

PRELIMINARY MINUTES

**TOWN OF LUDLOW
BOARD OF SELECTMEN**

REGULAR MEETING

November 2, 2015

BOARD MEMBERS PRESENT:

Howard Barton, Jr., Chairman	John Neal	Logan Nicoll
Brett Sanderson	Bruce Schmidt	

STAFF PRESENT:

Frank Heald	Ulla Cook	Rose Goings
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OTHERS PRESENT:

Jane Bixby	Alan Isaacson	Phil Stratman
Alan Couch	Otis Nelson	Larry Wilfong
Glenn Heitsmith	Ralph Pace	Ed McEneaney (LPC-TV)
Cliff Hewes	Ted Reeves	

PUBLIC INFORMATION MEETING ON TOWN ZONING

1. Howard Barton advised that this meeting is to discuss proposed changes to the Town of Ludlow Zoning and Flood Hazard Regulations.
2. Rose Goings said that Alan Isaacson has brought his computer so that people can see the regulations on the screen and see the changes. The Planning Commission would like to go forward and warn a Public Hearing on the regulations. The Planning Commission has been working on this for a long time and it is still a work in progress. Changes may still be made. She said that Alan Isaacson sent an explanation of the changes to Select Board members for their last meeting. There are changes in district standards, the Aquifer District; a new RC2 district was added with fewer uses than the RC district. She added that, with the approval of people who live there, Rod & Gun Club Road area was changed to Residential. The Planning Commission has held public hearings on these changes.
3. Alan Couch said the Planning Commission worked very hard to make the regulations equitable and comprehensive. They allow people to develop their property equitably. The Planning Commission made some of the changes that people requested at the public hearings. These regulations also bring the town into compliance with state and FEMA regulations.
4. Bruce Schmidt asked for clarification regarding the 40,000 square foot standard for Non-Residential.
5. Alan Isaacson said it was a question of formatting; it had been one column and was split into two.
6. Bruce Schmidt said there had not been a minimum before.
7. Alan Isaacson said there was.
8. Bruce Schmidt asked if the Planning Commission goes on record that this was not a change.
9. Alan Isaacson said yes.
10. Larry Wilfong asked if there are existing lots that do not reach that minimum.
11. Alan Isaacson said there may be, and added that there are ways described in the regulations to deal with those situations.
12. John Neal asked about the use of "impervious" on page 33 in Section 430, the Lakes District.
13. Logan Nicoll explained that the regulations mimic the state rules under the new Shoreland Protection Law. He added that most of the lakes regulations are now governed by the state.
14. Alan Isaacson said that the state does not define setbacks, so they are in our regulations.
15. John Neal asked if the state reference to impervious referred to houses and driveways.
16. Alan Isaacson said yes. He added that these regulations will become law in town when the public hearing is warned. He added that changes may still be made.
17. John Neal asked about the Ridgeline Overlay District.
18. Logan Nicoll said the Planning Commission spent considerable time, working with Jason Rasmussen on this. We discussed several ways to approach it and what areas should be designated as areas not to be clear cut. We had a map and circled the most important areas.
19. Alan Isaacson added that the Planning Commission tried to pick peaks that are important and where we did not want clearcutting. We were trying to maintain the rural character of the area.
20. Logan Nicoll said the Planning Commission also tried going by elevation, but decided to go peak by peak.
21. Howard Barton asked how this would affect wind projects.

