stated that the draft ordinance has been available at the town hall and on the town's website for weeks.

Mary Fournier stated that she couldn't comment on the specific language of the ordinance, but if it was streamlined and clean cut then the town might be able to get it passed at town meeting. She stated that her property is in the Rural zone and abuts Pike Industries. Although Pike is at a safe distance someone else may come along and build something at the new maximum height allowed by the ordinance. She stated that she thought anyone who wanted to protect their property and way of life would probably not vote for the change.

Jack Murphy, 5 Brixham Road, stated that he had read the ordinance thoroughly and was in favor of it. He stated that while he may not necessarily agree with all of the words, but if builders understand it then he was okay with it. He stated that the Commercial/Industrial zone is a logical place to allow taller buildings and that he hoped it created some economic development opportunities.

John Chagnon, 585 Goodwin Road, stated that he was in favor of the ordinance as written. He agreed that the Commercial/Industrial zone was the ideal area of town to permit taller structures in and that this would provide a pallet for development and future tax revenue. He stated that he wanted to highlight that the ordinance also allows the Eliot Fire Chief the opportunity to review all proposed structures requiring site plan review, which will help with any technical issues brought about by the new language. He commended the Planning Board for using plain and simple language and for emphasizing in the new draft that the change would apply to structures in the C/I zone only.

Russ McMullen stated that he was also in favor of the ordinance as written. He explained that when this ordinance was presented the first time a letter was sent around town that misled voters about the potential ramifications of adopting it and that he hoped that would never happen again because it obviously influenced enough people that the ordinance was voted down. He recommended that the ordinance be taken up on the town meeting

floor as opposed to a ballot item so that anyone with questions can have them answered by the appropriate people.

Steve Beckert stated that whether the ordinance is a ballot item or open floor town meeting item is up to the Board of Selectmen but he agreed it should be discussed on the floor.

Douglas Keith of the Business Development Committee stated that if development is going to happen in the Commercial/Industrial zone the developer must maximize the property in any way they can and one way to do that is to build up. He stated that he was in favor of maintaining the rural character of Eliot, but the ability to build upwards is a way of increasing the tax base without increasing the demand for services.

Bill Hamilton, 11 Maddy Lane, stated that under 'General Provisions' it says that the upper reference point shall be the highest point of the roof surface and then it appears you would be allowed to have a rooftop appurtenance of up to 10' in height. He asked if the proposed 55' maximum building height included those rooftop appurtenances.

Steve Beckert stated that the structure itself is limited to 55' and that rooftop equipment and appurtenances are allowed to exceed the 55' maximum, but shall not exceed 10' in height from their lowest point of contact with the roof surface.

Jack Murphy suggested that silos be allowed to exceed the maximum height requirements should farming ever become popular again.

Mary Fournier stated that she noticed the new ordinance doesn't include a diagram like the last one did. She stated that the ordinance language should be extremely clear and that although the current members of the Planning Board might understand it those after them might not. She stated that she has missed town meeting many times because of scheduling conflicts and they are often not a good representation of the Eliot population. She suggested utilizing Eliot Online to get the message out about the ordinances.

Bill Hamilton asked if there were any provisions in the proposed ordinance that would limit the density of these taller structures. Six or seven of them in a row forming a corridor could be problematic.

Steve Beckert stated that there were no provisions limiting density other than what is already existing in the ordinance.

Kate Pelletier added that currently more than one principal structure is allowed on a lot in the Commercial/Industrial zone so long as there is a 20' separation between buildings. She stated that properties in the C/I zone are allowed a maximum lot coverage of 50%.

David Fournier, 16 High Meadow Farm, asked if Eliot was prepared to protect these taller structures with additional security and emergency services.

Jeff Duncan stated that the Eliot Fire Chief had come to several meetings about this issue and has been part of the discussion since the beginning.

Chris Place stated that part of the discussion with the Fire Chief was about the type of equipment and staff/volunteers available to the fire department. According to him the existing mutual aid agreement was sufficient to handle buildings up to 55' in height.

Ellen Lemire, 696 Goodwin Rd., asked if the new ordinance dealt with any emergency access issues that come along with increasing the height of a structure.

