

PLANNING BOARD
148 Peck Street
Rehoboth, MA 02769
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Christopher Cooper, Chairman
Robert Moitozo, Vice Chair
Edward Bertozzi
Tomas Ennis
William Costa
Michael Costa
Michael Costello
Leeann Bradley – Town Planner

**Meeting Minutes
April 19, 2017
Town Offices
148 Peck Street
Rehoboth, MA 02769
7:00 PM**

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OFFICE OF THE TOWN CLERK
REHOBOTH, MA

Present: Christopher Cooper, Edward Bertozzi, Robert Moitozo, Tomas Ennis, William Costa, Michael Costa, Michael Costello

Town Planner – Leeann Bradley

Absent:

Mr. Cooper began the meeting with the Pledge at 7:05p.m.

Mr. Costello made a motion to begin the meeting with Item D – New Business as Public Hearings do not begin until 7:15pm.

Mr. Cooper agreed.

Form A

Public Hearings

1. Zoning Bylaw Amendments – Mr. Cooper asked for a motion to open the Public Hearing.

Mr. Costello motioned to open the Public Hearing.

Mr. William Costa seconded the motion. Motion passed.

Roll call vote. All aye.

Mr. Cooper asked for public input. Ms. Bradley noted a few minor typographical changes were made. The board briefly discussed signs with regard to political signs, portable signs and multiple signs. Audience member Ms. Tracy Manzella (CARCS) came forward. She stated that ideas for the bylaw were submitted to the Board of Selectmen. One of the points of concern was some sort of a system requiring baseline testing surrounding certain infrastructure projects. She is aware the bylaws are general. She is concerned that without this baseline testing requirement for health or water within a certain perimeter, there is no real deterrent to stop some of these companies that are notorious for coming and spoiling the environment. She feels vague language is used, such as “reasonably protects visual qualities and property values”. She added that the Spectra project is saying there is a huge buffer and no one will see it. What she wants to achieve is that when an industrial project come in to an agricultural area...Mr. Costello interrupted by stating an industrial project that is not federally backed cannot come into an agricultural district. Because the project is federally backed and comes through the Department of Energy it does not have the same