22. Logan Nicoll said they would be handled by the PSB.
23. Alan Couch said we will have in the regulations, what we don't want and what our intentions are for the town. The courts can still overrule it.
24. John Neal asked if there is a selective tree cutting line.
25. Alan Isaacson said the whole district is new and for that purpose.
26. John Neal referred to Section 540.2, number 4. This says that violations for signs are subject to a fine procedure. He asked where that procedure is described.
27. Alan Isaacson said in Section 240. Section 240 has been there but we changed the amounts. Notification and time to fix before the fine are clarified. Section 540 brought the town regulations into line with the village regulations.
28. Logan Nicoll said that many of the changes in the regulations are for formatting or to bring the town regulations into compliance with the state regulations. He noted that the descriptions for the district are still in the draft and added that the Planning Commission had decided to remove the descriptions and to just go with the maps.
29. Alan Isaacson said he will correct that for the public hearing.
30. Rose Goings said that the revision dated August 19, 2015 does not have the descriptions. She added that in the Jackson Gore and Mountain Recreation Districts, "condominiums" has been crossed out. The reason for this is that PUDs are included and that "condominium" is a real estate term, referring to a type of ownership.
31. Ted Reeves said that condominium is a legal form of ownership and they are explicitly allowed.
32. Alan Isaacson said that condominiums are defined in the definitions section as a form or ownership. This is not a use.
33. John Neal said that "accessory structures" are not in the definitions.
34. Rose Goings said that an accessory use is a garage or a shed and you can't have an empty lot with just a shed or a garage without having a principle use such as a single family home.
35. John Neal asked if that means you can't build a garage before you build the house.
36. Rose Goings said correct.
37. Alan Isaacson said if you have a permit to build a house, you can build the garage first.
38. Howard Barton asked why not just a garage.
39. Rose Goings said there is no reason; it's been in the definitions since 1990.
40. John Neal said he would like a new definition.
41. Ted Reeves asked if someone could apply for a conditional use to have a garage to store cars.
42. Rose Goings said that would not really be a conditional use.
43. Ted Reeves said that the definition for "outside recreation" is fairly broad and asked if they could add, "...but not limited to..." to the definition. He used the example that the definition specifically says Alpine skiing, but not Nordic.
44. Howard Barton said he does not see a problem with adding that.
45. Alan Isaacson said the intent was there, adding that the wording does include "any similar activities."
46. John Neal referred back to accessory structures and asked the Planning Commission members to make the definition more friendly.
47. Rose Goings said the Planning Commission will change the wording.
48. **MOTION by Brett Sanderson and seconded by Logan Nicoll to close the public informational meeting. Motion passed unanimously.**
49. Meeting closed at 7:30 p.m.

1. **Call to Order**

- A. Chairman Howard Barton called the meeting to order at 7:30 p.m.
- B. All members present.
- C. **Motion by Bruce Schmidt and seconded by Brett Sanderson to amend the agenda for this meeting to move Item #11 to be heard after Item #4, changing #11 to number 5. Motion passed unanimously.**

2. **Approve Minutes of Previous Meetings**

- A. Howard Barton advised that the minutes to be approved are from the regular meeting October 5, 2015.
- B. **MOTION by John Neal and seconded by Logan Nicoll to approve the minutes of the meeting of October 5, 2015. Motion passed unanimously.**

3. **Comments from Citizens**

- A. Letter from Mr. & Mrs. O'Rourke RE: Weston Mountain Road
 - i. Howard Barton advised that a letter had been received from Mr. & Mrs. O'Rourke regarding open stretches of that road where there is an 8 to 12 foot drop off on the sides and some sections of the road are eroded. He added that they can access their property from the other direction.
 - ii. Frank Heald said their property is about $\frac{1}{3}$ to $\frac{1}{2}$ of the way up the road and the fixes are frightfully expensive.
 - iii. Bruce Schmidt asked if they can put up some signage for slower speeds. He added that he has been on the road and didn't see anything.
 - iv. Frank Heald said that we may not be as intimidated by that type of road.
 - v. Bruce Schmidt asked Frank Heald to look into putting up signs.

4. **Discuss Penalty for Late Filing of Homestead**

- A. Ulla Cook said that there are 6 later filers, 3 new and 3 old. She researched this with the tax department and their recommendation is that you can't pick who to penalize. They should all be the same. The amount is \$2,606.
- B. Bruce Schmidt said that we decided to allow no penalty for first time offenders and to fine repeat offenders.
- C. Ulla Cook said the state said that the Select Board should vote on this as an agenda item. Adding that to do it case by case may be problematic.
- D. Bruce Schmidt asked Ulla Cook her opinion.
- E. Ulla Cook said it is okay with her, she has already sent the letters.
- F. Frank Heald said the board decided to access the penalty on second offenders and to waive it in first offenders.

