

Oak Bluffs Planning Board

Meeting Minutes

January 28, 2016 at 5:00 p.m. in the Oak Bluffs Library Upstairs Meeting Room

Members in attendance: Robert Fehl (Vice Chair, acting Chair), Erik Albert, Kris Chvatal, Ewell Hopkins (arrived 5:10), Brian Packish (remote)

Members absent: none

Staff in attendance: MacGregor Anderson (Clerical Assistant)

Chairman Robert Fehl called the meeting to order at 5:00 p.m.

He announced that Member Packish was participating remotely due to geographic distance and that votes would be roll call.

Windermere/Hospital Road: discussion and vote to recommend Town Way adoption plan to Selectmen for Town Meeting warrant article

Sean Murphy representing the Martha's Vineyard Hospital presented the Board with the proposed warrant articles and the plans that went with the articles. He said they needed three votes at Town Meeting. The first was to accept the new Hospital Road, the second was to discontinue the old Hospital Road, and the third was to discontinue a portion of Windermere Road that runs to the East.

Mr. Murphy said they had been before the Board a couple times including in the summer so seasonal neighbors could participate. He said there were several issues raised at those meetings. The first was the curb cut to Beach Road. The second was the drainage in the corner of Windermere in green and brown on the plans. Another issue was the height of lights which were too high according the MVC. The final issue was signage coming off of Beach Road so people could figure out it led to Windermere and not just the Hospital.

Chairman Fehl asked if these were the only changes since the last discussion. Mr. Murphy said yes with the exception of an e-mail forwarded to him by Mr. Anderson from a neighbor that made excellent points about maintenance of the wall, fencing and lights. He said he added that into the road taking warrant article to provide for perpetual Hospital responsibility for that maintenance.

Member Fehl asked about liability if there were an accident on the road. Mr. Murphy said if it were a defect in the road the Town would be responsible, but if a light pole fell over the Hospital would be responsible.

Mr. Murphy said Rich Combra, Highway Superintendent, would put the signs in and bill the Hospital. All the lights have been lowered and certified by the MVC and Mr. Barbadoro. John Lolley had fixed the failed drainage system. John Lolley had also worked with DOT on the curb cut, which was permission from the Mass Department of Transportation to access a state road. It did not speak to the road itself. The curb cut had now been signed off on, something that was missed by the original contractor.

John Lolley then presented the permits and requests in detail to the Board. He noted that Patrick King had alleged that the curb cut was for residential not Hospital use. Robert Rund and Mary Joe Perry of DOT told him the predicted volume of traffic obtained from a traffic study determined the curb cut. The use is irrelevant. He said the traffic study from the original project was sent back to DOT and the curb cut was designed by DOT. The DOT had recently come out, inspected the cut and signed off.

Chairman Fehl asked Member Packish for his input, and he agreed that all the items had been addressed. Chairman Fehl instructed the Board that the Hospital was looking for a recommendation to the Selectmen that these proposed warrant articles be brought to Town Meeting. Member Albert made a motion to recommend the articles to the Selectmen.

Mr. King said "Point of order. I would like to give dates and times...when people can {inaudible}..." Member Fehl said this was not a public hearing and they would leave that open for a while.

Member Chvatal seconded the motion. Member Packish advised the room that any concerns would be addressed in a public hearing after it left the Selectmen. Mr. Anderson advised Chairman Fehl that the he thought the Planning Board would not be holding a hearing. Chairman Fehl said the Board had 45 days to respond after it came back from the Selectmen. Mr. Anderson clarified that the meeting tonight was to petition the Selectmen. When that happens with a road, the Selectmen refer the plans to the Planning Board which has 45 days to write a non-binding recommendation to Town Meeting. He saw no requirement for a hearing from the Planning Board. However, the Selectmen had a "whole host of requirements" involving public outreach.

The vote was Albert-yes, Chvatal-yes, Fehl-yes, Hopkins-yes, Packish-yes to recommend the articles go to Town Meeting.

