Milton Selectboard & Public Hearing Meeting Minutes

August 14, 2017 at 6:00 PM
Community Room of Municipal Building
43 Bombardier Rd Milton, VT 05468

Selectboard Members Present: Darren Adams, Chair; Ken Nolan, Vice-Chair; John Palasik Clerk; John Cushing, Member; Chris Taylor, Member

Staff Members Present: Don Turner, Town Manager; Judi Ward, TM Administrative Assistant; Finance; Jessica Morris, Finance Director; Kym Duchesneau, Recreation Director; Jacob Hemmerick, Planning & Zoning;

Others Present: Henry Bonges, PC; Julie Rutz, PC; Anthony Micklus, PC/EDC; Betsy Hoffmeister, Recreation Committee; Robert Brisson; Alan Hatch; Martha Coleman; Kirk Shields, GMP; Paul Mears; Paul O'Leary, OBCA; Karl Marchessault, O'Leary-Burke; George McRue; Brandy Saxton, Place Sense; LCATV Audio/Video Technician Phil Mears; Chris Senesac; Courtney Lamdin, Milton Independent

I. Call to Order – D. Adams called the meeting to order at 6:00 PM

II. Flag Salute – D. Adams led the attendees in a Salute to the Flag

III. Agenda Review – No changes or deletions

IV. Public Forum: No one present for Public Forum

V. Business

A. Board & Commission Appointments

The Selectboard asked Tony Micklus a few questions as to why he wants to be on the Regional Planning Commission. D Adams stated that you are looking for the Regional Planning seat that was vacated by Lou. J. Cushing made a motion to appoint Tony Micklus to the RPC. C. Taylor seconded the motion. Approved unanimously.

The Selectboard asked Elizabeth Hoffmeister a few questions as to why she wants to be renew her seat on the Recreation Committee. J. Cushing made a motion to appoint Betsy Hoffmeister to the Recreation Committee. C. Taylor seconded the motion. Approved unanimously.

B. Entertainment Permit Annual Football Jamboree

Kym Duchesneau and Rodney Tinker, addressed the Selectboard about approving the Application for Entertainment regarding the Milton Broncos Football, hosting the annual Football Jamboree on Saturday, August 26 at Bombardier Park. Kym stated further that traffic control for the event, will be overseen by Chittenden County Sheriff's Office, who will be donating their time. Milton Police will not be providing security or traffic control for this event. J. Palasik mad a motion to approve the Football Jamboree. C. Taylor seconded, approved unanimously.

C. Trout Brook Solar Project

Kurt Shields addressed the Selectboard to give an overview of the MicroGrid Project that GMP is doing. The Project will produce local electricity for customers and provide enhanced batter storage services to reduce peak loads and improve local reliability.

- Proposed Project Specs
  - GMP proposed to lease about 30 acres from Mears Farm; north side of Mears Road
  - Preliminary specifications (up to):
    - 4.99 MW-AC fixed-tilt array
    - 2 MW Tesla Powerpack battery
    - 8,100,000 kWh/yr; powers over 1,100 homes
    - 22,000 solar panels; 325w each
  - Tallest part of structures is about 8'-9' tall
- VT Public Utility Commission
  - Public process to consider Certificate of Public Good
  - 45-day notice issued August 13
  - Proposed project will apply for a CPG in September
  - Town has an automatic party status

Key Attributes

- Approximately $20,000-$30,000/yr. in municipal taxes estimated; requires no municipal services
- $20,000/yr. to State of VT in education taxes
- Local micro-grid creates valuable opportunity to improve reliability to customers served from West Milton substation
- Setback 900' from Mears Road, slopes uphill to a flatter area at project time
- Area restored to greenfield at decommissioning
- Significant lease payment to resident farm

Micro-grid Opportunity

- Solar installation to use smart inverters for integration into the micro-grid system
- Battery energy storage added to circuit pairs well with solar, increasing reliability
- Solar and storage combination can power critical infrastructure if grid goes down – municipal facilities, first responder facilities, shelters, grocery, etc.