5. **Continue Solar Project Discussion**

- A. Frank Heald advised that on their last visit, Ranger Solar advised us that they planned to file their application toward the mid to end of this month. They want to come back in December to talk to the board again.
- B. Alan Isaacson said that he went to a seminar last week and the panel made these suggestions
 - i. negotiate as hard as possible with the developer to get as much as you can
 - ii. Send a letter to the PBS stating the town's position that you want to know about all issues of the project, the project should be built as described in the specifications and if not why.Alan Isaacson continued saying that any town screening regulations for solar projects must be the same as screening regulations for the Industrial District.
- C. Rose Goings said that the Planning Commission is working on Solar Siting policies with Jason Rasmussen. They will have to change the town plan and the zoning regulations. They will have to come up with an ordinance and this probably will not be ready by the time this project goes to court.
- D. Alan Isaacson advised that the time frame for this project began when the developer went to the PSB. We have already lost time and the PSB is not forgiving about time slippage.
- E. Howard Barton said that Ranger was here and this board was not impressed with the project.
- F. Cliff Hewes said that this may be the beginning of many projects in Ludlow and there is no benefit to Ludlow.
- G. Frank Heald said the project will bring in about \$75,000 in taxes.
- H. Alan Isaacson said that at the seminar, they were told to look at how the taxes are assessed.
- I. Cliff Hewes said the power will not go to Ludlow and this board should try to stop the project.
- J. John Neal explained that the project is under the PSB and even if we don't want it, and it does not fit into the town plan or zoning regulations, the PSB can overrule our objections.
- K. Otis Nelson asked if the board has written to the PSB in opposition to the project.
- L. Howard Barton said we have not gotten there yet. He added that with enough small objections, maybe the PSB will start listening. He noted that even Governor Schumlin does not approve of the project. Vermont taxpayers have to pay to send power out of the state.
- M. Otis Nelson asked if the board has spoken to other towns.
- N. Howard Barton said no.
- O. Alan Isaacson urged the board to get a letter out as soon as possible. We need to get out in front of it.
- P. Bruce Schmidt said this board can't respond until we see their application. He did ask Frank Heald to come up with some options for the next meeting, such as contacting an experienced attorney or consultant. We need to see our options and voice our position. We need to get costs and be more proactive. We need to work with other towns.

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- Q. Frank Heald said that the man from Ranger Solar said that this is the first and primary project because of the proximity to the Coolidge Station.
 - R. Howard Barton asked about filing as an intervenor.
 - S. Frank Heald said that the town already has part status. He said we have to respond to the application when it is filed. He said that the PSB operates on pre-filed testimony and they anticipate hearings on this in January.
 - T. Bruce Schmidt suggested having a public hearing on the night when Solar Ranger is here.
 - U. Frank Heald said it will be hard to find people in the middle. He added that this board needs to find out if the community wants solar projects or not.
 - V. Cliff Hewes suggested contacting Representative Dennis Devereux.
 - W. Howard Barton noted that Mount Holly held a hearing last month.
 - X. Otis Nelson said that he has information from an attorney on what towns can do.
 - Y. Alan Isaacson said that attorney is Cindy Hill.
 - Z. Bruce Schmidt said if Ranger is coming in to make a presentation, they should hear what the people in the community have to say. People need to know the challenges and benefits. Ranger should stand up and talk to the people and focus on this project, not solar power in general. They need to understand that they may not be welcome in Ludlow.
 - AA. Frank Heald suggested holding a public hearing on November 16th at 7:00 p.m. He will try to set it up.
 - BB. Logan Nicoll said Ranger seems to be willing to work with the town.
 - CC. Otis Nelson suggested asking a representative from VLCT.
 - DD. Alan Isaacson said that although Ranger does not have to come to the town for the permit, they do have to come to us for road cuts and access.
 - EE. Rose Goings noted that the land in question is also a historical working farm.

6. **Consider Sidehill Cronchers Snowmobile Club Road Request**

- A. Howard Barton advised that this is an annual request to cross, ride on and maintain trails and roads for snowmobile use. He noted that there have not been any issues in the past.
- B. **MOTION by Bruce Schmidt and seconded by Logan Nicoll to approve the request as presented in the letter from Sidehill Cronchers. Motion passed unanimously.**

