

Thetford Planning Commission
Minutes – Meeting January 2, 2007

Present: Stuart S. Blood, Hayden Brownell, Heather Carlos, Dennis A. Donahue, Donn E. Downey, Lori Howard, Rick Howard, Wayne Parks (Chair)

Absent: Liora Alschuler,

Guests: Jennifer Davey, Chair of the Conservation Commission; Mike Pomeroy of the Broadband Committee

1. Meeting called to order at 7:18

2. Public Comment:

Jennifer Davey gave an overview of a publication titled Conserving Vermont's Natural Heritage. She suggested that Jens Hilke of Vermont Fish & Wildlife attend a future meeting to discuss its contents further. A discussion ensued on how the guidelines presented in the book, particularly with regard to preserving wetlands, might apply to Thetford. DAD stressed the importance of this issue and how it can be balanced with housing needs and the rights of property owners. For planning purposes, the town needs to identify critical pieces of land for conservation before the town gets too crowded. At present only 3% of Thetford is wetland; other land not classified as wetland could be given priority for future building.

SSB asked whether the Conservation Commission could guide the PC discussion on these issues. PC could set the agenda and have the Conservation Commission identify the key issues. DAD raised questions of how current laws address the issue; it was concluded that local residents need to take the initiative. A time will be set up for Jens Hilke to address the PC. J. Davey referred to a recorded talk on biodiversity, given in Thetford by Elizabeth Thompson in Nov. 2004, and distributed DVD copies to those present. (7:40)

3. Minutes were reviewed, amended and approved as corrected. (7:43)

4. Telecommunications By-Laws: the Bylaws Working Group presented a draft model incorporating current models put forward by the Vermont League of Cities and Towns (VLCT) and recommended by the Two Rivers - Ottaquechee Regional Commission (TRORC). Most of the changes in the new model make requirements less stringent for Telecommunications providers (cell & “fixed wireless facilities” i.e. broadband with fixed antenna.) For example, the current regulations require that an applicant map tree height within 200 ft. of a proposed tower, which the new model reduces to 50 ft.; similarly, an applicant is currently required to prove that no suitable tower exists within 30 miles of a proposed site, while the new model reduces this distance to only five miles.

Discussion ensued about the purpose and implications of the updated model. Mike Pomeroy of the Broadband Committee responded to questions; he explained that a proposed state bill would exempt towns with their own Tower ordinances from coverage by Act 250 and warned that the town therefore needs to be very specific in its bylaws about the kinds of towers involved. He clarified that, according to current ordinances, cellular providers require FCC licenses while broadband providers are exempt. This distinction is eliminated in the new model; before adopting this model, the town needs to be sure that this is the direction it wants to take.

A complicating issue is that towns aren't allowed to discriminate between providers of "functionally equivalent services;" how should this be defined? If the town wants to make arrangements with one provider, other providers could conceivably claim that the town had failed to follow regulations. Mike Pomeroy discussed the "Catch 22" history of Thetford broadband: unlike the five-town committee that includes Tunbridge and Sharon, Thetford is ineligible for state grant money because broadband already is partially available. Furthermore, a town's choice of provider doesn't necessarily stop other providers from installing towers on private property; the Town can make recommendations but the ordinances don't prohibit independent installation.

For 98% of Thetford residents to get broadband, approx. 7 towers need to be put up. There's a maximum of 100 subscribers per tower because not enough frequency is generated to support more. A survey indicated interested by 340 residents, although actual subscription will depend on the rate. However, if another provider decides to set up towers in their vicinity, there may be interference with the frequencies of towers built previously. The presence of too many towers is undesirable and would degrade service. Approx. 2% of residents will be unable to get broadband service because their homes are located in inaccessible areas.

M. Pomeroy suggested that the ultimate answer would be for the town to own the towers, and charge rent to providers, but this doesn't work in practice. HB asked about maintenance costs: towers cost \$3000 to put up, but there are issues of liability, right of way, etc. WP asked about what kind of support towers need: each tower provides its own solar power and doesn't need power from the town grid. A discussion on further technicalities ensued. M. Pomeroy clarified that, while communities can choose a preferred provider for cable TV, the Federal Telecommunications Act prohibits discrimination regarding use of the airwaves. Rick asked about a bid process: the problem is that towns can't offer providers exclusive access.

