

TOWN OF STOW  
PLANNING BOARD

Minutes of the January 8, 2013 Planning Board Meeting

Planning Board Members Present: Steve Quinn, Ernest Dodd, Lori Clark, Len Golder  
Absent: Kathy Sferra

Absent - Voting Associate Member: Brian Martinson  
Non-Voting Associate Member: Mark Jones

Lori Clark called meeting to order at 7p.m.

**Correspondence Update:**

**Member Updates:**

**Center School**

Steve Quinn reported that the School Building Committee has approved the use of all funds. He said there are a few disputed claims over expenses with the contractor, but that at some point there will be a settlement between the Town and the contractor to resolve the issues.

**Linear Signs**

Steve Quinn and Lori Clark agreed that the size of the new shopping center signs are not as much of an issue as the apparent lack of quality materials being used.

**Discussion of Meeting Minutes:**

*Minutes of 12/4/12*

Ernie Dodd Motioned to accept the minutes as amended.  
Steve Quinn seconded.

**VOTED (3-0) Unanimously in favor (Lori Clark, Ernest Dodd, Steve Quinn)**

*Minutes of 12/11/12*

Ernie Dodd moved to accept the minutes as amended.  
Steve Quinn seconded.

**VOTED (3-0) Unanimously in favor (Lori Clark, Ernest Dodd, Steve Quinn)**

**Coordinator's Report**

**Lower Village Water**

Karen Kelleher reported that she and Jesse Steadman met with Hydrologist Jay Billings of Northeast Geoscience Inc. in an effort to expedite and facilitate the process of defining a scope of work for a privately owned public water supply at

Heritage Lane. Karen Kelleher said Jay Billings prepared a proposal for scope of work that was sent to the south side of route 117 property owners. The south side property owners are also in talks with another engineering firm and can use this proposal as a template for a request for proposal.

Rich Presti, a Lower Village property owner, will be meeting with the Board of Selectmen to discuss the need for a public water supply in Lower Village. Karen Kelleher plans to attend the meeting.

### **323 Great Road**

Karen Kelleher said the Planning Board is on the Selectmen's agenda to discuss the potential Town benefits of purchasing the 323 Great Road property.

### **Budget**

Karen Kelleher said she has budgeted \$150,000 dollars for design funds for the Lower Village traffic planning effort. Karen Kelleher said her intent is to aim for a high number so we will be eligible for an FY14 MassWorks Grant. Alternatively, if we do not gain support we could request a reduced number for preliminary design funds and either seek grant monies for the final design or go back to Town Meeting next year.

### **Economic Development**

Karen Kelleher noted that several Stow business owners will be meeting on Thursday regarding the makeup of a potential economic development committee.

### **MAGIC Meeting**

Karen Kelleher reported on the transportation focused MAGIC meeting attended the week before. She said that although funding through the Transportation Improvement Program seemed like an opportunity for the Lower Village effort, the typical scope of projects funded through the program are larger and the earliest funding round for a new project at this point would be in 2017, provided that the project would even get on the list.

### **UMASS Graduate Project regarding Gleasondale Mill**

Karen Kelleher described her meeting with John Mullen and Bob Mitchell regarding potential for a student project focused on revitalization and feasibility of redevelopment for Gleasondale Mill. Karen Kelleher said John Mullen will be writing up a scope and figuring out what kind of funding the Town may need to come up with. Karen Kelleher said he mentioned that local banks who do business with the Town are supposed to contribute a certain amount to the community they serve and could offer another funding source for the project.

## **Discussion Item:**

### **Delaney Street Solar – Decommissioning Escrow Agreement**

#### *Escrow Amount*

The Board discussed Renewable Energy's proposed escrow amount. There was consensus among the Board that the salvage costs should not be accounted for in the escrow discussion because it is questionable if the Town could not sell the materials even if they had to remove them. Ernie Dodd said that lowering the interval of review time to five years could allow the Board to get a better estimate of what removal costs would be and could also allow the Board flexibility in negotiating the final escrow amount. Ernie Dodd said that a 25% increase over the estimated removal cost, rather than the full 50% increase as stated in Stow's Solar Rules and Regulations, could be a better amount if accounting for inflation and commodity price shifts. Len Golder said that technology could change and there could be some depreciation in salvage value.