CPG & Permits

- Outreach to abutters, neighbors and Town stakeholders ongoing
- 45-day notice asks for local feedback on Project

- CPG application to be submitted in September
- Early summer, 2018 CPG being requested from PSB
- Professional service providers retained for CPG petition include: Civil Engineers, Wetland Consultants, Plant Biologist, Electrical Engineers, Aesthetic Consultants, Historic Preservation & Archeological Consultants

K. Nolan informed the Board and the group that if there is to be a vote this evening he will be abstaining as he is an abutter to the Project. K. Nolan asked Kurt, if the substation is where the batteries are going to be or is there a separate substation for the batteries. Kurt responded that there will be nothing on site. K. Nolan asked Kurt when did the 45 day notice get sent. Kurt responded that it went out Thursday and the abutter letter when out either Friday or possibly this morning. D. Adams stated that the only vote you would want from us is that we have Park status since we are a Municipality. Kurt answered that yes you do. D. Adams stated so there is nothing required from us. Kurt responded by stating that they did not ask for any action at this meeting, they just wanted to come and give an introduction of the Project. He further stated that they would be happy to come back and discuss it in more detail if the Selectboard needed them to. Kurt further responded by saying that they would request a letter of support from the Selectboard if they are willing to, as it would help with the permitting process. K. Nolan stated that one thing he would ask of the Board is to wait on making a vote until the abutters got their notification. J. Palasik asked hasn't the Town received other financial remuneration from other solar fields, am I missing something, that there is no other benefit to the Town other than paying taxes on this one. K. Nolan stated that the ones J. Palasik is talking about you need customers and the one GMP is proposing is a utility project it is not a net metering where there is financial return. J. Palasik stated so this is totally different than a net metering project and K. Nolan responded yes. D. Adams stated that on page 6 of your slide show you state that "solar and storage combination can power critical infrastructure if grid goes down," you aren't proposing any agreement to do that or is that automatically done through your regulations. Kurt stated that we would want to work with the Town to identify if there are any infrastructures nearby, school, fire station, town offices, etc. so if you have any designated areas that you would want to keep open in the case of an emergency. Discussion took place as to what that would look like based on where the circuit is and infrastructures locations. K. Nolan stated that that part of your sales pitch is the MicroGrid so I would presume that any farms or businesses around that circuit could expect to have reliability in relation to this project. Kurt responded yes if they were in the footprint of the circuit. Henry Bonges addressed the Board by giving an outline of his experience with solar projects and that he asked GMP about using a landfill for one of these projects and he never got a definitive answer from GMP, so he is asking the Selectboard to look into this and get an answer. Kurt stated that he is not familiar with the situation but that he would look into it. D. Adams asked Kurt how big of a project is this compared to others that are going up around the state. Kurt stated that they did five projects last year that were smaller, and this project will be among one of the biggest that they have done. D. Turner addressed Kurt that if he got that information about the landfill to him, he would disseminate it. Kurt responded okay. D. Adams thanked the GMP group. No vote taken at this time. D. Adams stated that since there is four

minutes until the Public Hearing starts, perhaps we can do the Manager's Update which will allow for more time for people to show up since the Public Hearing is scheduled to start at 6:30pm.

D. Manager's Update

- Public works finished gravel path on Route 7
- Did some grating on Middle Road and now the rain is sheeting off of the road onto the lawn as it is supposed to
- Will finish up the sidewalks before school starts, should be done this week
- We have hired a new Town Planner as Jeff's last day will be August 25, the new Town Planner starts August 28, he comes from Middlebury
- Approval PO for Zoll AED's $45,000 in Capital Improvement Plan
- Approval PO for SCBA's $21,000 in Capital Improvement Plan
- Tax bills went out today with informational sheet which explains to the tax- payer what % of their money is going. Courtney did an article on it.
- Sent flowers to former Selectboard member John Hoyt's funeral
- Major project being discussed in NC1 district
- Review Budget Adjustment Policy-Approval set for next week. Jessica Morris gave an overview of the Policy Adjustments. She stated that previously budget adjustments were done at the end of the fiscal year, and we are proposing that we change that to a monthly process because our Department Heads are getting a financial report on a monthly basis and reviewing their expenditures monthly. We also took out some of the wording that no longer applies because of the new Purchasing Policy, mostly it was in regard to any lines going into the negative, which is essentially not allowed. D. Turner stated that lines still may go into the negative but now they are having the Department Heads look at it each month so that they can get ahead of it. C. Taylor stated so it can go into the negative but it has to be fixed by the end of the month. D. Turner and Jessica Morris stated yes. D. Turner stated that Jessica and he worked on this together, they are not asking for approval tonight but wanted to get it out there so people can be talking about it as it ties hand in hand with our new Purchasing Policy. It does tie into the new Purchasing Policy, but we want to get the Department Heads looking at their budgets monthly. C. Taylor stated that in the policy it does say at no time should any budget line be in the negative. D. Turner stated okay, we can tweak that. J. Cushing stated that he thinks that you will find that that will make a great big difference for everybody. It will help the Department Heads and Management, and it is going to help the Board because the Board is going to get that report and you are not going to have to worry about overages.
- When does the Selectboard want to discuss the Southern Gateway project? (September per the Selectboard) When would the Selectboard like to discuss this again, so I can bring back the information needed. D. Adams asked if we have room in September, D. Turner answered yes. Meeting to discuss set for first meeting in September.