Steve Beckert stated that emergency access is regulated by the NFPA.

Russ McMullen stated that it's important to emphasize the benefits of allowing taller structures. Doing so is likely to create more local services for residents, especially now that gas prices are rising quickly. It will also increase the tax base and create jobs in a tough economy.

**Public hearing closed.**

Steve Beckert asked if the Board had any additional comments or questions on the ordinance.

The Board had no additional comments or questions on the proposed ordinance.

**MOTION:**

Jeff Duncan made the motion to forward the ordinance, as written, to the Board of Selectmen for consideration of inclusion on the June town meeting warrant.

Chris Place seconded the motion.

**Vote: 4-0, Chair concurs.**

Steve Beckert encouraged anyone interested in whether or not this amendment will be handled as a ballot item or open floor town meeting item should attend a Board of Selectmen meeting to request it.

**B Public hearing – Amendments to Chapter 45, Zoning, of the Municipal Code of Ordinances of the Town of Eliot, Maine to require open space subdivisions within the Critical Rural Overlay.**

Steve Beckert gave a brief summary of the proposed ordinance amendment.

**Public hearing opened.**

Jack Murphy stated that it appears from the draft that the critical rural overlay district had already been adopted by the town as a zoning district.

Kate Pelletier stated that part of the ordinance amendment is the adoption of that critical rural overlay.

John Chagnon suggested that it be made clear that the critical rural overlay is also being adopted as part of the amendment. He stated that he believed an open space

development ordinance would preserve the rural character of Eliot and help to protect what remaining open space there is left. He stated that he had several comments on the draft. First, under Section 45-467.C.(2)(b) says, *“Portions of the lot which, because of existing land uses or lack of access, are isolated and undevelopable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.”* He stated that it was his opinion that the Board is giving themselves too much power with that statement and that “as determined by the Planning Board” doesn’t give the developer any concrete performance standards to plan on. Under that same section, subsection (h) says, *“Portions of the parcel utilized for stormwater management facilities”* are subtracted from the total lot area, however, these calculations are a moving target and tend to change throughout the approval process. He asked that the Board consider eliminating that requirement. He also stated that Section 45-467.D(10), which prohibits direct vehicular access onto a public road from an individual lot or unit, was too restrictive. He also stated that (14), which allows the Planning Board to require storage ponds and dry hydrants, should also include provisions for subtracting any type of pond from the lot density. He stated that he thought the provision allowing the land owner to retain the open space for the purpose of agriculture and forestry was a great idea. Under F (Buffering), he asked if stormwater facilities must be completely contained within the second 25’ since the first 25’ is reserved for natural vegetation only. He suggested clarifying what “no structures” meant since the town’s current codes allow stormwater structures within setbacks currently. He stated that the Board should think of drainage and some of those appurtenances like they think of roads. You can’t just have a buffer and not connect the drainage to the outfall.

Jeff Duncan agreed and stated that he believed the road and its associated utilities have a corridor entering from the existing roadway into the development, but there isn’t going to be a whole series of these things scattered across the face of the development.

John Chagnon stated that his point is that the road corridor doesn’t always line up with the low point of the lot where the drainage is going to go. It’s useful to have other corridors that can be utilized for utilities and drainage within the buffer. He suggested that it be clarified since it’s an issue that comes up frequently. He also asked the Board to reconsider the required 150’ continuous landscaped buffer around the development if they are residential in nature.

Steve Beckert stated that the 150’ buffer is only required when the development abuts an agriculture, timber harvesting or earth material removal use. He stated that the 150’ buffer doesn’t apply if the development simply abuts another residential use.

John Chagnon stated that unless someone has a designated tree farm they can come to any public hearing and claim they have a timber harvesting operation in order to compel the Board to require the 150’ buffer.

Mary Fournier asked what is considered “timber harvesting.”

Steve Beckert read the definition of “timber harvesting” as follows, *“Timber harvesting means the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.”*

Mary Fournier stated that she saw something about timber harvesting requiring a 100' setback from wetlands.

Steve Beckert stated that no building may be located or constructed within 100' of any water body or wetland.

Mary Fournier asked if that requirement would be changing as a result of this ordinance.

