

Norwich Planning Commission Regular Meeting – June 11, 2024 6:30pm

To be Held in person in the Tracy Hall Multipurpose Room and via Zoom
Zoom Information:

Topic: Planning Commission

Time: June 11, 2024, 6:30 PM

<https://us02web.zoom.us/j/81307504748>

Meeting ID: 813 0750 4748

888 475 4499 US Toll-free

1. Approve Agenda
2. Public comment for items not on agenda
3. Correspondence
[[Mary Albert comments](#)]
4. Planning Commission goals & priorities for 2024
Zoning by-laws relating to housing density
PC by-laws
5. Subcommittee topics
Website update [[website subcommittee template](#)]
Update on SB subcommittee discussion [[Legal opinion memo](#)]

Capital planning
Solar siting
Affordable Housing
6. Approve minutes for [April 16, 2024](#), and [May 14, 2024](#)
7. Public comment
8. Adjourn

Memo to: Norwich Planning and Solar Siting Committees
From: Mary R. Albert 5-14-2024
Re: Edits for the draft Town Plan

The draft Town Plan that was included in the Norwich PC Solar Siting Subcommittee Special Meeting on April 30, 2024 included edits proposed by Annette Smith and Mary Gorman that addressed forests and ecosystem services. The following edits are intended to add balance by including the need for generation of renewable energy. The following list of requested edits is organized by the section of the plan, and is restricted to the sections where edits are already proposed in the draft Town Plan that was included in the solar siting packet of 4-30-2024.

2. Land Use

(note to committees: the following land use objectives, policies, and actions are needed to support VT state goal #7 to provide for the development of renewable energy resources and reduce emissions of greenhouse gases)

2.1 Land Use Objectives

Add Section 2-1.h: Land in Norwich near power lines must be clearly identified and prioritized for development of renewable energy generation resources to reduce emissions of greenhouse gases. The policies, activities, and zoning and subdivision regulations must enable siting of systems for generation of renewable energy including solar farms.

2.2 Land use policies

Section 2-2.e: The current proposed wording is “Development shall not be permitted on slopes greater than 25 degrees”

Change the wording to: “Development shall not be permitted on slopes greater than 45 degrees”.

(reason: the angle of repose for earth slopes is 45 degrees).

Add Section 2.2.k: Land designated for development of solar energy generation systems must be exempt from limitations based on visual considerations, provided that the solar panels do not rise above the tree line on visually prominent ridgelines.

2.3 Land use actions

Add section 2.3.i: At least 200 acres of land in Norwich must be identified and mapped for priority use in development of solar farms that are sufficient to power at least the current electricity demand of Norwich.

2.4 Future land use

Second paragraph in this section: The wording of the existing proposed edit is “and development on slopes greater than 25%XX shall be prohibited.s”

Change the wording to: “ and development on slopes greater than 45 degrees shall be prohibited.”
(reason: the angle of repose for earth slopes is 45 degrees).

3. Energy

Section 3.2 Policies

3-2.h: The current draft language reads: “solar generation projects sized from 15kW to 500kW meets the Public Utility Commission definition of ‘preferred site’ and be located in the commercial/industrial zone. They must not be located in the Ridgeline Protection Overlay Area, Shoreline Protection Overlay Area, the historic village district, and forest blocks as identified in the Norwich Land Use Regulations”

Change the language in 3-2.h so that it reads: “solar generation projects sized from 15kW to 500kW and larger should be located in areas in Norwich that are prioritized for solar farms. They must not be located in the Ridgeline Protection Overlay Area, Shoreline Protection Overlay Area, the historic village district as identified in the Norwich Land Use Regulations”

Add section 3-2.j: Landowner installation of solar generation sized below 15 kW must not be restricted based on visual or any other consideration other than existing regulations for new home build.

Add section 3-2.k: Town planning must enable development of solar farms of combined electrical generation capacity sufficient to power the total electricity demand of Norwich.

Section 3.3. Actions

Add section 3.3-x: Town planning must identify, map and prioritize sufficient solar siting near powerlines in Norwich specifically for priority use in development of solar farms of combined capacity to power at least the total electricity demand of Norwich.