requirements as private sector projects. Before a project begins Ms. Manzella wants baseline testing of wells within a certain perimeter on the Rehoboth side of the project. Mr. Ennis stated these projects will not be subject to the Town of Rehoboth zoning requirements but they will be subject to Massachusetts Environmental laws. Ms. Manzella stated there is nothing in place, even at the state level right now. Mr. Moitozo added that there would be state environmental impact statements that would discuss what is there now and what they are proposing. Ms. Manzella feels the best way to protect the town is to have baseline testing requirements in place. Mr. Moitozo added that the best way to approach this is to go through FERC who is the permitting authority. The Planning Board has no authority. Ms. Manzella asked that if this was a non-federal project this would not be an issue. The board confirmed that as correct. Mr. Ennis added if the project were "non-federal" they would have to come before Planning and Conservation for approval. Mr. Costello understands Ms. Manzella's frustration. She added that the lines are already going through town and understands the only time the Conservation Commission has a report on leaks is when wetlands are directly affected. It is the role of the company to self-report leaks. She wonders what kind of shape the pipes are in, and how many leaks there have actually been. The town had no process regarding recent leaks. Wetlands were not tested and nothing is in place to protect our water resources. She asked if something be done in terms of maintenance? Mr. Cooper suggested she speak to the Massachusetts EPA. Ms. Manzella is hoping something can be done as a municipality to protect the wells. Mr. Cooper added that if they were to impose certain restrictions on this project it would also apply to any business opening up in an industrial zone. Ms. Bradley noted that Ms. Manzella's proposed changes went to Town Counsel and referred her to the 2nd paragraph on the cover sheet which addressed her concerns. Ms. Manzella did not feel it really addressed her concerns. Mr. Brian Hatch then joined Ms. Manzella. He is an attorney. He feels the baseline testing is the most critical concern. Mr. Costello informed him that he could submit his own bylaw for the town warrant and he explained the process to Ms. Manzella and Mr. Hatch. The next special town own meeting will be in October. Mr. Hatch added they are trying to be proactive. He stated they can craft a bylaw that can regulate and propose some safe applications. He added they cannot prevent companies from coming in. They can make it a little more amenable with safety precautions through the use of bylaws which they may not have to obey. Companies can go to the Fed's and say they don't want to obey the bylaws, but at least something is in place. Mr. Moitozo added it would give the town some leverage if a bylaw was in place. Ms. Manzella stressed that they all need to be proactive. They briefly discussed property values and sales that have fallen through due to the project. Ms. Manzella suggested suing the company if property values fall. Mr. Ennis reminded Mr. Hatch that our town zoning bylaws don't impact the project because it's going through FERC. Mr. Bertozzi stated that the Planning Board is really unable to advise them on the legal issues. They need to go to a lawyer who has experience in suing utilities with regard to these kinds of matters. They need to ask, if they bring a lawsuit against a company and hold them up for 3 years and costs them too much money, when the lawsuit gets thrown out, will the court be able to award the utilities legal fees to and have them come out of our pocket. He suggests that question be answered in writing. Mr. Hatch has done some research and noted that Massachusetts is fairly strict on awarding attorney's fees to defendants. Mr. Bertozzi stated the town is going to do what their lawyer says. Mr. Ennis stated the Planning Board did make some comments and that that is their voice in the process. Ms. Manzella then discussed the noise issue and what the acceptable level is. Mr. Ennis stated they will have to comply with the Massachusetts Regulation. He believes the nominal sound level can't be greater than 10 decibels above the measured ambient background. Mr. Cooper believes that is what they asked in a letter that was sent out. Mr. Ennis stated that noise studies are being conducted as part of the GIS process. There will be a lot of input from the Federal level and SPECTRA will bring in their own personnel to conduct

studies to confirm what FERC finds. Ms. Bradley also added the only reason the wetlands were rechecked was to comply with state law and SPECTRA paid for the outside consultant. The Conservation Commission had Brandon Faneuf check the wetland line and found some discrepancies here and there. This was paid through an escrow account from SPECTRA. Mr. Bertozzi mentioned that he is working on proposed regulations with regard to Hydrogeological Assessment for groundwater for large developments, and he will be in touch with Ms. Manzella for her input. Mr. Hatch noted that having some bylaws to refer to when writing comments may help in trying to influence this federal agency that might run over the town otherwise. Mr. Costello suggested having CARCS put a draft bylaw together and add them to the agenda to come before the Planning Board to have a discussion again.

Mr. Costello motioned to close the Public Hearing.

Mr. Ennis seconded the motion. Motion passed.

Roll call vote. All aye.

New Business

1. Chapter 61A – 47 Spring Street – Right of First Refusal – Mr. Moitozo noted that information is missing on this property. Ms. Bradley suggested continuing this matter to the next meeting on May, 3, 2017.

Mr. Costello motioned to continue this matter to the next meeting so more information can be gathered.

Mr. Moitozo seconded the motion. Motion passed.

Old Business

1. Request for Fee Reduction – Form C – Ryan DuVally – Mr. Ryan DuVally was present. Mr. Cooper stated Mr. DuVally came before the board 2 weeks ago with a Form C that was approved a decade ago. He asked the Planning Board to consider fees previously paid and to possibly consider a fee reduction for his current Form C application. Ms. Bradley determined that \$3,300.00 was paid in fees for the original project. They could consider reducing the \$26,500.00 fee by \$3,300.00. Mr. Moitozo motioned to consider fees already paid and reduce the current Form C application fee by \$3,300.00 to \$23,500.

Mr. Ennis seconded the motioned. Motion passed.

