



PLANNING BOARD
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MINUTES OF THE PLANNING BOARD

Thursday, August 16, 2018 – 7:00 p.m. – Town Hall Conference Room

Members Present: James Connelly, Stu Gerome, John McDevitt, Rich Winsor, Steve Gerrato (Alternate), Catie Medeiros (Alternate), Paul Sanderson (Selectmen's Rep)

Members Absent: Frank Catapano, David Moore

Staff Present: Mark Fougere - Consultant

Chair Gerome opened the Planning Board meeting at 7:00 p.m. A roll call was taken by the Chair; he announced a quorum was present and the meeting was being recorded.

1. Approval of Minutes

MOTION: J. McDevitt moved to approve the minutes of Thursday, June 21, 2018. Second – S. Gerrato; all in favor. MOTION CARRIED

R. Winsor requested an amendment to the minutes of Thursday, August 02, 2018: page 2, third paragraph, corrected to read: The Planning Board will assess this project as they would any other; the Board will advise the applicant where it would be considered as compliant or non-compliant based on the standard application of Site Plan Regulations.

MOTION: R. Winsor moved to approve the minutes of Thursday, August 02, 2018 as amended. Second – J. McDevitt; all in favor. MOTION CARRIED

2. Approval of Invoices

There were no invoices to be approved.

3. Other Business

- **Lonza Project:** M. Fougere updated the Board on his discussions with the City of Portsmouth regarding Lonza. Letters were sent to the City with concerns about the project from the Board of Selectmen and Planning Board; both Boards requested it be designated as a project of regional impact. The Planning Director responded, citing the State statute that oversees the PDA: Portsmouth's oversight is not concrete and is advisory only (M. Fougere added this was correct). After consulting their Legal Department, they don't believe they have the authority to do anything. M. Fougere disagreed and has not responded. M. Fougere continued that he was asked to find an attorney, and it's very challenging; every large law firm is somehow connected with Pease. He has spoken to an attorney with Upton & Hatfield who represents many communities in the State. The attorney he spoke to doesn't believe his firm will have any conflicts. The immediate suggestion was

that the Board put together facts and make its case as best as possible. The attorney was concerned because it was an authority—would the Town have standing to “go after them”. M. Fougere reviewed the section mentioned by the Portsmouth Planning Director which deals with land use controls at Pease. All projects are appealable under RSA 677; they are not exempt. M. Fougere explained that Portsmouth will review a file and make a recommendation to the PDA; the PDA typically follows that recommendation. The PDA makes the final decision.

M. Fougere received a copy of the traffic study from the Portsmouth Planning Director; a copy is available from the Board Secretary. Lonza is proposing 1 million sq. ft. and 700 parking spaces. It was noted that all intersections were on Pease. M. Fougere stated that Greenland needed to do an intersection analysis at the three key intersections in Town. R. Winsor stated that the first step would be to establish that Greenland has a seat at the table as a partner; the Town is not a partner and they would prefer Greenland goes away. How does the Town establish that they have the right to say anything in the first place? M. Fougere responded that the Town has been notified as an abutter and can attend the meetings. There was a meeting scheduled for July 31, 2018; it's been postponed until September 04, 2018.

Chair Gerome asked how Greenland gets the PDA to review it as a project of regional impact. M. Fougere suggested sending a letter to the PDA. He didn't agree with the Planning Director's interpretation; the statute was very clear. P. Sanderson noted that the Town wasn't asking that the project not happen; Greenland was asking for consideration of transportation impact. There was a discussion regarding how improvements would be financed. M. Fougere noted that Lonza pays the City of Portsmouth \$2.4 million annually for the existing building; based on the proposed square footage of the new buildings, it will be \$2 million in additional tax money. That money could be used for improvements.

