



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD

June 27, 2023

5:30 pm

MINUTES

CALL TO ORDER: Craig Knight called the meeting to order at 5:45 pm.

ROLL CALL: Members present were Craig Knight, Heather Grass, Scott Newhart. Susan Dunham Shane, Chair David Peppard arrived at 5:58 pm

MINUTES: Move to table 6/8/23 minutes to next meeting.

Motion by Craig Knight, 2nd Heather Grass. All in favor 4/0

NEW BUSINESS: none

UNFINISHED BUSINESS: Continue review of the application from BD Solar Eddington for the proposed Solar Development
Applicant is represented by Nick Sampson, BD Solar LLC

Vice Chair Craig Knight asks Susan to lead us in next reviews.

Denise asks Susan are there any things that we need to table because we are waiting for something from Sean?

Susan DS: Review Criteria - Site Plan Review

The following are on hold waiting for Sean T response to Susan DS question e mail:

“c” no wetlands or H2O bodies harmed

“d” Adequate Stormwater control

Susan tells Nick she enjoyed SLODA application, but my goodness a lot of paper. She found the wetlands even more interesting and that Nick and Sean might enjoy reviewing the stickies she added. There were a lot maps that were different and I needed explanations to understand some of the information. For instance, the stormwater map (which is C704) in the revised book - is that just a sample?

Nick S: Is that in the NERPA? Susan DS: yes It shows a roadside buffer but only that piece and not the whole piece. Nick S: might be better for Sean to answer. Susan asks if applicant had received the approval for the SLODA or the NERPA? Nick S: no

Susan DS suggests to chair that if rest of Board agrees we can start by going through the items listed on the sheets she sent to the rest of the Board. (typist note: file name: BDSolar finalreviewpunchlist curr 06262023.docx) Board agrees to this plan

First 2 items were part of the discussion of access over the Allen property. (per min. of 4/11/23)
Item #1 Realized that we were to going to contact Atty Gilbert about this because there is only 200' of frontage and already a driveway on this land and project is putting in an easement too. Susan realizes this is “just” an easement but it is a pretty darn permanent easement. That item has not gotten answered. Asks Denise if she sent the email requested at the last meeting to Charlie

(Typist note: On the subject of Force Major proposed wording) . Denise: Yes, it was sent.
Susan: Suggests that she would like Charlie Gilbert to look at the frontage situation and say if it is a problem or not.

Susan will send e mail to Denise to forward to Charlie with an attachment giving the info regarding the easement, frontage, etc. This will be sent by Wednesday.

2nd Item is an exact location for the entrance on to Allen property. Are other people bothered by this?

Scott N: Regarding the entrance being to close to the neighbor's property if it is not meeting criteria that is really in Rick Leavitt's wheelhouse. As long as it stays 30' off the abutter's property line.

Craig K: Let the record show that David P. arrived at 5:58. General conversation as David settles in.

Resume Item 2 discussion:

Nick S: Did Sean talk to us about the status of the road entrance? Board members: No.

Nick S: We are still planning on meeting the requirements of the ordinance. Did go meet with the landowners to actually permanently move the entrance to the other side of the telephone pole. Between the pole and the barn. Not move the pole. Scott: up slope? Nick S: yes, and it will have a curve to it. Because of that will not need the 50' spread. Also they will probably end up reducing width after construction. And since road is narrower it will be permanent.

Susan DS: Asks if there is a drawing. Will need it for our copy of project and for Registry records. - So the easement will be on the SE side of the telephone pole between the pole and the barn.

Heather: what is the distance between the pole and barn?

Nick: didn't measure while there. Also, still waiting for Allens to say if it is all right to change the entrance. He shows a drawing on his computer of the proposed change. This drawing is an analysis for traffic clearance.

Susan DS: We take note that applicant will need to provide the revised access drawing and an 'as built' drawing to the Town of Eddington and Penobscot Registry.

So, we didn't do anything except discover there is a new entrance, we've seen a drawing for it, and we have the wording describing it. Anyone have any other feelings about this? None

Susan DS: Going back to the Revisit List....

Starting with "Review Criteria – Site-Plan Review – Zoning Ordinance.