Mr. DuVally requested submitting the check to Ms. Bradley tonight.

Mr. Bertozzi motioned to request that Fuss & O'Neill conduct the peer review.

Mr. Ennis seconded the motion. Motion passed.

**Discussion

Mr. Costello brought up the solar project on Summer Street. He stated he received a complaint at his office around 4:00pm. He made a visit to the site and noted approximately 225 feet of fencing has collapsed. He had photo's showing the fence and distributed them to the board. Since there is little communication with SunEdison the fence repair will not be immediate. Mr. Costello feels this is a safety issue. He is willing to have the Highway Department repair the fence. He added the poles are still up but the wires securing the fence snapped off. He also added that the plantings are not what he feels was envisioned when they wrote the bylaw. Ms. Bradley stated the company is in bankruptcy. Town Counsel and National Grid do not get involved with that. The Building Commissioner, John Santos has issued a Cease and Desist on the property and never heard back from SunEdison. Ms. Bradley stated they have a Pilot Agreement with SunEdison but have not yet received a check from them. Mr. Costello offered to reach out to his contact at National Grid to see what can be done. The poles and transformers are on town land which may give him an edge. Mr. Bertozzi suggested Mr. Costello stress to National Grid that this is a safety issue rather than a

money issue. Mr. Cooper asked if the land owner is responsible for the fence.

Mr. Ennis motioned to have Mike Costello contact Town Counsel regarding the fence repair being a safety issue and how to proceed.

Mr. Moitozo seconded the motion. Motion passed.

2. Hydrogeological Assessment Regulations – update – Mr. Bertozzi met with the Board of Health at their meeting on April 18, 2017. He went over the proposal and pointed out that the ongoing Roger Williams University well study shows that 52% of the 1,200 well sites currently in the database show the overburden is less than 25'. This has two impacts. There is not a large aquifer and there is the less overburden. This means you have less soil before you hit bedrock which could lead to septic issues due to less filtration. Another issue from the study is that of these 2,100 wells 71% are over 200' feet deep, and 96% are over 100' deep. The issue is when drilling a well you're drilling down into rock a long way down, hoping to find water. How much water and where it comes from is unknown. This is a real problem. The more they learn the bigger problem we have of being assured there is adequate potable water currently and in the future. The purpose of the proposed regulation is that when big developments want to have individual wells and septic systems and they will need to tell us what the situation is with regard to the water resources. He informed the Board of Health that the Planning Board decided that a development of 25 dwellings would require an assessment. Mr. Bertozzi also informed them of the estimate of between \$100,000.00 and \$200,000.00 from Fuss and O'Neill to conduct the assessment based on a 70 acre development with 25 single family lots. Mr. Bertozzi stated if wells begin go dry it would be a catastrophe. The Board of Health expressed they had one more question and would consider the possibility of going forward with a public hearing. Mr. Bertozzi added they made no commitment but feels they are ready to make a move. The question they had was from Ms. Rachel Smith. She asked how the hydrogeological consultant determines the location of the wells and septic systems and how is our consultant going to check that the analysis has been done correctly. The Board of Health wants to be assured the information is correct. Mr. Ennis stated there are computer programs out there that will populate areas showing septic and well placements. Ms. Bradley will check with Fuss and O'Neill as well. There was no further discussion.

Minutes

Invoices

1. W.B. Mason – office supplies - \$41.91

Mr. Ennis motioned to submit payment to W.B. Mason.

Mr. William Costa seconded

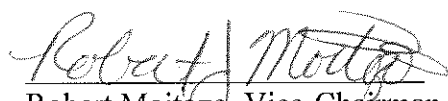
Adjournment

Mr. William Costa motioned to adjourn at 8:50p.m.

Mr. Bertozzi seconded the motion. Motion passed.

Respectfully Submitted,


Christopher Cooper, Chairman


Robert Moitozo, Vice-Chairman