R. Winsor suggested sitting in on the meetings so Greenland's voice was heard. In the meantime, something needed to be happening in the background to have it permanently fixed, whether using an attorney or through the PDA, or a combination of both. There was also a suggestion to hire an expert from a private entity or the RPC to do a traffic analysis. M. Fougere felt the Town would be better served to hire a private company.

S. Gerrato noted that David Walker, RPC, has been working with a computer program: publicinput.com. This is community engagement software and could be used as “ammunition” for Rt. 33. P. Sanderson responded that the Board would like a report that would analyze data and give traffic counts that DOT would have done. S. Gerrato added it would be one more thing to put in the portfolio.

The Town would pay for the traffic study, and it should be done before the next budget. P. Sanderson stated that the traffic analysis is one alternative; another would be to do nothing and let traffic fail even more. The consensus of the Board was that the expense for transportation improvements should be borne by the PDA. There was a discussion about the CIP and adding Impact Fees. P. Sanderson will discuss the CIP at the Board of Selectmen meeting on Monday, August 20, 2018.

Vaughan Morgan, Board of Selectmen Chairman and resident, felt it was a good idea to hire an expert to do a study and make recommendations. He wanted to avoid “letting the accident happen and have to go in afterwards”. P. Sanderson agreed an expert should be hired but was playing the devil's advocate. M. Fougere recommended having a traffic engineer review the traffic study done for the project by Tighe & Bond and provide comments: is the scope appropriate; do a peak hour

analysis (a.m. and p.m.) of at least the three major intersections with signals (Rt. 33 and Winnicut Road, Rt. 33 and Portsmouth Avenue, and Rt. 33 and Ocean Road). R. Winsor asked if there was any way to create the link between traffic directly and Pease. M. Fougere responded that it would take some man power; the traffic would have to be followed. R. Winsor suggested “pinging” an E-Z Pass transponder, if it was possible. J. McDevitt suggested looking at Portsmouth Avenue; they would be taking a right by the Sunoco Station to by-pass and coming back out onto Rt. 33 by Suds N Soda.

R. Winsor suggested receiving proposals for the traffic analysis. M. Fougere agreed, adding it should be a company compatible with Tighe & Bond. He suggested that the Board could attend a meeting and ask them to do it (P. Sanderson added “at Lonza’s expense”). R. Winsor commented it would be a prejudiced result.

The letter sent to the City of Portsmouth Planning Department by the Board of Selectmen and Planning Board was copied to several other people as an FYI. P. Sanderson reminded the Board that Mr. Bohenko is a now member of the PDA as is the Town Attorney. P. Sanderson reiterated that the Board wasn’t saying that the project should be denied, but that it should be changed. V. Morgan asked if Greenland’s letter was rejected by Portsmouth. M. Fougere clarified that the Planning staff and their attorney don’t believe that the Portsmouth Planning Board has the authority to make a determination and were only advisory. V. Morgan recommended contacting Pease and going through the chain of command. If Pease doesn’t do anything, he suggested contacting the Town’s representatives, Senator Innis, etc., and ask them to attend a meeting, put them on record, and have the newspaper there also. It should be a joint meeting with the Planning Board and Selectmen, and make it a big issue. M. Fougere stated there should be letters from Police and Fire that would include any information about accidents and difficulty responding to those accidents as well as calls in general. P. Sanderson recommended having a public hearing after the primary on September 11; the candidates would be known.

R. Winsor asked how to mobilize residents to actually attend the meeting. V. Morgan suggested an editorial in the newspaper; C. Medeiros stated she knew people at Seacoast Media Group. P. Sanderson suggested an article stating there would be a public hearing and Town officials would like to hear from residents who’ve had traffic problems on Rt. 33. It was also suggested that Channel 9 be contacted.

M. Fougere stated the problem could be solved if Portsmouth wanted to cooperate. There was going to be millions of dollars in tax revenue. If a TIFF district was created for the corridor, it would be \$2 million a year that could fund a bond. The City of Portsmouth tax rate decreased three years in a row. There have been no improvements along Rt. 33 corridor since Pease opened. P. Sanderson stated there has been no funding allocated here; it has been allocated to Rt. 16 because it’s a toll road. It would have to be federal (STP) money for Rt. 33, which is being used for I-93.

