

**Holliston Planning Board
Meeting Minutes of January 19, 2012**

In Attendance: Chairman Jack Donovan, Parashar Patel, Jonathan Loya, and Warren Chamberlain (Absent: Geoffrey Zeamer). Also present was Mark Bobrowski, Special Town Counsel.

Call to Order: The Chairman called the meeting to order at 7:00 p.m. in the Selectmen's Meeting Room of Town Hall, 703 Washington Street.

General Business:

Approval of Minutes – 1/5/12

On a motion by Mr. Patel, seconded by Mr. Chamberlain, the minutes were approved as amended.

Approval Not Required Plans

Mr. Patel made a motion to empower the Agent to endorse the following plans:

1. Jennings and October Hill Roads, Holliston Water Department
Prepared by GLM Engineering Consultants, Inc., dated May 31, 2011, and
2. Fisher Street, Kampersal
Prepared by GLM Engineering Consultants, Inc., dated January 16, 2012.

Mr. Chamberlain seconded with all in favor.

Continued Public Hearing: Common Driveway, 2016 Washington Street

The Chairman re-opened the public hearing and noted receipt of a written request for continuance from the applicant's attorney. Mr. Patel made a motion to continue the hearing until 8:00 p.m. on February 16, 2012. Mr. Loya seconded with all in favor.

**Continued Scenic Road and Shade Tree Act Public Hearing
Bullard Memorial Farm, Bullard Street**

The Chairman re-opened the hearing at 7:45 along with Tree Warden, Mark Ahronian and noted that this is a joint hearing of the two authorities under the Massachusetts Scenic Road and Shade Tree Acts. He indicated that because of Mr. Zeamer's absence, the hearing would be continued without any discussion so that Mr. Zeamer could participate in the decision. Atty. Bobrowski concurred with this action under the provisions of the Open Meeting Law. Mr. Chamberlain made a motion to continue the public hearing until 7:30 p.m. on February 16, 2012. Mr. Loya seconded with all in favor.

Continued Administrative Site Plan Review: Bullard Farm Solar Facility

The Chairman re-opened the discussion and conferred with the applicant on the focus of this evening's discussion. Representing the applicants, Renewable Energy Massachusetts, LLC (REM), were Brian Kopperl of REM as well as Larry Beals and Greg St. Louis of Beals Associates, Inc of Charlestown (Land Planners and Civil Engineers) and Atty. Bob Orsi of Orsi Arone Rothenberg Iannuzzi & Turner, LLP. Mr. Kopperl stated that he hoped the discussion would be focused on the legal issues surrounding the proposed use rather than the details of the plan revisions because both

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Meeting Minutes of January 19, 2012**

Atty. Orsi and Atty. Bobrowski were present. The Chairman agreed, noting that plan revisions (dated January 5, 2012) had not been reviewed.

Mr. Kopperl gave an overview of the proposal, noting that the facility is proposed as a net metering facility not a wholesale power generator. He provided an aerial photograph of the area, noting the assumed “flows to demand” of the 2.5 million kilowatt hours per year. He added that the site will also include a “transfer station,” meters and conduit to convert and transfer the power generated to the NSTAR grid. He reiterated that an application was submitted to NSTAR in June 2010 but has not been acted upon. He touched on the actual power sale to “host customers” with credit given by NSTAR.

Atty. Orsi summarized his letter of December 22, 2011 addressed to Peter Tartakoff, Building Inspector. He included additional project overview as well as his interpretation of MGL, c. 40A, s. 3 “Exemptions from Zoning Regulations” with regard to “solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.” He characterized the statute as the “State Solar Zoning Permission Law” and concluded that Holliston may neither prohibit, nor unreasonable regulate the project. He also provided an analysis of Holliston’s Zoning By-laws at Section III-A Schedule of Uses and noted that use #5 Public Utility is the closest use to defining the proposal.

Atty. Bobrowski provided some comments on c. 40A, s. 3 as well as the local definition of public utility. He suggested that the “solar exemption” is unchallenged but is not likely to be treated too differently than other exemptions under c. 40A by the courts. He added that the exemption pre-dates the notion of “Green Communities” as designated by the Department of Energy Resources. He suggested that under this strict position by the applicant, the Town’s options are to embrace the exemption or regulate the use. He requested additional information on the enactment of the term and use “public utility” at the 1978 Special Town Meeting as well as the local nature of the proposed power delivery and quantities utilized in the zoning district. Discussion followed on the issue of potential other use classification(s). The term public service corporation as defined in the statute was reviewed.

Marty Lamb of 57 Wingate Road offered his opinion that the project does not fit the definition of public utility. He added that the Department of Energy Resources model as-of-right by-law notes specifically refer to the potential limitations of the exemption based on scale of the facility (i.e. specifically 250 kW or larger). Sandra O’Neil of 110 Bullard Street concurred and added that NSTAR is the public utility, not this proposed generator. She advocated that the absence of case law does not mean that the town can’t restrict the use based on health, safety and welfare concerns as well as the Town’s own site Plan Review criteria. Shahar Zeevi of 15 Bullard Street raised the issue of the site’s location within the Wellhead Protection Zone II. Carol Khouri of 40 Bullard Street, Bronwen Bernier of 45 Bullard Street and Marty Byles of 121 Bullard Street reiterated Mr. Zeevi’s concerns, noting potential leachates from the panels and other components in a catastrophic event and the need for special Fire Department training. The location of municipal well #2 was verified and Mr. Beals agreed to provide addition clarification on

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Meeting Minutes of January 19, 2012**

the issue. He also noted that solar panel details are available in a supplemental submittal being provided to the board this evening.

Mr. Beals referred to a plan set entitled “Plans to Accompany an Administrative Site Plan Review for Solar Energy Facility at Bullard Farm, Bullard Street, Holliston, MA” dated November 8, 2011 (revised January 5, 2012) as well as a series of enlarged photos and aerial photos of the locus and Bullard Street. He entered a document entitled “Project Documentation” dated January 19, 2012 into the record which includes solar panel details, Reach compliance, ISO 14001 compliance, inverter details, EMF information, sound analysis and shade impact analysis. He indicated that the project’s electrical engineer could provide additional details at the next meeting.

Steve Stalzer of 862 Central Street expressed concern for property value impacts and asked that the board consider a study to address the issue. Kristine Irving of 29 Winchester Drive asked that the issue of the status under c. 61A be clarified by the applicant. Mr. Gilbert added that the issue of National Historic Register review by the Mass. Historical Commission under the National Historic Preservation Act should be addressed as well.

Requests were made to provide details of the electrical inverter (including elevation view), further information on NSTAR review as well as a response to the comments on plan revisions. The Chairman noted correspondence received from Fire Chief Michael Cassidy dated January 18, 2012, Westcott Site Services dated January 19, 2012, Thomas Gilbert of 105 Bullard Street, and Martha DeWolfe of 125 Long Hill Road (West Brookfield). It was agreed to continue the discussion until February 16th.

**Special Permit and Site Plan Review Public Hearing
Metrowest Realty Group, 100 Central Street**

The Chairman opened the public hearing and noted that because of Mr. Zeamer’s absence, the applicant’s attorney had requested a continuance. On a motion by Mr. Patel, seconded by Mr. Chamberlain, the board voted unanimously to continue the hearing until 7:45 p.m. on February 16th.

Adjournment - The meeting was adjourned at 9:30 p.m. on a motion made and duly seconded. The next meeting was scheduled for February 16th at 7:00 p.m.

Respectfully submitted,

Karen L. Sherman, Town Planner

Approved: February 16, 2012