Item c – about wetlands – it is on hold for Sean

Board discovers that no one has a copy of the full list that Susan produced. Pause while copies are made. All have copies now. Scott asks why sheets are not collated. Return to Susan's list

Item d – adequate stormwater control – on hold for Sean

Item h – Groundwater and Pollutants. - moved to wait till Scott returned because this is his study area. Scott – what is hold up. Susan – what about BESS and transformers? Scott – all BESS are going on slabs and lithium batteries, no oil cooling system (btw – only require concrete pilings). Transformers held to same standard as telephone transformers. Susan – and liquid is vegetable oil. Scott – right. And everything else in there was good.

Susan DS: Move that applicant narrative shows no affect to groundwater and pollutants.

Scott N: 2nd

Chair calls for a vote: All in favor 5/0

Item “i” – Impact on Local Roads or Traffic (which is also part of Chapter 9 “standards” and Solar 106.9 “roads”)

Susan DS: when we got to this we discovered we wanted to hold because we need to know the actual load rating for all three bridges.

Scott N: His note for “i” is to supply contents of second public hearing. Did we not get a definitive answer from DOT?

Susan DS: We did not get a clear report from DOT. Not sure where the note regarding that is in the minutes. Might be under the discussion for Solar 106.9. We did get a copy of the e mail that Shawna got from Lisa Hughes and Ron Taylor but it doesn’t actually say in the e mail thread what is a “legal load” is. We, the Board, postulized that it might be 80,000 lb but we didn’t know. Last week on about the 21st Susan contacted Shawna and asked her to contact them and ask what a legal load limit is because it is holding us up. We know the crossing with the new box culvert is 80,000 lbs but do not know what 5546 and 5545 are. 5545 is called a ms22.5 load design and is assumed to be safe for all legal loads. But 5546 doesn’t have a load design and is just assumed to be safe for all legal loads. Any posting would be at Town’s discretion. And, still, no where have we been told what a “legal load” is as far as weight.

Denise: She believes Shawna has a meeting with a DOT gentleman tomorrow (the 28th)

Susan DS – so can we just mark “i” as on hold waiting for information from Shawna? Agreed (Typist note: when we re visit we need to also decide if Scott note re including contents of second public hearing is to be attached here)

Item “m” Conforms to all applicable provisions of ordinance.

Susan DS: Note says cannot answer this because of items on hold.

David P: We don’t need a motion to put it on hold? Susan DS: No

David P: Would like to go back to “i” for a minute. If they sign a contingency plan with the Town that they will repair all damage is that...

Susan DS: That is a ‘nother” thing. Just because we have the surety section over in 107 is not the same thing as answering the question of will it have an impact on local roads and traffic, to her way of thinking. She thinks Heather feels the same way. Susan DS feels Board owes it to the people of Davis Road to be able to say definitively “Legal Load” is “X” amount of thousand pounds per Maine DOT. And cover ourselves.

Scott N: Does not agree with that part of it. He feels that applicant should know definitively what the numbers are to stay within what is needed during construction. The applicant and the Town work out the surety. He does feel they can’t say with all certainty that they won’t have any detrimental affect on the road until they know what the load is.

David P: So want to throw this out to you: if I owned that land and I decided to log it I would be running tractor trailer logging trucks in and out of there and you wouldn’t be putting me through this.

Susan DS: Brings up logging in that much wetland would be difficult. And with all the wetlands even access would be hard wouldn’t it?

David P: Cuts around wetlands every day. Does permit by rule. His point is he is going to bring these trucks up and down a road to get his wood out and he wouldn’t need a permit to use the road.

Scott N: Agrees with what David says 100%. Whatever is determined by DOT is just information for us. It doesn’t stop the availability of a public road for use. We just need for informational purposes. He feels we are not going to approve “i”.

David P: DOT has history of taking time in coming back with an answer.

Chapter 8 – Environmental Performance Standards

801 and 802: We moved that requirements are met pending the permit issued by SLODA to applicant

David P: So we are okay?

Susan DS: This is we have to wait for the permit. It is the same thing as “c” and “d”.

David P: So we put pending on that.

Nick S: A little unclear because there are so many things that are waiting on the SLODA or NERPA or Army Corp he thought there was discussion at one point about adding those as conditions to the permit.

