

FINAL

**STERLING PLANNING BOARD
MEETING MINUTES**

May 09, 2012 – Rm. 202 Butterick Bldg.

Present: Robert Protano – Chairman
Michael Radzicki – Vice Chairman, MRPC Rep.
Ronald Pichierri – ANR Agent
Kenneth Williams – Clerk
Charles Hajdu
Melissa French – Administrative Assistant

Chairman Protano calls the meeting to order at 7:00 PM.

ANR's.

There are no ANR's

MINUTES APPROVED

During the review of the minutes of April 25, 2012 there was some confusion regarding the amount of land involved with the proposed solar project on Davis Dairy, Inc. land. Jamie Rheault clarified that any discrepancy in the stated land size was due to the different ways in which he and Atty. Bobrowski referred to it. Rheault stated that there are 25.8 acres to be leased, 17.5 acres will be contained by fencing and 4.8 acres will be under the solar panels. Rheault arrived at the figure of 4.8 acres by calculating the square footage of the panels only, not counting spaces and open rows between.

Pichierri moves to approve the minutes of April 25, 2012, as corrected. The motion is seconded by Hajdu, there is no discussion and all are in favor, approved by the Board, 5-0.

**SITE PLAN REVIEW
SOLAR PANEL ARRAY, DAVIS DAIRY, INC.
Continued from April 25, 2012**

Present this evening, for the continuation of the site plan review of a proposed Solar Panel Array to be located on Davis Dairy (Davis Dairy, Inc.) land off Wiles Road, are: Jamie Rheault, Whitman & Bingham Associates, Andrew Leonard, A.T. Leonard & Associates, Ryan Irwin, Community Energy, David Krupp, Community Energy, Tom Tuffey, Community Energy, Attorney Adam Costa (from Mark Bobrowski's office), Counsel for Community Energy, Sean Hamilton, Manager of the Sterling Municipal Light Department (SMLD), John & Doug Davis, land owners, and several abutters of the project.

Chairman Protano states that he has a draft, sent to him by Attorney Bobrowski. This draft is a list of suggested conditions that Bobrowski feels could be applied to the Site Plan and included on an Order of Conditions. Bobrowski made it known that he hopes tonight's meeting will result in an approval.

FINAL

Atty. Adam Costa, representing Atty. Bobrowski, introduces himself and invites the other members of “the team” to introduce themselves for the record.

John Davis points out that the Board has been referring to the Davis property as Davis Farms, which it is not; the correct name is Davis Dairy, Inc. The plans refer to the property as being owned by Davis Farm Trust, which was obtained from the Assessor’s Office. Rheault will modify the plans to reflect the correct land owner’s name.

Chairman Protano reads into the minutes a letter, dated April 30, 2012, from Mark Brodeur, Building Inspector. Brodeur’s letter is as follows:

The Building Department has no objection to the proposed field off of Wiles Road but would caution the Planning Board as follows:

- 1. Section 2.3.1, Table of Principal Uses under B , illustrates that any Municipal Facility requires a Special Permit*
- 2. Permission should be obtained from the Board of Selectmen for the proposed entrance to the site*
- 3. A statement should be obtained from the Board of Selectmen that the Town of Sterling will not act on their first right of refusal for Chapter Land change of use under 61A*

The Board of Selectmen may have acted on these items already but.....just in case.

Chapter 40A is quite clear that we cannot impose any overtly restrictive demands on proposed solar fields but the Board may wish to explore item one listed above and at least make comment to illustrate that the requirement in the Protective By-laws was considered in your discussions and deliberations.

With regard to item #1, the project is not a municipal facility; therefore no special permit would be needed.

With regard to item #2, the proposed entrance is at an existing curb-cut; therefore no permission is needed to create a new entrance. The Board raises the issue of bonding to protect Wiles road from damage during construction. Chairman Protano takes this opportunity to also mention the need for a bond to cover landscaping. Tuffey responds that they will certainly provide the \$5,000 contractor bond and as far as the landscaping bond the amount will have to be determined.

With regard to item #3, Williams states that he spoke to the Town Administrator regarding the release of property from Chapter 61A, who stated that the Selectmen decided that the standard procedure, for release of property, would need to be followed. Tuffey states that he understands the same.

