

Town of Fort Fairfield  
Wind Energy Technical Review Committee  
Council Chambers  
Monday, February 9, 2015  
6:00 P.M.

Members: Dick Langley, Jim Everett, Carl Young, Todd Maynard, John Herold,  
Brent Churchill, Tim Goff, David McCrea and Phil Christensen  
Excused: Michael Bosse, Heather Cassidy  
Also Present: Tony Levesque  
Citizens: 2

- I. Call to Order – Richard Langley, Esq. – Committee Chair
- II. Review/Acceptance of Minutes of January 12, 2015.

Motion: Phil Christensen moved to approve Minutes of January 12, 2015 as presented.

Second: Jim Everett

Vote – All affirmative

- III. Old Business –

- A. Sound Instruction with Professor Horton –

Tim – I didn't want to assume that we would either discuss what she talked about, I just figured it would be noted that that we held that lecture and I did not know if the discussion would be better served when we are actually talking about it. So I just put it on the agenda for you that way.

Dick – What is the consensus? Do we want to get into that now? Later in the old business under general standards one of which is going to be the sound issue, setbacks issue. We can talk about sound now or later, does anyone have a preference?

Tony – For the record I would like to say I appreciated the opportunity to sit in with Professor Horton. I think it was full of non-bias scientific information that will allow you to judge whether it was sound or noise. And the differentiation to me is noise is uncomfortable and sound is what you hear. I appreciated that she came up and was willing to present us with the information even though I don't think it was her forte anymore, she is not dealing with sound very much in her career path. She was very informative and very helpful to me to judge the standards personally.

Dick – Tony, I am getting on a tangent now, I was thinking about that today. She doesn't do any testing, so we are going to have a different engineering company to do the testing.

Tony- I believe it will have to be from the private sector.

David – What I find is that ever since we were in this room with her I would go places where I have listened to 45 decibels and ok it's a pleasant sound. I thought 45 decibels was loud. The science guy in me really didn't realize that there was that much difference between 45 & 55 decibels.

John – I go along with the fact that this was very informative, but I guess the reason behind this is whether we put sound in the ordinance or not. I would like to get more information such as physical and psychological affects it has, more technical information without guessing and I think what we have got so far from the sound class is very good but if we attempt to implement as is without any further information we are guessing or hoping.

Carl – From all the material I have read, John makes a very good point, there is not currently definitive information out there. There are studies, but there is no consensus at this point that I have found.

John - It almost seems for me in reading through the various standards, various ordinance and various laws that the way that they arrived at the standards was more for the purpose of the State's case of facilitating the instructions of wind power having relatively higher decibels, therefore easier to achieve, therefore cheaper, as opposed to our friend the Montville ordinance which I think has some standards that are so impossibly low that it would prevent wind power from occurring.

Carl - In any ordinance that you read it's based on decibels whether it's A weighted or C weighted, whatever it is. It is there and more especially in Europe they are coming up with the business of low frequency infrasound. More over there you are starting to hear that it is a problem. But they are coming up with the fact that you have to have these things at least 1 ¼ mile away, because of the low frequency infrasound. But again I haven't been able to find anything that says OK we have 17 neutral un-bias reports that say this is true or this isn't true.

Todd – One thing you have to remember, when you made a comment about Europe is that they are 15-20 years ahead of us. Wind power or alternative energy production because they have no more resources over there, so they had to come up with a solution like wind, solar and hydro. The studies are getting more concise over there, the longer the parks are there obviously the more time they have to start. The studies that I see are starting to be consistent over there, placement of how close they are together or the size of the park because the more together the more the sound so they are starting to think about trying to separate the amount to help with the sound. The other thing they are looking at over there is placement. If the turbines are placed on the top of a ridge, one side of the ridge is not going to see as much disturbances as the prevailing wind side. So there is a lot of thought going into these.