Mr. King said he had done warrant article before, and asked where the 45 days fit in to the schedule. If it happened on February 25 for instance would there be time. Member Packish said they would not need to take 45 days and could move faster.

Oak Bluffs Water District: preliminary site plan review for Alwardt solar array

Member Hopkins described the proposed 9500 panel solar array from the Water District. He said he had discussed a number of issues during a meeting with the Water District including visual impact from roads and the narrow funneling corridor that would be created along public access to homes in the area. They had discussed re-routing the road. No decisions were made, people were comfortable with the concept, but fencing and placement were concerns. Member Hopkins said they weren't satisfied with standards for abutter notice and wanted everyone who used the access to be notified, which he expected would happen.

George Sourati presented the plans to the Board beginning with the locus map showing the vicinity of Alwardt and Barnes. The plans had been modified in response to the ZBA meeting of several weeks ago. Member Albert asked the height of the fence. Mr. Sourati said it could be discussed but six feet was required for safety. He showed the area that would be clear-cut, and discussed the 150 foot radius for transformer noise emission which remained on site. The array had been moved at the request of the

fire chief to avoid a dead end and have a 60 foot radius for trucks. The plans called for a bend in the road and vegetation to prevent a sight line to the project, which Member Hopkins noted was in response to the ZBA meeting.

The Board reviewed the panel placement and clearing relative to the paved road. Member Chvatal asked about clearing, and Mr. Sourati said 50 feet North and 150 feet South. This would result in 20.5 acres total cleared. Member Hopkins asked for clarification on stump removal which was to be only partial. Member Albert asked about seeding, which Mr. Sourati explained. Member Chvatal asked about lighting, of which there was to be none specific to the project.

Mr. Sourati said the entire project fell within National Heritage, noting their siting request was keeping it away from the State Forest. Member Hopkins said this explained why siting wasn't further from neighbors. Member Chvatal asked about FAA requirements. Mr. Sourati said there were none. Member Hopkins noted there was no reflective component to the panels.

Mr. Sourati said the DEP had recently allowed solar panels in Zone I. The project would go to the DEP after local review. Member Hopkins asked if they could move the road along Goodale's to the bike path so neighbors weren't being funneled between two industrial sites. Mr. Sourati said the DEP would not allow a new road there because it was within Zone I.

The Board discussed panel angles with the applicant. Lexi Barlow of Blue Wave said they were maximizing sun and minimizing wind load. Mr. Sourati noted the panels were installed with augers and no concrete would be used. He showed how the panels were shifted to reduce visibility from the road.

Chairman Fehl asked what the applicant was looking for from the Planning Board. Ms. Barlow said they were interested in upfront comments. She noted the numerous stakeholders: MVC, ZBA, DEP, NHESP. They had taken comments from the SPRC and incorporated them into this plan, and wanted to get to a final plan and move forward with it. The plan was really driven by NHESP and comments from abutters.

Kevin Johnson explained that the primary use of the well site was providing water to the town. The use of that land was limited. The commissioners felt with rising energy costs that a solar plant would be non-polluting and help offset energy costs to the Town and the Island. The goal was to maximize use of the property and provide the maximum benefit. The Water District could also use the savings to partially offset \$17.5 million in future capital expenditures.

Member Fehl asked the lifespan. It was 20 years. He asked about decommissioning, and was told it was in the plan as required by the by-law and that a bond would be included. Member Albert asked if power was available from the site to the site but it was not as it went into the grid.

Jack Collins said the MVC was not familiar with the Oak Bluffs solar by-law, and suggested the Board tell the MVC that the town could manage the process without their assistance. Member Chvatal said when he wrote the by-law it was done robustly in order to not subject projects to DRI review. He said he would be in favor of Jack's suggestion.

Pat Mark said she thought the project should be a DRI, feeling that property values would be impacted. Member Chvatal said the law in Massachusetts allowed local governments to massage the plans but they were not allowed to deny them.

