



OAK BLUFFS PLANNING BOARD

Meeting Minutes

MARCH 26, 2020

5:00 p.m. / Virtual Zoom Meeting

Members in Attendance: Ewell Hopkins, Erik Albert, Bill Cleary, Mark Crossland, JoJo Lambert

Members Absent:

Staff in Attendance: Kim Leaird (*Administrator*)

Attendees: Chris Huntress, Eric Peters, Marilyn Miller, Adam Wilson, Peter Sumners

Chairperson Hopkins opened the meeting at 5:04 p.m.

Approval of Minutes

Ewell Hopkins – Chairperson: I'd like to bring the Planning Board meeting to order at 5:04pm on March 26. This is our first virtual meeting. First on the agenda is the approval of the minutes. Are there any questions or additions or subtraction by board members.

Bill Cleary: One thing I noticed on page three. (Incomplete sentence; Kim noted it)

Ewell Hopkins: Scrolling through and that was pretty much it. Any other comments or questions? Hearing none, would someone like to make a motion.

Mark Crossland: I make a motion to approve [March 26, 2020 meeting minutes].

Ewell Hopkins: Okay, seconded by Bill Cleary. All in favor? Passes unanimously.

Public Hearing on Proposed Amendments to Solar Bylaw (SEE: <https://tinyurl.com/sjoobtn>)

Discussion to amend Section 12.0 Solar Energy Systems to include Use of Large-Scale Ground-Mounted Solar Photovoltaic Installations as the town seeks Green Community Designation. This bylaw proposal will be considered on the 2020 Annual Town Meeting Warrant.

Ewell Hopkins: Next on the agenda is Bill Cleary giving us an update on the public hearing and proposed amendments to the solar bylaw.

Bill Cleary: As part of the Master Plan process adopted by the voters at last year's Town meeting it was recommended in section 6.2 that Oak Bluffs become a greener community. I was given a task by the Planning Board [to help the] town receive the Green Community designation through the state — a program which began in 2008. The last several months, I've been working with a group of volunteers from the Energy Committee to fulfill the five criteria to receive the designation. The program benefits to the residents include cutting municipal energy costs, reducing greenhouse gas emissions, promoting energy efficient construction and fostering renewable or clean energy technology.

If we receive the designation we receive grant money estimated at \$140,000 from the state to make improvements to our infrastructure, to reduce our energy consumption by 20% over the next five years. Once this is achieved, we can apply for more grant money to keep moving in a positive direction.

The bylaw [amendment] being introduced today is for large-scale, ground-mounted, solar photovoltaic installation systems which is needed to achieve Criterion one [for] as of right zoning for renewable energy.

If I may introduce some clarification before we take on any questions, the bylaw is site-specific to the Town landfill site only and any similar installations at another location would be handled by special permit — which is currently how it is being handled.

This bylaw does not impact or address residential systems. There is a bylaw in place for residential solar needs. The town owns and manages the site. An agreement or lease would have to be arranged with the Town for installation of a system. If that was achieved, the solar bylaw would be in place, assuming it was voted through, the site would be designated and Criterion 2, which is an expedited permitting process within one year from application, would come into play.

The committee is asking for your support to vote yes on this bylaw amendment at Town meeting which will provide us with an important step for achieving the Green Community designation through the state as well as fulfilling an important element of the Master Plan.

Ewell Hopkins: That's great. What do you need from the board at this point?

Bill Cleary: At this point, any questions the board may have on the bylaw. It has been introduced and on the website for almost a month now, I believe. If there are any public questions. I tried to address any that the biggest question I've gotten in this regard from our public outreach sessions with my comments toward the end.

Ewell Hopkins: So let me start off by asking before I go to the board members are there any members of the public that have any questions about this bylaw as it's written before I moved to the board members themselves.

Okay, just want to give enough time to make sure someone's not having technical difficulty. Marilyn Miller...?

Marilyn Miller: Nope, I'm behind Bill 1,000%.