#### *Brian Kopperl of Renewable Energy Massachusetts joins the meeting:*

Brian Kopperl reviewed Syncarpha's response to Quinn Engineering's review of Deloury Construction's cost removal estimate. Brian Kopperl said that an installation in Beverly, Massachusetts is still going strong 30 years from its original construction. Brian Kopperl noted that one option they could discuss to give added security to the Town, is an escrow amount that appreciates over time. Brian Kopperl reminded the Board that the applicants have added a significant premium after salvage costs to get to the beginning offer of \$150,000 for the escrow.

Lori Clark said that one concern of the Board is that the property that could be potentially salvaged will not actually be owned by the Town and may present legal obstacles if they were to attempt to salvage the materials themselves. Lori Clark said that being unfamiliar with the process of salvaging, the issue seems risky for the Town. Brian Kopperl responded saying that the contract could be written to allow the Town to remove the facility, and at that moment of removal, gain ownership of the properties located therein.

Brian Kopperl said that it is good security that it is both Syncarpha and Teradyne that would have to fail in responding to removal before a Town sanctioned salvage were to take shape. He said that in thirty years Teradyne will definitely have an interest in the property and there will be significant incentive to clean it up.

Ernie Dodd said that they are unsure of what businesses will still be in existence. Although Teradyne may have the best intentions the Board is unsure what the future may hold. Brian Kopperl said that there still would be a binding agreement for successors and assigns to safeguard the Town. He added that the salvage items to be scrapped are typical and base items such as copper and steel and they did not include the panels

Lori Clark relayed to Brian Kopperl that if the Town were to discount the salvage amount when considering a final escrow amount, and reduce the interval of cost removal reviews, the Board believes that there may be some negotiation potential regarding the fifty percent increase to the final amount necessitated by the Solar Rules and Regulations. Brian Kopperl said that there is definitely volatility in commodity pricing, so he understands the concern. Ernie Dodd said regardless of the price, as long as it is covered in the contract that the Town can step in and take over if the other interests fail, they should be able to come to some agreement. Brian Kopperl said that that was a reasonable provision to add.

However, Brian Kopperl said, it is difficult to get Deloury to come up with a number, especially multiple times due to the long time frame of the proposed work. Ernie Dodd said that they would agree to the \$150,000 escrow amount if they could get the review interval lowered to five years. Lori Clark agreed that as long as the five year interval was in place she could also agree to \$150,000. Brian Kopperl responded that, cost for a review is definitely an issue to consider, but perhaps the five year review interval could take into account the commodity prices and labor rates rather than a full blown estimate, which is much more money.

Lori Clark expressed hesitation about agreeing to a ten year interval of the full removal costs. Brian Kopperl said that it was hard to get the estimates in the first place on such a future minded project, adding that the commodity pricing is tied to third party estimates and could be viewed as objective by the Town.

Ernie Dodd said that every five years they could get commodity pricing and every ten years they could look to government documents that discuss salvage costs. Len Golder said that there may be other variables that they are not thinking about. He would be OK with five year intervals but is uncomfortable with a ten year number.

After further discussion of future salvage costs, Ernie Dodd said that he could agree to a commodity and labor cost evaluation every five years with a full evaluation every ten if there is a condition that allows the Board to call a review of the agreement if the inflation seems to be rising beyond a sustainable number.

Lori Clark said that she is concerned as to what would trigger a reassessment. Steve Quinn said that if they had the 150,000, which is close to double the salvage amounts, and the Town assumes they can receive an average inflation of 5% over ten years, they would still have 25,000 over today's price even with five percent a year growth. He added that despite the risk of inflation spikes the Town would still have enough in the escrow to buffer them from risk until the next five year assessment.

