



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD
September 27, 2022
6:00 pm
MINUTES

CALL TO ORDER: Craig Knight called the meeting to order at 6:00 pm.

ROLL CALL: Members present were Scott Newhart, Heather Grass, Craig Knight and Susan Dunham-Shane. David P had an excused absence.

MINUTES: Motion that we accept the minutes of September 8, 2022 as submitted
By Susan DS/Scott N 2nd Vote 4-0.

NEW BUSINESS

UNFINISHED BUSINESS: Scott N and Susan DS updated the Board on the new red-line items in the Solar Ordinance. Items will be in red if they were changed after the copy was given to the Select Board for review.

1. Page 2, added **Net Energy Billing Definition: a billing and metering practice under which a customer is billed on the basis of the difference between the kilowatt-hours delivered by a transmission and distribution utility to the customer over a billing period and the kilowatt-hours delivered by the customer to the transmission and distribution utility over the billing period, taking into account accumulated unused kilowatt-hour credits from the previous billing period.** Scott got information from the Consumer Energy Commission online.
2. Page 5, added: **104.3 Note 3 – Net Energy Billing Projects Prohibited.**
3. Page 5, added **104.4** in front of Note 4
4. Page 13, add: **107.11.4 The decommissioning plan must include an itemized estimate of all cost associated with the completion of section 107.11 of this Ordinance.**
5. Page 14, add: **107.13.4 Monetary amount of Guarantee: The total amount of surety as outlined in 107.11.4 of this Ordinance is due prior to the issuance of a building permit.**
6. Page 13 Delete: **Section 110 - Violations, Complaints and Penalties:**

110.1 In this section, “violation” means a violation of this Ordinance, or a violation of a SES Site Permit issued under this Ordinance, or a violation of a SES Operational License.

110.2 Violations of This Ordinance. It shall be unlawful to construct or operate any SES or part thereof in violation of any provision of this Ordinance, a SES Site Permit, or a SES Operational

License; any violation thereof is punishable, upon conviction, in accordance with 30-A M.R.S.A. § 4452(3), and shall include attorney's fees and a penalty to address economic benefit as provided in 30-A M.R.S.A. § 4452(3)(D) and (H). All fines assessed under this Ordinance shall inure to the benefit of the Town of Eddington. Each day a violation exists or continues shall constitute a separate offense.

110.3 Complaints and Modification, Revocation or Suspension. The Board of Selectmen shall retain continuing jurisdiction to modify, suspend or revoke all SES Operational Licenses in accordance with this section. Such authority shall be in addition to the Town's authority to prosecute violations and take other enforcement action.

110.3.1 Any resident of the Town, real property taxpayer to the Town, or Town official may file a written complaint with the Town Clerk alleging that a SES Permittee, Owner or Licensee has committed or is committing a violation. Such complaints shall be forwarded to the CEO.

110.3.2 The Planning Board shall preliminarily review the complaint. In connection with its preliminary review, the Planning Board may require the Code Enforcement Officer or other person or persons to conduct such investigations and make such reports as the Planning Board may direct. The Planning Board may request information from the SES Permittee, Owner and/or Licensee, the complainant, and any other person or entity to assist with its preliminary review.

110.3.3 Following its preliminary review, the Planning Board may:

110.3.3.1 Dismiss the complaint;

110.3.3.2 Refer the complaint to the Town attorney for prosecution; or

110.3.3.3 Conduct a public meeting to determine whether the alleged violation(s) have occurred, and what remedial action should be taken. Prior to such meeting, notice of the meeting shall be given to the SES Permittee, Owner, Licensee, as applicable, and the complainant. The SES Permittee, Owner, Licensee, as applicable, and the complainant, and any other person, may appear at the meeting and may offer testimony and other relevant evidence, and may be represented by any attorney. If the Planning Board concludes that violations have occurred, the Planning Board shall:

110.3.3.3.1 Impose conditions on the SES Site Permit, Owner and/or Licensee to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof; or

110.3.3.3.2 Recommend to the Board of Selectmen that the matter be referred to the Town's attorney for prosecution seeking that the SES Site Permit and/or Operational License be suspended until such time as the SES Permittee, Owner and/or Licensee presents and implements a plan, satisfactory to the Planning Board that will discontinue the violation(s) or prevent any recurrence thereof, and meets such further conditions as the Planning Board deems appropriate to discontinue and prevent further violations; or

110.3.3.3.3 Recommend to the Board of Selectmen that the matter be referred to the Town's attorney for prosecution seeking that the SES Site Permit and/or Operational License be revoked and that decommissioning of the SES be directed, if the Planning Board

concludes that no reasonable modification can be made to the SES to discontinue or prevent violations; or

110.3.3.3.4 Refer the matter to the Board of Selectmen and Town's attorney for prosecution, subject to Planning Board and Board of Selectmen approval; or

110.3.3.3.5 Take no action, if the Planning Board concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.

110.3.4.4 Following any such hearing, the Planning Board's written decision shall be furnished to the SES Permittee, Owner and/or Licensee, as applicable, and to the complainant.