Add section 3-2.y: Town regulations, including zoning and subdivision must be updated to include a regulation that landowner installation of solar generation sized below 15 kW must not be restricted based on visual or any other consideration other than existing regulations for new home build.

Sample Subcommittee Website Format

Subcommittee Title

1. Founding charter/mission
2. Members (denote role as appropriate)
3. Upcoming Meeting Info
 - a. Agenda and packet
 - b. Zoom info
4. Ongoing projects and Committee Materials
 - a. Project 1
 - i. Links
 - ii. Resources
 - b. Project 2
 - c. Project 3
 - d. Relevant Public/Norwich/St docs/links to the entire subcommittee
5. Past meetings (most recent first)
 - a. April 2024
 - i. Agenda/Packet/Approved Minutes
 - b. March 2024
 - i. Agenda/Packet/Approved Minutes
 - c. Public forum October 2022
 - i. Agenda/Packet/etc.

TO: Norwich Selectboard Members
FROM: Marcia Calloway
DATE: May 16, 2024
RE: Advice of counsel

Summary Request: In addition to the requirements under Dillon's Rule, this town is party to the Katucki Settlement Agreement signed by the Selectboard on 12/12/2023. For purposes of finding legal advice, which is knowledgeable about both of those requirements, VLCT guidance alone is insufficient as they have no knowledge of Katucki. We have been advised that more specific information will be forthcoming from counsel about how the Katucki agreement should be implemented in our town's boards, committees, commissions, subcommittees, etc., and by the Town Manager. We need to ask for that information and guidance from our counsel now, considering the Planning Commission's decision that it will function as a body which is allowed to appoint additional, ancillary members. Specifically, we need our legal counsel's answers to these questions:

- Does a Selectboard-appointed body, such as the Planning Commission, have separate authority to add to its membership by appointing additional people, from outside the Selectboard-appointed Planning Commission membership, to form "subcommittees?"
- How would Katucki apply to such "subcommittees" or similar groups?
- Who is responsible for ensuring compliance of Selectboard-appointed as well as non-Selectboard-appointed "subcommittees"/groups with statutory and other authority, including Katucki?

Planning Commission position: The Selectboard-appointed Norwich Planning Commission has announced its intention to continue their recent practice of creating "subcommittees" and appointing new members for those new bodies. There appears to be no Selectboard concern about the Planning Commission's authority to create "subcommittees" to accomplish its work. However, such "subcommittee" membership is currently, and will be, comprised of individuals who have not been appointed by the Selectboard. The Planning Commission indicates their authority to appoint "subcommittee" members is found in

- 24 V.S.A. § 4322 Planning commission; membership;
- 24 V.S.A. § 4323 Appointment, term, and vacancy; rules and
- 24 V.S.A. § 4325 Powers and duties of planning commissions.

They further assert that their appointment of others from the community is consistent with the requirement to solicit participation of local citizens. Presumably they are referring to Preparation of plan; hearings by planning commission" which requires a planning commission to "solicit the participation of local citizens and organization by holding informal working sessions that suit the needs of local people." 24 V.S.A. § 4384(a)

Statutory and Other Authority: Juxtaposed to the Planning Commission's understanding of their authority, we have:

- **Dillon's Rule** which "means that the town and its voters or selectboard have no authority beyond that which is given by statute, or that which is necessarily implied by a statute."¹
 - "It is a general and undisputed proposition of law that *a municipal corporation possesses and can exercise the following powers, and no others*: First, those granted in *express words*; second, those *necessarily or fairly implied* in or *incident* to the powers expressly granted; third, those *essential* to the accomplishment of the declared objects and purposes of the corporation---not simply convenient, but indispensable."²

- **Selectboard statutory authority to appoint:** E.g. Planning Commission membership is set out in more than one statute and in the context of Selectboard appointments.