Ms. Barlow said the new plans were designed so neighbors would not see the panels from their properties. The old plan could have been visible from backyards.

Chairman Fehl said he felt it was a win/win. Member Hopkins said the screening enhancement on the North East corner especially was a big improvement from the first plan. He had supported moving the road but they were told why it could not be done, and the potential move to the west had been blocked by National Heritage.

Member Albert made a motion to write a letter to the MVC saying that the Planning Board felt the project did not warrant a DRI and that Oak Bluffs had zoning in place to handle the review. Member Hopkins asked to highlight the next steps to justify the request. Member Fehl said he liked the idea. Member Chvatal said you could cut and paste from the zoning by-law. Mr. Anderson explained to the Board that it would be difficult for him to write the letter detailing specific steps especially given his workload with Southern Woodlands. He felt a general letter referring to the other review bodies would be workable. Member Chvatal recused himself from the vote because of his role on the ZBA.

Member Packish noted that the site plan review would be an opportunity to address the concerns of the neighbors but that he was comfortable writing a letter so long as it was clear it wasn't an approval.

Member Hopkins noted the LUPC had decided not to make a recommendation on DRI status to the full commission.

Member Albert made a motion to write a recommendation to the MVC that the project not be a DRI because of the zoning by-laws in place. Member Hopkins seconded. The vote was Albert-yes, Chvatal-abstain, Fehl-yes, Hopkins-yes, Packish-yes.

Oak Bluffs Water District: update on new town well siting

Member Hopkins said they had a meeting that day with the Land Bank, the water authority, three Selectmen and the Town Manager discussing short and long term water planning. He said they needed to balance the needs of the water authority with planning and impact on future development. The water district presented a proposed new well site at this meeting.

Member Hopkins displayed a map detailing the site as well as current Zone II areas. He stated that the area he was indicating on the map on Edgartown Vineyard Haven road was not currently in Zone II but would be with the new site. He said west of the High School was untouched but east would be impacted. The seven acre parcel adjacent to the hockey rink, which opened up to the donut-hole swap land, was already in Zone II.

Member Hopkins said ideally those present would like to see the well put in the State Forest, but there were a lot of challenges to that. He also said that the ownership of the proposed well siting lot was disputed between the Land Bank and the Town. The Town would be investigating this and challenging

the Land Bank regarding title. The Selectmen and Town Administrator wanted a collaborative process with the Planning Board assessing the Zone II impact and the Selectmen deciding the Town's position on the proposal.

Mr. Barbadoro asked how much of Zone II would impact Southern Woodlands. Mr. Hopkins said it would cut it in half. Member Packish explained that the large lots in the development along with the agreed bedroom count meant Zone II restrictions would not impact them. Member Chvatal asked Mr. Barbadoro what Zone II restrictions included. Mr. Barbadoro said the septic restrictions were one bedroom per 10000 square feet. Mr. Anderson said it was 440 gallons per acre per day. Mr. Chvatal said it was mostly R3 in the area where lots were large.

Member Hopkins said he was uncomfortable increasing capacity without addressing conservation, despite the challenges of a transient population in the summer when the conservation was most needed.

Peter Bradford, member of the Affordable Housing Committee, speaking on his own behalf as the committee hadn't discussed the subject, noted the housing crisis in Town. He said 40% of the town's density was controlled by water rather than zoning and that a large number of 10,000 square foot lots had become one bedroom homes under Zone II. This made it financially unfeasible to build on them. He thought it was unimaginable to increase Zone II areas given the housing crisis. He asked that the Water Department work with the Board of Health and Wastewater to fund sewer infrastructure in Zone II areas. He asked that no new Zone IIs be created without sewerage first, and for the Water District to work with the Board of Health by financially supporting a hydrology study to provide accurate Zone IIs to the DEP. He also added that part of the proposed donut-hole swap by the ice rink was not in Zone II, so septic might be fit outside of the Zone II portion of the lot.

Member Hopkins said the parcel by the ice rink would be entirely within Zone II with the new well, but was already three quarters in Zone II as presented by the Water District.