7. **Walker Bridge Update**

- A. **Condemnation Procedure**
 - i. Frank Heald said the process is ongoing and they have reached a bump in the road. Amato LLC, owners of the brick house on the SE corner will not work with the state. He said that he also was unable to resolve the situation which leads it to Eminent Domain. The area affected is about 600 square feet of mostly bank along with temporary easements for construction of about 60 square feet along the sidewalks. The issue is that they need to put the new abutment behind the old one. The state offered a reasonable amount, then doubled it and the owners still refuse. We can't do the bridge without it.
 - ii. Howard Barton said he thought they were using the same abutments.
 - iii. Frank Heald said that was when we thought they would be using NEXT beams.
 - iv. Howard Barton recalled that the engineer have made a mistake measuring and had to redesign the bridge.
 - v. Bruce Schmidt asked what the state had offered.
 - vi. Frank Heald said \$4,000.
 - vii. Bruce Schmidt did not think that was a good offer.
 - viii. Frank Heald said the project is about \$2.5 million. If we go to Eminent Domain, the board decides the price. We pay 10% of the \$4,000 and anything over that amount, the town pays.
 - ix. Bruce Schmidt asked if Frank Heald had calculated the value of the land in question.
 - x. Frank Heald said no. He said it would be hard to calculate because of the steep slope. He said we will have to have someone do a proper evaluation. We need to have an Eminent Domain hearing next month. Frank Heald said he had spoken to the daughter of the owner as the owner will not return his calls. He said he tried to meet with her and in her last conversation she related that her father had said that they may as well go to Eminent Domain.
 - xi. Howard Barton said that he had gotten an easement from them before with no problems.
 - xii. Bruce Schmidt said we need an appraisal.
 - xiii. **MOTION by Logan Nicoll and seconded by Bruce Schmidt that the Select Board seek to obtain by Eminent Domain permanent and temporary easements upon the land of Black River Amato, LP. The Agency of Transportation reports these easements are necessary for the bridge replacement project on Vermont Route 103, also known as Walker Bridge. The land sought for permanent highway easement consists of 602 square feet**

and temporary construction easements of 21 square feet and 41 square feet. Motion passed unanimously.

- xiv. **MOTION by Logan Nicoll and seconded by John Neal to set the public hearing on the board's motion to obtain easements by Eminent Domain at our next meeting on December 7, 2015 with the site visit to be held at the Walker Bridge at 6:00 p.m. preceding the hearing.**
- xv. Bruce Schmidt noted that it is dark at 6:00.
- xvi. Frank Heald suggested the site visit at 3:30 p.m.
- xvii. Logan Nicoll amended his motion to change the site visit to 3:30 p.m. on Monday, December 7, 2015. Amendment accepted by John Neal. Motion passed unanimously.

B. **Consider & Approve Amended Finance & Management Agreement**

- i. Frank Heald noted that the agreement was the same as amendment #1 – town share 10%.
- ii. **MOTION by Howard Barton and seconded by Bruce Schmidt to authorize Frank Heald to sign the agreement. Motion passed unanimously.**

8. **Discuss Christmas Party**

- A. Frank Heald advised that he had included a history of costs for the 13 years. We generally have an attendance of about 100 people.
- B. Bruce Schmidt asked the date.
- C. Frank Heald said probably during the week of December 7 through the 11th.
- D. **MOTION by John Neal and seconded by Bruce Schmidt to authorize Frank Heald to proceed with plans for the Christmas party. Motion passed unanimously.**

9. **Discuss & Approve Change of Highway Classification**

- A. Pleasant Street/Pleasant Street Extension from Class 3 to Class 2
- B. Commonwealth /Barker/Quent Phelan from Class 3 to Class 2
- C. Howard Barton asked if the change in Commonwealth /Barker /Quent Phelan will affect the project.
- D. Frank Heald said no. He advised that Ron Tarbell and the Regional Planning Commission worked on this. It will give up the opportunity for paving grants on those roads and the state marks Class 2 roads. He added that Cavendish must buy into Quent Phelan /Barker.
- E. **MOTION by John Neal and seconded by Logan Nicoll to approve the changes in classification as proposed. Motion passed unanimously.**
- F. Howard Barton asked if the roads are paved, does the state help with maintenance.
- G. Frank Heald said no.

10. **Review FY 2017 Appropriations Budget RE: Request Letters**

- A. Frank Heald advised that appropriations letters have been received and ARC and HCRS Mental Health have not submitted letters. He noted that reminder letters had been sent to them. He added that LPC-TV had requested an increase of \$250, from \$1500 to \$1750 and Black River Good Neighbors has requested an increase of \$500 from \$3000 to \$3500.