Brian Kopperl said that a 4% inflation would be more realistic, since the current rates are hovering around 3%. Brian Kopperl clarified that the Town could assume

a 4% percent cost increase per year and then do a full estimate after ten years to gauge whether or not rate needs adjustment. Brian Kopperl added that labor and commodity pricing would be assessed after every five years using consumer price indexes, with a total evaluation after ten years. Len Golder said that ten years is too long. Brian Kopperl specified that at the five year review the inflation rates can be adjusted to reflect current inflation. Steve Quinn said that even if it does jump they could still have enough security and cushion to absorb it.

#### *Escrow Agreement*

Brian Kopperl reviewed comments from the Board regarding the latest term sheet language for the escrow agreement, agreeing to use an agreement rather than a term sheet and remove any reference to the lease between Syncarpha and Teradyne. In regards to the draft removal plan, Ernie Dodd said to add in stipulation that allows the Town to remove any aspect of the project that fails to be mentioned in the plan. Ernie Dodd and Brian Kopperl agreed that a phrase similar to “at the time of execution of the removal plan the board will review it for acceptance.”

Brian Kopperl relayed to the Planning Board that Teradyne reacted strongly to implications of funding two escrows, and asked that language allowing the Town to pursue “additional costs or legal action against the property owner” be changed to the “the applicant,” so as not to damage the feasibility of the project. Ernie Dodd said that they could take it up with Town Counsel John Witten. Regarding the purpose of the Escrow, Ernie Dodd said that the removal is what the escrow is for and will not be for any other ancillary issues. Lori Clark said that escrow’s are typically very specific.

Brian Kopperl asked what form they would like the money to be held in to decide its appreciation and growth. Karen Kelleher said the only issue is having access to the funds agreed upon. Karen Kelleher said she can connect Brian Kopperl will with the Town Treasurer for guidance.

In regards to the sidewalk easement on the property, Ernie Dodd remarked that the Planning Board is looking for a simple sidewalk easement that does not contain any language that allows the sidewalk easement to expire. The Board would like a sidewalk easement that allows the Town to have permanent easement access for the construction of a sidewalk.

Before a motion was voted on, Len Golder stated he would prefer an inflation rate of 4.5% or 5% for additional security. Lori Clark and Ernie Dodd disagreed, believing the 4% rate would provide sufficient security.

Members agreed that an escrow fund amount of \$150,000.00, which represents a 100% mark up, is acceptable provided that at five years the amount will be evaluated by reviewing the government commodity pricing indices, as a proxy for

commodity pricing, compared to the original estimates and current inflation rates as compared to the 4%. Any necessary adjustment would be applied to years 6, 7, 8, 9 and 10; and at each 10 year interval a full re-estimation will be made with adjustments applied to the new 5 year interval

*Ernie Dodd moved to accept an escrow fund of \$150,000 subject to an assumed annual 4% inflationary rate, where every five years commodity pricing and labor costs are re-evaluated and adjusted based on the consumer price index for salvage costs and inflation for labor costs ; and where every ten years a full re-evaluation of the cost removal estimate is performed.*

Steve Quinn seconded the motion.

**VOTED (4-0) Unanimously in favor. (Lori Clark, Ernie Dodd, Len Golder, Steve Quinn)**

Mark Jones asked if the contract could be discontinued. Brian Kopperl said that it would be difficult to imagine a scenario with current economic scenarios.

Steve Quinn asked when the solar installation would be operational. Brian Kopperl said with final negotiations taking place now, perhaps July or August would be a realistic time frame.

### ***Planning Board / Board of Selectmen Joint Board Meeting***

#### **Lower Village Water Discussion with Board of Selectmen**

**Present** – Rich Presti – Karen Kelleher

The Board moved to a joint boarding with the Board of Selectmen.

Karen Kelleher described recent economic development discussions in Town, including an upcoming meeting on a potential economic development committee. She noted that one of the main priorities of economic development work is ensuring a public water supply for Lower Village businesses.

