

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

February 3rd, 2009 7PM

ITEM 1 - ROLL CALL

Present: Steve Beckert – Chairman, Chris Pollard (late) – Vice Chairman, Dwight Snow, Dutch Dunkelberger, Paul Burke and Jeff Duncan - Alternate.

Jeff Duncan was appointed as a voting member until Chris Pollard arrived at 7:05.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 - REVIEW AND APPROVE MINUTES AND INVOICES AS NEEDED

MOTION:

Dutch Dunkelberger made the motion to approve the minutes of December 2nd, 2008, as written.

Jeff Duncan seconded the motion.

Vote: 4-0, Chair concurs.

MOTION:

Dutch Dunkelberger made the motion to approve the minutes of December 16th, 2008, as written.

Paul Burke seconded the motion.

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

MOTION:

Dutch Dunkelberger made the motion to approve the minutes of January 6th, 2009, as written.

Dwight Snow seconded the motion.

Vote: 3-0, (Paul Burke abstained to his absence from the meeting) Chair concurs.

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

The Board reviewed the following notice of decision letters:

1. Michael Lawton – pier
2. Nancy Shapleigh – change of use
3. John Lang – amendment

There were no changes to any of the letters and they were issued as written.

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

A. 10-minute public input session

There were no comments from the public.

B. Review Post Construction Stormwater Ordinance.

Steve Beckert stated that the Board should have received the latest draft of the post construction ordinance from Kristie Rabasca. He asked if anyone had any comments on the changes.

Dwight Snow stated that he noticed that the ordinance refers to “major/minor subdivisions.” He stated that JT Lockman of SMRPC had said previously that when he rewrites the subdivision ordinance there will no longer be major and minor subdivisions. He suggested that the wording in this ordinance should be consistent with the new subdivision ordinance.

The Board agreed.

Dutch Dunkelberger stated that he had a comment about the definition of “urbanized area.” He stated that since the Board agreed at the last meeting that the ordinance should apply to the entire town and not just the urbanized area, then perhaps that should be stated in the purpose section of the ordinance. He also suggested that perhaps the definition of “urbanized area” should be removed altogether since it is not used anywhere else in the ordinance.

Jeff Duncan stated that the applicability section of the ordinance says it applies to development that disturbs more than one acre of land within the municipality. He stated that it doesn’t say anything about applying only to the urbanized area.

Dutch Dunkelberger stated that while the Planning Board could understand that the ordinance would apply town wide, he wasn’t sure a layperson reading the ordinance would come to the same conclusion, especially with the definition of “urbanized area” still a part of the ordinance.

Kate Pelletier stated that she would discuss this with Kristie Rabasca and get her input on it.

Paul Burke stated that he thought the ordinance was very well written and only had one minor comment. On page 3 of attachment #4 under “Right of Entry”, it says that the Code Enforcement Officer may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the stormwater management facilities. He suggested adding “or town designee” to the list of people who have the right to enter the property so that if the town hires someone to do the inspections they will have the legal right to go on the property.

The Board agreed.

Paul Burke asked if the Board should review the section numbers for consistency with the rest of the ordinance.

Kate Pelletier stated that this is a stand-alone ordinance that will have its own chapter so all section numbers will be new.

Steve Beckert asked if the Board had any other comments on the ordinance.

The Board had no additional comments on the ordinance.

ITEM 7 - ACTION ITEM LIST

None.

ITEM 8 – CORRESPONDENCE, OTHER AS NEEDED

Kate Pelletier stated that she met with a consultant for the CMP Maine Power Reliability Program, who are planning on upgrading the power grid by building new transmission lines throughout Maine. The consultant brought with him a proposed ordinance change that would exempt essential services from dimensional requirements such as height restrictions and setbacks. She stated that the consultant had written this proposed ordinance change as a result of a conversation with Paul White who advised him that a full site review would be required because the use would be considered a “Public utility facility” rather than an “Essential service”, which would not require Planning Board review. She stated that it was her understanding that in the past the Board had treated projects like this one as an essential service, which would not be subject to the dimensional requirements of a structure. She stated that Paul White was not in the office today and that she had not yet had a chance to discuss this with him, but wanted to get the Board’s opinion.

Chris Pollard read the definition of “essential service” as follows, “...*gas, electrical or steam, fuel, electric power or water transmission or distribution lines, telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.*” Then he read the definition of “public utility” as follows, “...*any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, transportation or water to the public.*” He stated that CMP is a distribution company and we buy power from someone else. In his opinion the applicant should proceed without permits and if they are cited they can appeal to the Board of Appeals.

Jeff Duncan stated that if they weren’t subject to the dimensional requirements then what’s to stop them from putting up 400’ towers?

Chris Pollard stated that any proposal to upgrade the transmission lines would have to go through FIRC and the PUC. He stated that the Planning Board has no jurisdiction over such proposals and neither does Paul White.

Dwight Snow stated that he understood why CMP wouldn't need a permit but asked where it says that they wouldn't need to meet the dimensional requirements. He stated that the only thing he could find was in Section 45-405, which exempts chimneys, towers, ventilators, and spires from the height restrictions, but it says nothing about utilities.

Chris Pollard stated that if that were the case then CMP has been in violation of the ordinance for years.

Dutch Dunkelberger suggested getting a legal opinion from Chris Vaniotis as to whether or not the use would require Planning Board review and if it would be required to comply with all dimensional requirements.

The Board agreed to seek a legal opinion on this issue.

ITEM 9 - SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board meeting was scheduled for February 17th, 2009.

ITEM 10 – ADJOURN

MOTION:

Dutch Dunkelberger made the motion to adjourn at 8:25 PM.

Jeff Duncan seconded the motion.

Vote: 4-0, Acting Chair concurs.

Stephen Beckert, Chairman

Date approved: _____

Respectfully submitted,

Kate Pelletier, Recording Secretary