Ewell Hopkins: Okay. I'm not hearing any comments from the board. Let me go through each board member on the record, Erik, do you have any questions about this bylaw as it is stated.

Erik Albert: No, I just want to say great work. Bravo.

JoJo Lambert: I think it's fine and I commend Bill as well. He's done a great job.

Mark Crossland: Sounds good to me. Good job, Bill.

Ewell Hopkins: I am comfortable with the wording, the re-numbering was a big effort on the part of Bill and Kim at the 11th hour to pull this off. I'll bring the public off mute... [any comments? none]

I'll bring the public session to a close. If there are no other comments, I ask for an adoption of the bylaw 12.0 as written [with proposed amendments], is that motion ready to be made by board number?

Mark Crossland: [made a motion] Yes.

JoJo Lambert: Seconded.

Ewell Hopkins: All are in favor.

Bill Cleary: Passes unanimously.

Ewell Hopkins: Congratulations on this great work – once we get to Town meeting we have something to tell the voters. Really excited about this and what it represents in terms of the priorities in the direction of the town. So job well done on your part, Bill.

Office / Department Procedures during Covid-19 Emergency

Ewell Hopkins: Next, I wanted to have a discussion so that the board is up to speed on the work that Kim and I are doing basically to keep the lights on during this shutdown ... So at this point, Kim I wanted you to kind of walk through how you're working and how the board can be in touch with you.

[She is] exclusively [working from home], she will not be in the office. And I just want to make sure that any questions the board has about how that is handled are cleared up here in a public meeting.

Kim Leaird: Sure. I have a full [office] setup at home. I have access to my work email I have access to phone messages. So if someone calls into the office I immediately get an email alert that I have a voicemail. We've had one applicant who needed to get [application] stamped at Town Hall and I've worked with Colleen to make that happen (*the applicant made an appointment to get [application] stamped. Colleen was then able to scan and forward application to me*).

I have been working on the website at home, but I have all of your phone numbers and I will forward to you my cell so that if you need a call me directly, you can do that.

Ewell Hopkins: What's important for the board to understand is, we're not at jeopardy of any constructive approvals based on delays that we might experience. So there are no applications ... where the clock is ticking per se, that we have to worry about. As you know, constructive approvals are if we don't make a deadline. There are circumstances where an applicant's application is approved automatically — that's my biggest concern right now from a logistics point of view. And we're not at jeopardy of that in any respect.

Additionally, I don't suspect we'll miss any meetings. I have been meeting with a few potential and new applicants providing them guidance and direction remotely, so I think we're in good shape.

Discussion of Planning Board Roles and Duties – Materials and training resources

Ewell Hopkins: Kim put together a list of resources because the Citizens Planner conference at Holy Cross was canceled this year. It is a comprehensive [list] overview of roles and responsibilities of planning board members. I know in recent applications [in front of the board] there's been some question about what our responsibilities are and how does that pertain to the responsibilities of the Commission versus the town planning board.

So I wanted to ask everyone — are there any high level questions that people have that we can address as a group and maybe, if anyone wants to schedule any one-on-one time with me to go over any of the particular areas, we might talk about that now as well, which would not be a violation of Open Meeting Law.

JoJo Lambert: I wanted to do the Citizen Planners online training, maybe all three.

Ewell Hopkins: One thing that I would encourage board members to look at is the Hamilton, Mass. roles and responsibilities document. I think it is really good as well as the Berkshire's Resource book at giving an overview. The others get into a lot of particular detail that might be subject matter specific.

I did want to underscore that the American Planner Association sessions and links have a fee and we have a budget which will cover that. So if anyone wants to take any of those classes, feel free to do that.

I think it's important in our circumstance where we have authority that's separate and distinct from the Commission that we know where our authority starts and stops.

Bill Cleary: As far as time management, would it be useful to take all of these classes all three that JoJo mentioned, or is there anything repetitive there.

