

**TOWN OF CHARLOTTE
SELECTBOARD/PLANNING COMMISSION
MINUTES OF MEETING
MARCH 1, 2012**

APPROVED

SELECTBOARD MEMBERS PRESENT: Charles Russell, Charlotte Selectboard Chair, Ed Stone, John Owen, Winslow Ladue and Dennis Delaney.

PLANNING COMMISSION MEMBERS PRESENT: Jim Donovan, Acting Chair; Gerald Bouchard, Ellie Russell, Linda Radimer. Absent: Peter Joslin, Jeff McDonald, Paul Landler.

ADMINISTRATION: Dean Bloch, Town Planner.

OTHERS: Peter Walker, Bruce Bernier, Ed Amidon, Louise McCarran, and others.

6:00 P.M.: Joint discussion with Selectboard on participation by town in the Section 248, Public Service Board process as regards the solar Farm proposal on Hinesburg Road and of potential requests to modify the proposal.

Mr. Russell, Selectboard Chair, and Mr. Donovan, Acting Planning Commission Chair, called the joint Selectboard and Planning Commission meeting to order at 6:09 p.m.

Mr. Russell reviewed that the Selectboard would hear Planning Commission site plan input related to a Charlotte Solar Farm, LLC application to the Public Service Board; proposed changes from a pre-application project to the current application, and what the Selectboard and/or the Planning Commission might request in Executive Session, said Mr. Russell. Mr. Bloch said that the PSB has not set a hearing schedule yet. The application has received a docket number, said Mr. Bloch.

Mr. Russell said that a question was should the Town engage counsel. Mr. Bloch noted that the Selectboard has decided to seek intervener status regarding the PSB process. Mr. Donovan said that the Planning Commission would seek intervener status as long as there was one voice. His impression was that the Planning Commission and the Selectboard didn't disagree with each other, stated Mr. Donovan.

Mr. Donovan said that the proposed solar panel location should be shifted further north and west from the road. That would minimize impacts to properties to the east and along the road, said Mr. Donovan. Ms. Russell noted that proposed screening of the panels could go to the west as well.

There was discussion regarding continued farming on a portion of the agricultural parcel; a suggestion that supported screening as staggered bushes and trees near the edge of the road versus close to the panels to reduce the visual impact from the road and homes to the east; and preserving the woods, which has valuable natural resources, wildlife habitat and would maintain a wildlife corridor to the Carpenter property and beyond.

Ms. Radimer pointed out that locating a solar farm in Charlotte indicates that the town is

progressive.

Mr. Bloch said a question was should a solar farm be in this location. Ms. Russell said it shouldn't go on this parcel. Mr. Ladue said it was not a good fit. If the town was overruled on that basis, then the town should request "A, B, or C" to lessen the impacts, suggested Mr. Ladue.

Mr. Walker, Hinesburg Road resident, said that locating a commercial project on agricultural land was going against Town zoning. It doesn't conform to the Town Plan, stated Mr. Walker. Mr. Russell replied that there was not enough language in the Town Plan to support reasons why it could not go on that parcel.

Mr. Delaney spoke in support of hiring counsel. There was so much the Town didn't know and would need assistance with. The applicant has counsel. He was not seeking to stop or promote the project, just to cover all bases to be responsible to the Town, explained Mr. Delaney.

Mr. Owen spoke in support of getting as many of the changes that the Town wanted, such as screening. He was not suggesting that the Town stop the project, clarified Mr. Owen.

Mr. Bouchard said that this application was more palatable than the previous one proposed on Thompson's Point. However, this was the wrong location, said Mr. Bouchard.

Ms. Radimer asked if this was the wrong spot, then is there a spot that it should be in. The person leasing the land has many more acres around Town. The Thompson's Point application had opposition, said Ms. Radimer. Mr. Russell said that Clark Hinsdale wouldn't allow the solar farm at the back part of the parcel. It had to be on the front, said Mr. Russell.

Mr. Delaney said he read an article on the Genesis Project, which is a billion dollar project. Two big things popped up and now it may need to be stopped. Are there things about this project that might pop up that counsel could help identify. We may need expert guidance, reiterated Mr. Delaney. Mr. Russell replied that was the role of the PSB.

Mr. Donovan said that the Planning Commission used the standards in the Town regulations in reviewing the project. A question was how to classify the project – industrial, or as a Conditional Use. A Conditional Use would be reviewed by the Zoning Board. The Planning Commission looks at site plan review, said Mr. Donovan. Mr. Russell added that site plan review was based on performance standards. Mr. Donovan said that use was the issue. The Planning Commission could write a site plan review with conditions as long as use was determined, suggested Mr. Donovan. Mr. Walker stated the project was a utility and a commercial use.

Mr. Russell read Land Use Regulations, power generation facilities, regulated utilities, and definitions. Mr. Ladue asked if this project was a regulated utility. Mr. Donovan said

it could be argued either way. His concern was that wouldn't be a strong defense, said Mr. Donovan. Mr. Ladue suggested using language that "...we reviewed this proposal as if it was a Town project using Town standards..." as part of the Town position.

Mr. Bloch asked what the legal issues were that the Town needed an opinion on. Public facility was one, but were there others, asked Mr. Bloch. Mr. Russell replied that first, the Town was not satisfied with the changes made to the application, and read page 50 of the regulations related to Section 44.13(b), Public Utility, power generation, transmission lines and other facilities.

Mr. Stone asked for clarification regarding which Town group would represent the Town during the PSB hearings: the Planning Commission and the Selectboard, or should two 2 members from each group be delegated and let them determine where we go. He understood that the Selectboard didn't have much say on the location, but the Planning Commission did as per the regulations and rules. He heard that the conversation there were some members that would like to be a part of the process. Are we doing something tonight that was pro-active. Or are we here to decide if we want an attorney, or what, asked Mr. Stone. Mr. Russell replied we need to decide, as a Board, if we spend legal money, and if the Selectboard would put in the paperwork for intervener status, said Mr. Russell.

Mr. Delaney spoke in support of a combination of the two. A smaller group to work on behalf of the Town makes sense. First, we need to decide if we are for, or against the project, said Mr. Delaney.

There was further discussion regarding a determination if it was a good use of the land based on land use regulation interpretations; if the word "public" was an issue related to the land lease to a private company considered a public undertaking, or if it was a commercial enterprise; and if the Selectboard would properly warned consideration of hiring counsel at the 03/12/2012 Selectboard meeting. Joe McLean was a qualified expert, suggested Mr. Russell.

Ms. McCarran summarized the following:

- Was it an allowable use under planning rules/regulations.
- If yes, then try to minimize impacts through mitigation.
- The project was not a public utility, but a commercial project.

Mr. Joslin asked if the solar farm was a private generating plant.

Mr. Russell would consult with Mr. McLean on what was appropriate.

Mr. Bernier said that he had a review by his attorney and would submit a copy to the Board. The PSB pre-hearing was scheduled for March 13th at 9:00 a.m., said Mr. Bernier.

ADJOURNMENT

MOTION by Mr. Stone, seconded by Mr. Owen, to adjourn the joint

Selectboard/Planning Commission meeting.
VOTE: unanimous; motion carried.

The meeting was adjourned at 7:03 p.m.

Minutes respectfully submitted, Kathlyn Furr, Recording Secretary.