- **“Members of a planning commission shall be appointed, and any vacancy filled by the legislative body of a municipality.** The length of the term of planning commission members shall be determined by the legislative body of a municipality. Any member may be removed at any time by unanimous vote of the legislative body. Any appointment to fill a vacancy shall be for the unexpired term.” 24 V.S.A. § 4323(a), emphasis added.
- “A planning commission shall have not less than three nor more than nine voting members...” 24 V.S.A. 4322(a)

...not more than two elected or appointed officials of an urban municipality who are chosen by the legislative body ...shall be nonvoting ex officio members of a planning commission....” 24 V.S.A. § 4322(b)

“Notwithstanding subsection (a)...for an appointed planning commission, the legislative body may change the number of members that may be appointed to the commission;....” See 24 V.S.A. § 4322(c)(1), emphasis added.

- **Katucki Settlement Agreement:** In the context of the “Open Meeting Law” in effect as of the date of the Katucki Settlement Agreement, that Agreement
 - defines what is a “separate public body” and
 - discusses when such a “public body” would “not in and of itself [be] a public body nor a meeting thereof...” Katucki Settlement Agreement, paragraph 3.

In light of the above, the Selectboard requires the advice of our legal counsel to ensure that the municipality not only complies with statute, but also ensures that the municipality as a whole is functioning in compliance with the Katucki Settlement Agreement.

I request this memorandum be forwarded to our legal counsel of record.

¹ Vermont Office of the Secretary of State, Municipal Law Basics (2014), p. 2.

² Id., citing Valcour v. Village of Morrisville, 104 Vt. 119, 131-32 (1932)Memorandum May 16, 2024 Page 2 of 2

Norwich PC Solar Siting Subcommittee & Planning Commission

April 16, 2024 Minutes

DRAFT

Subcommittee members present: Ernie Ciccotelli, Kris Clement, Mary Gorman, Jaan Laaspere

Public attending: Annette Smith, Kathleen Shepherd, Linda Gray, Zara Reeves, Joy Kenseth, Mary Albert, Jim Antal, Alice Werbel, Amy Stringer, Elizabeth Spencer, Rob Gere, Stephen Gorman, Dan Goulet, Susan Barrett, Bob Pape

Meeting started at 6:35

1. Approved Agenda

2. Public comment for items not on the agenda - none

3. Correspondence

24 V.S.A §4385

24 V.S.A §4382

Vermont Act 59

4. Town plan amendment discussion

Related packet material – Norwich solar and wind maps

We had a guest speaker to provide guidance on enhanced energy planning and the relationship between town plans and state processes, including 30 V.S.A Section 248 and Act 250.

Annette Smith, Executive Director for Vermonters for a Clean Environment, presented an immense amount of very helpful and relevant information. A link to her presentation is included at the end these minutes, along with many useful links to maps, example town plans and other resources. The subcommittee is extremely grateful to Annette for sharing her knowledge and experience.

The minutes record a very small portion of the discussion. Please refer the meeting video and the references at the end of this document for much more detail.

Possible initial steps for updating Norwich energy plan

Annette agreed that upgrading our energy section to qualify as an enhanced energy plan would not be a great deal of additional work.

We could start with generating town input into two sides of the siting topic:

- Identify what places, views, etc. people want to protect. One element of this could be an updated scenic inventory.
- Identify potential locations that could be candidates for preferred sites for renewable generation.

Creating a preferred site map is one method of specifying potential solar sites. It can also be done with specific criteria, locations and definitions.

Possible town plan improvements for specificity and increased influence

To be useful in the state processes of Section 248 and Act 250 our plan needs an overall shift from an aspirational, high-level document to a include a specific set of goals and guidelines that can be used in a stand-alone document for regulatory purposes.

Use the word “must” to have regulatory weight.

Districts specified in a plan can be useful, if allowable development for these districts is well defined. This could include our historic district and resource protection district.

5. Preferred Site Letter process

Annette gave her interpretation on the roles of the three bodies involved in preferred site review:

Planning Commission – Reviews whether the project complies with town plan

Selectboard – Can look at a broader array of topics, including economic or any criteria of Section 248 GHG emissions

Regional Planning Commission - TRORC – Reviews regional criteria

She thought TRORC had a standard form for evaluating preferred siting letters. We will ask and get a copy if such a document exists.

In her opinion the Planning Commission can use its judgment when reviewing a preferred siting request. We compare the project to the town plan and can consider topics referenced in the plan such as steep slopes, forest blocks, etc., not just scenic.