Ewell Hopkins: I don't think anything is repetitive from a priority perspective. I would talk to Kim a little bit about where you might think your knowledge is deficient and then prioritize. I think if you read the Planning Board resource books from those two towns you'll get a really good overview.

And then the other documents – writing a defensible decision or a defensible decision is not something you really need to spend a lot of time on. It would be Kim and my responsibilities to do. Special permits and variances if we're not looking at any particularly I would just file that and do it when it comes up.

If we were on the other side of Lagoon Ridge, as an example, I would have said it would be good to read that.

Erik Albert: Did anyone get these to work because I tried to do all three. And when I hit submit, it would just spin [and not complete registration]. I tried it several times.

Kim Leaird: Sometimes browsers are tricky. If you have another or alternate browser, try opening it in a different browser.

Ewell Hopkins: And then also, if that doesn't work, [Kim] can register Erik and send him the credentials.

This is exactly what I had hoped for — it's hard to get off island and get to training and I wanted to have this kind of document we can refer back to I would encourage you all to save this these links will be really helpful down the road as well.

Board Updates

Ewell Hopkins: I am going to move on to some of my update. I want to do my updates first before I go to your updates and then we'll wrap up this meeting.

Not on the agenda today is [the high school athletic fields]. I spoke to the assistant superintendent of schools and received a request from their project representative [Chris Huntress] that we not proceed with them on the agenda this week. So the reason why the high school is not on the agenda is per the

applicant's request. Obviously, with everything going on, I felt that was a reasonable request. We will resume at a later date, but in your packet, you'll see the referral.

The second thing in the packet that I wanted to bring to your attention – and Eric Peters is on the line – is that the Lagoon Ridge LLC has requested an extension of their special permit which prior to the COVID-19 outbreak I was inclined to support and now, I think it's an absolute no brainer. They were coming up on a deadline that would make the task at hand. I believe unnecessarily challenging the move forward. So they have formally requested an extension that has been received and stamped by the clerk's office and the Planning Board office. We've received their payment for that extension.

I'm very comfortable with where we are. I wanted to bring it to your attention, as you know, as I mentioned in the last meeting. We are talking to the current owners of the property and a potential buyer of the property that is looking to move forward with the application and we hope to have a presentation for the full board in the near future, once we get behind some of the uncertainty that's going on in the world today.

Ewell Hopkins: Kim, do you have any points that you want to bring up about this?

Kim Leaird: No, only that I had looked at our bylaws, and I noted that the Planning Board can extend a special permit [beyond two years] for good cause. And I believe Eric had laid out in his letter good cause — but that's not up for me to decide.

Ewell Hopkins: Yes and I don't see the need for a board vote. There's nowhere I've seen that. So I've actually granted that extension based on the rationale in that letter. If any board members have any questions basically now's the time to ask about them, or we'll move on.

JoJo Lambert: Ewell, when you said there's a buyer was that the gentleman that came in quite a few months ago that talked about Lagoon Ridge?

Ewell Hopkins: No, you have you have not met the potential buyers and that deal has not been consummated yet. You have met the legal counsel representing the heirs of Davio Danielson, his name is Eric Peters, he is on the line and he has been performing the role of agent and representative for the property and its current state.

In the spirit of constituent services and helping people facilitate through the process. I have had the opportunity to answer questions about the potential direction that the current owner and potential buyer are [thinking about] making sure that the process is as clear and as straightforward as possible for them. I have no red flags at all right now. There's been no commitments obviously made and I look forward to their presentation to the full board which will be coming but is not scheduled at this point.

Mark Crossland: All the conditions we put on this project remain the same for two years?

Ewell Hopkins: There will be a request for some modifications. I believe that the modifications are worthy of consideration and seem very reasonable. But that will be a decision for the full board. I will obviously make recommendations, we will then discuss in open session and then vote on it as a board, but it is not starting the process over by any means. And it would be honoring the special permit granted currently and most likely with some modification.

Bill Cleary: So there are no modifications with this current extension.

