

**WOLCOTT PLANNING & ZONING
REGULAR MEETING
WEDNESDAY, MARCH 2, 2011
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 1 of 6**

MINUTES

Note: These are summary minutes. A tape recording of this meeting is on file in Wolcott Town Hall, Commission Secretary's Office.

Chairman Ray Mahoney called the Regular Meeting to order at 6:30 p.m. with the Pledge of Allegiance and attendance was taken.

Roll Call Attendance

MEMBERS PRESENT: Pete Carmody, Cathe Sherman, Bill Olmstead, Chris Edquist, Ray Mahoney

MEMBERS S ABSENT: None

ALTERNATES PRESENT: Vanessa Malena, Rich Delpier, Tim Sullivan

ALTERNATE ABSENT: None

ALSO PRESENT: David Kalinowski, ZEO, Town Attorney Brian Tynan

PUBLIC REQUESTS

There were no Public Requests at this time.

APPROVAL OF MINUTES

Upon **MOTION** by Pete Carmody, seconded by Chris Edquist, it was unanimously voted to **APPROVE** the minutes from the 2/16/11 Regular Meeting.

Cathe Sherman abstained due to absence.

APPROVAL OF BILLS

There were no Bills at this time.

CORRESPONDENCES

(Correspondences to be read under Old Business – Musco Propane)

OLD BUSINESS

- 1. #11-447 Musco Propane, LLP – Site Plan Application for Use #C-16, C-16a and C-19a under Schedule A – Permitted Uses.**

**WOLCOTT PLANNING & ZONING
REGULAR MEETING
WEDNESDAY, MARCH 2, 2011
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 2 of 6**

Pete Carmody read into record the letter from Mark Possidento (Consulting Town Engineer) dated 2/23/11. Cathe Sherman then read into record the letter from Anthony Panico (Consulting Town Planner) dated 2/26/11. Pete Carmody then read into record the letter from Mark Garrigus (Inland Wetlands Chairman) dated 3/1/11. Cathe Sherman then read into record the letter from Town Attorney Brian Tynan dated 3/2/11. (See copies of all letters attached).

At this time Chairman Mahoney asked to back up for a moment as he overlooked these two (items) below:

CORRESPONDENCES & SUBCOMMITTEE REPORTS

Chairman Mahoney said basically we just read those in (the letters all noted above) and Commissioner Carmody said he had one other correspondence. At this time Chairman Mahoney stated to let him finish up (Subcommittee Reports) and he said there were no Subcommittees and then asked Pete to finish with the Correspondences. Pete Carmody then read the letter (dated 2/22/11) issued to Wolcott Associates regarding the final date on their Letter of Credit. ZEO David Kalinowski stated this was on the subdivision off Pleasant Street that Bob Warner is building houses up there and the 5 years (completion date) is up in a few months so it is Planning and Zoning Dept. responsibility to look at the bonds that are posted. ZEO said we have to notify them (before it is up) and when the 5 years is up according to the regulations we have (the right) to call the bond and complete the road.

OLD BUSINESS (Continued from above)

**1. #11-447 Musco Propane, LLP – Site Plan Application for Use #C-16,
C-16a and C-19a under Schedule A – Permitted Uses.**

Bill Olmstead asked if we (the commission) were going to have an opportunity to discuss the issue or is it for questions just pertaining to the letters. Chairman Mahoney said just for the letters at the moment and Bill Olmstead said then later on we are going to be able to discuss the issue here and Chairman Mahoney said if there is a motion on the floor then we will discuss it. ZEO said that to answer Billy's question we do have the Town Attorney here for a reason and if there is any questions please do not hesitate to ask. ZEO also said anything pertaining to this application we are here to discuss. Bill Olmstead said that the citizen's don't like this facility and this large tank should not have been approved and Randy (the owner) wants to expand his business but the regulations don't allow for it. He also said they don't allow anywhere in Wolcott for him to wholesale propane and his thoughts would be to consider an area where the Town of Wolcott would allow for a wholesale fuel distribution business. He also said that we would have to change some zoning regulations to allow that and Mr. Petroniro would have to move his business to that area. ZEO said what is before us

**WOLCOTT PLANNING & ZONING
REGULAR MEETING
WEDNESDAY, MARCH 2, 2011
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 3 of 6**

now is the application and what you (Bill) are talking about now is regulations and uses which is a totally different process. Cathe Sherman said it seems on some of the letters from references we have it seems like this is not a permitted use.

