

**SWANTON PLANNING COMMISSION**  
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*January 12, 2016*

**SPECIAL MEETING**

***The Swanton Planning Commission held a public meeting at 7:00 p.m. on Tuesday, January 12, 2016 at the Swanton Town Offices, 1 Academy Street.***

Present:

Jim Hubbard  
Ed Daniel  
Andy Larocque  
Sarah Luneau-Swan  
Yaasha Wheeler, Secretary  
Darlene Marrier, Zoning Administrator

Luc & Michelle Deslandes  
Dustin & Christine Lang  
Joel Clark  
Adam Paxman  
Taylor Newton, NRPC

Mr. Hubbard opened at 6:39 p.m.

**1. Agenda Review**

Mr. Hubbard introduced everyone at the table. Mr. Hubbard noted that Mr. Clark was present to discuss First Street zoning. Then the PC would discuss green energy. He noted that Mr. Daniel had come up with a draft of some of his personal concerns. Mr. Hubbard had asked David Jescavage to draft language for the town plan.

Mr. Hubbard stated that Chapter 5, Implementation, included action plans that needed to be addressed in the near future. The Planning Commission would be holding a meeting with the other boards to ensure communication about planning and zoning bylaws and issues. All the legislative bodies would be encouraged to attend such a meeting annually, and the 2016 meeting would be planned for February or March.

## **2. Discuss First Street Zoning with Joel Clark**

Mr. Clark noted that, in his capacity on the DRB, he noted that the front setback along First Street was 30 feet, which he felt was too much in consideration of the more commercial nature of the area. He felt that the setback should be “relaxed a bit” in order to encourage walkability. The Central Business district used a front setback of zero to 10 feet. He noted various properties and businesses that were right on the road and more accessible to people. Mr. Hubbard stated the Planning Commission’s intention to review each district briefly.

Mr. Clark recommended going down to 5 feet, and, when you take into account the sidewalk and the Village right-of-way, he felt the setback would be fine. He noted that some experts on walkability had suggested closer setbacks. When the discussion turned to Dollar General and its setbacks, Mr. Hubbard asked if the aesthetics were influenced by the DRB, and Mr. Clark replied that it would be the standard Dollar General. Mr. Clark said that community involvement could influence those things.

Mr. Newton said that NRPC had worked with Georgia to develop aesthetic/site design standards. There were a lot of encouragements, but no mandatory, site design plans. He suggested that Swanton consider looking at Georgia’s south village. Also, Swanton’s action plan involved looking at aesthetic standards.

Mr. Daniel announced the Planning Commission’s intention to walk down First Street and consider the area in the spring.

Mr. Hubbard summarized that First Street had a lot of heavy truck traffic, but would lower setbacks make the truck traffic influence or compromise the structures? Mr. Clark replied that there were a number of structures there already whose integrity was not affected, and he suggested that the road should have lower speed limits. He reminded the Planning Commission that the DRB has the authority to reduce setbacks up to 30% as Conditional Use.

Mr. Daniel wished to know the plan for parking, and Mr. Clark and Mr. Paxman explained the various efforts underway to increase parking in the Village.

## **3. Discuss Renewable (Green) Energy amendments to Town Plan and Zoning By-laws**

Mr. Hubbard reiterated that Mr. Jescavage was drafting language on the green energy issue. Mr. Daniel had suggested not allowing commercial wind turbines or solar farms, due to lack of suitable area in the town. This did not oppose small-scale wind and solar.

Mr. Newton reminded the Planning Commission that the Public Service Board would not look at the town plan, and would consider many of the measures suggested as de facto zoning. The Planning Commission understood, but felt action should be taken.

Mr. Daniel said that he felt the community should not have commercial projects, but rooftop projects should be permitted. He suggested height and setback requirements, as well as potential screening. Solar might be “limited to no more than 500 square foot on rooftops.” When Mr. Daniel suggested the importance of not impeding on a neighbor’s sunlight, Mr. Larocque referenced a California case in which a neighbor’s established trees were felled to provide sunlight to a landowner’s new solar panels. Mr. Daniel also recommended considering the lifespan of these panels: “If not used in one 12-months span, should they be considered abandoned?” Also, “should we have some kind of protective fencing” to prevent injuries? The other Planning Commission members felt that the safety around solar panels was not much of a concern. Mr. Daniel added that some of these panels have control buildings; should they be considered an accessory structure or otherwise?

Mrs. Luneau asked how the use would be policed, and Mr. Hubbard said that the repair or disrepair of the structures would indicate use. He suggested that this should be considered Conditional Use.

