

TOWN OF RUTLAND
PLANNING COMMISSION
MINUTES
12-5-13

Meeting opened at 7:00 PM

Commissioners Present:

Charles Vajda, Howard Burgess, William Matteson, Tony Flory, Andrew McKane and Raymond Leonard

The Commissioners reviewed the minutes of November 7, 2013. Mr. McKane moved to approve the minutes as presented. Mr. Burgess made a second to the motion. The motion passed unanimously.

Mr. Matteson informed those in attendance for the Town Plan Amendment Hearing regarding Solar Facility Siting Standards (SFSS), that the Commission had received several letters and that he would read the letter later in the meeting.

Mr. Matteson asked if anyone in attendance had any questions or comments regarding the proposed amendment to add Solar Facility Siting Standards to the Town Plan. Mr. Matteson asked that individuals who speak give their name for the record.

Town resident, Mr. Chris Howland, who said he is a Green Mountain Power employee and representing himself at the hearing, asked how many building sites there are in the Town. Mr. Burgess said there are approximately 1,500 parcels in town. Mr. Howland also inquired as to the solar proportionality contribution cite on the first page of the SFSS. Mr. Howland asked if solar development in town would be cut off after reaching the 2.08% cited in the SFSS.

Mr. Joe Dicton, Town Select Board member, said he does not think the Town wants to cut off anything. He said the percent cited by Mr. Howland is a reflection of the numbers of what is there at the current time.

Mr. Howland said he has experience with gross net metering, net metering and photovoltaic stuff. He said law has progress over the years there were certain limits the utility had to accept. Mr. Howland said over the year the value has increased.

Mr. Matteson said he believes the intent of the language is to limit solar development in Town to 2.08 % of total county solar production. Mr. Howland said the siting of solar projects is benefited by larger parcels. He said he takes exception to staring set backs at 0 kW and work up. He said he does not agree with the initial 50 set back of any property line from 0 to 5 kW, because his lot

has 105 feet of frontage. He said the SFSS would allow him to have a 5 foot panel. Mr. Matteson said he does not think the proposed SFSS would affect Mr. Howland. Mr. Burgess said panels producing less than 10 kW are not taxed.

An individual in attendance said the proposed SFSS have a typo in the placement of the decimal point in the various set back distances.

Mr. Matteson said the intent of the SFSS is not to regulate any residential property, trying to generate power for their own use. He said such generation would be pretty much below the threshold of what the Town is trying to do with the proposed SFSS. Individuals in attendance said that is not clear.

Town resident, Ms. Marlene Allen, who said she is representing herself and is also the owner of a solar company, told those in attendance that all solar project must get a certificate of Public Good (CPG). She said there is a distinction for those under 10 kW. She said for projects under 10 kW, if no comments are received a CPG is automatically granted.

She said if the proposal is greater than 10 kW there is a chance of a hearing and that the Town must be notified. Mr. Matteson said the section should be amended to read "renewable energy systems that are less than 10 kW".

Town resident, Mr. Scott Massey, questioned whether the prohibition of placing solar panels on building as cited in "designated Rutland Town Historic districts" only applies to historic districts. Mr. Matteson said it would apply to historic districts.

Ms. Allen said any property older than 50 years old has to undergo a review by the State Historic Preservation organization, if there is an application for solar panels on the structure. She said all ground mounted solar must under go the same review.

Ms. Allen asked why the Commission wants to create standards that are already cover by other processes. Mr. Matteson said because the Commission was directed to do so by the Select Board.

Town resident, Mr. Philip Allen, who is co-owner of the solar company "Same Sun Vermont", told those in attendance that solar power is an unprecedented positive thing for the world, as it is for Rutland Town.

He said we are lucky to have Green Mountain Power putting money in the community. He said three years ago there were 11 vacant properties in downtown Rutland City and today there are barely two.

Mr. Allen told those in attendance that solar is profoundly positive in creating new jobs, revenue and taxes. He said he wants to know who is holding solar to a

standard where it has to be made invisible to be acceptable. He said we don't say " build your factory and make it invisible".

Referring to the proposed Cold River Road solar project he made the statement "something that is going to produce millions of kilo watt hours of power, generated in Vermont with Vermont jobs, and he questioned who else is doing anything as positive.

He questioned why the proposed Cold River Road Solar farm would have to be 75 feet from the curb and would have to plant trees to make it invisible. He said he pays taxes in Rutland Town and that he works here and that he likes the way solar looks.

Mr. Allen said someone has to explain why solar has a different agenda than everything else. He said solar does nothing but positive things.