Karen Kelleher reported that three of the property owners on the south side of route 117 have come together to discuss the potential for collaborating on a privately owned public water supply. Karen Kelleher noted that they will be working on gaining proposals from three different engineers. Karen Kelleher said that fixing the water issue has been noted as a Planning Board, Master Plan and Selectmen priority.

Rich Presti, a south side Lower Village property owner, said there has not really been a debate about water until this point, and that the present discussions with the

Town have helped move things forward. Rich Presti said that the main question he is proposing is whether the Town could agree to offer Conservation Commission land to site a privately owned public water supply to service the south side of route 117 with reasonable daily flow expectations. He said that there has been support due to the cost of having this effort taken up by the private sector. Rich Presti said the property owners discussing the matter still need to find a water company to step in and operate the well. He added that there is tremendous momentum to support the effort privately if the Town made the land available.

Rich Presti said that he had been talking to a tenant for a high end restaurant that would require roughly 3,500 gallons per day for a 100 seats, causing him to use up nearly one third of the property on a zone 1 public water supply radius which would strip that portion of land from future uses. Rich Presti said that water access opens up opportunities for his site as well as the Town. He added that redevelopment could offer some longer term jobs and offer services on his property that right now exist only in Maynard. Lastly Rich Presti said that his taxes could be four or five times higher. Rich Presti explained that in the past he has lost his biggest tenant to issues largely about water. Rich Presti reported that the potential restaurant owner will now be locating in Sudbury, adding that it is no one's fault, there is just no water.

James Salvie said that the lack of water in Lower village is a serious restriction and that there is no way a single landowner can have a Zone 1 on one of their properties and service the rest of the landowners. Selectman Salvie said that the Conservation Commission will be meeting later this month to have an important discussion regarding the feasibility of locating the site at Heritage Lane. He added that the Board of Selectmen should support this effort because he sees that it is a turning point in the Lower Village effort.

Bill Wrigley, Town Administrator, said the Board of Selectmen need to be ready to submit a warrant to Town Meeting and the Conservation Commission needs to come to a decision sooner than later. Bill Wrigley said if the Town is not in position to offer the land at Heritage Lane, it is not meaningful to spend any engineering dollars from the businessmen's perspective. Bill Wrigley said a simple Conservation Commission vote could move the process forward to a vote at Town Meeting. At that point, Bill Wrigley said the Town can undertake the article 97 process. Selectmen Salvie said he plans to go to the Conservation Commission meeting.

Bill Wrigley said if the Selectmen and Conservation Commission are supportive, he believes that the Town will not have an issue. Rich Presti said they are funding the engineering on site limitations, including costs, but are just asking for help on land and leases from the Town. Bill Wrigley said the state offers long term low interest loans. He confirmed that those loans could be made available to the private sector for the process of obtaining a public water supply.

## **Discussion of 323 Great Road**

*Present – Lori Clark, Karen Kelleher*

Lori Clark explained the Board's discovery of the 323 property on the market. She said it is a unique and uncommon opportunity that can be used for a number of pressing uses; adding that in the past the Town has voted down land opportunities only to pay more to those uses in the future.

Charlie Kern asked what Town problem could be solved by purchasing the property. Lori Clark said that a public water supply, serving Town Center municipal buildings could be the best option. Lori Clark said that interim housing for the Fire Station has also been cited as a pressing use. Karen Kelleher said that the Public Water Supply Zone 1 potential is a big opportunity due to new developments on the horizon.

James Salvie asked how the process of discussion should move forward. Karen Kelleher said that is common for the Town to wrestle with these kind of issues across boards and that perhaps a representative from different boards would be appropriate. James Salvie asked if the Planning Board would be willing to form a task force.

Gary Bernklow asked about the findings of a land banking committee from a few years back. He added that perhaps there is a protocol to discuss these issues from that. Lori Clark said that this seems to be a unique situation that should warrant a cross-board discussion. James Salvie encouraged the Planning Board to utilize the Community Preservation Committee in any proposed task force. Putting forth possible uses does not seem to be enough to go to Town meeting said James Salvie. Don Hawkes asked if there was any private interest so far. Ernie Dodd said the First Parish Church has discussed the possibility of a land swap to allow access and possibly relocate the parsonage.