Chairman Protano reads into the minutes a letter, dated 5-3-12, from Gary Chamberland, Police Chief. The letter is as follows;

FINAL

*From: Police Chief, Gary M. Chamberland
To: Planning Board*

Subj: Site Plan Review, Solar Array Wiles Rd

Date: 3 May 2012

I have reviewed the plans, visited the site, viewed the site area via the Town's on line GIS mapping web-site and met with Mr. Rheault of Whitman & Bingham.

When submitting site plan reviews, I generally consider the impact the proposed site will have in and around the area as it relates to safety and quality of life issues. From a police perspective, once completed, a solar farm will require little police intervention and should have little impact on quality of life issues. There should be no increased traffic, nor will any changes be required as it pertains to traffic regulations or enforcement. I anticipate no impact on noise, lighting or smell. Mr. Rheault stated the noise generated from the array will be inaudible from 300 feet away.

Emergency access to the site was discussed and adequate access for the police department will be provided. There will be numerous gates placed statically around the area, and an access road capable of allowing police vehicles to access and egress has been designed.

According to Mr. Rheault the construction will take approximately three months. During that time I would expect an increase in vehicle and truck traffic. All traffic should be mindful of the speed limits on the local neighborhood roads. Construction should begin and conclude at reasonable hours. The dispatch center should be provided with contact information of responsible individuals for all entities performing work at the site or provided with a contact that has that information readily available.

If you have any questions or comments, please feel free to contact me.

Sincerely,

Gary M. Chamberland

Chairman Protano confirms, with Rheault, that there will be numerous gates around the property. Rheault states that they are shown on the revised plans. Tuffey states that they have listened to the Josephs' concern for "night people" and will place their gates in an area that should eliminate this nuisance.

Chairman Protano reads into the minutes a letter, dated 5-3-12, from Thomas Kokernak, Fire Department. The letter is as follows;

The fire department has completed a meeting/site review of the proposed solar panel project on Wiles Rd. The following concerns specific to the fire department:

Accessibility:

FINAL

The site plan as submitted indicated only one access gate at the Wiles Rd. end. We requested additional gates be installed within the perimeter fence as follows: Two gates spaced out along the south facing fence-line, one gate at the easement going to Clinton Rd. and one at a point closest to the end of Thomas way. We would request that these all be keyed the same and the key be accessible on site via a fire department accessible key-safe.

We also indicated that at 20 ft. minimum clearance corridor be maintained over the entire perimeter of the site to ensure accessibility of fire department equipment.

Hazard Assessment:

Specific information regarding electrical hazards and exposures were not addressed during this meeting and would likely be addressed with the electrical engineer during the next phase of the project. Given the fact that the ground cover is to remain natural there are some questions as to the risk and exposure concerns associated with a grass fire starting in around the panels and inverter assemblies.

With the above ammendments, the fire department would support the approval of the site plan.

Thanks,

*Lt. Thomas Kokernak
Sterling Fire Department*

With regard to the request for additional gates, specifically one at Thomas Lane, Rheault explains that the fire department wants a gate at Thomas Lane that would allow them to park on the cul-de-sac and enter the field on foot.

Mr. Lewis, 193 Clinton Road, states that he currently uses an access area, in which a gate is proposed, for part of his driveway and asks if this area will be blocked off by a new gate. Rheault answers that there will be a meeting and a mutually agreed upon area for the gate will be decided.

Pichierri speaks to the issue of keys being in a key safe. Pichierri would rather see the keys be kept on the fire department's ring of keys, stating that it might eliminate possible vandalism of the key safe. Pichierri suggests that the fire department be approached with the idea.

With regard to the Hazard Assessment, Rheault explains that he spoke with Kokernak in length and Kokernak agreed that the schematic plans will be submitted to the fire department prior to the issuance of a building permit, giving time for comment and approval. Leonard adds that the grass that will be used is of a type that is less combustible and acts as a fire break.

Chairman Protano asks about the information regarding the grounding of the electrical system. Tuffey responds that they spoke to their electrical people and learned that all the

FINAL

components of the system are grounded. Sean Hamilton, SMLD manager, states that they have just as much concern for the electrical system and have/will assure that system is correct and safe.