Susan DS: Yes, was discussion that if everything else is falling into place as we write the Finding of Fact that those items would be accepted pending the receipt of the approvals, which would have to be received before issuing the operational permit and starting construction.

Scott N: Can't we do the same this with “i”? Susan: Can't we just wait a day since meeting is tomorrow?

Scott N: All I am saying is when we get to end of this punch list if they have provided us with everything we need except for waiting on State there is no reason why we should not be moving on with this. That is why I say “i” easily falls into this.

Susan DS: I say that what makes “i” different is that it is important from an informational standpoint for the applicant and the town.

Scott N: Just saying if DOT says 70 tons instead of 80 tons on that bridge all it does is change applicant working process. It does not change approval of this packet. DOT information should not hold up this application.

Heather: So, if we approve the application and then there is a 10,000 lb difference how do we hold them accountable?

ScottN: Be the same thing if the NERPA came back and said the applicant can't build it, the project would not go forward.

General discussion regarding if loads are discovered to be lower then what happens and how it would be handled and what applicant can do to deal with different restrictions.

Chapter 9 Traffic Standards Section 901 – 910N

Previously Moved that for 901 through 910 the applicant will adhere to standards as listed and emergency accessed per the road specs in drawing C501.

Susan was originally bothered by the discussion that preceded this motion. However, Susan states, the new access details and drawing presented tonight has removed any of her concerns.

David P: Then we are okay on Chapter 9?

Susan DS: Yes, and motion makes it done

Solar Ordinance- Section 106 Standards for Principal Solar Energy Systems

David P reads: 106.1.1 Interconnection Agreement Hold and revisit (min 5/30)

Susan DS: Interconnection Agreement – there are 2 blanks: Appendix E and F Susan reads from minutes of May 30th regarding these missing pages and why. She asks Nick if they are still waiting for the interconnection agreement. There is an inverter change that is still being worked out. He states they have not started to negotiate with ISO New England yet. Usually takes about 3 months to populate and sign.

Scott N: Do you have gates you have to meet on that?

Nick S: Gates as in milestones? Yes. We need them to finish review of the inverter change and then it moves ahead to the agreement part. They were hoping to finish inverter review by end of this month.

David P: So it could be 3 months. Nick S: Yes, as a rough idea to throw out.

Susan DS: That would make this one of those where we want to make a motion now, a conditional motion, that we will accept that they must provide interconnection confirmation. Do we want to make the motion right now?

Scott N: we need to make all the motions we can as soon as we can.

Susan DS: Asks Scott to make motion.

Scott Newhart: Move that we accept provisionally 106.1.1 Interconnection Agreement in condition of receiving a completed copy of the interconnection.

Susan reads back motion as she heard it. It is not correct. Reword motion.

Susan Dunham Shane: Move we accept 106.1.1 “Interconnect Agreement” upon Town receipt of completed agreement.

Craig Knight 2nd

Chair calls for a vote. All in favor 5/0

David P reads: 106.1.2 Purchase Agreement

Scott N: We just want to know what Host Community Payments are.

Nick S: Work with Public Utilities Commission and our team network and Power Purchase agreement and calculate. Host Community Payments are to the land owner for the lease option and expected application fees.

Scott N: Okay. So, we already passed this one, just wanted clarification.

David P reads: 106.6 Setbacks

Never made a motion to accept or consider N/A (min 5/30)

David P: so we are all set?

Susan DS: No, we need a motion.

Scott Newhart: Move that 106.6 Setbacks is acceptable as written in proposed Site Plan

Craig Knight 2nd

Chair calls for a vote all in favor. 5/0

David P reads: 106.7.3 Solar Panel Glare

Re address wording of motion to accept. (min 5/30)

Susan DS: reads from minutes of 5/30. A word in motion should be changed from “mitigating” to “mitigated” (Typist note – make sure this change is made to the original 5/30 motion)

David P reads: 106.9 Roads

Restate original motion. Point of this is a reminder to BD Solar about the shared use agreement.

Nick S: They have lot number but have not tracked down the owner. Have no problem doing it it just has to get done.