M. Fougere will write the letter to the PDA, put together a RFP for the traffic analysis, and write an editorial for the paper. A date will be looked at for a joint meeting with the Planning Board and Board of Selectmen to be held after the primary on September 11. Any editorial should be positive—nothing against Pease; the jobs are needed; we like the economic development; it’s good for the coast; we want to see it work; if we can’t make these changes work, businesses may be scared away and we don’t want that.

- Van Etten Drive Development: The Board of Selectmen sent a letter to the developers regarding some outstanding items. The Town is holding a bond for \$5,000; a portion of the bond may be used

to deal with a drainage matter. There is some junk that will also need to be removed. The developer has not responded to the letter.

- Bramber Green: Jones and Beach have requested a bond reduction for Bramber Green; it has been reviewed by Altus Engineering. Jones and Beach requested a reduction to \$215,000; after review, Altus is recommending no less than \$340,000 be held. The Vernita Connection should be open in September. M. Fougere met with the Homeowners Association earlier in the day about relocating the gate approximately 100'. They will be submitting an application and coming back to the Planning Board.
- Zoning: M. Fougere will be looking at mandatory open space. On the current list: impact fees, overlay districts, and sea rise and areas near the Bay. J. McDevitt mentioned turning private roads into public roads, and was there something that could be done to make that a little more difficult. M. Fougere has spoken to the Town Attorney; even though the Ordinance states it's private, the home owners could take it to Town Meeting and ask the Town to accept it as a public road. The Town Attorney felt the Board may be able to add to the language to make it more difficult, but there was no guarantee it would work. One of the things that doesn't help and is a risk: the Town Engineer inspects all work as if it was a Town road and roads are built to Town specs. R. Winsor added that waivers were granted based on the fact that it was a private road and would be narrower. It was inspected to make sure it was solid and built to foundational specs; the dimensional specs were allowed to be different because it was a private road. M. Fougere explained it works against the Town because residents could say it was built to Town standards, it's a solid road and it had been inspected. If it wasn't, there could be some doubt to its longevity. M. Fougere noted in another town, private roads are inspected to make sure drainage and erosion control are done correctly; the road base is not inspected.

The Age Restricted Housing Ordinance would need to be amended. R. Winsor asked if any roads requesting to become public must be required to be brought up to public road standards. P. Sanderson responded that the State statute doesn't give the Board that authority. J. McDevitt stated there were concessions made to keep that road private. R. Winsor stated the Board should forego the ability of giving any concessions on roads—no waivers.

- Drinking Water Groundwater Trust Fund: P. Sanderson updated the Board that the City of Portsmouth applied for a grant in the amount of \$98,000 for one-half of the purchase price for three acres of John Chick's property for well head protection. That would be a significant change in property ownership along the edge of the Maloney complex.

There is also a multi-million dollar request from Aquarion Water to clean up contamination in Hampton wells. Everything they can do to clean up supply makes it more likely that they will come forward and try to do the Breakfast Hill water line. Big water projects aren't financed locally. They would first go to the US Department of Agriculture for an RDA grant; they would be looking for an SRF loan. They would also look for private developers to make a contribution. It may be possible to fund the water line without going to the Greenland voter. That could be done by taking the golf course out of commission. P. Sanderson stressed that zoning is very important on Breakfast Hill Road.

- CIP: P. Sanderson stated that even if an impact fee wasn't done now, the CIP needs to be done. The CIP is a precursor to an impact fee. M. Fougere added that an Impact Fee Ordinance could be adopted to be used at the appropriate time. S. Gerrato added it was very important that the Board

put some “teeth” into what was approved by voters: no new roads over the wetlands. The CIP will be added to the agenda for discussion at the monthly work sessions.