Marie Doubleday, chair of affordable housing also speaking as a citizen, said she thought the sewer ran up Edgartown Vineyard Haven road, which could make the seven acres a good candidate for affordable housing. She also noted the impact of Zone II on families who can't build enough bedrooms.

Member Hopkins suggested conducting an impact study on the proposed Zone II and providing it to the Selectmen. He did not want to overstep authority.

Richard Toole asked how desperate the need was for another well. Kevin Johnson said his engineers tested capacity by looking at their highest demand day of 3.4 million gallons. They then estimate output taking one of the best producing wells offline, and get 3.8 million gallons. He said that was not a good buffer, especially if there is a fire which can suck a tank dry in minutes. The Norton fire used two million gallons. Mr. Toole asked how feasible it was to stop people from wasting water, and would it help enough. Mr. Johnson said the seasonal community with lots of renters from all over the world and a harbor where people love to wash their boats means conservation efforts go by the wayside here. Conservation efforts in the winter aren't all that helpful. He said lots of irrigation systems are controlled

by landscapers who get paid to mow lawns. He said the timeclocks are regularly set for seven days a week by those landscapers.

Member Hopkins said it had become very clear from the days meeting that the Town would have to step up and take some responsibility for a comprehensive plan including education and conservation. He said the Selectmen and Town Administrator heard the same thing. There were harbor issues and enforcement issues that were outside the Water District's authority.

Town Hall: updates from board members

Chairman Fehl noted that in the last meeting the Board had voted to recommend to the Selectmen against putting the new town hall on the upcoming warrant. He said he had been tasked with developing a survey to determine the needs and desires of the community regarding a possible new town hall. Member Hopkins had been tasked with gathering all information to date and making it available on the web. With that recap complete, he moved on to zoning.

Zoning: Local Comprehensive/Master Plan

Chairman Fehl encouraged everybody to read the 1998 plan saying it was a great plan but outdated in facts and figures. Member Chvatal said he had collected about a dozen comprehensive plans from towns with similar economies. He said he had collected some but not all of the individual department plans including open space, selectmen's strategic plan, a wastewater plan, and one survey. He had spoken with Wellfleet, Harwich, and Tisbury regarding the process. He said the 1997 plan was the best on the Island. Chilmark started one in 2008, West Tisbury had a plan from 1987 and did a survey in 2012, Tisbury started a draft in 2005 and picked it up again a couple years ago. Christine Flynn of the MVC confirmed the status of the other Island towns.

Member Chvatal said Chapter 41 sec 82d spelled out what had to be in local comprehensive plans. He said plans ran from 40 to 200 pages, and were done both in-house and out-of-house. Harwich used a town planner, Wellfleet relied on the Cape Cod Commission, Sandwich used multiple consultants for engineering, planning, and economic research. Eastham relied on a town planner and the Cape Cod Commission. He said it was hard to get a good handle on cost. A "Cadillac" plan would run \$80,000-\$100,000. He wished the Town had a planner as it could be done for little money. He also felt he didn't know all the financing options, whether it could come from the stabilization fund or elsewhere. He said the Board didn't have enough information yet to ask for money.

He asked that the Board have two or three consultants come in to talk about options. He also wanted to get the MVC involved in water, traffic and housing. Chairman Fehl said most of the data was done by the MVC. Member Chvatal asked that the Board not sit on this for another year.

Mr. Anderson asked to contribute to the conversation. He said affordable housing was bottom of the needs list in the 1998 plan, which could help justify a new plan, as it was clearly a bigger issue now. He also noted that the 1998 based survey went to every property owner, and with seasonal property owners outnumbering year-round residents, you ended up with people who do not make this their home directing the plan.