Mark this as on hold

David P reads: Solar Ordinance -Section 107 Site Permit Applications and Standards

107.2.2. Lease Information

Susan DS: Same as 106.9 so on Hold

David P: So once you receive that agreement it takes care of both sections. Ans: Yes

David P reads: 107.4 Plan and Risk Assessment for Road and Property Use

Motion to accept with addition of copy of power point presentation from May 9 meeting which includes discussion of traffic scheduling. Need Power Point

Susan DS: We received the Power Point as required so the condition in motion has been met.

Scott N: Is there a motion required?

Susan DS: I guess we could make a motion we received the Power Point.

Scott Newhart: I make a motion that we received a copy of the Power Point for inclusion.

Heather Grass: 2nd Chair calls for a vote All in favor 5/0

David P: And once we get the review from DOT that will kind of eradicate this, right?

Susan DS: No. The traffic schedule they made is still important. Actually Power Point still needs to be reexamined for the traffic quantity part that is in the "Road Safety" section in Book 2.

But I want to include a friendly amendment on your motion, which is that we include the date of today.

Scott N: I wanted that to be included as part of the public record and that it is only a Power Point and schedules are subject to change but it was out at public meeting and went out to the public so wanted it to be on the record that it is here.

Susan DS: Right That is why I thought we could just add the day.

Motion now includes the date we received Power Point: 6/27/2023

Chair calls for a 2nd: Heather Grass 2nd

Chair calls for a vote: All in favor 5/0

David P reads: 107.4.3 Damage to a Public Way (included in 107.4)

Motion to send a letter to Selectboard accompanied by the cost analysis that Shawna H generated regarding a surety bond to cover possible road damage during the construction phase and immediately after the project.

Susan DS: sent you all the draft of the letter to the Selectboard. For record we can say Susan provided a draft letter to the Board.

Scott N: But we already made a motion on this item, right? Susan DS: yes

David P reads: 107.10.1 & 107.10.2 - Nothing in my notes (Susan)

Susan DS: David, what it means we did 107.10...

Scott N: Yes, you have nothing in your notes, so that was for Section J update the wording of 6"clear had to be included.

Susan DS: No, the six inches clear goes in 107.11 She looks through minutes to find what she might have missed in information for these two.

Scott N: His notes say that we read and included 107.10.1 & 107.10.2 in the motion for 107.10. He remembers talking about these subsections and ensuring that each item was covered. They are about vegetation control and mowing if using meadow stormwater treatment.

DavidP reads: 107.11 Decommissioning Plan

Hold off until we receive rewording from applicant on 6/27

SusanDS: Nick, Sean was going to rewrite the Decommissioning a little bit. We talked about wages and talked about the six inches missing. Do you have anything?

NickS: I have language on 6" requirements

SusanDS: Are you changing anything on the chart, on the costs?

NickS: He had shared there was concern regarding the \$20/hour. So there was a request that we increase it.

SusanDS: No, not a request – a suggestion.

ScottN: But we are going to note it for the Selectmen. Based on the \$20/hr is kind of low for some of the specialty jobs.

DavidP: I would not focus just on labor rate either. Material costs are rising and involve the calculations. For example: Just had house reevaluation for insurance and they raised house value by \$110,000 because of inflation.

SusanDS: Let the record show 2 members left the room hurriedly because of rain falling on open vehicle windows.

NickS: So all there is is the rates and...

SusanDS: Also there is need for rewording. Such as in project description where it says Central Maine Power – shouldn't it say Versant? NickS: yes SusanDS: Deconstruction: "ac cable and earthing... shall be backfilled and paved" - you are not going to pave it are you?

NickS: No – will change

SusanDS continues: "h" "overhead poles: after uninstalling the poles the materials will be deposited".. Nick: jwill change to disposed of

SusanDS: We talked about owner responsibility. NickS: the sentence will now read "Prior to decommissioning BD Solar Eddington LLC (or the current system operator at the time) will work with the landowner and the Town of Eddington to determine of whether any access roads will remain paved."

SusanDS: Back to the six inches

NickS: I will start with section J and as I read will note the changes:

"When the decommission works are completed the site will be restored to its original condition as accepted by the Code Enforcement Officer or Town official. All elements of the system will be removed to a clear depth of 6" below any element in the project including all panels, mounting hardware, electrical lines above and underground, security barriers, electrical equipment, concrete bases and pads, any other equipment, and removal of all access roads."