SSB suggested another meeting with M. Pomeroy to discuss ways of reconciling interests: everyone wants broadband, but nobody wants to see the town covered with towers. DED sees this problem as "self-preventing"; perhaps the discussion isn't necessary? HC considers the discussion highly important.

Regarding the distinction between cellular services towers and broadband towers, DAD clarified that cell phone towers (“fake trees”) are a much bigger project, needing more space and infrastructure such as access roads. Broadband towers are smaller and less intrusive. MP referred back to Act 250 and the need to be careful of this distinction. SSB volunteered to investigate the cell phone ordinance. MP recommended that the new model not be adopted; he sees the new 5 mile limit as too small. Also, the distinction between licensed and non-licensed providers should be restored. WP suggested that the PC modify and strengthen the model; the challenge is how to get around the discrimination issue. Should the town specify a tower’s function? Height? Etc. SSB concluded that the complexity of the issue is at least now understood.

DAD asked about the time frame available in which to select a provider. M. Pomeroy responded that the five-town committee will help its selected provider get through the planning process and all prospective vendors estimate construction could begin in March; residents could be connected by the end of next summer. WP concluded that the PC needs to investigate this topic further. (8:30)

5. Coordination with the Selectboard – Hearings: three PC members will attend the SB meeting on Monday the 8th.
6. Joint Meeting with DRB: since the DRB won’t meet again until Jan. 23, and since the agenda for that meeting is already full, an ad-hoc meeting with a representative of the DRB has been set up for Jan. 9th. Topics to be discussed:
 - identifying issues in both the subdivision and zoning ordinances considered priorities for change and clarification;
 - a means of formally tracking issues under discussion by the DRB which are also of concern to the PC.
7. Report – Bylaws Working Group: SSB and DAD have formatted a scanned, electronic version of the TRORC handbook on Subdivision Regulations, made changes, clarified language, and begun to identify major vs. minor subdivision requirements. The next revision needs to focus further on these requirements to make reference by the DRB and applicants for subdivision easier.

The question of logistics was raised: does each PC member need to review a 30-page hard copy every two weeks? There are specific issues requiring the attention and assistance of the other members; there should be a check-in at each stage of revision for approval of suggested changes: How much review is required by members before they feel qualified to approve? Ideally, everyone would have a practical working knowledge of the document as it’s revised. HC requested specific instructions from working group. DAD suggested that they solicit minimal feedback from the DRB first. He also identified a specific assignment: both major & minor subdivision regulations include identical material on septic

and are very out-dated. Does anyone want to be the resident expert on this item? HC recommended delegation of this to TRORC. SSB responded that this may not be practical since TRORC has limited resources, although a TRORC representative may have a markup copy of zoning ordinances to present at the next PC meeting.

In response to a question by RH, SSB confirmed that the new state regulations for septic are in effect and our language needs to reflect that. SSB sees the PC's role as keeping a draft moving, rather than developing technical expertise. He asked if anyone wanted to volunteer to manage the telecommunications facility bylaw and interface with the Broadband Committee? HB responded that the issue is too big for one person to handle.

WP reaffirmed that the working group's goal is to improve the "flow" of the bylaws and make them more understandable. SSB presented an example of substantive change: the original definition of "annexation" was confusing and illogical, especially the requirements for hearings. The Working Group is rewriting them according to their understanding; the edits are color-coded to identify who made them.

Regarding the logistics of ongoing review, the Working Group will do its best to provide a draft of the latest revisions every 2nd Friday before the meeting scheduled for the following Tuesday. WP suggested that specific items could be highlighted for review by the membership; this was agreed. WP said he would be speaking about with Richard Blacklow, the zoning administrator, about the septic issue.

8. Old Business: None
9. New Business: SSB mentioned the announcement of the Vermont League of Cities & Town's "Subdivision Primer" to be held on at an interactive television session: will anyone attend? SSB & Wayne would like to attend if possible.

Meeting adjourned at 9:08

Respectfully submitted,
Jennifer Jabareen
(PC clerk)