Mr. Matteson said the Town is not trying to stop solar development. Mr. Matteson said the Town only wants solar invisible, when the neighbors are the only ones looking at it and they don't want to look at it. He said neighbors are worried about property devaluation.

Mr. Matteson said the Planning Commission was directed by the Select Board to develop the SFSS. Mr. Matteson said the Town Attorney assisted the Commission. Mr. Matteson said the SFSS are not cut and dry. He said the SFSS are a work in progress.

Mr. Matteson said trying to portray the Town as wanting to make solar invisible in town is not true. Mr. Matteson said the Town encouraged CVPS to put in their solar panels off US Route 7, when they were proposed.

Mr. Allen asked why the Commission is not pro solar. Mr. Matteson said personally he thinks solar is great. Mr. Matteson said some people are afraid of Solar because it is something new. He said people are concerned with their home values. Mr. Matteson said the SFSS were spurred by the neighbors to the proposed solar farm.

An individual (could not make out name) said if the Town makes it more complicated for people to install solar panels on their homes, it would decrease the demand for homes in Rutland Town. The individual claimed that no other towns are looking to adopt similar solar standards.

The individual cited various siting considerations, on page 4, as being extremely vague. He said because of the proposed SFSS a neighbor could challenge his proposed solar panel, which would result in this getting involved in some kind of legal proceeding in order to have solar panels.

He said if you put that out there (referring to the proposed SFSS) no one is going to want to live in Rutland Town. Town resident Dana Peterson asked what the current setback distance is for solar development. Mr. McKane cited the various set back distances on page 5 of the SFSS. Mr. McKane said presently there are no set backs since the SFSS are under consideration.

Mr. Matteson said the SFSS are not a zoning mandate. He said the proposed SFSS are advisory to let the Public Service Board (PSB) know what the Town would like observed. Mr. Matteson said if there is anything in the SFSS that is unreasonable, it would be ignored by the PSB.

Mr. Peterson said the document is terribly confusing, jumps all over the place and is riddled with inaccuracies. Mr. Peterson, said the document is also riddled with innuendos and a few inconsistencies. Mr. Peterson suggested the SFSS be broken down into section such as private and solar farms so individuals can find the section, which applies to them.

He said each section needs to be clearer and that there needs to be a better explanation how each section will be applied to individual home owners as well community partners.

Town State Representative Mr. Tom Terenzini complemented the Planning Commission for tackling the difficult topic. Mr. Terenzini said it sounds like some people want Green Mountain Power to write the Town's standards and have the Select Board and Planning Commission sign off on them.

Ms. Allen, who said she is a licensed real estate appraiser in Vermont, said at the worst there is absolutely no evidence that solar has an adverse impact on property value. Ms. Allen said at the least there is one home with an electric bill and another home without an electric bill.

Mr. Allen said the Town should make it incumbent upon an individual to prove their property value will decrease. He said there is no bases for that in fact. He said they can't just think it and be concerned about it. He said a few people should not decide how much power we are going to generate.

Mr. Allen said he objects most to the tone of the SFSS. He said the tone is suggesting that there is some burden in the State of Vermont as to how much clean renewable energy we produce.

Mr. Allen said it sounds like he have taken on a terrible burden and that we only want to take our fair share. Mr. Allen said he and a lot of people in Rutland Town don't want their fair share rather, he said they want it all.

Mr. Allen said he wants to produce as much solar power in Rutland County that is possible for the country. He said put him and a lot of other people down for wanting 100 % of the solar power produced in Rutland county to be in Rutland Town.

Mr. Jamie Stewart, Executive Director of the Rutland Economic development Council, inquired how the proposed SFSS would affect a solar project that has already engineered a site in Town.

Mr. Matteson said the SFSS would be introduced at the project's hearing with the PSB. Mr. Stewart said that for the past 4 years he has been marketing the Cold River Road property because the Town Plan has the land listed as an industrial site. He said to now find out that a potential neighbor's concern could change the rules for the site, which would prohibit the proposed project from going forward.

Mr. Matteson said an industrial project proposed for the site would be reviewed under Act 250 not the 248 process, which is required for solar projects. Mr. Stewart said he would rather under go an Act 250 review than an Act 248 review because the 248 process is very difficult.

Mr. Matteson said there is a lot more consideration given to public comment in the Act 250 process verses the Act 248 process.

Ms. Leslie Cadwell, an attorney from Castleton and former Department of Public Service employee, told those in attendance that she has particular expertise in the solar topic. She said she now represent renewable energy developers.