Carl – There is a lot more like you are saying too, they are years ahead of us, so consequently we here in the US haven't really taken a hold of anything outside of the hearing, the infrasound. I think probably because wind power has been pushed, a green type of energy source.

Dick - The Oakfield information, I think you will see a lot of this information is very current and there is a lot of engineering. I think there is very definitive conclusion that infrasound had no adverse effects.

Carl – And you can read six European studies that say it does.

Todd – I will agree with John that I think further study into this as we get into the General Standards, I think it is something that we need to consider. I agree with John that if we make a decision from here, as you have heard around the table, we are guessing.

Carl – I would agree 100% that we need more information.

B. Review/Discuss – Modified Wind Turbine Classification Chart-

Tim – Made changes under the heading of “Aggregate Capacity” we took out a little bit of the grey area.

Motion: Phil Christensen moved to approve the Classification Chart as amended and to be used as a working document.

Second: Jim Everett

Vote – All affirmative

C. Review/Discuss – Permit and Operational License Requirements

Tim- Tony and I worked on this, the major changes are either in bold or crossed out and we added an Appendix A. It is intended to be a starting point that we can put into the document or take out to amend if needed.

Tony – Just as an example, 10.2.3 that is where they had the language of the annual renewal and so with the discussion around the table, this is how we crafted this as a draft for you to consider.

Dick - Tony was that the five year language that you’re talking about?

Tony- Yes that used to be the five year language, there might be an annual submitted requirement. But that’s not for renewal of the license, it’s to make sure they are in compliance.

Carl – I sometimes feel that the one meeting I missed, I missed more than I thought. But here in the State model that we started with, it is not built like this at all. So we are not really following the States model and inserting like I thought we were going to do. With that aside, this one says 10.1 Permit Requirement and 10.2 is Operational License and when I look through the Montville ordinance and I can’t discern the difference in the between permit and license and the difference in requirements for each of those. Under operation license it starts out by saying in 10.2.1, “When the applicant is applying for a new permit the application for the license shall be submitted in conjunction with the permit application.” So you need to have both of them at the same time and when I go back over in 10.2 sections in Montville and beyond I cannot discern what the difference is between the two and what is supposed to be contained within each of those applications. That leads me to and Oh by the way the States model does not have two it only has the one and defines it very definitively what is required when you are applying for a permit. So I don’t know what I am missing here. I need help understanding what the differences are and where we are going to go and what has to be submitted.

John - I noticed that there is some grammatical confusion and inconsistencies the way this thing is written out. A permit is required for the wind energy development, the

structure to be built, similar to a building permit. Let's just take it from the Fort Fairfield's prospective if you want to build a garage or an addition on your house you need to get a building permit. It goes through Tony and its issued in accordance with zoning regulations, etc. and etc. That is my impression of what we are talking about in 10.1 the Permit. So you get a building permit to build your wind project.

Carl – What do you have to submit to get that?

John – Well, that's a good question, and that should be enumerated under what we need to submit for your permit. Basically what do you require for a building permit Tony, do you require a site plan, and do you require cost or value? You might require because of the strict zoning code, for example, the set back from the property lines. You get a building permit for it, and then if you want to operate it, it has certain standards for your application for the operating license. The operation license is then considered.

Carl – Then what is the difference, what will I have to submit for that. In the Montville Ordinance everything in here as you progress down through, its license, and license there is nothing about a permit, what is required for a permit in the Montville ordinance.

John - What is required for a permit to build our house? I guess that's why we should be dealing with this as a building permit issue. Then as we proceed along with it, you can build all you want, put those pretty things up there but before you hook a cord to it or get the propellers turning, you better have an operation license for it and here are the requirements for that under 10.2 Operational License. Does that make sense to divide it in that respect?