11. **FY 2017 Budget Workshop**

- A. **Long Term Loan Program and Bond Payment Program**
 - i. Frank Heald advised that he had included Long Term Loan Program and Bond Payment Program. Highlighting the amount paid each year. Referring to loans, he said that they try to manage purchases so that the amount paid out each year does not fluctuate much. Most loans have 5 year life. The bond master payment includes Walker Bridge. If on schedule, construction will be in FY 2017 (summer of 2017.) He said they will have a choice. He suggests they go to the bond bank. They will put the request before the voters at town meeting or wait until next year. If they do it this year, they will close on the bond next year, paying no interest in 2016-2017. It is prudent to close on the bonds in July 2017 and if we need money before then, we go to bond anticipation notes. The project is estimated at \$2.5 million, but he does not know what it will bid out at.
- B. **Commonwealth Culvert**

- i. Frank Heald noted that if there is no state participation, our portion will be about \$270,000. He suggests that they do this project when they are doing Walker Bridge. Road closure will be easier and there will be one-way traffic with no big trucks. We will bid that one out and manage it. We will go to town meeting for a vote in 2017.
- C. Truck and Bus Next year
 - i. Frank Heald advised that they will be asking the Select Board for a truck and bus next year.
- D. Fire Department and Cemetery Commission
 - i. Frank Heald advised that the Fire Department and Cemetery Commission budgets are not in yet. He said they will postpone finalizing the Solid Waste budget until the last because he wants to see what 6 months looks like. They have resolved the zero sort piece. They are looking at transportation, processing. Baling cardboard gets \$30/ton and saves money on trucking.
- E. Insurance
 - i. Bruce Schmidt asked about insurance costs
 - ii. Frank Heald said it will increase about 7 to 8%. He had thought they could change carriers, but that did not work.
- F. Highway Department
 - i. Bruce Schmidt noted that the highway department was adding employee insurance, but no employee.
 - ii. Frank Heald said that they had optioned to send one man to Cemetery for 7 to 8 months per year, adding a touch on the insurance. He returns to highway when the cemetery closes. Cemetery pays for all of his costs when he is there. The Cemetery commission also gave him a raise.
- G. Frank Heald said he hopes to have pretty much full details for the December meeting.

12. Department Head Reports

- A. Howard Barton advised that all reports are in.

13. Other Business

- A. Schedule Public Hearing – Town Zoning and Flood Hazard Regulations
 - i. **MOTION by Logan Nicoll and seconded by John Neal to schedule and warn a public hearing to review and act on the proposed changes to the Town Zoning and Flood Hazard Regulations on Monday, December 7, 2015 at 7:00 p.m., Motion passed unanimously.**
- B. Veteran's Parade
 - i. Frank Heald advised that there will be a parade on Saturday, November 7, 2015 for veterans. Signs have been posted at the ends of the village noting the parade.
- C. West Hill
 - i. Frank Heald said that the West Hill work will be inspected tomorrow.
 - ii. Bruce Schmidt said they did a good job.
- D. Winter Salt and Sand
 - i. Brett Sanderson asked about winter sand.
 - ii. Frank Heald said they decided at the last meeting to leave the decision up to him to do what is needed.
 - iii. Brett Sanderson asked if they need a motion to spend the money.
 - iv. Frank Heald said next year it will go out to bid. They got 2400 yards of sand; 1400 from George Tucker and 1000 from Palmer in Chester.
 - v. Howard Barton said that he recalls that Palmer was cheaper.
 - vi. Brett Sanderson asked why they got less from Palmer.
 - vii. Frank Heald said politics in town.
 - viii. Brett Sanderson said he would like to know what contractors from town have received jobs.
 - ix. Frank Heald said he will have a contractor report for the next meeting.
 - x. Bruce Schmidt said that if there is a discussion in Executive Session, it should not be discussed outside of Executive Session afterward. We can't have these discussions.
 - xi. Howard Barton said this discussion should have been in the open anyway.

14. **Set Date for Next Meeting**

- A. Howard Barton advised that the next regular meeting would be December 7, 2015 at 7:00 p.m.
- B. Howard Barton said that there will be a public hearing on November 16, 2016 at 7:00 p.m. to discuss the Ranger Solar Project.

15. **Sign Warrant Orders**

- A. Warrant orders have been signed.

16. **Possible Executive Session/Personnel/Contracts/Legal Issues**

- A. Frank Heald advised that an Executive Session is not needed.

17. **Adjourn**

- A. **MOTION by John Neal and seconded by Bruce Schmidt to adjourn. Motion passed unanimously.**
- B. Meeting adjourned at 8:19 p.m.

Respectfully submitted,

Lisha Klaiber

Howard Barton, Jr., Chairman

Brett Sanderson

John Neal

Bruce Schmidt

Logan Nicoll