Ms. Cadewll made the following points;

- The Act 248 process is extremely rigorous.
- Public participation is different in Act 248 than in an Act 250 proceeding
- If she were a developer she would take an Act 250 case over an Act 248 case
- She said the expense of going through a PSB proceeding is significantly greater then for Act 250.

Mr. Matteson said parties have a louder voice in Act 250 than in Act 248. Ms. Cadwell said the only difference between the two processes is that Act 248 project must demonstrate compliance with all the Act 250 criteria and they also have to demonstrate they meet a public good.

Ms. Cadwell said the impacts from solar are much less than from industrial projects. She said the project would help meet the State's greenhouse goals to reduce greenhouse gases.

Town Administrator, Mr. Joseph Zingale Jr., asked Ms. Cadwell if Act 248 project have to be in conformance with the Town Plan. Ms. Cadwell said Act 248 projects

give due considerations to the recommendations of the Select Board. She said it is different from Act 250. She said the reason is because projects have to meet a public good standard that are not necessarily local specific because the projects have benefits that are state wide.

Town resident and Green Mountain Power (GMP) Vice President, Mr. Steve Costello, said he has lived in town for 16 years and that he is proud of the Town. He said one of the things he loves about the Town is the lack of zoning regulations. He said he likes the fact you can do to your property what you chose to do and your neighbor can't tell you what to do with it.

Mr. Costello said Green Mountain Power has Post Road facilities in the town as well as hydro facilities. He said GMP has a lot of employee who live in town and that GMP is a big tax payer.

He urged the Planning Commission to go slow regarding the adoption of the proposed SFSS. He said there is a lot the town does not understand about solar power. Mr. Costello cited a section in the proposed SFSS regarding measuring the sound of wind facilities, and said the 45 decibel level requirement would be louder than if everyone in the room was quiet.

He said this stuff is complicated and that is why the Public Service Board was created 25 years ago. He said it takes a lot of money, time and investigation by the State to review projects. He said the PSB looks at the greater good in the state and not someone's backyard.

He said the ultimate question is whether a project is in the public good, not in his or Mr. Matteson's good rather in the public good. He said it is an important and valuable standard to be included in Act 248.

Town resident Mr. Rod Pulcer, told the Commission that he does not see anything in the proposed amendment that would grandfather the GMP solar panels along US RT 7.

Mr. Pulcer cited the fact the Commission had spent several years working on zoning regulations and the Select Board then voted against the regulations. Mr. Matteson explained why the zoning regulation died.

Mr. Pulcer said GMP sent out signals 2 years ago stating solar was coming. He said it seems the Select Board only recently began working on the SFSS. Mr. Pulcer suggested the Board began work on the SFSS after the proposed groSolar project had begun.

Mr. Pulcer suggested the Planning Commission begin reviewing the possibility of natural gas being brought to Rutland in the future.

Mr. Matteson said he wished Mr. Pulcer brought up the solar issue 2 years ago. Mr. Pulcer said he did not see any complaints 2 years ago.

Town resident Ms. Mary Ashcroft, expressed a concern regarding the use of prime agricultural land in active agriculture. She said the proposed SFSS should be very careful consideration given to the matter.

Ms. Ashcroft said the Act 248 process unlike Act 250 does not protect prime agricultural land. Ms. Ashcroft told the Commissioners that the proposed SFSS is hard to read. She cited an example on page 4 regarding a reference to wind energy. Ms. Ashcroft said the language should be removed or else add a lot more information regarding all types of renewable energy.

Ms. Ashcroft said the Town has a Select Board that is not responsive to what the Commission is trying to do regarding the adoption of zoning regulations. Ms. Ashcroft said the Town needs to do future planning and can not keep piecemealing development. Ms. Ashcroft said the Town needs a comprehensive plan.

Ms. Ashcroft cited the fact the proposed SFSS is only a set of guidelines, which the PSB has to look at but are free to pretty much dismiss. She said the people should know that the proposed SFSS may not be protecting or hurting their interest, as much they think.

Town resident Mr. Jerry Hansen, said he supports solar and that he is also an advocate for other alternative energy sources. Mr. Hansen said the siting of solar facilities can be mitigated with proper siting either aesthetically or strategically.

He said the Town should not try to micro manage things. He said there are already protocols in place for infrastructure placement and so forth. Mr. Hansen said it ought to be incorporated into that. He said the town already has a reputation of not being as pro-active as it can be on the business environment.

Mr. Hansen said the neighbors to the proposed Cold River Solar Farm have know the land is designated as industrial for many many years. He said the neighbors choose to build their homes there.