Jeff Duncan stated that if the development is located within a Resource Protection zone within the critical rural overlay then its more restrictive requirements would supersede these requirements.

Jack Murphy stated that he just reread the amendment and found no place where the Critical Rural Overlay is actually established as a district. He suggested that the Board add language to the beginning Paragraph B to specify that the zoning map is also being amended to add a new district.

Ellen Lemire stated that she was somewhat uncomfortable with the ordinance because it is more restrictive than what is in the ordinance now and the comprehensive plan was just a suggestion. To add an overlay in an ordinance only focused on subdivisions is concerning especially since it restricts everyone who lives within that subdivision.

Steve Beckert stated that they would only be restricted if they wanted to develop a subdivision of five lots or more.

Bill Hamilton stated that he was in favor of an open space development ordinance and particularly liked the fact that no density bonus is offered to developers.

**Public hearing closed.**

Steve Beckert stated that the proposed language of this proposed ordinance is fairly universal to the region and is what other municipalities are doing. This is something that Eliot has been requesting for years.

Chris Place added that not only is it universal but it has also been tested in other communities.

The Board agreed to add the following to Paragraph B: *"The adoption of this ordinance shall establish a Critical Rural Overlay on the official Eliot Zoning Map."*

**MOTION:**

Dennis Lentz made the motion to add the following language to the beginning of Paragraph B, *"The adoption of this ordinance shall establish a Critical Rural Overlay on the official Eliot Zoning Map."*

Chris Place seconded the motion.

**Vote: 4-0, Chair concurs.**

Mary Fournier asked when the ordinance would be reviewed by the Selectmen.

Steve Beckert stated that it was his understanding that they would review it this Thursday but didn't know if they would have their own public hearing on it.

**C Application for a Shoreland Zoning permit to rebuild and relocate several sections of transmission lines within the Central Maine Power transmission line corridor. Applicant/owner is Central Maine Power Company (mailing address: 83 Edison Dr., Augusta, ME 04333). Property can be identified as Map 102/Lots 1 & 4, and Map 101/Lot 20. (PB11-3)**

Bud Newell of TRC Engineers represented the applicant. He stated that TRC is a consultant working for Central Maine Power. He explained that the Maine Power Reliability Program is an upgrade to CMP's bulk transmission line system. He explained that what appears in yellow on the plans is the MPRP project consisting of 370 miles of transmission line corridor, most of which is in the existing CMP corridor. CMP will construct some new lines and upgrade others while also constructing and/or expanding substations along the corridor. Aside from routine maintenance, this is the first substantial upgrade of the CMP system in forty years. The bulk of the 115 kV system was constructed in the 1950's and 1960's and the existing 345 kV system was constructed in the 70's. Since 1970 the population of Maine has increased by about 30% and electrical consumption within the CMP system has doubled since 1970. Also, the population of Maine has shifted towards the southern part of the state. Maine was previously a peak winter consumer and is now a peak summer consumer. Further, in 2002 federal regulations were passed that mandated public utility companies to meet a certain level of reliability standards. With a significant project like this one many approvals are required. To date CMP has obtained approval from the Public Utilities Commission, Maine DEP, and Army Corps of Engineers. Also to date, 71 communities have determined that no permit or municipal review is required while 11 others have required some sort of permit or Planning Board approval. He explained that CMP has a variable-width right of way. From the Eliot/South Berwick town line to below Route 236 the right of way is 225' wide. From there down to the PSNH Three Rivers substation the right of way is 240' wide. Currently within that corridor are two 115 kV lines – one being the old style 115 kV H-Frame and the other being 115 kV single-pole construction, as shown in Exhibit #2 of the application. He explained that CMP is proposing a rebuild of the existing H-Frame line by moving it over and rebuilding it as a single pole configuration. In the location vacated by the H-Frame line CMP is proposing a new 345 kV line, which would utilize single pole, steel construction and concrete foundations. Pole heights will vary depending on the terrain and the total length of the corridor in Eliot is about 1.5 miles. The existing 115 kV line runs into the Three Rivers substation and will still do so after construction. However, the new 345 kV line will be going into a switch yard, which will require separate Planning Board approval. The total cost of the project is around \$5 million and is slated to begin construction sometime in January 2012. Through discussions with Kate Pelletier and Jim Marchese it was determined that Planning Board review was required only for areas of the project within the Shoreland zone. The total wetland area is about 8.9 acres. The 115 kV line is composed of 19 structures currently and after construction will consist of 18 single wooden poles. The 345 kV line will have 17 total steel single poles involved. Within the Shoreland

zone there will be an overall reduction of two poles by replacing the H-frame structures with single poles.

