

Norwich PC Minutes -7/11/23

Members Present: Ernie Ciccotelli, Vince Crow, Jeff Goodrich, Stuart Richards, Jaan Laaspere, Bob Pape, Kris Clement

Public: Mary Gorman, Joel Stettenheim, Troy McBride, John Cushman, Micheal Binder, Joy Kenseth, Linda Gray, Jenn Goulet, Signa Taylor,

Meeting Opened: 6:38 pm

1. Approve Agenda:

Goodrich moved, seconded by Ciccotelli to approve agenda

Motion passed 7-0

2. Public Comment:

John Cushman recommended that going forward the PC should include a climate impact statement with future siting decisions and urged the members of the PC to take their climate responsibility seriously.

Micheal Binder stated that the rules of the PUC have changed recently and that the current plan would not pass the current standards.

Joy Kenseth stated that she had submitted correspondence regarding the Upper Loveland solar project. She clarified that the plan iterations A, B, C, and D were shorthand labels and not assigned by NST. She also clarified that the final image included in the packet shows the changes from draft C to draft D.

3. Correspondence

a. Letter from Micharl Hennessey

The Chair acknowledged that PC has received this letter and reminded the members of the PC that there is no action to be needed at this time and it is a pre-application letter.

4. Upper Loveland Solar Project – Question whether to reopen its designation of a preferred siting letters.

Laaspere stated he has met with town counsel, the RPC executive director and the chair of the SB to discuss the subject. He also stated that the permitting process for large solar projects like this is primarily the responsibility of the PUC

Laasper stated in his observations the PC can reopen the topic but it has to be for good reasons and specific reasons, as something must have changed since the application was completed and that new information needs to be reasonably likely to change the outcome, keeping in mind the purview of the PC as guided by the town plan.

Richards stated that, based on the information provided by the abutters of the project as well as NST, it would be in the best interest of the town to reopen discussion of the subject.

Richards moved, seconded by Ciccotelli, to reopen the discussion of the designation of the preferred siting of the Upper Loveland Solar Project so that the PC hear about the specifics of the project at a special meeting in two weeks.

Goodrich stated that when the original preferred siting letter was considered by the PC, the one criterion that governed the decision related to ridgeline considerations in regard to the town plan. He stated he abstained from the vote due to concerns of the development of the town plan. He stated he does not see substantive changes to the solar project and that it would be inappropriate for the town to reopen the discussion.

Clement stated that the PC is in a difficult position because the town plan and the Land Use Regulations are out of date, so they are difficult to practically implement. Because of this Our Town plan doesn't support a good method for a preferred site review

Goodrich stated that the town plan and the LUR are the rules and that the town plan will not allow us to reopen the discussions. He continued stating that the PC made a correct decision(noting that he abstained from the vote) regarding the letter based on the town plan.

Richards stated that the PC is here to make decisions that benefit the town and benefit the state and if we have a project that does or does not do that, then it needs to be evaluated from a rational point of view, regardless of the town plan.

Clement posed the question, under what basis could the PC approve or deny the siting letter, considering the fact that the town plan states that ridgeline would have protection, but the PUC said that it is not specific enough.

Laaspere stated that the town plan does not have the specificity to do the job it is intended to do, and that the law only gives the PC the power to take our town plan and compare it this project

Goodrich stated that the PC is obligated by law to adhere to the town plan and to use concerns moving forward to address the town plan and other regulatory considerations

Clement stated that there could be compromise on the plan and options to amend the plan that could be explored beyond discussion of rescinding the siting letter

Ciccotelli stated that forest blocks haven't been discuss regarding this process and stated that there is a sizable group of concerned citizens regarding this project and they should be shown that they are being heard.

Laaspere stated that the PUC discussed many of the details in great length and that information is available to review

Richards stated that the resident of Norwich may have a different take than the PUC and that the group of neighbors who have expressed their concern should not be ignored.

Crow asked for clarification of evidence of the PC's power to reopen the discussion.

Laaspere stated that in a letter from a PUC hearing officer there is a recommendation that a sitting letter can be changed if there is evidence that something substantial has changed, that it has the reasonable likelihood of changing the outcome and that it is within the legal purview of the PC.

Ciccotelli stated that as a legal principle there is always an appeal process. Even if the way to appeal is unclear there should be an avenue for appeal.

