

Approved
CITY OF ROCKLAND
PLANNING BOARD
Minutes of Meeting
May 24, 2016

Board Present: Chairman E. Laustsen, A. Knickelbein, and C. Maines

Board Absent: W. Bodine

Energy Advisory Committee Present: N. Davis, Councilor L. Pritchett, and B. Winner

Consultant Present: Dan Kelly, PE

Staff Present: Code Officer J. Root, City Attorney K. Beal, and Secretary D. Sealey

Chair Laustsen called the meeting to order at 5:16 P.M. and said the purpose of this meeting was a discussion of FMC's stated concerns regarding proposed Ordinance Amendment #11 on distributed power generation and grid-scale power facilities.

Public Comment: Amy Files, 39 Pleasant Street, said she supported the results of the ordinance meetings as a compromise. She was very suspicious of having this meeting at the end of the process because it felt like a single business could call staff and have its own meeting after the public had been attending the meetings all along. Ms. Files said if FMC's changes were granted it would nullify the whole ordinance. She said it was outdated to think that environmental considerations would be bad for business and said the proposed ordinance would be good for the community.

Sandra Schramm, 16 Broad Street, said these meetings had been going on all winter and spring and she had attended them and City Council meetings throughout. She said a huge amount of work had gone into this and FMC had attended no meetings, though they were all public. Ms. Schramm said she saw no one from FMC here tonight and asked why it was all being reviewed again. She continued that the water situation seemed to be up in the air and stated that Pacific companies had found that discharge water killed aquatic life. She really wanted this to be airtight.

Chair Laustsen said all the meetings had been public and a Public Hearing had been held. Councilor Pritchett said the group was meeting tonight because the mayor had requested it.

David Shaw, 39 Pleasant Street, said he had read through FMC's concerns and thought FMC did not understand the code. For instance, he cited their complaint that requiring an inspection and maintenance program is costly and burdensome. Mr. Shaw said he was disconcerted by many of FMC's concerns.

Chair Laustsen said he had been on the Planning Board for 30 years and remembered only once turning an applicant down; the PB was not anti-business, as FMC suggested.

The Chair closed the public comment at 5:32 P.M.

Communications: None

Old Business:

Renewed Discussion of Electric Power Generation Facilities in Response to the Dissatisfactions of FMC with the Proposed Ordinance: In paperwork received by the city on 5/16/16 FMC had stated its corporate goals and the reasons why it felt the proposed ordinance would conflict with them. In addition, it had provided a 16-point critique, "Problems Posed by Proposed Rockland Ordinance Amendments" (see attached), of the ordinance.

CEO Root stated that FMC, at this time, used natural gas for firing its boilers and was not generating power. Mr. Pritchett said he could not see in the ordinance where a boiler thermal would be captured. City Attorney Beal agreed. Mr. Pritchett continued that this was a misreading on FMC's part. Dan Kelly, PE, said this also did not affect a back-up generator and he suggested a language clarification in the ordinance.

Mr. Beal asked if it would be reviewed if FMC or a hospital wanted to install a thermal generation facility and CEO Root responded that Rockland had no mechanical code. He said the PB only reviewed things that were structures. Mr. Pritchett said if FMC replaced any of its boilers that would not come through the CEO.

Referring to FMC's #3 ("Indeed, those definitions are so broad that they could apply to any business, hospital, school, or hotel in the City seeking to replace or install such power generation equipment."), Ms. Maines said the corporation seemed to think it was a mistake that the PB had included the entities mentioned. Attorney Beal agreed with her that including them was the specific intent. Mr. Root said the committee had felt the threshold of 500 kilowatts would eliminate most schools and hotels, while those utilizing more than 500 KW required PB review. Mr. Kelly said the cost for a review of a 500 KW system would be approximately \$10,000.

Ms. Maines said the City Council had not realized there was a 250,000 gallon limit on water per day. Mr. Pritchett said Maine Water had a 1 million gallon capacity in reserve and Councilor Valli Geiger had asked if the city wanted to allocate 25% of that to one user. Ms. Maines said it cost \$100/day to use regular water (250,000 gallons); therefore, a power generation plant would use this instead of recirculating, which was a reason to consider allocating by the water company. Mr. Kelly said the number of megawatts was immaterial; rather, it was efficiency that mattered. Mr. Winner said the number was arbitrary as long as they were meeting discharge, emissions, and noise standards. Mr. Root noted that biomass would require more water. The group recommended adding at the end of F1B that water limit referred to water for power generation.

Ms. Maines noted that the decibel limit change from 85 to 75 upset FMC, but said Rockland's current maximum decibel limit was higher than most cities', which was higher than most cities'. Ms. Knickelbein said the group had decided it would not single out one type of business, but FMC wanted the decibel limit to remain 85 for all businesses.

Brooks Winner asked if anyone had found any of FMC's comments helpful. Mr. Pritchett replied that he had found their redline comments were not constructive. He said they created a new class and subsequently exempted it from the entire ordinance amendment.

The Chair reopened public comment at 6:23 P.M.

Sandra Schramm said she didn't want the burden of proof if over 500 KW. Mr. Laustsen said the PB would have to approve over that level.

David Shaw said when a Site Plan Review application was submitted it would include a design stamped by an engineer. Mr. Root commented that the PB had the ability to have a third party review at the applicant's expense.

The Chair closed public comment at 6:30 P.M.

The PB and others at the table then reviewed FMC's 16-point list of "problems". Specific comments were as follows:

2. This seemed to be a misunderstanding by FMC and the word "electrical" should be added to "distributed power generation facility" and "grid-scale power generation facility" for clarity.