Tony – Let me make a suggestion, I was of the interpretation that a permit is for the structure that is going to be place and we have yet to determine what the submittal requirements will be for permits and license. I think there will need to be a whole section on submittal requirements for permits and license. But I think you need to differentiate the operation of a wind farm and the construction of a wind turbine. It was as simple as A and B to me. You have to have a permit sited first and then to operate it you need a license. If you are going to operate it we are going to have an insurance requirement. I normally for any kind of permit no matter what I have so far, including the power plant here in Fort Fairfield, we never had to have insurance before they had the construction, but I bet the PUC did.

Todd – Well the permit gives us the option to build the park to have it constructed the operation licenses gives us the room to put in some of these other things we are looking for, the emergency shutdown plan, the decommissioning plan. If you are not meeting any of the criteria you have lost your operation license, we are not going to take your building permit but your operation license will stop then if you haven't meet the criteria.

Carl – I got that, but the part that I am missing is what, we go down through here and we do operational license and if we go back here in the State model we will be taking pieces that will be referring to a permit. If we go back to the Montville one, we will be taken pieces that deal with licenses. Let's say that I have a license now tell me what is required to get the permit, specifically.

Todd – As Tony described earlier, the permit application needs work, I think that process needs to be included, this is a working document, so we are putting in the permit requirement that is your first process to looking at requirements. From there if you meet those requirements and you meet the operational license requirements you're granted your operational license.

Carl - Am I wrong to suggest, that this permit requirement section is going to be expediently expanded.

Dick – I see what Carl is getting at I have to say I agree with him. I think the State's ordinance does a better job at setting up the preliminary information that needs to be submitted. You can still make it a two-step process, they call it general submission requirements. If you had all that information and in addition you are going to need insurance before you get to the operational part.

John – Well, you can follow the same analogy as when you get a building permit, if you want to move into the house you have to get certificate occupancy. All of the inspections have to be done than you get the certificate of occupancy or in this case your operational license.

Tony – When we get done this document it should be all inclusive with everything that we need to have A for the permit and B for the license and C for shutting it down and reclamation. The Appendix A, fees is left blank, I was not comfortable putting in fees yet.

Todd – I think the fee structure should be tied somehow to the amount of projected energy coming out of the project. It's a fair way to do it, it is a common method of determining projects.

Dick – As I understood the conversation the idea was that the information submission requirements need to be beefed up under 10.0. Tim and Tony can do a revised version on this as their homework?

Brent – I have one comment on this, I would think part of the process is that they need to be able to demonstrate they can have an operational license if they can do those guidelines. You wouldn't want a bunch of windmills being built and then just have them set there, right?

John – That would be to their financial and business advantage to know that they can meet the operational requirements when they are applying for their permit. But when do we need to know?

Brent – I would think that they would have some idea up front.

John – Well if they want to build windmills and tear them down because they can't get an operational license fine, but that's up to them. If they have deep enough pockets they can go out and play all they want to. But we don't need to know about the operational license requirement until they apply for that and we consider it.

Carl – Well, it says when you are applying for a new permit at the same time you got to submit your application for an operational license. So the planning board is going to have in front of them all the information it needs on both of them, actually.

Tony - But they could issue the permit.

Carl – They could still issue the permit, but still if they use the license material as an input, which they have to consider. If they come up with something that says whoa, this isn't going to work downstream so we are not going to issue the permit until you prove to us that you can do that. You are going to have all that material from a planning board prospective, supposed to consider it all before we make a decision.

John – Here is an inconsistency, if we are going to take the application for the permit and the application for the operational license at the same time, you get to 10.2.4.2 it says, “For the initial Operational License, the wind turbine project must successfully pass an inspection for structural and operation integrity and so forth. Inspection will be after construction is completed so they can't get an operation license and they won't be able to fully apply for the operational license until they get the engineers certificate saying that it's got structural integrity.

Todd- That's a common process, the operational license is always the last thing.

John- But we are saying up above that they have got to be submitted at the same time

Todd- But your operational license application is going to include your shut down plan, emergency plan, so I think that's what the planning board needs to look at.

John – Excellent point, I am just saying it's a little bit inconsistent to ask for a structural inspection on a structure that has not been built yet.

