

Union Planning Board Minutes
Thursday, April 8, 2021, 6:30 p.m.
William L. Pulled Building Meeting Room
Public Hearing / Planning Board meeting in person
Others meeting via Zoom

Present: Gerald S. Brooks (“Jerry,” Chair), Dale Flint, Glenn Taylor, Robin Milliken

Others Present: Grant Watmough (CEO), Jay Feyler (Town Manager), Martha Johnston-Nash, Antonio Hernandez, Chris/Twig

Jerry stated that the Planning Board is meeting in person observing Covid-19 protocols. There are also zoom participants. After adjournment of the Public Hearing, we will decide whether to forward the solar array ordinance or not, then discuss zone changes and applicable ordinances.

Public Hearing - Solar Ordinance (Article 5. Arrays in Land Use Ordinance)

The Planning Board received a letter from Doris Mittasch, 219 Barrett Hill Road. She wrote that she supports alternative energy generation, values a full view of its positive and negative effects on a rural community, and offers questions and comments for the consideration of the Planning Board as well as community members. The board decided to respond point by point:

1) She asked for a clarification of the relationship between the proposed ordinance and the Rt. 131 North solar array discussed at recent Planning Board meetings.

Jerry said we had no ordinance like the one that is being proposed. The Rt. 131 North solar array project went through Site Plan Review; they met stringent requirements and had a public hearing as well. Grant added they voluntarily followed what we’re trying to enact here, which was echoed by Jerry.

2) She asked if this article (Section 1, Number 1) pertains to on-site energy production and on-site consumption of energy produced, noting Section 3's exemptions appear to cover private, on-site use of energy produced.

Jerry said yes, it applies to what is not exempted by Section 3, which is rooftop, mounted, less than 300’ sf. Grant added an array over 5,000 sf would come before the Planning Board; if ground-mounted over 100 sf it would be an accessory of sorts and would require a permit from him, the Code Enforcement Officer.

3) Doris next wrote that, in considering large array projects in Union, community members would benefit from a summary by the Planning Board that shares project details, outlines potential benefits and potential negative outcomes with monetary, environmental, and quality of life considerations.

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Jerry replied when we did the large solar array for Con Ed (the Rt. 131 North solar array), we went over every one of those items in detail. He encourages people to see the Findings of Fact & Conclusions of Law. Glenn said we had two or three loose leaf binders available; Grant said they still available. Grant added that, regarding "monetary," whether a project may be profitable or not is not part of our review.

Antonio Hernandez, who said he works for Revision Energy as full disclosure, mentioned two binders, one for each side of the road.

4) Doris stated that while energy-generating arrays offer clean-energy alternatives, they are still a commercial, constructed intrusion on a community's landscape. She stated as well that they often discount the value of open and agricultural lands which appeal to residents.

Jerry answered that we are not allowed to consider property values. Dale said we can't tell a farmer what to plant on a field, etc. This was echoed by Robin.

5) Doris concluded her letter by bringing up a potential "good neighbor" requirement, in which the landowner would have to be a Union resident and the array constructed in his or her viewshed.

Jerry stated that being a resident of Union cannot be required; it's just not a legal requirement we could enforce. It could negatively affect those starting a business in Union. Grant noted that currently not all property owners in town are Union residents; in fact a good number are not.

Jerry thanked Doris for her input. Glenn said she had good questions.

Jerry asked zoom attendees to please step forward, so to speak.

Jerry said the ConEd project will take up 6.875 megawatts of available 7.92. Unless CMP opens up a corridor – increases the load -- it now stands as the only possible array here with 3 phase. It will max us out for large arrays. He added a CMP employee at the Public Hearing said they may increase their power grid, but that remains to be seen.

Antonio asked if Con Edison, a New York-based company, is covering management. Jerry said one of the head reps is from out west, but locally they are repped by Boyle Associates out of South Portland, Maine.

Jerry recommended coming in and looking at the binders, noting they are about the most comprehensive thing he's seen.

A zoom caller said these arrays take up quite a bit of space and quite a bit of power. It's good to know who's got their fingers where.

Martha Johnston-Nash thanked Antonio, then asked if CMP opens more load ability, are there provisions to have maximum, or what other arrays could be brought in?

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Jerry said if they increase somewhere along the way, there is no maximum number, but it would fall within Site Plan Review. He asked Martha what her concerns are.

She said that just one company could come in and suck that all up.

Jerry said that is now very difficult, as that 3 phase is only in one spot.

Dale said if another company were to come in and coordinate with CMP it would be possible.

Martha said no maximum on arrays as long as capacities are there?

Jerry said available land and location next to 3-phase power is essential. Grant added if it's a mile away, it will cost millions to get to that substation.

Martha's concern is blueberry land. She feels it will be lost to development eventually but hates to lose it to one outfit.

Antonio said these companies look to land leases first, then applications for projects go in. They are based on substation availability. It all depends on capacity. It sounds like this will max Union out. He thinks agriculture is a big thing to keep in mind. There is lots going on with agriculture and energy, and how to do both: how to keep both a sustainable farm operating and a solar array operating at the same time. It can take over.