Chairman Protano reads into the minutes an email, dated 5-3-12, from T. Ackerman to Mark Bobrowski. This email states that Williams has suggested that the parcel, to be leased for the solar project, be approved as an ANR lot. Williams feels that this way the exact size and boundaries will be known. Costa responds that while acknowledging the need for site designation, they have concerns for the ANR process in this case. Costa cites that since the parcel is not to be sold it should not be subdivided in a legal, recorded manner. Instead, Costa proposes that a copy of the Notice of Lease, which is to be recorded with the Registry of Deeds and contains a metes and bounds description of the property and a plan reference, be given to the Board. Williams and the Board are satisfied with this proposal.

Rheault provides the Board with five copies of the revised plans, dated with revisions through May 8, 2012, and five copies of the drainage analysis, also dated May 8, 2012. Rheault states that he had a meeting with the fire department and the police department to address their concerns. The plans have been revised to meet their requests, which Rheault illustrates to the Board. The changes made to the plans are as follows;

- The entrance at Wiles Road has been re-graded to allow for drainage into a natural swale along Wiles Road.
- A construction entrance will be provided to protect neighbors from having a mess on the road from muddy truck tires, etc.
- The concrete pavers have been illustrated.
- The additional gates have been added, as agreed upon by the police and fire departments.
- The sub-drain and extended discharge have been added.
- Grammatical corrections have been made.

Rheault states that the drainage analysis reports have been submitted and notes that with regard to watershed there are no changes from pre-development to post-development.

Rheault states that there were some landscaping issues to address and asks Andrew Leonard to explain. Leonard states that at the last meeting the Board requested more definitive plans for the record and for determination of a bonding amount. Leonard states after hearing from abutters, and specifically the Josephs', he has taken a second look at the houses and how they will be impacted by the view. Leonard illustrates on the plan that he has now placed clusters of trees to better screen the abutters from a view of the solar panels. No new trees will be placed in the wetlands area. There will be no invasive plantings. There will be an eight foot high cedar fence along the southern border, between the project and neighboring homes. The fence, due to its height, will require a building permit.

With regard to the fencing, the cedar fence will run between the abutters and field, the remaining area of field will be fenced with black chain link. The life expectancy of the

FINAL

cedar fence is ten years. The fence will be maintained throughout the life of the property, with Tuffey commenting that the fence benefits them as well, thereby giving them incentive to maintain it.

Tuffey states that they plan to maintain the new plantings and water if necessary. The plantings will be guaranteed for three years. After three years plantings should be well established. A diverse mix of species is being used so that if there is a disease, it will not affect all plants. All plantings are hardy species, expected to thrive in the region.

Hamilton states that this is a great project for the town and will offer low energy rates to the taxpayers and education opportunities to the school children.

Chairman Protano asks if there will be any lighting on the site. Rheault responds that no lighting is proposed. The police and fire departments agree that no lighting is needed.

Costa summarizes the outstanding conditions, as taken from Bobrowski's suggested list and amended/added to during tonight's meeting;

1. Prior to issuance of any building permit, the applicant shall revise the plan to show the gated access and egress points required by the Fire Chief and the Police Department. This condition has been met.
2. A recorded copy of the Order of Conditions from the Conservation Commission will be provided to the Planning Board.
3. Prior to the issuance of any building permit, the applicant shall post a surety or performance guaranty, acceptable to the Planning Board, in the amount of \$5,000.00 to secure the proper construction of the intersection of the site driveway and Wiles Road, including a swale for drainage, and to maintain the existing integrity of Wiles Road, which shall be designed in conformance with applicable regulations.
4. Prior to the issuance of any building permit, the applicant shall post a surety or performance guaranty, reasonably acceptable to the Planning Board, in the amount of \$10,000 to secure the landscaping and plantings shown on the plan, for a period of three years.
5. Prior to issuance of any electrical permit, the applicant shall present electrical plans to the Fire Chief and SMLD for review and approval.
6. The filing of the metes and bounds description, with a plan, as will be accompanying the Notice of Lease shall be submitted to the Planning Board. A recorded copy of the Notice of Lease shall also be provided to the Board.
7. Compliance with the Chapter 61A process is required.
8. Verification of the correct owner of the land shall be made and modified on the plan, as necessary.

FINAL

9. A letter from the Police and Fire Departments, confirming the location of gates, shall be provided to the Planning Board.

In addition, a copy of the Power Purchase Agreement between Community Energy and the SMLD is to be provided to the Planning Board.

(Note added after the meeting; the Power Purchase Agreement, entitled "Interconnection Service Agreement", was received on May 21, 2012.)