David –But the planning board would look at that and say of course you can't have that but it is in your operational plan it just hasn't got to the point where it can possibly happen.

Carl – Come down to, you don't have a professional engineer review yet but you have got everything else so you can issue the permit, and we will see you a year and a half from now and you will get your license assuming it passes the professional engineer inspection.

Dick – So it's a two-step process with that application to meet certain requirements.

Tony- To issue the license I think we have to wait until the end to get construction started on 1, 2 & 3 of these and put the finance in place. I think you are going to have to issue a permit license after they prove everything else, dot the I's and cross the T's and we are done. Get a lawyer to close it for us.

David - If we have an operational license procedure, here is what the license requires, the guys are going to put 18 million dollars in the ground, they know exactly what our operational licenses are going to require. They are not going to put a penny into that un-

til they can meet these things and they will get that license when they have met them but they can't even try to meet them without a permit.

Tony – I don't think so, they issue the first then the second. The only time I ever see any proof of fiscal capacity in a permit process, sort of like a mineral distraction, that's when they are going to make a permanent change to the face of the earth and they want to have proof of fiscal capacity that can be returned to the way it was. In my mind having been out west, those are not permit structures by any stretch of imagination. They have a life expectancy and they will be removed, now are you going to have to prove that up front during the permit process, I don't think so. I think you would have it under the operational license. They will have a copy of our standards, they won't even start the project if they can't meet the standards.

D. Review/Discuss- Permitting Authority –

Dick – Do we need further discussion on 11, Permitting and Licensing Authority?

Carl – 11.1, The Fort Fairfield Planning Board to review all Classification Type 3 & 4 according to the chart the planning board is authorized for 2, 3 & 4.

Tony – But, 1 & 2 are not part of this ordinance.

John – Would like added to review all 3 & 4 wind turbines permit and operational license applications rather than just the word applications.

Carl – If we are changing grammar, I would suggest change to approve, disapprove or approve with conditions as opposed to reject.

Todd – I have a question on 11.3, he then went on to read this. Does this mean that the town is exempt from all of this?

Tony - The Town can't convey or enter into an agreement with out going to ordinance, that ordinance is approved by the Town Council and they have to have a public hearing. There is already a process outlined in our town charter for anything dealing with the town. Do that as a separate step for the stuff dealing with the town.

Todd - I see that it's crossed out and I was just wondering.

Tony – And that is the only reason, I felt that it was redundant.

David – Because it's covered in the charter?

Tony – It would require an ordinance to enter into a contract, or require an ordinance to allow an easement.

John - Maybe we can leave that foot note as a reminder, since it is already covered somewhere else.

Carl – Make it read, “Permission for use of town owned property outside the scope of this ordinance it must follow the process outlined in the Town Charter”.

David – It will go to planning board, if they approved it, the permit and licensing and all of that, does that mean it’s a done deal?

Tony – If anyone has an objection and prove standing then they can go to the Zoning Board of Appeals, if someone doesn’t like their decision and they appeal within 60 days, then they can go to the Superior Court. If they don’t like what Superior Court says then they can appeal that in District Court, and then they can go to the United States Supreme Court.

John - But the Town Council doesn’t take part in that decision.

David- That’s where I was going.

Dick – Tony, with what we have done so far, have we decided that the application will then go to the planning board and not the Town Council.

Tony – That is what we are suggesting and that is how we have crafted the language.

Dick- But that hasn’t been decided yet.

Tony – No, it has not been adopted by the town council either.

Dick – Well, isn’t that an issue that we need to discuss?

David – That is exactly the procedural thing I wanted to ask, which way are we going with that?

Tony – That is what you are saying here, that the review authority is the Planning Board. and that there is some sub-titles to that. That there is other jurisdiction such as site design review for certain size projects that have to be approved by the DEP.

Todd – But this is a new working ordinance, document, how is it stated in that?