- I am actively researching insurance policies, to find efficiencies and ways to save money, I am meeting with VLCT later this week and I just wanted the Selectboard to know.

E. Public Hearing Continued- Unified Development Regulations

D. Adams opened the public hearing for Unified Development Regulations at 6:30PM. Henry Bonges handed out information packets to the Selectboard. D. Turner began by stating, we have received all of the information in written format, which all of the Selectboard members have. The Selectboard has the authority to accept, reject or offer modification. D. Adams asked could you walk us through what you gave us. D. Turner stated that at the last meeting you asked me to reach out and get more information. I did that and got feedback from Paul O'Leary, Gail Henderson-King and Mahoney. This past summer the Town was plagued with fireworks complaints. Jake put together a piece to better regulate the storage and sale of fireworks, the Selectboard may wish to define this use separately from retail sales due to the use's know municipal impacts. Here are possible edits to the draft UDR the Selectboard may wish to consider.

- **Permit exemptions, 1101 (23)**
  - Exclude fireworks sales from the permit exemption for short-term garage sales, yard sales, tent sales and auctions. "c. Don not include fireworks sales."
- **Use Table, 2123**
  - Add "fireworks sales" to commercial uses section as a conditional use in the C1 Zoning District (2123(41), adjusting table as necessary).
- **Standards that Apply to Specific Uses Section 3118: Firework Sales**
  - ***3118 A. fireworks storage or sales use must conform to all of the following:***
  - Fireworks may only be approved as a principal use.
  - Sales may only occur from June 20th to July 5th.
  - Sales and product display must be set back at least 50 feet from the property boundary and any other structure.
  - The location of the building must be set back at least 50 feet from the property boundary and any other structure.
  - The building must not contain residential uses.
  - Parking shall be provided in accordance with a retail sales use.
  - A person over the age of 18 shall be present to supervise the operation at all times.
  - Sales may only occur between the hours of 8:00 a.m. and 8:00 p.m.
  - Fireworks intended for sale may not be stored for a period of more than 30 days in any location unless the site approved for an industrial warehouse or storage service, this shall not mean a self-storage facility.
  - Products may only be sold to consumers with a valid consumer fireworks/display permit from the Town and the establishment must maintain copies of all customer permits.
  - Large fireworks products subject to federal jurisdiction may only be

sold to consumers with a valid permit from the U.S. Bureau of Alcohol, Tobacco & Fireworks and the establishment must maintain copies of all customer permits.
    - The Zoning Administrator may periodically inspect operations and permits to ensure zoning compliance with these standards.
    - The state fire marshal, deputy fire marshal, state police, state sheriff, deputy sheriff, or police office may seize any fireworks in accordance with 20 V.S.A. § 3131.
- **3118.B. As used in this section:**
    - **Fireworks** means any combustible or explosive composition, or any substance, or any combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation as define by 20 V.S.A. § 3131
- **Use Definition, 5103.23**
    - **Firework sales** means an establishment that sells fireworks to the general public for personal or household consumption from within an enclosed structure

Jake started by discussing a concern from a community member that sent in a letter regarding the fact that she lives in an older home and that she has multiple tenants. Older housing has people staying with them for longer than 30 days fall under landlord versus short term accommodations which is 29 days and under.

