

**New Shoreham Town Council Meeting**  
**Wednesday, November 18, 2009**  
**Town Hall, Old Town Road, Block Island**  
**7:00 p.m.**

**Present:** First Warden Kimberley Gaffett, Second Warden Raymond Torrey, Town Councilor Kenneth C. Lacoste, Town Councilor Peter B. Baute and Town Councilor Richard P. Martin. Also present were Town Attorney Donald J. Packer and Town Clerk Fiona Fitzpatrick, who took the minutes of the meeting. Approximately 45 members of the public attended the meeting.

**Call to Order:** First Warden Kimberley Gaffett called the meeting to order at 7:00 p.m.

**Warden's Report:** The Christmas Shopping Stroll will be held on November 27, 28 and 29. The Christmas tree lighting ceremony will start at 5:00 p.m. on December 1, 2009. Tomorrow the DEM and Deer Task Force will meet at 12:30 at Town Hall. It will be an open meeting to discuss deer.

**Public Input:** Bill Wilson asks whether the Council would be meeting with Interstate Navigation. The meeting has not yet been scheduled.

Public Hearing Continued from October 5, 2009: Proposed amendment to the Town's Zoning Map and the Town's Zoning Ordinance to establish a "Public Utility Zone." Amendments are proposed to Section 202, Section 301, Section 314, a new Section 321 is proposed, and changes are proposed to Section 508.

Ms. Gaffett opened the public hearing at Public Hearing. The last hearing was continued to resolve an issue with the Planning Board transmittal letter and to ask the Board to consider whether Utility WECS should be allowed by special use permit in the new zone.

Town Planner Jane Weidman was present to explain new language drafted by the Planning Board. Ms. Weidman said the Planning Board discussed the changes at their October and November meetings, and held two special meetings to work on the alternatives. She provided a memorandum which compared the advertised language with new language prepared by the Planning Board. It is attached to these minutes. Planning Board Chair Margie Comings and Vice Chair Rob Gilpin were present to explain whether the ordinance is in compliance with the Comprehensive Plan.

Ms. Weidman said there are no changes to the proposed Zoning Map amendment.

She said the Planning Board proposes changes to building setbacks from the WECS. A 275 foot setback was advertised, on reconsideration the Planning Board recommends total turbine height plus 10 feet, with no interference with private building rights. Public Works Facilities, Utility Facilities, and Utility WECS would be added to the uses allowed by Special Use Permit. The application requirements and standards of review for Utility WECS were expanded.

The First Warden read the transmittal letter, which is attached to these minutes.

Town Attorney Donald J. Packer was present and said the Town's transfer station is now a nonconforming use in its zone. The Planning Board recommends making it a Special Use. State zoning enabling legislation charges the Zoning Board with granting special use permits in conformance with Town's Comprehensive Plan. The Planning Board has crafted the Zoning amendment to put the burden on the applicant to make sure an approved application meets the standards of the Comprehensive Plan.

Ms. Gaffett acknowledged each letter received commenting on the amendment, copies are attached to these minutes.

- Mr. Lacoste spoke against the location of the WECS and noted the Planning Board's transmittal letter found the amendment had inconsistencies with some aspects of the Town's Comprehensive Plan.

A discussion of 'floating zones' for WECS, such as existing 508(G), or the advertised provision in Section 321 "The Town Council may establish additional PU Zones on appropriate parcels in order to meet the purposes of this Section." The Planning Board recommends both be stricken. Ms. Weidman said the Town Council already has the power to amend the Zoning Ordinance to establish such a zone. Mr. Packer agreed.

- Abutter Robert Rohn spoke against the zone change. He visited the Portsmouth Abbey WECS and enjoyed it as a good demonstration project and learning tool. He believes the site under consideration on Block Island is inappropriate. He believes the feasibility study should be done before the Zone change is considered. He feels disillusioned because he believes the PU Zone is contrary to Jack Gray's expressed wishes.
- Attorney Tom Plunkett, who represents 8 families in the West Beach Road area, spoke against the PU Zone. He said it could establish the transfer station as a special use, which could be expanded. He believes the noise and flicker standards for WECS under the ordinance are still insufficient. It lacks standards for views. He does not believe the proposed location is right, the Smith property is within the fall zone, and he believes some property owners on West Beach Road bought their property knowing about Jack Gray's deed restrictions.
- Joseph Lombardo, a professional planner from Cumberland, RI submitted a memorandum to the Planning Board which he read. It is attached to these minutes. He says the concept of the ordinance is consistent with the plan, but the specific ordinance is inconsistent with the plan. He said there should be an Energy Plan within the Comprehensive Plan before the zoning change is considered. He supports the concept of floating PU zones in other areas.
- Marguerite Donnelly spoke for the zoning change. She said the burdens of going green should be shared, and not pushed off on those who could not afford to fight.
- Margie Comings, Planning Board chair said she dissented because she finds the ordinance is not consistent with the Comprehensive Plan.
- Kevin Hoyt, a member of the Planning Board, spoke in support of the ordinance, but he would like to see specific special use standards for the zone. He urged the Council to exercise prudence and diligence so the zone change works. He wants a feasibility study, and a referendum to measure support for funding the feasibility study and an Island energy study.
- Socha Cohen spoke against the zoning change. She wanted to include standards for low frequency noise limits in all special use permits. She said no feasibility study would address the issue that people do not want to look at the WECS.
- Arlene Tunney spoke against the zoning change. She said DEM is planning WECS standards, and she believes the feasibility study should be done first. She suggested the Town could save itself \$50,000 to \$75,000 in litigation costs if the amendment was not passed.
- Chris Littlefield spoke against the zoning change. He believes there should be a feasibility study to look at the entire Island first.
- Planning Board member Neil Lang spoke in support of the zoning change because he felt it would encourage study of site.
- Ken Maxwell spoke against the zoning change and said the feasibility study should be done first. He thinks Jack Gray's intentions are not being followed.