Jerry mentioned Belfast working with a solar company to maintain an agricultural business along with solar arrays. Some areas are beekeeping in conjunction with an unused portion of land. We're going to see this become much more creative. It's a gold rush of sorts as the state legislature is finding out. But there's a saturation level, only so many 3 phase to tie into.

Grant reminded that this will be farmland again. If it had been a subdivision, no. Jerry added 30 years down the road, that farmland will be superb.

Martha asked about a penalty or deposit if they leave the premises. Jerry said when he went before the Board of Selectmen proposing a moratorium, this was a real concern. It is outlined in the proposed new ordinance as well as the current approved project. It was a stipulation at the very end of that contract. Dale added that not only do we require it, but DEP also requires that they have a decommission plan.

Jerry said another concern was that the landowner gets the decommission fees and sails off. That is not the case. It's part of the conditions of approval. Glenn referred to sections 6 and 7, two pages of requirements.

Jerry asked if the zoom attendees were all set; they said yes.

Jerry noted the whole system of the Planning Board is still fluid; we are just having a solar ordinance, which we can re-address, add more to, revise. It's important to note that it is fluid.

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Grant added the main reason we are moving forward with this is to have something in place, so if somebody came before you not as thorough as the previous applicant, you would have a tool to make them be as thorough as the previous applicant.

Public Hearing concluded at 7:07 p.m.

Regular Planning Board Meeting

- 1. Meeting called to order:** 7:08 p.m. by Jerry Brooks.
- 2. Vote to ask Board of Selectmen to put Solar Arrays Ordinance on Town Meeting Warrant:**

Jerry established no conflict or bias on the part of the Planning Board. Quorum met. The Planning Board has jurisdiction.

Motion by: Glenn Taylor
2nd by: Dale Flint
All in favor – 4-0

- 3. Discuss Shoreland Zoning map and Ordinance proposed changes:**

Jerry established no conflict or bias, and Planning Board has jurisdiction. Applicants have standing as deeded property owners.

The properties in question are: Map 19 Lot 13, Andy and Mary Payson; and Map 3 Lot 12-1, Stephen Brooks.

Grant said if the Planning Board is comfortable with wording you see, this could move along to the Board of Selectmen and still have a Public Hearing at the next Town Meeting.

Jay said we could have a dual Public Hearing with the Board of Selectmen -- Solar, Food Ordinance, and this. Unless the rules change by May, it will have to be by zoom.

Grant said he's heard back verbally from DEP, not in writing.

Jerry said it's unusual we're presenting two cases. One could be rejected, the other approved.

Jay said a concern might be, is this spot zoning? Why are we changing this just for these two people?

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Grant said Payson is easy, it's moving the line. Brooks is another story. Jerry said Payson looks like there was an error; Brooks looks justified, think he's correct. We may see more these come down the line.

Glenn asked if we should look at either side of Brooks.

Grant said the south has steep slopes, Resource Protection. The other side is wetlands. So what we presented is correct. It may be spot zoning, but it is correct. Really what's in that section doesn't belong in Resource Protection.

Grant said in the past Resource Protection was used as a really broad brush. Jay said it's just going to get asked, so be prepared. Jerry repeated it's unusual to have both at same time. Jay said he's not sure what the space for Town Meeting will be; you should just answer the questions at the Public Hearing.

Dale said a good alternative is to separate them on the warrant article itself.

Grant would rather not do that but if we have to, we have to. Dale thinks it's more fair, as one is obvious and the other one has questions that may shoot down other guy. Jay said on the ballot we can put because of boundary line error or however you decide. Jerry agreed essentially a boundary line error. Grant said it appears Brooks was all lumped into Resource Protection when it was set up.

Jerry asked who drafts warrant articles. Jay said usually him with Roger.

Grant pointed out that the Payson change would cause no change in our zoning map. Our description spells out Resource Protection vs. Limited Residential. This is not so in the case of Brooks.

Jerry said regardless he is comfortable with a vote tonight.

Jay thinks he'll want to separate the two properties so no questions down the road.

Motion by: Dale Flint to put these two before Board of Selectmen for placement on ballot.

2nd by: Glenn Taylor

4-0

4. Accept minutes of January 14, 2021:

Glenn was concerned there were not enough notes to cover a 2-hour meeting, and that the minutes would cover us if something comes back. Jerry said we also have audio recording and Findings of Fact. Grant said the appeal time was 30 days.

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Motion by: Glenn Taylor to accept both Public Hearing and regular meeting minutes.
2nd by: Robin Milliken
4-0

5. Any other business by the board:

Jay said the Board of Selectmen voted for a streaming service, so from now on meetings will be all streamed live and recorded. We have to stay on time. In the cloud, meetings will be available for five years. It meets all statutory requirements. He is hooking it up Monday and working with Gus.

A date for the next meeting was discussed, with some favoring a May 4 combo with the Board of Selectmen.

Grant said Laura is retiring, so we will need a replacement for her to recommend to the Board of Selectmen.

6. Adjourn: 7:35 p.m.

Motion by: Dale Flint
2nd by: Glenn Taylor
4-0

Respectfully submitted,

Sherry Abaldo
Secretary