

MILLBURY PLANNING BOARD
MINUTES
June 12, 2017

The regularly scheduled meeting of the Millbury Planning Board was held on Monday, June 12, 2017 at 7:15 p.m. in the Municipal Office Building, 127 Elm Street, Millbury, MA. Chairman Richard Gosselin presided.

Present: Richard Gosselin, Edd Cote, Terry Burke Dotson, Paul Piktelis, Michael Georges

Absent:

7:15 p.m. Solar Farm, Valente Drive - Decommissioning Surety Bond

Brendan Gove, President of ZPT Energy Solutions came before the Board to discuss the decommissioning surety bond for a solar farm at Valente Drive. At the end of twenty years, the array will be producing eighty percent of what it is today. The intent is to extend the lease in twenty years, however if it did not continue, the decommissioning bond is in place.

Chairman Gosselin initiated discussion as typically the Town does not accept a bond that has an annual contract, but rather runs the life of the project. This decommissioning bond does not. Mr. Gosselin stated that it has happened in the past that the Town has incurred legal fees to collect on a bond. Mr. Gosselin would like a contingency fee to cover the cost of legal fees to collect the bond and ensure the Town is protected. Mr. Gosselin suggested \$25,000.

Jacob Carney, Principal Manager of 38 Degrees North, who is the long term asset owner of the array provided information to the Board. Other towns have also raised similar concerns. Mr. Carney, however cannot get a bond with stronger language. Mr. Carney suggested offering a guarantee from 38 Degrees North to have the obligation if the bond is terminated by the bond provider or they could post cash or other security to ensure the Town is able to have some security. Mr. Carney could work with the Town's attorney to put a letter together to enhance the agreement, rather than just an annual renewal of the bond.

Terry Burke Dotson suggested a tripartite agreement depositing money into an interest bearing account. Mr. Carney indicated that would be more costly than the cost of a bond. Chairman Gosselin did not know how much teeth is in a letter. Mr. Carney stated it is a corporate guarantee. The current solution proposed by the town is overly punitive to the owners, however they would like to find a compromise.

Michael Georges inquired as to what other parts of the world do when they decommission? Mr. Carney stated that the decommissioning and bond is similar throughout MA. In other areas, there is not a stand-alone agreement to post a bond but rather an agreement to uninstall

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TOWN CLERK
17 AUG - 1 AM 10:21
MILLBURY MASS

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at the end of the array's useful life. The equipment does have value and scrap value can be more than the cost to take the equipment out of the ground.

Edd Cote has issue that the Board signed a document that doesn't mention a \$25,000 deposit. Mr. Cote would like a twenty year bond, but knows the owners can't get it. Brendan Gove stated that the decommissioning bond says that ZPT shall provide a surety bond reasonably acceptable to the Town. The bond is \$18,338 which does not include salvage value.

It is Laurie Connors' understanding that if there is a mortgage, the bank can agree to set aside a sum of money and honor the obligation if there is a default. The Town has had some success in the past. After much discussion Ms. Connors suggested that the Town receive \$5,000 in cash and the rest in surety. Mr. Connors agrees that there is a certain amount of recycling value as well.

Chairman Gosselin suggested a letter be put in place with the Town as the first obligee. Mr. Gosselin suggested that Ms. Connors work with Mr. Carney to draft an agreement in order to address the Town's concerns. Laurie Connors would like a \$5,000 guarantee and the corporate letter. Edd Cote would like to see a letter outlining the agreement.

Terry Burke Dotson made a motion to accept \$5,000 in cash and the remaining \$13,338 in surety bond along with the corporate guarantee, seconded by Paul Piktelis, voted unanimously.

7:30 p.m. Casa Verde Lot Releases and Performance Guarantee

Laurie Connors informed the Board that she has received a cashier's check for the full amount of the cost estimate covering lots 73-89 on Westview Avenue. Taniel Bedrosian, developer at Casa Verde, came before the Board requesting a release of covenant for lots 73 - 89 Westview Avenue. Mr. Bedrosian also requested a request for reduction of surety as gravel base for parking spaces has been installed, drainage is partially installed, water main service connections are completed and electrical and telecommunication conduit is installed along Westview Avenue.

Edd Cote made a motion to accept a check in the amount of \$304,044 and grant the release of covenant for Lots 73 – 89 Westview Avenue, seconded by Paul Piktelis, four members voted in favor, Terry Burke Dotson abstained.

Edd Cote made a motion to release \$77,209 from surety leaving a balance of \$504,059 regarding work performed on Westview Avenue station 0+00 to station 8+50, seconded by Paul Piktelis, four members voted in favor, Terry Burke Dotson abstained.

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7:40 p.m. Jessica J. Drive Extension Lot Release and Performance Guarantee

Robert Vigneau, developer of Jessica J. Drive Extension came before the Board requesting a release of surety. The Town's engineering firm, Stantec outlined the costs for remaining work and recommended the release of \$162,959 leaving a balance of 435,301.00.