Ewell Hopkins: Clearly, saying that there will be no triggers invoked based on elapsed time and with any special permit if no reasonable progress has been made or circumstances to explain why the whole decision can be void and the process would have to start over. In this situation I think there are numerous reasons why an extension is warranted and therefore granted. But moving forward with modification to if any is for the full board to hear discuss and then vote on.

Mark Crossland: So it would be a public hearing if they want to make any modifications.

Ewell Hopkins: Everything we do is —we don't do anything outside of public meeting. I will meet with and speak to them and then report in the next meeting all of my conversations but we make no decisions outside of public meeting.

Erik Albert: You know, I understand this project has been through a lot and the family's been through a lot. People have told me personally that working with the Planning Board in Oak Bluffs has been very smooth and easy, and I think that's important. I think this is a fine example of that.

Ewell Hopkins: Eric Peters, you're on the line. I suspect there's nothing you need to say but I wanted to give you an opportunity.

Eric Peters: Thank you all – we will be in touch, but I don't know that I have anything to add at this very moment. Thank you.

Ewell Hopkins: And then this is all I'm scrolling all of the paperwork for [this] project (Lagoon Ridge) which Kim has on file and is in all of your packets.

Additionally, in the same spirit of subcommittee advancement, Mark Crossland did a major "cross the T" this week as well in getting the final RKG feasibility report completed for the property abutting the ice rink and behind the YMCA. That report is on our website. I put it in conjunction with all of the other planning efforts that we're doing in the Southern Tier. So if you go on to the website, you'll see 'Southern RKG report.

Mark, do you want to speak about RKG report at all during my update at this point?

Mark Crossland: No, I'd rather let everybody just read it first.

Ewell Hopkins: Yes, it's very dense. It's very long, and it speaks to the feasibility of significant development in that part of town, and I would encourage everyone to read it through. Mark, is there a formal acceptance of the report that we have to vote on or is this the completed report?

Mark Crossland: The Planning Board has to vote on it and submit to the Selectmen.

Bill Cleary: That was my understanding from day one.

Mark Crossland: In a nutshell, there's are three different phases. Phase one would be the initial phase. Phase two would come a little bit later. Read the whole report to see what I'm talking about.

Bill Cleary: Was there are a number of units decided on Mark?

Mark Crossland: Phase one is much less — like 15 units I believe, then in phase two incorporates a septic treatment plan which will allow us to do much more. But, you know, initially about shelling out a lot of money. Phase one is all we can start with I believe that that will be up to the planning board as well.

Ewell Hopkins: Okay. All right – that’s what I have for my report. Things aren’t coming out of the Commission right now. They’re officially, I won’t say shut down, but I don’t think they’re issuing decisions. We have a couple of applications there now and I will be getting an update from them as soon as I can. Let me go around the horn now ... Let’s start with you, Bill. You’re at the top of the list. Do you have any additional updates, you want to make?

Bill Cleary: Well, my only question is, do we have a tentative date for Town Meeting right now because I’d like to do more public outreach on the Green Community designation, but I’m not sure how that’s going to work out in the current climate

Ewell Hopkins: I will confirm that and send you an email unless someone else on the line, read the same email. I’ll get back to you on that one bill. No worries.

Erik Albert: [no updates].

JoJo Lambert: [no updates].

Mark Crossland: [no updates].

Ewell Hopkins: Before we close, any public comment or questions from those on the line? So either Peter Sumners or Chris Huntress or Adam Wilson will have to come off mute if you want to say anything.

Christian Huntress: I’m all set. Thank you.

Eric Peters: I’m all set. Thank you.

AWilson: Okay, thank you.

Adjourn

Ewell Hopkins: Hearing no other comments, is there a motion to adjourn.

Mark Crossland: I make a motion.

JoJo Lambert: Seconded.

Ewell Hopkins: Okay. All in favor.

Meeting was adjourned at 5:35 p.m.

Minutes approved April 9, 2020

Documents on File: Agenda; Board packet; zoom video