

PLANNING BOARD

TOWN OF KNOX

ALBANY COUNTY

Established 1822

PLANNING BOARD MINUTES

12 April 2012

Present: Dan Driscoll, Bob Gwin, Betty Ketcham, Bob Price, Brett Pulliam, Tom Wolfe

Meeting called to order at 1940

Minutes of the 8 March 2012 meeting were approved.

New Business:

Chairman Price started the meeting discussing two parcels for sale which are located on Knox Cave Rd. immediately west of the Hamlet. A Real Estate agent, Giacomo Sinisgalli, President and CEO of New York International Real Estate, has expressed some interest in the parcels as a potential site for a commercial wind farm. The parcels are less than 750 ft. from the Knoxville Trailer Court on Knox Cave Road and adjacent to MHLC's Winn nature preserve. The parcels consist of 46 and 66 acres. Both parcels are up for sale. The Chairman opined that it is not likely that anything might happen before the Board and the Town could enact the proposed WECS ordinance but it does point out that the potential interest in land that might be used for a WECS site exists in the Town.

Chairman Price and Member Driscoll attended a presentation in New Paltz regarding a Dutchess County project which mapped all water resources in the county. They spent approximately \$300,000 on various phases of the project. Laser radar [LIDAR] was used for one phase of the project to get very accurate maps of the watershed areas. They mapped, on 5 ft. intervals, all of the water and water sheds in the county, most of which went dry in July and August.

Sixty percent of the properties have wells and septic systems and forty percent have some kind of municipal water and sewers. A lot of the information is now available from DEC. The Board may want to look into what DEC has in its databases and how other towns are handling their waste water that might be polluting wells.

Bob Price learned of a development that had a system to collect gray water from all the septic systems in a development and dispose of the water in a community owned septic field. Septic tanks in the development were equipped with sensors to alert the homeowners when they needed pumping. This sort of information is useful to the Board for future use.

Dan Driscoll noted that the purpose of the study was to try to improve zoning ordinances and to show how they are protecting land. Dutchess County wanted to get a better understanding of the county water resources through the use of the LIDAR so they could more accurately map their water and watersheds and to show the effect on nearby streams.

Old Business: Property Valuation Assurance – WECS Ordinance

Bob Price asked Dan Driscoll and Tom Wolfe to report on their recent work on finalizing the wording pertaining to the protection of property values on and near a wind farm and a model agreement between developer and owner. Previously the Board had decided the Comparative Market Analysis (CMA) was not the correct methodology to be used. A Real Estate Appraiser uses the Uniform Standards of Professional Appraisal Practice (USPAP); we need to revise our proposed wording. The Board was also concerned that any initial evaluation should not cost the homeowner anything.

It was suggested that to determine the amount of bond or escrow required of the developer, we should use the Town Assessor's estimate of full market value since that information is readily available at no cost to the homeowner or developer. It was also suggested that a document similar to the one used to reveal deficiencies in a home being sold, should be used by the seller to describe any adverse affects from the wind turbines; the developer should not be allowed to prohibit such disclosure.

Dan Driscoll stated that he now understands the reason to do an initial appraisal (or use of the assessor's estimate of full market value); that establishes the amount of the bond or escrow. If we don't require a bond or escrow account up front, the value assurance requirement might be difficult to enforce. Chairman Price indicated the issue came up regarding three or five miles and what was reasonable. It was suggested three is ok as long as up to five is included if triggered by a nuisance complaint related to the WECS. It was suggested we modify the current draft to include "to the best of my ability" instead of the current appraiser certification language. The Planning Board should review what Member Driscoll emailed and offer comments.

Member Wolfe felt we could simplify the process by talking about a couple items tonight. On the issue regarding if there are health impacts, the wind turbine company has to buy the property. The Planning Board won't decide the health impact. Member Wolfe suggested that section be deleted stating it is for a court of claims and not the Planning Board to decide. The plaintiff is better served by the court than the Board.

Chairman Price noted that the developer is held responsible for a lot of things in the ordinance and this should be included. He agreed nothing in the ordinance will determine if a health issue is attributable to a wind turbine but how will the property owner be compensated?

Member Driscoll thought it should stay in. If there is a dispute about the owner suffering health issues, we want it to be resolved without the house being abandoned. Surveys have been done showing a very small number of people going to doctors for health issues related to wind turbines. In an ongoing EPRI study in western New York, only 2 out of 62 respondents needed to see a doctor in association with the wind farm. Member Driscoll stated he understands what Member Wolfe is saying but doesn't see any harm in leaving it in. If this happens and can't be resolved, maybe they would have to go to court. We should require the developer to buy the property.

Member Pulliam asked what would stop the developer from abandoning a house? Chairman Price indicated a number of other ordinances have been looked at from other states and almost every one of them has something like this in there. Member Wolfe asked if the town would have to accept the landowner's claim that they have health issues. Chairman Price felt that changing the word "experiences" to "alleges" would help. Member Gwin discussed the wording "rendered uninhabitable" and "unsellable" change the whole meaning.

Ed Akroyd disagreed and asked why impacts were being talked about then. Chairman Price said we shouldn't have in our ordinance that just because someone says they have health issues that the developer has to buy their property.

Member Driscoll suggested turning it around. Is there any reason not to leave it in? It shows we recognize that there are definite health effects associated with WECS. This paragraph addresses the possibility that a person is so effected they can't live there anymore. If a property owner is alleging serious health issues and suffering medical costs, this paragraph would make the developer want to buy the place to avoid having to pay the property owner's medical costs.

Chairman Price suggested putting it into action with a plan to get the new information incorporated into our draft. Member Driscoll volunteered to take an initial stab at it and send it to Member Wolfe. Chairman Price asked that it be sent to the Recording Secretary to start drafting it.

Member Wolfe indicated he wanted to discuss one more thing. In 3b of the ordinance he is in disagreement with Member Driscoll. Member Driscoll feels the certification shouldn't be in there saying it is impossible to certify that the fact a property didn't sell or is selling for a lower amount is only attributable to the wind farm and no one can say that. Member Wolfe doesn't think anyone can certify it is the only factor and felt we should drop the "certification" verbiage used in the reason it didn't sell. Chairman Price asked if Member Wolfe was saying there are a lot of other factors as to why it didn't sell and felt that was strong language. Member Wolfe clarified it is difficult for someone to "certify," so we should drop it. Chairman Price suggested changing the word "certification" to something like "in the judgement of a qualified person." Member Gwin felt removing from the remainder of 3b following "...bona fide offer" would be the best course of action. Chairman Price posed it to the Board and it was accepted by all.

Upon a motion duly made and seconded, the meeting was adjourned at 2107.

Next meeting will take place Thursday, 10 May 2012 @ 1930