Tony – Permit is required for each wind development built in Fort Fairfield after the effective date of this ordinance.

John - Well the Town Council doesn’t issue building permits.

David – So the Energy plant up here is \$85 million constructions cost, it went to the planning board?

Tony – I think it did.

David – Ok did it ever come to the Town Council?

Tony – I don’t think it did, it had to go to DEP because it was more than an acre.

David – Fine, so at what point do elected officials or the Town itself have a say in this. The planning board is an appointment.

Tony – They have administrative duties

David – But they are appointed and this seems to be a very weighty decision to be put on the shoulders of people who have not been duly elected or doesn't come through a vote.

Carl - It's going to require Town Charter and all kinds of changes.

John - What we are saying with the ordinance with planning board is if they meet all of these requirements you go ahead and issue the license. But if you put it out to a vote with the Town Council regardless of whether they meet all the requirements the town council can still vote No. There is no requirement that makes the council vote in any one particular way. So if it happens to somebody that the councilors were bias against, heaven forbid, or some other factor that crept into the equation. The council regardless of the fact that all of the permit and license requirements have been met, the council can still vote to squash the project.

Dick – Tony does the charter prohibit the ordinance from specifying the body approves or deny wind turbine projects is the town council.

Tony – That's my opinion that it would.

Carl – Correct me if I am wrong, part of the charter of the town is another document which I asked about before, you said we have it. That says that #1 constitutes the Planning Board and provides the new authority to do all of these kind of reviews and approve or disapprove, this kind of thing.

Tony – The Planning Board has been around a long time, but it has been created in statute, the shoreland zoning document it's also in the states subdivision rules. You have to have a planning board to review subdivision ordinances. So if you want this to go to the Town Council for approval then you need to create language that says that and it needs to go to a lawyer.

Dick- That's why I was asking you that, I don't know if the Town Charter will allow that or not. Now I think David's point, what he is getting at is something we need to think about because it is going to be a fairly significant decision and I guess the council is a little more politically tuned.

David – My point is that they elected by this community to represent this community as opposed to the Planning Board.

Jim - You are saying that after this ordinance is approved it comes to the Planning Board, the Planning Board says it's approved. But you are saying that it needs to go back to the Town Council to say yes or no.

David - No, I am just wondering if there should be a step in there for the people

who have been duly elected by the citizenry to make the decisions for them.

Tony - I am in the exact opposite position as you for code enforcement reasons. The approval of the permit has to be based on the findings and facts of law and not the sediments of the town fathers because they are worried about a vote.

David – That makes sense, that’s what I was looking for someone to say.

Dick – Let me ask you a questions, we talked at one point about the possibility of a referendum. How will that fit in to what you just said about the legislative body?

Tony – To build this document if somebody took it upon themselves to create a document that could be voted on by the public. Either outlining differences, whatever it might be and they can collect enough signatures then it can be brought to the town councils attention. The Town Council can take that under advisement and vote to agree with the petitioners or send it to referendum.

Dick - Not on the project but on the ordinance.

John - That would take a separate process of a petition as you just described as opposed to the council ultimately deciding that we should put this to referendum.

Tony – I follow one, the initiative, the person or group would establish an initiative to revisit whatever was considered, adopted or deny. They can do the same thing for when the Town council denies something, they don’t like something so they get a petition out that says we want you to review that and here are our bases for that and here is the language that we should like to change. Once they did that the Town Council did not vote on it and it could go to referendum and be handled in either a special election or a regular election.

David – Tony spoke really well before this last speech. I totally agree with you based on the fact, based on the ordinance and all that stuff. I like that it is not a matter of opinion of the Council, I like that, it makes perfect sense to me and now I understand that there is a vehicle.

John – The Council can amend the ordinance.

Tony - Submit evidence in writing to the Town Council to amend the ordinance would go through the same process we should for any amendment. We would draft the amended document, establish a new ordinance to amend that document. Then you would have a separate public hearing and at the public hearing it could either be approved, disapproved, approved with conditions or tabled until changes are drafted.