At this time Attorney Salvatore came forward and stated there was one letter that was not read into the file and it was a letter to Mark Garrigus dated February 16th that was in response to his (Mark Garrigus') memo to Mr. Kalinowski dated February 8th that was part of the file at the last hearing but never read into the record. ZEO asked if the letter was to the Planning and Zoning Commission or to Inland Wetlands and Atty. Salvatore said directly to Inland Wetlands and you (Dave) received a copy of it. Atty. Salvatore said he would like to point out for the record that despite requests from the last hearing to Mr. Possidento and Mr. Panico about responses to his application that he received Mr. Garrigus' response today at 11:52 a.m. via email and he received Atty. Tynan's letter, Mr. Possidento and Mr. Panico's letter today just before 4:00 p.m. He also said that at the end of his presentation he is going to request that he be allowed the opportunity to formally respond to all the issues addressed in these correspondences. Atty. Salvatore then read into record his letter to Mark Garrigus dated February 16, 2011 (see attached).

Atty. Salvatore said Musco Propane has been in business since 2006 and received approval to install a 30,000 gallon bulk propane storage tank. He also said his business consists of delivering propane to his customers as well as selling propane to other dealer's who pick up the propane in their bobtail trucks. He said in accordance with the State and Federal definitions Musco is a propane retailer. He said as a result of an issuance of a cease and desist in 2010 they had a full hearing as to whether or not Musco was a wholesaler and your Zoning Board of Appeals concluded that Musco is a wholesaler and despite their objections the Town continues that. He said in August of 2010 he sent a letter to Dave Kalinowski (ZEO) requesting that said approval (of #06-316) be modified to include wholesale sales of propane in accordance with the Wolcott Zoning Regulations – Permitted Use Section C-16. He said having receiving no response to this letter they filed this application January 21, 2011. He also said despite that they are engaged in retail sales of propane pursuant to State and Federal law and Propane Industry Standards and that ZBA upheld the cease and desist order claiming that Musco is engaged in wholesale propane sales. He said despite their objections they have been forced to file the pending application to continue selling propane to our customers as we have since 2006. He also said this application is not about expansion it is about allowing the business to continue what has been operating since 2006. He then gave a lengthy description on how Musco cannot receive a fair hearing in this Town and it is evident by the fact that they do not receive letters until hours before the meeting and are asked to comment on them. Atty. Salvatore then read the letters dated February 28, 2011 he sent to Anthony Panico and Mark Possidento requesting they forward any responses or correspondences to his office. He then said again he received no response until his request to the town this afternoon and that Ms. Henderson then faxed him the responses.

**WOLCOTT PLANNING & ZONING
REGULAR MEETING
WEDNESDAY, MARCH 2, 2011
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 4 of 6**

He then said the application before us is whether or not wholesaling is allowed in the district and fire and safety issues (which were addressed in Mark Possidento's letter) were already inspected in 2006 and are regularly inspected by State and Local Officials. He said so to request or to make it the applicants' burden of proving all those inspections is clearly a pretext and designed to put obstacles in the path of the applicant. Pete Carmody said if the records are maintained and the inspections are done what would be the problem with producing the records. Atty. Salvatore said he could not state whether or not they would have a problem producing them but his point is that the local Fire Marshal is involved in the inspections as are State Officials. Pete Carmody said it seems like it would be records that are readily available and if the Fire Marshal or State Authority was to walk into the office that they would have access to those records and it doesn't seem like it would be a burden to produce those documents. Atty. Salvatore said he respectfully disagrees because in order to respond to all these requests for information it's designed to create an obstacle for the applicant and is not relevant to the analysis before this Commission. He said again they think this is just another effort of the Town's conduct and they intend on reviewing these correspondences in detail and presenting the Town and this Commission with a full response on all the issues and ultimately prove, whether it is to this Commission, a judge to Superior Court or a Federal Court Judge that the treatment being received by Musco is patently unfair, specifically targeted at Musco and the Petroniro family and the town is overreaching and subjecting Musco to such an increased level of scrutiny, biased and prejudice that no applicant or respectable person has ever under gone at a hearing in this town.

He also said that he reviewed quite a few agendas related to other applications and he does not believe that the town has ever required an applicant for this type of application to provide the information that is being requested here tonight. He went on to state that wholesaling businesses are allowed under one section of the regulations and they have applied under three (sections) and whatever you want to call them it's allowed in that zone. ZEO said we are not here to debate; we are here as a Commission and you have material in front of you and everyone has their own opinion. ZEO also said that Tony Panico and Mark Possidento do not work for Atty. Salvatore they work for the Planning and Zoning Commission. He said we just received the information today also. He said the information you have before you is an application for wholesale and this Commission has to determine the permitted use.

Bill Olmstead said he agrees with Mr. Kalinowski (ZEO) and he understands where Atty. Salvatore is coming from as far as the wetland issues and the technicalities but the real issue is whether to allow wholesale or not. ZEO said you have a letter already in response in front of you from Mr. Panico and the Town Attorney and if you have any questions that you need clarified that is what we are here for.