Edd Cote made a motion to reduce the performance bond by \$162,959 such that the amount left for completion is \$435,301, secured by performance bond deposit dated September 30, 2017 and recorded in Book 56073, Page 223, seconded by Paul Piktelis, voted unanimously.

7:50 p.m. Stratford Village Lot Releases and Performance Guarantee

Laurie Connors informed the Board that there was some correspondence back and forth with the developer with regard to lot releases and a letter of credit. It is Ms. Connors' understanding that the Town would be getting a check for a performance guarantee rather than a letter of credit. While Town Counsel had accepted the letter of credit previously, Ms. Connors does not recommend going that route.

Jeff Taylor of Keystone Development would like to get the clubhouse built and is only asking the Board to release that unit. Edd Cote inquired if there was enough in the original release to cover the cost. Laurie Connors spoke with the Town's engineer and the Town does not usually get a performance guarantee for a building that is typically associated with the road. Ms. Connors is not opposed to allowing this and will write a clarification letter.

Edd Cote made a motion to release the lot for the clubhouse for Stratford Village, seconded by Paul Piktelis, voted unanimously.

Other Business

Mail

The Board received a letter from Anna Lewandowski announcing that her three year term with the Earth Removal Board is expiring. Ms. Lewandowski served on that Board as a representative of the Planning Board. Ms. Lewandowski suggested that one of the members of the current Planning Board serve on the Earth Removal Board or take the opportunity to appoint a different representative that might be interested in serving. They meet once per month typically. Edd Cote thanked Anna for serving nine years on that Board.

Laurie Connors will post the open Planning Board associate member position as well as the Earth Removal Board member position on the Town website.

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Edd Cote made a motion to accept the minutes of April 24, 2017, seconded by Paul Piktelis, voted unanimously.

Edd Cote made a motion to accept the minutes of May 1, 2017, seconded by Paul Piktelis, voted four members in favor, Richard Gosselin abstained

Edd Cote made a motion to accept the minutes of May 8, 2017, seconded by Paul Piktelis, voted unanimously.

Edd Cote made a motion to accept the minutes of May 22, 2017, seconded by Paul Piktelis, voted unanimously.

Laurie Connors informed the Board that the Attorney General's office disapproved Article 4 of the January 3, 2017 Special Town Meeting having to do with the methadone clinic. The Attorney General disapproved Article 4 because it is inconsistent with the Massachusetts Zoning Act, potentially the Americans with Disabilities Act, the Rehabilitation Act and the Fair Housing Act, in its differing treatment of facilities that serve disabled persons. The Zoning By-Law proposal will therefore not be incorporated in the Millbury Zoning By-Laws.

Adjournment

Paul Piktelis made a motion to adjourn, seconded by Edd Cote voted unanimously. Meeting adjourned at 8:25 p.m.

Respectfully submitted,

Michelle T. Desorcy

ATTEST:



The block contains three horizontal lines. The top line has a signature that appears to be Paul Piktelis. The middle line has a signature that appears to be Edd Cote. The bottom line is empty.



TOWN OF MILLBURY

DEPARTMENT OF PLANNING & DEVELOPMENT

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL. 508 / 865-4754 • FAX. 508 / 865-0857

PLANNING BOARD AGENDA

June 12, 2017

- 7:15 p.m. Solar Farm, Valente Drive - Decommissioning Surety Bond
- 7:30 p.m. Casa Verde Lot Releases and Performance Guarantee
- 7:40 p.m. Jessica J. Drive Extension Lot Releases and Performance Guarantee
- 7:50 p.m. Stratford Village Lot Releases and Performance Guarantee

New Business:

Other Business:

- Mail, Minutes, Vouchers
- All business not reasonably anticipated to be discussed

RECEIVED
TOWN CLERK
17 JUN -9 AM 9:27
MILLBURY, MASS

SIGN-IN SHEET

Solar-Valente Drive
Date/Time 6/22/17 7:15 p.m.

NAME	ADDRESS	I WISH TO SPEAK	
		YES	NO
1 Brennan Boe			
2 Jake Curvey	309 E County Road Rutherford, NJ	<input checked="" type="checkbox"/>	
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SIGN-IN SHEET

Casa Verde
Date/Time 6/24/17 7:30 p.m.

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SIGN-IN SHEET

Jessica J. Davis, Ext.
Date/Time 6/21/17 7:40 p.m.

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		YES	NO
1 Bob Dyre			
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SIGN-IN SHEET

Date/Time 6/12/17 7:50 p.m.

NAME	ADDRESS	I WISH TO SPEAK	
YES	NO		
1	JEFF TAYLOR		
2	KEYSTONE		
3	42 PUEBLO		
4	STANFORD VILLAGE		
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