He said he can not understand how one or two people can be so cohesive and try to influence certain people to enrich their lives and not the overall benefit of the community. He said the Town should be pro active and encourage this kind of development to create more jobs.

Town resident Mr. Stacy Chapman, an attorney representing Ms. Jean DesMarais, who owns the land in question. He said he was also present as a property owner in Town.

Mr. Chapman said there is a Town Plan in effect right now, which designates the DesMarais property as Industrial/Commercial. He said the project was pushed because it would be an acceptable use under the existing Town Plan.

Mr. Chapman said his client has a contract to sell her land and if the proposed SFSS were to be adopted and applied her contract, it would be retroactively applied. He said to do so is illegal.

He said there are statutes that talk about how the legislature or government can not adopt a law or rule that will affect any rights people have already. He said why bother to have a Town Plan and when a new project comes up and the rules are changed. He said you have to be able to rely. He said that is what has happened to his client.

He said to adopt the proposed SFSS and make it retroactively apply to his client's property would be improper. Mr. Chapman questioned why solar is being singled out. He said the only reason the proposed SFSS exist is because of the project proposed for his client's property. He said it is a discriminatory way to deal with these kind of issues.

Mr. Chapman alleged that the proposed SFSS may constitute spot zoning. He said he was not present to pick a fight. He said if the neighbors would sit down with his client and Mr. Steve Remen of groSolar, they might be pleasantly surprised to see there has been a lot of work done to deal with aesthetic and privacy concerns. He said solar is save and the wave of the future. Mr. Chapman said when he was on the Town School Board the Town used to encourage businesses to come to town.

Mr. Chapman said Rutland Town has more than 2.08% of the restaurants, of the malls and other businesses in the county. He said the Town would not turn down a new GE plan because we are at out 2.08 % for jet engines. He said the town should be pro-active encouraging solar development because it is the wave of the future. He said perhaps the Town should consider an overall zoning program. He said to single out solar is improper legally. Mr. Chapman said he was not offering a legal opinion.

Town resident Mr. Jim Snee, told those in attendance that he does not support coal fired electricity or nuclear energy. He said he supports solar, geothermal and oil and gas as a temporary alternative.

Mr. Snee said as the price of solar comes down over the next few years many many more people will be able to do solar installations. Mr. Snee encourage the Commission to revise the proposed SFSS and to encourage solar energy.

Town resident Mr. Roy Pilcher, told those in attendance that he has applied metrics to the proposed solar farm site and he came up with the following:

- The land can be developed 5 ways
- The land could be a park
- The land could be a recreation center
- The land could be developed as a passive solar facility
- The land could be developed for housing
- The land could be developed as an industrial park
- He used three evaluative criteria; aesthetics, environmental impact and fiscal impact to the Town
- Use a rating scale, with 10 being very positive and 0 for no impact
- A park would get 10 for aesthetics
- A recreation center would get 8 for aesthetics
- A passive solar facility would get 6 for aesthetics
- A housing development would get 7 for aesthetics
- An industrial Park would get 6 for for aesthetics
- Environmental impact for a park would be 10 for aesthetics
- Environmental impact for recreation center would be 7 for aesthetics
- Environmental impact for passive solar would be 8 or 9 for aesthetics
- Environmental impact for a housing development would be 7 for aesthetics
- The fiscal impact for a park would be 0 or a negative 1
- The fiscal impact for a recreation center would be a negative 2
- The fiscal impact for solar would be 8 or 9
- The fiscal impact for a housing development would be 2
- The fiscal impact for an industrial park would be 6
- The recreation center has a combined metric of 13
- The housing development has a combined metric of 16
- The industrial park has a combined metric of 18
- The passive solar development has a combined metric of 23

Mr. Pilcher said his metric shows that the biggest bang for your buck is from solar development.

Town resident Mr. Ted Hubbard Jr., told those in attendance that lives on the Cold River Road and would be a neighbor to the proposed solar facility. Mr. Hubbard said he is not against solar power. Mr. Hubbard said his grandmother purchased the property in 1892. Mr. Hubbard said he does not want to have to look at 9000 solar panels every time he drives up and down his driveway. He said he drives up his driveway 10 to 20 times a day. Mr. Hubbard said a smaller project might work in the proposed location.

Town resident Mr. David Fucci, who would be a neighbor to the proposed solar facility, told those in attendance that solar belongs on the individuals house or barn and that he is not a fan of solar farms.

Mr. Fucci said he and others were told by Mr. Steve Remen that the proposed solar facility would be a minimum of 100 off the road and would have walkways so individuals could walk their dogs. He said the walkways could be used to cross country ski, snowmobile and bike on in the summer. Mr. Fucci said the permit submitted by groSolar is for only a 60 foot set back from the road.