That completes the changes Sean made.

SusanDS: Okay, that is really nice.

NickS: That completes the changes

ScottN: That is really nice.

SusanDS: We will need another Appendix N: Decommissioning Plan / revised so we can put that into our master files.

Denise was asked on 6/22 to send all of 107.11 to Charles Gilbert and ask him to comment specifically on #6 Force Majeure as presented by the applicant.

Update 6/27: She sent requested materials on 6/27.

ScottN: Do we need a new motion on that? SusanDS: Thinks we do that after we get the revised document in the office. Or do other people not agree? ScottN: No, that's fine

SusanDS: Hold 107.11 until we receive revision and receive input from Attorney Gilbert

107.13 Performance Guarantee

DavidP: So are we just waiting for this

SusanDS: Nick did you not respond to this section? Looks at decommission Appendix N

NickS: In Book 1 we reference at 107.13 in narrative to refer to #5 in Decommissioning Plan in Appendix N. He thinks that is because at that time they didn't know if there were going to be any other performance guarantees.

SusanDS: If all your numbers are staying the same we would send the Selectboard the whole Decommission plan. How long will it take to do changes? Nick: Pretty quickly. Okay by e mail?

SusanDS: That would be fine. We just need to print a physical document to put in the packet for the Selectboard. NickS: Timeline? SusanDS: The Selectmen will probably meet on the 18th but that is the week after my surgery it would be good to put together their packets to go out to the selectmen by end of this week.

CraigK: How long will you be laid up? SusanDS: 3,4,5,6 months. I actually thought we would talk about this after we were done with this list. Right now surgery is scheduled for 7/11. Think it was 2 weeks for other hip replacement. She explains what is being done.

CraigK: Is there any chance you can make it the 18th? SusanDS: No

ScottN: We are talking that if we get #5 costs this week we can get this to the Selectmen

SusanDS: My request is that this all be complete this week so it can go to the Selectboard ahead of time.

Let the record show that Heather left at 7:21

DavidP: Where are we at regarding the date? Of the meeting.

DavidP: To Nick – what is your time line to get us anything you owe us?

NickS: If you mean the items discussed tonight – by end of week. If you mean SLODA & NERPA & interconnect agreement. Those all take time and could take months.

DavidP and the Board discuss meeting dates. Several are bandied about.

SusanDS: Let's back up a little bit.

A. We must not leave until quickly go over letter to Selectmen so when approved it can go in the packet for the Selectboard

B. Nick says he can get reworded Decommissioning and section 5 costs done by Friday at the latest.

Denise: You want it to go out this early? SADS: No. Just hot to get it together asap so we can work around the 4th of July closing days. And to accommodate year end town books.

Scott: paperwork decisions are made tonight. Waiting on paperwork for the packet has no bearing on whether we meet in July.

SusanDS: Fine. Since Selectmen won't deal with this til 18th, probably no need to meet 7/11 unless something comes up. Meet on 7/25 and go over wetland question responses with Sean. I will be able to go to a meeting by then. Discuss where the questions on wetlands came from and that they are

DavidP: We can leave the 11th open to meet if we have to do something and definitely meet on the 25th.

SusanDS: Will need to write Finding of Fact for Applewood, now that we have minutes. Will e-mail document to Board for review. If no changes Board can come to office to sign.

ScottN: Has everyone reviewed the letter that Susan proposes to send to Selectmen?

Scott Newhart: I make a motion that we accept Susan's memo to the Selectboard, Town of Eddington from the Planning Board pending contributions from DB Solar that we have requested.

Craig Knight 2nd

Chair calls for a vote All in favor 4/0

Susan thanks Board for reading letter and trusting her ability to write.

PUBLIC ACCESS: no one

AGENDA FOR FUTURE MEETINGS – HOUSEKEEPING:

DATE OF NEXT MEETING: See Above

ADJOURNMENT: Motion to adjourn SusanDS ScottN: 2nd Meeting adjourned: 7:07pm

Respectfully Submitted,

Susan A. Dunham Shane
From Recording and Denise Knowles's Notes