Chris Place asked how tall the highest pole would be in the Shoreland zone.

Bud Newell stated that the highest pole was 115.75' but is an angled structure and is shown on Exhibit #1.

Chris Place asked if the size of the concrete foundations would increase as the height of the pole increased.

Bud Newell stated that generally speaking that was correct.

Jeff Duncan asked how much additional surface area would be concrete foundations.

Bud Newell stated that the total area of non-vegetated surface area was 245 sq. ft.

Jeff Duncan asked if CMP currently has maintenance access to the whole corridor.

Bud Newell stated that was correct. He pointed out the proposed access road that will be used to avoid wetlands and stream crossings. He noted that all wetlands and stream crossings would be flagged in the field to alert contractors of their presence. Construction mats would also be used to create a rigid surface for large equipment. Some temporary roads will be created using gravel, fabric, etc.

Jeff Duncan asked if the Maine DEP approval included restoration of the corridor upon completion of construction.

Bud Newell stated that was correct.

Mary Fournier asked if she would be allowed to speak at all tonight about this application.

Steve Beckert stated that this is not a public hearing and that she would not be allowed to speak tonight.

Greg Whalen asked if a building permit would be required for the construction of the poles.

Kate Pelletier stated that the Code Enforcement Officer would have to confirm this but that she thought that only building permits would be required for the concrete foundations.

Greg Whalen asked if the town would have any oversight of the construction.

Bud Newell stated that the town would have oversight of the local permits and ordinances including blasting, flood hazard development permits, building permits etc.

Chris Place asked where CMP currently rates in terms of reliability now and how it will rate after construction.

Bud Newell stated that he didn't have the answer to that.

Dennis Lentz stated it didn't appear that any of the access roads run outside the corridor, but asked how access is gained from private land owners.

Bud Newell stated that if there is any easy way to get into the corridor by using existing roads across private property then CMP will attempt to negotiate with those people to try to gain access.

Mary Fournier asked how she could get a copy of the application.

Steve Beckert stated that he is not going to tell Mrs. Fournier to stop talking again. He stated that copies of applications can be requested at the town hall.

The Board scheduled the public hearing and continued review of this application for April 19<sup>th</sup>.

Mary Fournier asked what would be addressed at the public hearing.

Jeff Duncan stated that the Board would address whatever questions come up from the public.

Mary Fournier asked if what had been submitted in terms of application materials and the presentation given tonight was the complete presentation.

Steve Beckert stated that was correct. He stated that if any questions come up at the public hearing that don't pertain to this particular application they will not be allowed.

Mary Fournier stated that she received no notification of this meeting.

Kate Pelletier stated that no one received notification of this application since it was not a public hearing. She stated that she would be notified about the public hearing.

Mary Fournier stated that she was disgusted by the proceedings of this meeting.

#### **ITEM 7 - ACTION ITEM LIST**

None.

#### **ITEM 8 – CORRESPONDENCE, OTHER AS NEEDED**

Steve Beckert stated that the report for the town book was due on March 31<sup>st</sup>.  
Kate Pelletier stated that she would send Steve a draft of the report as soon as she was done gathering some of the data needed for it.

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#### **ITEM 9 - SET AGENDA AND DATE FOR NEXT MEETNG**

The next regularly scheduled Planning Board meeting was scheduled for April 5<sup>th</sup>, 2011.

**ITEM 10 – ADJOURN**

**MOTION:**

Greg Whalen made the motion to adjourn at 8:55 PM.

Larry Bouchard seconded the motion.

**Vote: 4-0, Chair concurs.**

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**Stephen Beckert, Chairman**

**Date approved:** \_\_\_\_\_

Respectfully submitted,

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**Kate Pelletier, Recording Secretary**