Mary volunteered to be the liaison with Annette and funnel people’s questions and requests to her. We discussed how we might benefit from Annette’s expertise going forward. Mary will check with her about options.

6. Approved minutes of March 26, 2024 - Unanimous

7. Adjourned at 8:40

Our next meeting will be April 30, 2024

Minutes submitted by Jaan Laaspere

Resources from Annette Smith, VTCE

Presentation to Norwich Solar Siting Subcommittee

http://vtce.org/Norwich_EnhancedEnergyPlanning_16April2024.pdf

Vermont Town Enhanced Energy Plan Preferred Sites Maps/Addison & Bennington Regions

http://vtce.org/EnhancedEnergyPlans_PREFERREDsites_23Feb2024.pdf

Google Earth Overlays — these links will download .kmz files.

Instructions about how to open them in Google Earth are on p. 10 of the presentation.

Norwich Solar Resources with Constraints Map

<http://vtce.org/Norwich%20Solar%20Resource.kmz>

Norwich Forest Blocks

<http://vtce.org/Norwich%20Forest%20Blocks.kmz>

GMP Solar Map

<https://gmp.maps.arcgis.com/apps/webappviewer/index.html?id=4eaec2b58c4c4820b24c408a95ee8956>

Norwich Town Energy Committee Solar Map

<https://norwichenergycommittee.weebly.com/norwich-solar-map.html>

GMP 3-phase Map

<https://greenmountainpower.com/help/3-phase-service-vermont/>

GMP Conductor Sizing Map

<https://www.arcgis.com/home/webmap/viewer.html?webmap=51f68dfd7d3145868287849e628eb3e4&extent=-75.2659,42.7068,-68.7949,45.1318>

Vermont Energy Dashboard — heat pumps, EVs, etc.

<https://eanvt.org/vermont-energy-dashboard/>

Act 174 Constraints Map Layers

<https://vcgi.maps.arcgis.com/home/webmap/viewer.html?layers=bbbff1931ade4391aa19281e5d2bdaae>

Vermont Energy Planning Atlas Act 174 constraints (with other options of maps for planners including historic resources)

<https://maps.vermont.gov/ACCD/Html5Viewer/index.html?viewer=PlanningAtlas>

Example of Solar Siting By-law, Salisbury, Vermont

https://www.townofsalisbury.org/vertical/sites/%7B59D8C83C-9968-4A65-BB2B-00DE19899066%7D/uploads/Solar_siting_bylaws_012616.pdf

Vermont Natural Resources Atlas
<https://anrmaps.vermont.gov/websites/anra5/>

Vermont Biofinder
<https://anrmaps.vermont.gov/websites/BioFinder/>

Vermont Interactive Map Viewer
<https://maps.vermont.gov/vcqi/html5viewer/?viewer=vtmapviewer>

Vermont Center for Geographic Information — List of Maps with Links to all available maps

<https://vcgi.vermont.gov/maps/partner-agency-maps>

Norwich Town Plan
https://norwich.vt.us/wp-content/uploads/2012/06/Norwich_Plan_2020-ADOPTED-Ir-.pdf

TRORC page for Norwich with plans, by-laws, maps
<https://www.trorc.org/towns/norwich/>

Department of Public Service page for Act 174 Recommendations and Determinations <https://publicservice.vermont.gov/about-us/publications-and-resources/energy-resources/act-174-recommendations-and-determination>

— 2024 Guidance

Document https://publicservice.vermont.gov/sites/dps/files/documents/2024%20Guidance%20for%20Regional%20%26%20Municipal%20Enhanced%20Energy%20Planning%20Standards_0.pdf

— Generation Scenarios Planning Tool

<https://publicservice.vermont.gov/document/generation-scenarios-planning-tool>

Statute governing energy generation projects

<https://legislature.vermont.gov/statutes/section/30/005/00248>

See (b)(1) for the language about (A) due consideration and (C) substantial deference

Statute enabling homeowner renewable

energy <https://legislature.vermont.gov/statutes/section/27/005/00544>

Norwich PC Regular Meeting Minutes 5/14/24

Members Present: Christan Spalding, Mary Gorman, Vince Crow, Jeff Goodrich, Jaan Laaspere, Bob Pape, Ernie Ciccotelli

Public: Jay Benson

Meeting Opened: 6:30 pm

1. Approve Agenda:

Goodrich moved, seconded by Crow, to approve the agenda.