A lengthy discussion took place between the Planning Commission, the Selectboard and the people in the audience. Highpoints of discussion included:

- **Chapter 300. Standards that Apply to All Land Developers**
- **Chapter 310. Standards that Apply to Specific Land Use**
- **Chapter 320. Site Plan Standards**
- **Chapter 330. Conditional Use Standards**
- **Chapter 340. Subdivision Standards**
- **Chapter 350. Planned Unit Development Standards**

Some concerns were raised about the DRB. J Cushing stated that the DRB is only three people and that we can't wait around for three people to decide. We keep hearing about this town or that town, well what about Milton. J. Palasik stated that the Planned Unit Development Standards are too discretionary but they are also too restrictive, we have heard that many times tonight. I understand that we need to upgrade our regulations but I am still not convinced that we are making it easier for a commercial person or builder/developer who wants to come to Milton to build are we making it easier for them, are we welcoming them with open arms, or are we making it more difficult and unwelcoming (crossing his arms in front of him.). See the difference in posture here. When I get this kind of attitude from Milton, why would I want to come here and build. I think we are so restrictive with this stuff, and I am new to Zoning. Mr. Chairman can I ask a couple of these developers in the audience a few questions. D. Adams stated sure. I do not know everyone here but I know Mike McCormick is a builder of commercial

properties. Am I all wet here or am I all wrong here. Just personal opinions real quick here, just yes and no answers. Are these things being too restrictive for you guys or now. Mike McCormick stated that when he reads the whole section of materials specified to isolate to the building, does that mean 30 -year shingles and what if shingles don't work on the roof does that mean it has to be copper. Your dictating, even beyond what the DRB should be dictating, dictating almost the design and style of the building. As K. Nolan had mentioned its discretionary, if he puts on vinyl you have to let the next guy put on vinyl. So are you just opening yourselves up for environmental court issues if it is so discretionary or to language that is so ambiguous. Paul O'Leary stated that the new regulations are more restrictive than the old regulations but they are not necessarily more restrictive in what you might see in another Town such as South Burlington, Colchester or Winooski, are having a lot more success having commercial builders come, however, they can have a little, tougher regulations and still get people to come to build, but that is not the case for Milton. D. Adams stated to Bob Brission that the zoning regulations was brought up for one district and has turned into a bigger issue and I understand this. But putting a gun to the Selectboards and saying "approve this," this is not the thing to do. A public hearing had to happen and it has to be nitpicky to solve these issues. D. Turner stated that he wanted to thank the Planning Commission, as Milton has a lot to offer and will continue to offer. We will make it better, there is still a lot to do to keep Milton moving forward. D. Adams stated we are not going to just throw this out, take this back to your Seat Mates and give us 20, 30, 40 hours collectively to go through this document. So we can close this hearing am I correct Jake. K. Nolan stated that I'm not sure if this needs to be asked before the hearing closes so I am going to ask this now. I wanted to ask Brandy before she left, I believe Mr. Senesac instead of having the criteria in the document could we have the minimum standard which might be better. I'd be curious as to if she has any comment has to what that might have to say about the minimum standard and what that might look like, or if you have any comments Jake. Jake stated yeah, we can go that way. I think probably the concern from staff and the Planning Commissioner that would be too restrictive but the DRB could take those guidelines and apply them and would not apply them inappropriately and would lean towards deference to the applicant which is the practice for the DRB but certainly to Mikes point as for more discretion in many areas, some clear guidelines would make sense. And to the extent we can get clear predicable outcomes a cut and dry standard could be good it just doesn't always anticipate everything and sometimes we still need to have a little bit of flexibility in there for the DRB to be like gosh we didn't anticipate this situation and it seems like we are locked in without a little bit of discretion. K. Nolan, to the Chairs point to get this hearing closed, my ask is very specific. I would like written comments from the staff if they think before we act as to whether they think minimum standards would be a valuable change and if so how might we apply those – nothing beyond that. D. Adams stated so just for clarification as we went through this last time, we close the hearing tonight which essentially means there is 1000 hours of work to do, to go ahead and make revisions and anything but changing the grammar is a major revision that will regulate that we make another public hearing that we will have to set a date for and a warning for and then we discuss the changes we are proposing and then close that hearing and work on it. Do I understand that correctly? Jake responded with that is correct. D. Adams we

would like to have this wrapped up in September timeframe. Ok hearing is closed thank you guys.
There was not mention of a motion or a vote.

VI. Approval of Minutes of 8/7

J. Palasik moved to sign the minutes as presented, C. Taylor seconded. Approved unanimously.

VII. Adjournment

J. Palasik moved to adjourn, C. Taylor seconded. Approved unanimously. D. Adams adjourned the meeting at 10:06 pm.

Respectfully Submitted,

_____ **Date:** 8/21/17

John Palasik, Selectboard Clerk

Filed with Milton Town Clerk's Office on this 22 **day of** Aug, 2017

ATTEST: _____ **Milton Town Clerk**