Taylor Newton reminded the Planning Commission of 24 VSA 4414, which had specific language about what the municipality could do as far as regulating solar. Subsection 15, Solar Plants, Screening, which stated, among other things “a municipality may adopt a free-standing bylaw to establish screening requirements that shall apply to ground-mounted plant that generates electricity from solar energy... provided that such conditions do not prohibit or have the effect of prohibiting such a plant or its intended function.” The state had set setbacks for solar facilities. For the largest non-net metering projects, the project had to be 100 feet from a highway with no setbacks required. In other words, there would be no setback requirement from a typical commercial project.

A zoning permit could not be required. A bylaw could be adopted to create recommendations, but any violations were under the PSB’s oversight. Having said that, Swanton could develop a bylaw for solar screening, which did not exceed standards for any other commercial project. Mr. Newton noted that the state standards were “poorly written.” Mr. Hubbard asked who was correcting the poor quality of the standards. Mr. Newton noted that the solar siting task force considered standards throughout the state and had come up with seven general recommendations to the legislature about how to deal with solar siting. From there, he was not certain who in the legislature would be drafting a clearer bill, but the task force was an example of a group attempting to fix the issue. The recommendations would clarify the process for municipality to make a recommendation to the Public Service Board.

Mr. Hubbard said that “communities are on their knees” with this green energy. He noted that the attempts toward green energy were destroying the very environment they were seeking to protect. He asked Taylor Newton to continue helping.

Mr. Newton said that he could give the Planning Commission something to start with, though full guidance was not something he could do. Adopting the screening bylaw would fully exert Swanton's authority, as far as what the municipality was allowed to do. Swanton, however, had no jurisdiction to dictate setbacks, size of facility, and other features. Mr. Hubbard said that the Planning Commission could put in language that, while not authoritative, could at least get the attention of the Public Service Board.

Mrs. Marrier asked, "Could we get at the setbacks through the screening a bit by dictating where you put the screening?" Mr. Newton said that Section 248, Section S, showed what the setbacks were.

Mr. Clark said he had gone to a VLCT renewable siting seminar and Rutland Regional had put some "great stuff" in their plan. While the standards might be considered too restrictive, they had some solid standards. Mr. Clark would provide that material to David Jescavage.

Mr. Daniel said that he was operating from the point of view that there would be no commercial green energy. Mr. Newton noted that commercial net metering was 500 kilowatts. Mr. Clark reminded that the Town had not voted in opposition to commercial green energy; they were just voting in opposition to a specific project. Mrs. Luneau-Swan said that people seemed to be more concerned about commercial wind all throughout Swanton, than concerned about solar. Solar and wind evoked different emotions from people.

Mr. Newton asked, "Right now, how involved are you when you get an application for a renewable energy facility?" Answer: None. It was noted that Swanton was the "oddball" with very little solar, because Swanton's electric rates were very affordable.

Mr. Newton presented Fairfax's ground-mounted solar screening standards, and suggested that the Planning Commission could tailor that language for Swanton. He recommended especially considering reworking Section 2 and 5. In the language of Section 248, subsection (b), he noted that all of that information was criteria that the Public Service Board would look. Mr. Newton discussed Act 250 and Act 248 criteria, and pointed out the setback requirements.

He referenced a municipal plan adopted by the town of Rutland, which had specific setbacks for solar, and the PSB issued a decision disregarding the setbacks because they considered it de facto zoning.

Mr. Hubbard asked what had happened to the deer yards in the state of Vermont? He said that the maps had all been removed from the state system, despite the fact that, at one time, there had been delineating deer yards. Mr. Newton said that he had deer yard maps at NRPC, adding that the state system was under redevelopment. Mr. Newton said he would get Mr. Hubbard a copy of the deer yard map in Swanton. Mr. Lang state that, in

consideration of the deer yards in the Swanton Wind Project, two turbines had been moved away from deer yards, but closer to houses.

Mr. Newton said that NRPC was currently developing maps that would prioritize areas in the region for different types of renewable development. They had identified prime solar and wind sites and determined which primary resources should be protected: wetlands (Class 1 and Class 2), hundred-year floodplain, and habitat blocks. There were secondary resources that NRPC would prefer not to see developed, but, if developed, there should be mitigation of the impact. They were talking about locally designated conservation land. When those primary and secondary conservation resources, the map would show the best areas for renewable development siting. To generate 174 megawatts via solar to meet the state goal of 90% renewable energy by 2050, they need 1200 acres, and the maps currently showed 33,000.

The final plan would hopefully be adopted by fall. Municipalities could adopt a chapter in the NRPC plan to fulfill its planning elements.