At this time Town Attorney came forward and said it was only fair to allow Atty. Salvatore time to review the material and get back to us. Atty. Tynan said in answer to Atty. Salvatore's

**WOLCOTT PLANNING & ZONING
REGULAR MEETING
WEDNESDAY, MARCH 2, 2011
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 5 of 6**

statements, that he knows most of the members on the board and he could tell you that they would be fair and honest and to accuse them of doing anything else is unfair to them. Atty. Tynan also said that you (Atty. Salvatore) made a comment about Mr. Possidento questioning the safety issues and the basis of Planning and Zoning Regulations is the health and safety of the general public and it is only fair that an Engineer address safety issues. He also said the accusation that you (Musco Propane) are not being treated fairly is unfair to the Town of Wolcott. Cathe Sherman said we have sat through months and months of testimony on this, the public hearing, and I listened to you (Atty. Salvatore) intently. She also said she investigates everything, sitting with the ZEO and looked at all different statutes so your reference that we are railroading your client is an affront to me. She also said we act in the best interest of the Town of Wolcott, not one businessman. She said she will take all the documents into consideration and will not dismiss your client in any way, shape or form.

At this time Commissioner Sullivan left (7:35 p.m.). Atty. Salvatore asked the Commission to keep in mind, when they read the correspondences, to think about the applications that have come before them during the period of time they have been Commissioners and to consider whether or not the analysis and the requests for information that are put forth in these letters, specifically the one from Mr. Possidento, have ever been requested for an application like this.

Chairman Mahoney said since he has been here every application goes through the same thing and he took offense to that also, (what was said earlier). ZEO said that through the Planning and Zoning Administrative Dept. we didn't have any wholesale applications (for petroleum) before and to compare this to other applications is not fair because this is the first one before us.

Upon **MOTION** by Cathe Sherman, seconded by Pete Carmody, it was unanimously voted to **TABLE** #11-447 Musco Propane, LLP – Site Plan Application for Use #C-16, C-16a and C-19a under Schedule A – Permitted Uses to the 3/16/11 meeting at 6:30 p.m. in the Council Chambers.

NEW BUSINESS

1. #10-445 and #10-446 – Wolcott High School – Special Use Permit and Site Plan Application for (45) additional parking spaces at 457 Bound Line Rd.

ZEO said this application is for parking spaces at the High School and under Schedule A – Permitted Uses Line #B-1 it states it requires a public hearing. He said this is the existing parking lot and they will be knocking down trees and doing some sloping. Vanessa Malena asked to get a copy of the drawing before the public hearing and if there would be additional drainage. ZEO said everything will drain into the existing drainage of the parking lot now. Bill Olmstead said he would like a copy of a blueprint so he can go out to site before the public hearing.

**WOLCOTT PLANNING & ZONING
REGULAR MEETING
WEDNESDAY, MARCH 2, 2011
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 6 of 6**

Upon **MOTION** by Cathe Sherman, seconded by Pete Carmody, it was unanimously voted to **ACCEPT FOR REVIEW** #10-445 and #10-446 Wolcott High School – Special Use Permit and Site Plan Application for (45) additional parking spaces at 457 Bound Line Rd. and **SCHEDULED** a Public Hearing for 3/16/11 at 6:30 p.m. in the Council Chambers.

ZONING ENFORCEMENT OFFICER’S REPORT

ZEO Dave Kalinowski said it has been very quite the last month other than what’s before us now and some additions. Rich Delpier asked about the bus place that collapsed on Meriden Rd. and Ray Mahoney asked about Morrone’s building on Wolcott Rd. It was stated that the Building Inspector will be sending letters to both owners to block it off for safety reasons. Cathe Sherman said she was asked something about flood insurance and ZEO said it has to do with FEMA and Inland Wetlands. ZEO said that he does not know too much about and he told her to speak to Mark Garrigus. Atty. Tynan said this has to do with the Flood Plain Ordinance that was approved in December or January and he said the map (updated map) just went into effect.

EXECUTIVE SESSION

There was no Executive Session at this time.

At this time Vanessa said that she understands that Mr. Zotto is not on (the Commission) and she thinks it should be announced publicly. ZEO said that is a great point and at the next meeting prior to anything happening we should have an organizational meeting. He also said that Chris (Edquist) was moved from being an alternate to a regular member and Tim Sullivan has been put on as an alternate.

ADJOURNMENT

Upon **MOTION** by Cathe Sherman, seconded by Pete Carmody, it was unanimously voted to **ADJOURN** the Regular Meeting at 7:50 p.m.

APPROVED:

Ray Mahoney, Chairperson
Planning & Zoning Commission

Edna Henderson, Recording Secretary
Planning & Zoning Commission

**WOLCOTT PLANNING & ZONING
REGULAR MEETING
WEDNESDAY, MARCH 2, 2011
TOWN COUNCIL CHAMBERS, 6:30 P.M.
PAGE 7 of 6**