Carl - Its what is in place today with any ordinance, there is also the possibility that people are here from the public, they are open meetings and they hear us say that we are going to have a 7 mile setback, if they think that is ridiculous they can speak up right now and tell us that so we can change it even before the ordinance is sent to the council.

- E. Discussion – General Standards – This was assigned as homework for the next meeting.
- F. Other –

Todd – You did say at the last meeting that you were going to hold off on any comments until everyone has visited the Mars Hill Wind Farm. I suggest we take this opportunity to talk about that visit.

Brent – I was amazed at how slowly they were turning that day but there was still noise.

Dick - The thing that struck me was the immensity, not so much the sound but how big they are at ½ mile away.

Todd- One of the reasons I suggested that we go down was to see the size of it.

Carl – Some of the newer ones are bigger than those.

Todd - We got some numbers, the height of the top of the blade he said it was approximately 425 feet. But Carl is right the average height of the newer ones is 480 – 500 feet.

John - He mentioned the ground clearance, wasn't that 100 feet? That was quite interesting from my perspective, because it does affect the overall height of the wind mill and in which category it falls into I guess you have to have a certain amount of ground clearance. It has got to be up in the air to work.

Todd - The Mars Hill wind farm is a manned project, there are some advantages to that. Some of the questions we asked while we were there was do you shut any turbines off? Or how do you control ice throw? They have a process that they do in house, which is a good control for a manned project. It brings into question if a project like that is not manned, how is the ice throw or the safety factors looked up on? I think they do a good job there with safety. It brought to light to us that there are two turbines that they turn off for ice for safety reasons.

Dick - So it is obvious that if you have a significant setback, something other than 1200 – 1500 feet, doesn't at some point the ice throw become a non-issue?

Todd- As they told us they do limit the amount of ATV and snowmobile use because there is concerns about it. Depending on the setback, there are a few things that we need to consider, it is not that we can't do it, and there are huge advantages for having a manned operation.

Phil – One of the topic that we have been beating around the bush about is whether to set the setbacks from a property line or a residence. Most of the ordinance are saying set back from a property line.

Motion: Phil Christensen moved that we base the setbacks for non-participants on a property line bases.

Second: David McCrea

6 votes in favor

2 opposed

February 9, 2015

Wind Energy Technical Review Committee

Tony - For crafting purposes, for being consistent.

Todd - I think you have to separate public roads from property lines.

Carl – There are other things besides property lines that come into play. I personally think that's premature. I would like more time to think about that in more detail. Because I think there are many other things.

Tony - Only a starting point to give us a direction at this time, can be withdrawn at any time.

IV. New Business

A. List of Topics to be researched in advance of next meeting – Tim and Tony will revise 10.0, 10.2 and 11.0 with some of Carl's recommendations that he will be emailing Tim.

B. Other - None

V. Public Comment Period – Rick Shepherd - There was discussion about a company coming in and putting \$180 million into the project with the idea the funds will always be there. There are abandoned windmills all over the U.S. sometimes they will pretend to go broke or whatever they do. IF I have a property that is a mile wide, my house is in the middle so its ½ mile from the property lines, if you let someone build a wind turbine ½ mile from my property line, its legal for my house. But what if I want to build another house, it is a taking of my property line to do that. You are including my property in some portion of the setback just because you put it to the residence.

VI. Other –

Phil- Asked what happens to "wind committee" comments that are submitted to the web site.

Tim: The website did not work at first but has now been fixed. All comments go to Mike, Dick, Tony and me. The main reason we chose to set it up this way is to avoid flooding people's inboxes with spam.

Next meeting is February 23<sup>rd</sup> at 6:00 pm – Council Chambers

Motion: Carl Young moved to adjourn at 7:53 PM

Second: Jim Everett

Vote – All affirmative

Respectfully submitted,

Rebecca J. Hersey  
Secretary Pro-Tem