3. It was the goal of the ordinance to include businesses, hospitals, schools and hotels.
4. The group could live with these stricter air permitting standards and questioned how they would add significant costs for the City and residents, as FMC claimed.
5. This was incorrect.
7. FMC misunderstood, but "discharge" (water) could be changed to "emissions" (air).
8. Says no additional testing, but the City gets a copy of the reports. CEO Root commented that FMC was worried the City would test its stack, but the ordinance only referred to generation plants, which would not include FMC.
9. Again, the word "electrical" should be inserted. The committee did not agree 10% and 25% would be impossible to meet. There was no increase for emissions from new equipment.
10. The proposed regulation of cooling process water vapor is actually more liberal, not stricter.
11. This is for power generation only.
12. The justification is to maintain our water supply.
13. The standard is not unreasonable and is, in fact, a high level.
14. The developer would pay for the cost of noise experts.
15. Developing a decommissioning plan would be for grid-scale and community-based power generation plants.
16. Annual inspections and documentation of repairs would be replaced with a requirement for proof of compliance and reporting of air emissions reductions.

ACTION: Ms. Maines made a motion to recommend the City Council adopt Ordinance Amendment #11 in final reading with the changes agreed to tonight.
Carried 3-0-0

Adjournment:

ACTION: Ms. Knickelbein made a motion to adjourn at 7:56 P.M.
Carried 3-0-0

Respectfully submitted,

Deborah Sealey
Recording Secretary

MAY 16 2016

EXHIBIT 1

PROBLEMS POSED BY PROPOSED ROCKLAND ORDINANCE AMENDMENTS

- It's unclear whether many of the proposed amendments are intended to apply to existing licensed facilities, like FMC's. It would be unfair and anti-business to apply these provisions to an existing licensed facility.
- The definitions of "Distributed Power Generation Facility" and "Grid-Scale Power Generation Facility" are so broad as to apply to any replacement or new power generation equipment or facility FMC would install, including its boilers or emergency generators, and the implications of this are potential new costs and burdens, some of which may not be possible to satisfy.
- Indeed, these definitions are so broad that they could apply to any business, hospital, school, or hotel in the City seeking to replace or install such power generation equipment.
- The proposed air permitting standards are stricter than those imposed by EPA and/or DEP, and would single out Rockland as being hostile to business. The proposal would impose significant costs on the City and many residents.
- They would add new costly burdens for replacing boilers or installing new equipment, and thus make it less likely to occur. It's not clear if some of these standards can even be met.
- The air standards are quite technical and would require expertise well beyond that typically possessed by a Planning Board or Code Enforcement Officer. There is no precedent in State or federal law for the proposed requirements. Who would pay for the City to acquire the necessary expertise to interpret, apply and enforce these new provisions?
- The terminology used is inconsistent with State and federal environmental law. Use of water terminology ("point source discharge") is confusing and appears intended to include facilities normally considered to be "non-point sources" under State and federal law.

The air provisions appear to give the City authority to require the source to stack test or otherwise demonstrate compliance with DEP-issued air permits. Who from the City has the expertise to enforce this provision, and at what cost?

- For a Distributed Power Generation Facility, the proposed requirement to reduce air pollutants by at least 10% for new or replacement equipment or expanded capacity may be impossible to meet. Similarly, for a Grid-Scale Power Generation Facility, the requirement to achieve emissions 25% less than those from thermal sources to be served may not be possible to meet, especially due to loss of heat during steam transportation over any distance.

- The proposed regulation of cooling process water vapor is much stricter than the requirements for cooling tower emissions under DEP regulations.
- New power generation and other industrial land uses, and new processes serving existing industrial uses would need to be designed to recycle or reuse at least 80% of the “unprocessed source water” drawn from a water company, well, or other potable water source serving the facility. What is the basis of this requirement? If the source is a private water company or private well and the user is willing to pay for the water used, what purpose does the City have imposing such a standard?
- Additionally, no single facility could draw or consume more than 250,000 gallons of unprocessed source water per day. What if the facility has a need for more than this amount and is willing to purchase it from a private water supplier or other private source? What is the justification for this standard?
- The amendments would lower the daytime noise standards in the Industrial, Business Park and WF1-WF5 (waterfront) zones, by 10 dBA. Why is the existing daytime noise standard being lowered in these districts? Is there a current problem?
- For Grid-Scale Power Generation Facilities, the proposed noise standards are even more complex and would require a noise expert being hired by both the City and the developer. Who would pay for the City’s expert? Noise consultants are specialist consultants, and tend to be expensive. Moreover, all 18 of the octave band noise standards should be listed in dB, not dBA. Additionally, why are octave band noise limits being applied to grid-scale power generation facilities and no others in Rockland?
- The proposal allowing the Planning Board to require a power generation applicant to develop a decommissioning plan would be burdensome and costly. It would require a detailed estimate of the cost of decommissioning a power plant and a financial plan acceptable to the board. Such a provision rarely, if ever, exists in a municipal ordinance and could easily lead to a requirement to prefund decommissioning, adding to project costs.
- For power generation facilities, the requirement for an inspection and maintenance program is burdensome and costly, and is yet another illustration of an anti-business measure. It would need to include annual inspections and documentation of repairs, a maintenance schedule, annual noise testing, annual testing for air emission standards, cooling and chemical tower treatment maintenance practices, annual pressure testing/inspections of supply piping, and other testing and inspections. A licensee must self-report any non-compliance to the code enforcement officer and substantial penalties could be imposed, including potential revocation of a facility’s certificate of occupancy.