Member Hopkins made a motion that the Board formally start the process of inviting two or three consultants to come present at no cost. Member Chvatal said he would happily serve as the liaison to Mr. Anderson in getting that done. Member Fehl thought it would be prudent to test the waters. Member Hopkins said it was pre-sales and they would come. Member Albert said he thought outside people really got Streetscape done, avoiding roadblocks with conflicting personalities in Town. If this was important to the Town he didn't feel \$100k or \$150k was that much in context. He also noted Streetscape was already a big step toward a master plan. Nobody on the Island had touched Streetscape.

Member Albert seconded. The vote was: Albert-yes, Chvatal-yes, Fehl-yes, Hopkins-yes in favor of the motion.

Chairman Fehl confirmed that Member Chvatal would spearhead the effort. Member Chvatal asked to confirm that he had the full support of the Board in doing so. Member Fehl said he did, but only in what they had discussed.

Mr. Barbadoro submitted copies of a letter on the subject from Renee Balter to the Board members.

Peter Bradford remembered his father creating the 1998 plan, saying it was a struggle creating the plan with only MVC help. He also said he thought the survey only went to voters. Chairman Fehl countered that it had gone to all property owners and 49% of the responses came from seasonal "residents."

Member Chvatal said he thought it was part of his charge to look into financing options and Chairman Fehl said it was too late this year.

Christine Flynn reminded the Board that she and Bill Veno had presented materials to the Board in 2014 and offered her assistance. Chairman Fehl said he expected to rely on the MVC more than ever.

Skate Park: update from Erik Albert

Member Albert presented updated plans for the skate park. He said they had gone before the MV Youth Leadership Council for funding and had moved to round two. He hoped to be building by November or December with a site plan review before then. Cost estimates were around \$200k to \$250k. Member Chvatal said he would love to see more benches for parents. Mr. Barbadoro reminded them that accessibility codes applied with or without a building permit. He asked to review the plan and also suggested hiring an architect. Member Albert said he expected construction documents in the near future.

Board Member Updates

Chairman Fehl felt that all updates had been covered in previous topics and moved on to committee updates.

Committee Updates

Chairman Fehl said that in preparing for this meeting he discovered a need for a factual list of the Board's tasks, projects, irons in the fire, and felt they needed to prioritize that list. Member Chvatal said he felt like there was a shadow board and an open meeting board. He was very disturbed that Member

(Chairman outside this meeting) Packish spent 200 hours in a month on Planning Board work behind the scenes. He said he really liked the work Member Hopkins had done with the water board but it seemed like an excessive number of closed door meetings. Chairman Fehl said Member Hopkins was the Planning Board representative to those meetings and there was no alternative. Member Chvatal said that wasn't his objection, but he felt the preliminary site review should have occurred before the entire Board, the Board could then express their concerns, and the liaison could then work it out. He felt that these things were a fait accompli where he had to judge in a fifteen minute session. Chairman Fehl said the water company had been in front of the Board four or five times and each time the Board had asked them to come back with changes. Member Chvatal asked how many times the solar project had been before the Board. Member Albert and Fehl said this was the first time, and they said they saw his point. Member Chvatal said he knew it wasn't a violation of the Open Meeting Law, but he felt as a Board Member that they all should feel enfranchised.

The meeting was adjourned at 7:04

Documents used in this meeting:

Sign In Sheet

Agenda

Proposed Layout of Hospital Road prepared for the Selectmen May 28,2015 by Schofield, Barbini and Hoehn

Articles A, B, and C with Notes and five photographs prepared by Sean Murphy

Letter from John Lelley to the Oak Bluffs Planning Board dated January 28, 2016 re MassDOT with illustrations

Email from Marc B Jones to the Oak Bluffs Planning Board entitled Proposed Windermere/Hospital Road Plan and Articles for Town Meeting dated January 27, 2016

Letter from Rodney and Daryl Alexander dated January 24, 2016 to the Water Commissioners

Site Plan in Oak Bluffs assessor parcel 54-1 prepared for the Oak Bluffs Water District dated January 14, 2016 by Sourati Engineering Group

Letter from Renee Balter to the Oak Bluffs Planning Board dated August 12, 2015 regarding master plan