110.3.4.5 An appeal from the decision of the Planning Board may be taken to the Appeals Board by the SES Permittee, Owner and/or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof and must be filed with the Town Clerk within 30 days after the final action of the Planning Board. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof as well as due notice to the SES Permittee, Owner and/or Licensee, as applicable, and the complainant. Given the complexity of this type of project, all appeals shall be considered as appellate procedures. The action of the Planning Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the Planning Board's determination.

110.3.4.6 An appeal from a final decision of the Board of Appeals shall be made to Superior Court in accordance with M.R.Civ.P. 80B.

Replaced it with: Section 110 - Violations, Complaints and Penalties:

110.1 In this section, "violation" means a violation of this Ordinance, or a violation of a SES Site Permit issued under this Ordinance, or a violation of a SES Operational License.

110.2 Violations of This Ordinance. It shall be unlawful to construct or operate any SES or part thereof in violation of any provision of this Ordinance, a SES Site Permit, or a SES Operational License; any violation thereof is punishable, upon conviction, in accordance with 30-A M.R.S.A. § 4452(3), and shall include attorney's fees and a penalty to address economic benefit as provided in 30-A M.R.S.A. § 4452(3)(D) and (H). All fines assessed under this Ordinance shall inure to the benefit of the Town of Eddington. Each day a violation exists or continues shall constitute a separate offense.

110.3 Any resident of the Town, real property taxpayer to the Town, or Town official may file a written complaint with the Town Clerk alleging that a SES Permittee, Owner or Licensee has committed or is committing a violation. Such complaints shall be forwarded to the CEO.

110.4 The CEO shall preliminarily review the complaint. The CEO may request information from the SES Permittee, Owner and/or Licensee, the complainant, and any other person to assist with this review.

110.4.1 Following preliminary review the CEO may take one or more of the following actions:

110.4.1.1 Dismiss the complaint.

110.4.1.2 Determine that the alleged violation(s) has/have occurred and what remedial action should be taken.

110.4.1.3 Impose conditions on the SES Site Permit, Owner and/or Licensee to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof.

110.4.1.4 Recommend to the Select Board that the matter be referred to the Town's attorney for prosecution seeking that the SES Site Permit be suspended until such time as a plan, satisfactory to the CEO, is implemented that will discontinue the violation(s).

110.4.1.5 Recommend to the Select Board that the matter be referred to the Town's attorney for prosecution seeking that the SES Site Permit and/or Operational License be revoked and that decommissioning of the SES be directed if the CEO concludes that no reasonable modification can be made to the SES to discontinue or prevent violations.

110.4.1.5.1 Take no action, if the CEO concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.

110.4.1.5.2 Following any of the above actions, the CEO's written decision shall be furnished to the SES Permittee, Owner and/or Licensee, as applicable, and to the complainant.

110.4.2 An appeal from the decision of the CEO or Select Board may be taken to the Appeals Board by the SES Permittee, Owner and/or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof and must be filed with the Town Clerk within 30 days after the final action of the CEO or Select Board. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof as well as due notice to the SES Permittee, Owner and/or Licensee, as applicable, and the complainant. Given the complexity of this type of project, all appeals shall be considered as appellate procedures. The action of the CEO or Select Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the CEO's or Select Board's determination.

110.4.3 An appeal from a final decision of the Board of Appeals shall be made to Superior Court in accordance with M.R.Civ.P. 80B.

******Revisit section 110 in regards to changes in other ordinances******

Susan DS said the change not allowing Net Energy Projects could cause problems. Scott N said that they are only doing what the State of Maine has been doing since last November. He continued that they are looking out for the town and not working for the money mongers.

Motion to accept the Solar Energy Ordinance as written with the red changes until such point as it is presented by the Selectmen at Public Hearing.

By Scott N/ Heather G 2nd. Vote 4-0

After tonight's meeting the new copy will go to the Selectmen, be online and emailed showing any changes since the original copy. The notice that the Selectmen Public Hearing will be held October 4, 2022 was in last weekend's paper. The Special Town Meeting is scheduled for October 18, 2022.

PUBLIC ACCESS:

AGENDA FOR FUTURE MEETINGS – HOUSEKEEPING:

DATE OF NEXT MEETING: The next meeting will tentatively be October 6, 2022 if needed for the Ordinance and Susan DS will work on the Finding of Fact for Darric Hammond. Denise K cannot make the October 6, 2022 meeting. Scott N will be gone from October 10 to 14, 2022. David P is gone this week, but will be here all of October. Heather is gone October 11, 2022 and from October 24 to 28, 2022. Denise K will update the District Use Chart.

ADJOURNMENT: Motion to adjourn at 6:48 pm. **By Scott N/Heather G 2nd. Vote 4-0**

Respectfully Submitted,

Denise M. Knowles