Pichierri moves to approve the proposed solar panel array, proposed site development plan in Sterling, MA off Wiles Road, dated April 2012, property of Davis Dairy, Inc., subject to eight exceptions(conditions), cited as numbers 2-9 (from Atty. Bobrowski's letter of recommended conditions, modified and added to during this meeting), seconded by Radzicki. Chairman Protano adds that the motion should include a provision that any conditions that come to the Board's attention from review of tonight's minutes will be added. Pichierri adds to his motion that a ninth condition be included giving the Board the opportunity to review the minutes and all of tonight's discussion, seconded by Radzicki. Williams feels that the approval process is being rushed and that the sixty day decision process should be utilized. Chairman Protano states his reasons why he feels that the project should be allowed to be voted on tonight. There is no further discussion; all are in favor, approved by the Board, 5-0.

DISCUSSIONS/REPORTS/FYI

Vote to release Executive Session minutes from 1998

Picchieri moves to table the discussion and vote to release the executive session minutes until after the Board Members have a chance to review them, seconded by Williams. There is no discussion; all are in favor, approved by the Board.

Government Study Committee Report

The 2009 Government Study Committee has released their report. This report is available for the Board's review. Also received, was an email with a revised organization chart to be inserted into the report and an email from a concerned citizen, criticizing the committee's work, stating that the revision to the report is cause for suspicion. Radzicki served on this committee and speaks to the criticism, stating that the need to add a revised organizational chart was due to a typo, not to anything else.

Foreclosure Notice

Williams noticed a foreclosure notice for a property, originally labeled Lot 1 Redemption Rock Estates. Williams makes the Board aware of this notice for FYI purposes.

Emails from/to Kevin Beaupre

For informational purposes the correspondence between Kevin Beaupre, 66 Osgood Road and Terri Ackerman, Town Administrator, is reviewed. Beaupre criticizes the job Ackerman is doing as the Town Administrator. Ackerman offers a rebuttal letter to Beaupre.

Resignation Letter from Amrith Kumar

The Board notes that in a letter, dated May 4, 2012, Amrith Kumar has resigned from the Personnel Board.

Public Service Recognition Week

Chairman Protano reads into the minutes a statement, prepared by Terri Ackerman, asking the citizens of Sterling to recognize and thank the employees and volunteers of the town for their service during this week, designated as Public Service Recognition Week.

MRPC: Alteration of Regional Review...Memo

Chairman Protano reviews a memo, dated 5-3-12, from MRPC with regard to the Alteration of Regional Review ("A95") and Automatic Review of Local and Regional Projects.

Sterling Ice Cream Bar

Chairman Protano reads into the minutes a letter, dated 5-3-12, from Mark Brodeur, Building Inspector, to Russell Philpot. This letter is to inform Philpot that the building permit application for the proposed addition to the Sterling Ice Cream Bar at 167 Clinton Road has been denied. The reasons for denial are outlined.

Annual and Special Town Meetings

The Board members are reminded that the Annual and Special Town Meetings are May 14, 2012. The Town Election is May 21, 2012.

ZBA

Chairman Protano reviews the Zoning Board of Appeals Agenda from May 8, 2012. Of interest, is the agenda item regarding the "Municipity" software. The ZBA will be voting to split the cost of the Planning and Zoning module with the Planning Board. Williams reports that they did vote to split the cost.

CHAIRMAN'S REPORT

Chairman Protano says goodbye to the Board and thanks them for their support over his 27 years of service.

FINAL

ADMINISTRATIVE ASSISTANT REPORT

French reports to the Board that Daniel Kloczkowski visited the office, prior to tonight's meeting, to talk about the land on Days Way/Newell Hill Road that Donna Day is offering for sale. Kloczkowski informed French that there are three offers in place for the land.

MAIL

Miscellaneous mail was reviewed.

NOTICES FROM OTHER TOWNS

Notices from other Towns were made available for review and were passed on to the Zoning Board of Appeals.

INVOICES

The board members sign invoices and payroll.

MOTION TO ADJOURN

**Pichierri makes a motion to adjourn the Planning Board Meeting at 9:28 PM.
Seconded by Hajdu, no discussion, all in favor, motion approved 5-0.**

**The next regularly scheduled Planning Board Meeting is May 30, 2012 at 7:00 PM.
APPROVED BY:**