Mrs. Lang asked if people were added to those maps. Mr. Newton said that, in a public meeting regarding the drafts on the map, one of the common questions was, "Where are the people?" NRPC approximated population density based on E911 points. The committee did not like it because it was an approximation of density based off of different parameters plugged into the computer; "it is really easy to lie with this map." The data could be interpreted many ways, so the RPC thought it was not a good way to go about including the people element. As part of the pilot project, they were working with two other RPCs in the state. Bennington had a different idea for including people in the maps, and they created buffers from E911 points. The Northwest Regional Planning Commission would develop that and bring it before the committee.

Mr. Newton gave updates on various renewable energy facilities in the area.

Mrs. Lang asked what was left in the area for wind as far as acreage, in terms of the 33,000 acres for solar. Mr. Newton said he did not yet have that information, but it was less acreage since habitat blocks were included as primary instead of secondary. The Swanton Wind Project was considered a habitat block, so it was not in the recommended wind area.

Mr. Hubbard asked about decommissioning. Below 15 kilowatts, no decommissioning plan. Anything not net metering, not owned by a public utility, would need a decommissioning plan. Basically, the bigger the project, the greater the need for decommissioning. However, a public utility company did not need to decommission.

As far as life expectancy of the renewable energy projects, Mr. Newton stated that solar panels were given specs for 20 years. To replace panels, the developer had to go back to the Public Service Board. Mrs. Deslandes said that with the goal of 90% renewable energy by 2050, if the technology only lasted 20 years, then the technology could have changed a lot

by that goal year. Mr. Larocque noted that the tax advantages from the government was pushing this development.

Mr. Newton suggested revising the Fairfax language for Swanton. Step two would be adopting a chapter on renewable energy from the NRPC plan when it got adopted later in 2016. He noted that the Department of Public Service was excited what NRPC was doing in mapping out the region, and felt that the plan was worthwhile.

Mrs. Deslandes noted that Vermont's population was going down, and felt that the lack of consideration for people in the area in relation to the renewable energy siting influenced that lack.

Mr. Hubbard considered that maybe if standards were put in place and the role of the Public Service Board was revised to allow for more municipal authority, municipalities could have more say.

Discussion turned to what would happen if another project like Swanton Wind Project came forward. Mr. Newton said that pursuing municipal control on the level that Swanton was considering, they would need legal advice from the town attorney.

Mr. ? asked to know the status of the PURPA request by Swanton Wind. Mr. Newton knew it was a federal process by which a developer forces a utility to buy its power, but that is all he knew.

Mr. Hubbard made a motion, seconded by Mr. Daniels and Mrs. Luneau-Swan, to proceed to modify Fairfax's solar screening regulations on renewable energy, to adopt a chapter of the Regional Plan on renewable energies once that plan was completed, and discussing with the Selectboard the possibility of hiring an attorney to adopt some town regulations on the issue. Mr. Newton noted that adoption of the solar screening regulations would be adopted with the same procedure as a zoning bylaw. Motion carried. Mr. Hubbard asked at least one Planning Commission member to be present at the next Selectboard meeting to let them know where the Planning Commission stands on the issue.

#### **4. Review minutes**

Mr. Daniel made a motion, seconded by Mr. Larocque, to approve the minutes of September 8, 2015, September 16, 2015, and December 2, 2015. Motion carried.

#### **5. Any other necessary business**

The Planning Commission would get information to David Jescavage for the annual report regarding the Planning Commission report and a dedication to Ron Case.

Mr. Paxman would send dates to the Planning Commission for the joint legislative board meeting to consider.

Mr. Hubbard summarized that he and Mr. Jescavage would consider the Fairfax regulations and how to modify them for Swanton. He also recommended that at least one Planning Commission member attend a Selectboard meeting to discuss the possibility of having legal guidance.

Mrs. Marrier brought up some items for consideration in relation to the zoning bylaws. The Planning Commission agreed to discuss those items in upcoming meetings. Mr. Daniel noted that there was no stop sign where Ally Drive met Middle Road.

Mrs. Marrier said she also would like to bring templates to the DRB for findings of the DRB. Also, a memorandum of every hearing's findings should be recorded. She explained other ways in which she worked as a Zoning Administrator and tried to keep the business going appropriately.

The next Planning Commission meeting, to discuss zoning regulations and prepare the Planning Commission's information for the joint legislative meetings, was set for February 2, 2016, at 6 p.m. They planned to be on the Selectboard agenda for that night.

## 6. Adjournment

Mr. Hubbard made a motion, seconded by Mr. Larocque, to adjourn at 8:50 p.m. Motion carried.

Respectfully Submitted,

Yaasha Wheeler  
Planning Commission Secretary

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Jim Hubbard

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Ed Daniel

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Andy Larocque

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Sara Luneau-Swan