Motion passed 7-0

2. Organizational Meeting

Goodrich moved, seconded by Gorman, to nominate Laaspere for PC Chair

Motion passed 7-0

Laaspere moved, seconded by Ciccotelli, to nominate Goodrich for PC Vice-Chair

Motion passed 7-0

Goodrich moved, seconded by Ciccotelli, to nominate Crow for PC Clerk

Motion passed 7-0

The group had consensus that the new and existing members read and familiarize themselves with the following information:

- Link to the Planning Commission webpage for the recent minutes, packets, the PC Bylaws, the Town Plan and the Zoning Regulations and Subdivision Regulations at: <http://norwich.vt.us/planning-commission/>
- Link to Conflict of Interest Policy from the SB webpage:
<http://norwich.vt.us/wp-content/uploads/2020/10/ConflictOfInterestSigned27Feb2019.pdf>
- Link to Vermont Open Meeting Law Subchapter 2 Sections 310-314: [General Provisions \(vermont.gov\)](http://www.vermont.gov)
- [Title 24: Municipal And County Government Chapter 117: Municipal And Regional Planning And Development](http://www.vermont.gov) Title 24, Chapter 117 <http://legislature.vermont.gov/statutes/fullchapter/24/117>

3. Public Comment on items not on the agenda

No Comments

4. Correspondence

No Comments

5. Goals and Priorities for 2024

Laaspere stated that the work done by the PC subcommittees should reflect the priorities of the PC. Gorman stated that the Solar Siting Subcommittee continues to develop solar specific proposed edits to the Town Plan. The group discussed priorities of the Affordable Housing Subcommittee. Goodrich recommended engaging the RPC for items in the Land Use Regulations that need to be updated along with updating Zoning and Subdivision regulations that may limit options of the AHSC. Goodrich requested that a discussion of infrastructure corridor to be a future agenda item. Pape recommended revisiting completing FEMA's Community Rating System flood preparedness certification.

6. Subcommittee Updates

Membership

Laaspere provided an update on the SB proposed handbook and the ongoing discuss of which body can appoint subcommittee members. This has not been voted on by the SB and the handbook issue will be revisited after edits. Quarterly reporting to the selectboard was discussed and will be set as a future agenda item.

AHSC updates will need to be added to future agendas.

Spalding and Ciccotelli volunteered to work with town staff to update the town website to accurately provide information for each subcommittee.

Capital Planning Subcommittee

The group discussed ways to identify and prioritize items to be covered by the Capital Planning Subcommittee. Consensus was met to set an agenda item for the next meeting to brainstorm everything that could be involved with capital planning and prioritize what is the most pertinent to the PC.

Solar Siting Subcommittee

The group had consensus that the subcommittee can choose a new chair at the next meeting.

Gorman provided an update, stating that she was able to convert the Town Plan to a Word document and able to find the guidelines in place regarding solar siting. Along with these and state policies, the goal is to develop a rubric that would easily communicate items to look for in order to determine feasibility of a solar site. In recent meetings the group walked through changes that define steep slopes and make it consistent with the town plan and zoning regulations. The group is about halfway through the revisions and will present to the PC in the future.

7. Approve Minutes

Goodrich moved, seconded by Pape, to approve minutes for 2/13/24 and 4/9/24.

Motion passed 5-0 (Spalding and Gorman abstained)

8. Public Comment

Jay Benson, regarding solar siting, stated the importance of providing the facts to the public in a consistent manner and allowing individuals to interpret the issue once everyone has the same information.

11. Adjourn

Goodrich moved, seconded by Ciccotelli, to adjourn the meeting.

Motion passed 7-0

Future PC Regular Meeting – 6/11/24 at 6:30 pm at Tracy Hall (also accessible via Zoom)

Minutes by Vincent Crow on 5/17/24