Mr. Fucci cited the fact the property is unique in that it is shaped like a bowl and the solar panels are in the bottom of the bowl. He said the neighbors look down on to the project. Mr. Fucci said you can not plant the tree high enough to screen the solar panels. He said the higher the tree the less sun there will be on the panel.

Mr. Fucci said solar power is costing 3 to 5 times more than normal power and he said the result is that everyone's electric bills are going up. Mr. Fucci questioned why GMP would petition the PSB requesting to keep secret how much they are paying for solar power in Rutland. He said they don't want the public to know.

Town resident Ms. Mary Ann Levins, told those in attendance that she came to the meeting because she is concerned the Town of Rutland does not want to be a good partner with renewable energy.

She said the renewable energy movement has taken Rutland City and has shaken it up and woken it up and its like oh my gosh. She said Rutland is alive again.

She is concerned Rutland Town is putting a choke hold on getting on board the movement. Ms. Levins said the Town has spoken tonight and she doesn't know what the Select Board was thinking regarding the proposed SFSS. She said the town really wants to see solar grow in the county and in the state and in the country.

She thanked GMP for the energy they have brought to the area and the solar supporters in the room.

Mr. T.R. Ryan, who lives in the Town of Clarendon, asked if there would be another public hearing before sending the proposed amendment on to the Select Board. Mr. Matteson said the decision would be made after the meeting.

Mr. Steve Remen, of groSolar, said when he was looking for potential sites they looked at the Town Plan and the Cold River Road site. He said the site is

designated as commercial/industrial site. He said clearly solar is an acceptable use. He said the site is well suited for solar use.

He said they have reached out to the neighbors and asked for their opinions and their input because they want to make the project a good neighbor. He said they have adequate set backs, vegetative screening and fencing and is willing to look at the aesthetic treatment.

Mr. Remen said solar is one of the only technologies where you can fix the price of power for 25 years. He said oil. Coal and natural gas prices fluctuate and there are greenhouse gas emissions. He said by paying a little bit more up front there is rate stabilized, which helps keep rates down.

Town resident Ms. Vern Fryer, questioned why the Planning Commission would spend time writing the SFSS when the PSB can just dismiss the standards. She it is not time efficient to rewrite the proposed SFSS when there are State processes which the project must go through. She suggested the Commission consider the whole plan rather than just the SFSS.

Mr. Matteson said the SFSS are a guideline for company. He said with out the SFSS a company could proposed anything they like. Mr. Matteson said it is important to have a standard when going before the PSB rather than saying well we would like to see a 100 foot set back.

Rutland City resident Karen Graves questioned what jobs have been created by solar and whether the panels will require maintenance. Mr. Allen said there are more jobs in solar in the United States than in coal mining. He said his company has created 8 full time jobs over the past 2 years. He said he has employed over 100 people over the past year through solar development. He said the panels would be 80 % as good as the day they were installed when they are 25 years old. He said the labor rate for his workers is from \$15.00 per hour to \$55.00 per hour depending on the type of job.

Mr. Remen said there is money set aside so at the end of the 25 year contracts the panels can be taken down and the land returned to exactly the same as before. Ms. Cadwell offered additional comments regarding professions working as a result of solar.

Mr. Dicton said it very important to get everybody together and get the facts out. He said the proposed SFSS are to guide the Board in a way that will be positive for Rutland Town, town citizens and our neighbors.

He said if the proposed SFSS are too much or too little it should be worked on. He said he is hearing that the Town needs to refine the SFSS so it is conducive for the Town and the townspeople.

He said the Select Board is in no way anti solar. He said the he and the Board are pro-solar. He said we need to do it so it minimizes the effect on our neighbors and help our community and help our power companies and the State go forward. He said the proposed SFSS is a work in progress and if they stirred up the hornets nest, then that is great.

Mr. Burgess stated that the Planning Commission is not against solar power. He said the intent is to be able to get solar into the town in the right places. Mr. Burgess cited the GMP solar panels along US RT 7. he said no one has a problem with the panels. Mr. Burgess said he supports solar when done in a responsible way.

Mr. Matteson cited the names of those who submitted letters regarding the proposed SFSS. Mr. Matteson read a letter submitted by Mr. Mark Foley Jr.

Mr. Matteson said the Commission would consider the comments received and will revise the document to accommodate the comments.

Mr. Leonard moved to close the meeting. Mr. Flory made a second to the motion. The motion passed unanimously.