First Warden Gaffett closed the public hearing at 9:45.

She moved to take the issues under advisement until the next Town Council meeting on December 2, 2009. The motion was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

[The motion was reconsidered under agenda item 6, and the issue will be taken up at the Town Council's December 7, 2009 meeting.]

First Warden Gaffett called a brief recess at 9:45 and reconvened the meeting at 10:00.

### **1. Deer task force: add additional members, establish term and charge**

First Warden Gaffett read a charge she drafted for the deer task force, suggested changes, and invited the Council to comment. The New Shoreham Deer Task Force charge (with changes):

“The primary task is to advise the Town Council about means of achieving the goals set by the October 21, 2009 Town Council resolution to dramatically reduce or eliminate deer as a means to reduce the incidence of Lyme and other tick-borne diseases on Block Island.

It is expected that the Deer Task Force's work will include, but not be limited to: review of existing hunting regulations; advising the Town Council regarding possible changes to State hunting regulations and Town of New Shoreham hunting practices; public education/information dissemination; continuing to monitor progress in other communities where efforts are being made to reduce or eliminate deer; continuing to monitor medical literature for breakthrough in prevention and treatment of Lyme and other tick-borne diseases; identifying and facilitating the use of appropriate hunting areas that are not traditionally utilized; identifying potential services that could be enhanced and/or road blocks that could be removed (common butchering and cleaning site, entrails & carcass removal, meat processing, storage and distribution, marketing, and etc.) that would facilitate reducing Block Island's deer herd; and determining ways to assess progress and/or success."

Ms. Gaffett moved to adopt the charge of the Deer Task Force with the changes discussed, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Four members of Citizens Concerned About Lyme Disease were appointed to the Town's newly formed Deer Task Force at the last Town Council meeting. Additional members were discussed. Becky Ballard suggested including Concerned Citizens Against Lyme Disease member George Mellor. It was agreed the Police Department, hunters and an interested member of the public would be good additions.

Dr. Baute moved to appoint George Mellor, Maggie Komosinski, Chris Blansfield, Chris Blane and Paul Deane to the New Shoreham Deer Task Force, seconded by First Warden Gaffett.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett moved that all members of the Deer Task Force be appointed to one-year terms expiring in December, 2010. Motion seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

## **2. Receive Town Manager updates:**

The First Warden gave the Town Manager's updates.

### **• Old Harbor Dock Project**

Sam Bird was appointed the Town's Clerk of the Works. The Town is waiting for bidder Narragansett Dock Works to return the contract. It is intended that the Harbormaster's building be put out to design/bid in the near future, hoping to incorporate some of the suggestions for materials and design discussed at Financial Town Meeting.

### **• Alarm System**

Radio boxes have been installed in most of the municipal buildings. There has been excellent cooperation with Security One's commercial accounts. The State Fire Marshall's office continues to assist every step of the way.

### **• Town Hall PV system**

Mystic Solar is finishing up the solar installation at Town Hall. Poor weather pushed off their schedule, it is hoped the project will be up and running by this Friday.

## **3. Act on request of New Shoreham Sewer Commission re: waiver of building permit fee**

A memorandum from Sewer Superintendent Ray Boucher requested waiver of a building permit fee in the amount of \$78.08.

Dr. Baute moved to waive the permit fee of \$78.08, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

[It was later determined that the building permit referenced was a state permit, not a town permit. The fee cannot be waived by the Town.]

**4. Set public hearing dates for proposed Zoning Ordinance amendments**

• Payne's Harborview Inn; Restaurants in Mixed Use Zone

An unfavorable advisory opinion was received from the Planning Board. First Warden Gaffett noted Payne's Harborview Inn waived the timeframe for the zoning amendment application intended to allow a restaurant at an establishment in the mixed use zone. The application has not been withdrawn. The First Warden recommended going forward now that the advisory opinion has been received, with the understanding that the application will not go to public hearing if it is withdrawn.

Dr. Baute moved to set a December 16, 2009 public hearing for Paynes Harborview Inn application to amendment to New Shoreham Zoning Ordinances Section 310(E). Motion seconded by Second Warden Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

• Light Assembly Use

A favorable advisory opinion was transmitted with language drafted by the Planning Board in response to a Council request prompted by an application, since withdrawn.

Dr. Baute moved to set a December 16, 2009 public hearing for the proposed Light Assembly amendments to New Shoreham Zoning Ordinances. Motion seconded by Second Warden Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

**5. Approval of minutes of November 2, 2009 Town Council meeting; review minutes of Special Financial Town Meeting November 4, 2009**

Mr. Lacoste moved to approve the minutes of November 2, 2009 with changes, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Changes were suggested to the Special Financial Town Meeting minutes of November 4, 2009.

**6. Review upcoming Town Council meetings schedule**

A review of the Town Council meetings schedule prompted the agreement that the Public Utility Zone decision should be announced at the next meeting; December 2, 2009 is a work session.

Ms. Gaffett moved to reconsider the vote to 'take the issues [PU Zoning] under advisement until the next Town Council meeting on December 2, 2009.' The motion to reconsider was seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett moved to take PU Zoning under advisement until the next Town Council meeting on December 7, 2009. Motion seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Ms. Gaffett moved to adopt the 2010 Town Council meeting schedule, noting the work session dates are for guidance only and may be changed as needed. Motion seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

At 10:50, a motion to adjourn was made by Dr. Baute and seconded by Mr. Martin.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Minutes approved December 7, 2009

Fiona Fitzpatrick  
Town Clerk