Brooke Dingleline, an attorney from Randolph representing the neighbors, stated that the facts of the project have changed significantly since the approval of the PC preferred site letter. The project expanded over the ridgeline and now covers a different site. She also stated that the law has changed and that the town plan is relevant to the decision and has clear protections. She questioned whether all of the information was submitted to the PC for consideration in a timely manner.

Mary Gorman stated that the plan has changed dramatically, moving down the slope, over the ridgeline, and closer to the abutter's houses. She also stated that the neighbors were not provided with all the information and that it was redacted.

Micheal Binder stated that the PC should consider that there are Jefferson salamanders living in the area and the vernal pools on the proposed project site and that if the project moves forward it could potentially cause this colony to go extinct.

Joel Stettenheim, the president of NST and Norwich resident, stated that the PC and the SB were kept up to date on the information regarding the project and made its decision based on that information and that the PC had an opportunity to change its decisions and did not. He stated that there is a formal process and that NST followed it with the PC, SB and the PUC and reopening the sitting letter now will upend the process. He also stated that no information has changed in over a year and half and that this has been reviewed thoroughly and that everyone has had a chance to be heard.

Aaron Lamperti, an abutter of the site, stated that every part of the project has followed the process and that any changes are normal for a project like this. He also stated that it is an excellent use of the land.

Joy Kenseth, an abutter of the site, stated that there have been substantial changes to the project and that there are records that were not submitted to and reviewed by the PC. The initial plan showed that the panels were hidden by trees and above the treeline and the final plan moved over the ridgeline and towards the houses nearby.

Linda Gray, of Norwich, stated that she is a supporter of the solar project and that she has been in touch with the RPC and they did not intend to revoke their preferred sitting letter.

Jenn Goulet, an abutter of the site, stated that the project has changed from 2-3 acres to covering 8.3 acres and has moved significantly closer to the house and resulting in cutting down more trees. She

stated that she was in favor of the original site plan when it was under the power lines but now it worried about safety impacts of the residences.

Signa Taylor, of Norwich, stated that she supports the project and climate change is evident in Norwich and that solar projects should be a focus moving forward

Goodrich stated that town plan is clear that the issue facing the PC is whether you can reach a conclusion that the visual impact has been minimized from the certain vantage points. He agreed with the impacts on the abutters but stated that PC's power to act on those concerns are not in the town plan. He also stated that the current information does not show that there's been any material change that is going to affect the visual impact from public State highways, interstate or town highways, even though changes have been made.

Laaspere stated that state law that gives us certain abilities to influence what goes on in our town and that the tool the PC has to do that is the town plan, and because of current own plan is a very weak and vague tool it is difficult to use it to be specific and control what happens in the town. If the discussion is reopened there may not be much the PC can do to change the decision. He stated that the PC has had an amount of chances to reopen based on new information and chose not to.

Clement stated that reopening may allow amending the project to promote a compromise. She also questioned how the PC signed off on the letter if they were not presented with accurate information.

Ciccotelli expressed concern that this project could look bad for solar projects and negatively affect future projects. He stated that he supported the original plan as it was small area in a brownfield. He also stated that he understands the neighbors concerns and would like for them to be heard.

Joy Kenseth expressed concerns that the changes of the project moving closer the houses and cutting down more trees will increase the chance of damage to the neighboring houses and create unsafe conditions.

Crow acknowledged that there were changes made from the original proposal but did not see how the PC could come to a different decision based on using the town plan.

Ciccotelli stated that a post mortem of this issue should be included as a future agenda item

Richards stated that it makes good sense to have a second look to address the landowners concerns and that the town plan can address them.

Laaspere stated focus should be on making a town plan more specific and that can be more useful for the PC in the future

Laaspere called to question Richards motion

Motion failed 4-3 (No – Goodrich, Pape, Crow, Laaspere; Yes – Richards, Ciccotelli, Clement)

Laaspere stated that the PC will place a high priority on updating specifically the siting process the preferred solar projects and the energy chapter of the Town Plan. He also stated that fixing the town plan is the right mechanism for the PC to hear everybody

Goodrich proposed moving the remainder of the agenda to the next meeting. He also stated that he in touch with members of the RPC and they have offered to help the PC in the future regarding amending the town plan and LUR.

Clement stated the PUC has already made suggestions on changes to the town plan, specifically related to the Queechee test and language that is lacking specificity.

Goodrich moved, seconded by Ciccotelli, to adjourn the meeting at 8:51PM

Motion passed 7-0