Jim Salvie said that the Planning Board, Selectmen, Stow Municipal Affordable Housing Trust, Community Preservation Committee, Open Space Committee and Conservation Commission would be a good start for gaining representatives for a committee.

Lori Clark said it should probably happen sooner rather than later. Bill Wrigley said that there may need to be an appraisal done. Charlie Kern added that perhaps that could be done using funds from the engineering account. Jim Salvie said perhaps the first thing to be done is to get the owner to give the Town the option to get past Town meeting. Lori Clark said they can work to pull together a committee. Bill Wrigley said that just having someone following this issue day to day will be necessary to get this process moving forward.

Hemenway Farm Preliminary Plan Decision Review:

The Planning Board went through the decision page by page.



Karen Kelleher noted that Kathy Sferra suggested changing the reference defining the trails as proposed for public access, however the Applicant did have an opportunity to review the language and did not object.

#### *Stormwater Runoff*

Mark Jones asked if it is possible to impound more water than the state regulations ask for. Ernie Dodd said that can be addressed through the rules and regulations.

Rich Harrington said there is a three foot pipe near the automotive establishment on Hudson road with a channelized stream flowing from it. Ernie Dodd said that they could require more retention basins if necessary to prevent downstream issues.

#### *Traffic*

Regarding the single access Hemenway Farm Lane, Lori Clark suggested quoting the bylaw regarding the regulation about 250 vehicle trips.

Lori Clark asked what the Board's stance on traffic is. Ernie Dodd said that he does not think a traffic study is needed as the road is wide enough from the proposed lane down Walcott Street to Hudson Road. Ernie Dodd said he does not believe the sight distance is an issue if taking a left hand turn on Walcott street. Steve Quinn said we are also asking for an easement if any width issues arise along Walcott to Hudson Road.

Lori Clark said that the decision should include the data and logic to back up the Board's decision to not require a traffic study. The Board should make it clear said Lori Clark, that the ten trip per day estimate and the location of the increase in traffic is the reasoning behind the condition. Rich Harrington said that the development impact statement also includes data on traffic at different times of day.

Len Golder asked if the 250 trips per day necessitated a traffic study. Karen Kelleher said that if it is not likely to change the level of service it would not be necessary.

#### *Lighting*

Lori Clark asked how the applicants are planning to communicate the lighting bylaw to homeowners. Steve Quinn said that it is tough to comply with the bylaw because it is nearly impossible even find a full-cutoff fixture for residential homes.. Lori Clark said that because lighting is in the Bylaw and residents spoke out about the issues, she thinks that lighting needs to be addressed.

Len Golder thinks the condition as written is fine. Perhaps we should make sure no lights are becoming a nuisance and shining on other properties.

Karen Kelleher pointed out that the requirement for full-cutoff fixtures applies to fixtures with a light output of 2,000 lumens or more. Steve Quinn noted that a typical 1 light spotlight is 1,500 lumens.

Lori Clark and Steve Quinn said the condition should state compliance with the bylaw.

#### *Affordable Units*

The Planning Board agreed the issue of the location of the affordable dwelling units can be dealt with at the definitive stage.

#### *Hemenway Farm Lane*

Ernie Dodd asked about the need for curbing on the proposed roads, adding he would prefer not to see them. Rich Harrington said the applicants will take a look at it at the definitive plan stage and see if they can go without the addition of swales.

#### *Sidewalks*

Lori Clark said that a sidewalk fund contribution may be appropriate after consideration of standards for the proposed trails and the difference in potential costs.

Mark Jones asked that if in the future the planning board could say that a public water supply is allowable on Town owned open spaces as created in a planned conservation development.

Ernie Dodd moved to approve the notice of decision and decision as drafted and amended.

Steve Quinn seconded.

**VOTED (4-0) (Lori Clark, Ernie Dodd, Len Golder, Steve Quinn)**

Meeting Adjourned 10:20

Respectfully Submitted,

Jesse Steadman