- Voting: The School has requested that voting be moved from their location because of the Concealed Carry Law. Responding to a question from Chair Gerome, P. Sanderson stated that voting couldn’t be held at the Library; they must meet ADA and HAVA (Help America Vote Act) standards. ADA is written for one disabled person at a time; HAVA is for the voting public.
- Library: P. Sanderson explained the Library has a Capital Reserve Fund with a balance of approximately \$650,000; they’ve spent \$125,000 (+/-) to date. There is bonding authority for the remaining \$3 million; the bond has not been taken out. Quotes for the bond were received; the best one was a variable rate bond from Optima Bank. Bond Council suggested that variable rate bonds may not qualify for municipal tax exemption. The bond document has not been signed.

P. Sanderson mentioned his concerns to the Board after reviewing the Library plans received at the meeting on Thursday, August 02, 2018. Septic loading: 2,000 gallons per day per acre are allowed. The Library property is 1/3 of an acre. By P. Sanderson’s calculations, 650 gallons per day is allowed; the Library needs 1,150 gallons per day. They may be at 650 gallons now with the Parish House and Library. Drainage: The elevation at the top of the Parish House is 102; the discharge point is elevation is 82. There is a 20’ drop in a very short distance. P. Sanderson stated that 100% of the runoff from the Parish House lot drains through the Library lot. There is also 100% impervious cover. Drainage requirements are underestimated by 100%. They are planning to dig a 6’ deep trench and fill it with stone in order to store the runoff. It’s deeper than it is wide; under DES regulations, that’s an injection well. They will need a groundwater management permit in order to discharge. P. Sanderson questioned how they could discharge twice the volume when they estimated handling the volume of a 50 year storm; the Planning Board designs 100 year storms. He was unsure how they could accomplish what they were trying to do. Chair Gerome stated that had been the consensus all along; it’s physically impossible to do what they’re planning. Underwood Engineering did the design. At the last meeting, they noted P. Sanderson’s concerns and responded they would get back to the Board. J. McDevitt noted that the Planning Board Engineer would be reviewing the plans.

Responding to a question from J. Connelly, P. Sanderson stated that the land they have supports what they have and nothing more. R. Winsor noted the existing building wouldn’t pass today’s standards; the site is overbuilt. V. Morgan stated that if the plans didn’t receive the Planning Board’s blessing, he would not pass anything. He wants it done safely. J. McDevitt reiterated it was viewed as a safety issue by the Board, and they were being asked their opinion. It wasn’t whether they were for or against the Library. V. Morgan added that he had an obligation as a Selectman to do what the Town wants; he also has an obligation to do it safely in all aspects.

R. Winsor questioned the comment by the Library’s architect that under law they only had to do one meeting with the Planning Board. Under RSA 674:54, they are obligated to come to the Planning Board for a discussion, but don’t have to do what is recommended. P. Sanderson noted that refusal to come back wouldn’t break any law. The proposed building addition is 9,000 sq. ft.; the cost per square foot is \$400. In the warrant article, they gross budgeted out at \$3.6 million; they’ll use their \$600,000 in the CRF, and the bond will be \$2.9 million. There was a discussion about the maintenance of the building. J. Connelly noted that for bringing up all these points, the Board may be portrayed as “nay sayers”. J. McDevitt stated that the Board was doing their job.

- RPC Meeting: S. Gerrato updated the Board on plans for Rockingham Park, the Tuscan Village Project; this will be a massive project of regional impact.

4. Topics for Work Session: Thursday, September 06, 2018

There were no items for the work session on Thursday, September 06, 2018.

5. Adjournment

MOTION: R. Winsor moved to adjourn at 8:35 p.m. Second – C. Medeiros; all in favor. MOTION CARRIED

NEXT MEETING

Thursday, September 06, 2018 – 7 p.m., Work Session, Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey, Secretary to the Boards

Approved: Thursday, September 06, 2018