



OLD VALUES - NEW HORIZONS
PLANNING AND DEVELOPMENT

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Planning Board Minutes
11/18/09

Roll Call:

Phil LoChiatto, Chairman – Present
Nancy Prendergast – Excused
Ruth-Ellen Post, Member – Excused
Kristi St. Laurent, Alternate – Arrived at 8:45pm
Bruce Breton, Selectman Member – Present

Rick Okerman, Vice Chairman – Present
Walter Kolodziej, Member – Arrived at 9:45pm
Pam Skinner, Member – Present
Sy Wrenn, Alternate – Present
Louis Hersch, Alternate – Excused

Mr. Wrenn is seated for Mr. Kolodziej. Ms. St. Laurent is seated for Nancy Prendergast.

Staff:

Laura Scott, Community Development Director – Present
Elizabeth Wood, Community Planner – Excused
Tracey Mulder, Admin Asst. – Present

Call to Order/Attendance/Pledge of Allegiance

Mr. LoChiatto opened the meeting at 7:00 pm, followed by the Pledge of Allegiance.

2010-2017 CIP Public Hearing

Mr. Jack Merchant, Citizen member of the CIP Sub-Committee, presented to the Board the Capital Improvements Program FY 2010-2017 Plan. Mr. Merchant went over his Power Point presentation outlining the CIP mission statement, members, and proposed expenditures.

The Windham Planning Board adopted a Master Plan in 1985 and updates the plan every five years. The last update was completed during the first half of calendar year 2005. A Capital Improvement Program is the financial counterpart to the Master Plan and ensures that the necessary services and facilities meet the community's needs in accordance with the financial capabilities of Windham. CIP expenditures are seen beyond the scope of normal annual operating or maintenance expenses.

Mr. Merchant reviewed with the Board information regarding the methodology and prioritization of Capital Projects. He went on to explain this public hearing is to review the CIP proposed expenditures with the Planning Board, make desired revisions, and adopt the CIP. The CIP is then presented to the BOS and the School Board, and then at the annual Town Meeting the electorate approves or disapproves each of the proposed items presented in the current year CIP plan.

Mr. Merchant detailed each CIP requests, focusing on FY 2010 Class I appropriations:

Highway Agent

- The road network continues to grow. However, proper funding to maintain these roads continues to lag behind. There are 23 roads currently identified as needing repairs. The sub-committee assigned the roads Class I with funding \$300,000 for FY 2010.
- In accordance with State and Federal requirements a Town salt shed will be a requirement. The current highway facility by the rail trail will undergoing renovation and must be vacated by 2011. There is an existing reserve fund of \$348,645 leaving a needed balance of \$611,355. The sub-committee assigned the salt shed and maintenance facility a Class I for FY 2011. (This has been changed by the Planning Board to a Class I for FY 2010).
- The Highway agent has requested a Front End Loader that will be a planned replacement adhering to vehicle replacement policy guidelines as adopted. The sub-committee has assigned this a Class I.

Windham School District

- An architectural study is requested for “design and build planning” for anticipated future facilities. The plan is to split the study into four phases. Phases 1 & 2 are assigned a Class I and phases 3 & 4 are not yet assigned a class.
- This proposal is to begin capital reserve funding, on an annual basis, amounts that can be applied to the final costs of future facility needs and thereby reducing the final bond requirement when the total requirements are determined and approved for funding by the Town. The sub-committee assigned this a Class I.
- In order to mitigate bond costs in the future, the CIP is proposing the Town set aside money in a Capital Reserve Fund (CRF), on an annual basis, these funds can be applied to the final costs of future facility needs. The sub-committee assigned this a Class I.

Mr. Breton had a question with Mr. Merchant regarding collected impact fees and where the money was being allocated. Mr. Merchant responded that he would find out if there is any money left in the account. In addition, Mr. Merchant indicated that in 2008 the Town received \$250K of which \$50K is in reserve and the remaining is applied to the school bond payment.

Mr. LoChiatto asked Mr. Merchant where the collected impact fees were from the current year (2009) in the CIP. Mr. Merchant said he did not know. Ms. Scott said that Community Development Department is collecting the fees and they were being turned over to the finance department. Mr. LoChiatto asked who has the information and Ms.

Scott said that the Town Treasurer was in charge of this account. Mr. Case provided an explanation to the Board his understanding of the reasoning behind collecting impact fee money, and where it is allocated.

Mr. LoChiatto thanked the CIP Committee for their hard work and thanked Ms. Scott for facilitating the process.

Mr. LoChiatto inquired about the timeframe for the Highway Department to vacate the housing of their vehicles and salt in the depot buildings. Mr. Merchant said the Highway Department must have their vehicles and any salt currently residing in the Depot buildings, vacated by 2011.

In addition, he also asked about the 1.5% growth rate and Mr. Merchant said that 1.5% is a conservative calculation and they will be keeping it at this rate.

Mr. LoChiatto opened discussion to the public.

Ms. Barbara Coish commended the CIP for a job well done and for putting this on the table much earlier this year than in previous years. She discussed the school study and the salt shed. Ms. Coish said that she thought it was very wise that the sub-committee split this request into two parts because phase I (assessment of existing buildings) is almost complete and she believes what needs to be done now is to complete the work that has been started. Ms. Coish then discussed the Salt Shed indicating that this is the most important proposal for the Town this year. She believes that if nothing else passes this year, the Salt Shed needs to pass. She believes that \$200K needs to be taken away from the School in the CIP and put toward the Salt Shed to complete the project as soon as possible.

Mr. LoChiatto agreed with Ms. Coish and thinks the Salt Shed needs to be funded this year in its entirety and indicated to Ms. Coish that the PB does have purview over the proposal and can change it prior to submission to the BOS.

Mr. Tom Case reviewed the CIP and thinks the Sub-Committee did a good job and commends them on their efforts.

Mr. Charlie McMahan appreciates the work by Mr. Merchant and the team. Mr. McMahan is a selectman for the Town and at their last Selectman meeting there was information provided about the restoration project (already supported at Town Meeting vote) for the depot area. The funds received from the state for this restoration project need to be spent now or the Town will lose the state funding. He would like the Planning Board to consider allocating funds to pay for the Salt Shed in full. He believes there is a clear and present danger and last year with the ice storm, this posed an extremely difficult time for Mr. McCartney. This has been on the table for 20 years and this needs to be made a priority this year. The Highway Department needs a safe

working environment and they do not have that right now. As a citizen and Board of Selectman member, he would like the Salt Shed funded this year. The site is ready and the Town needs to put this project out to bid as it is a good time due to the state of the economy to get a good deal and build the total project.

Bob Young, Haverhill Rd, complimented the CIP on getting this done so quickly and thanked them for including the high school. He understands there are substantial repair and replacement needs in the three schools, other than the high school, that are imminent, and wondered why they were not included in the CIP. Mr. Merchant responded saying there are items that need to be considered, including a new roof and new windows. The School Board was asked to think about these before they came in with final requests but it was decided from the CIP that most of these needs were not of a safety issue and could be held off, but will be included in the study and part of the ultimate plan.

Mr. Breton asked what the Barker study came up with in regards to the needs assessment for the existing school facilities. Ms. Coish said the Barker study came up with five plausible scenarios none of which has been decided on yet. Ms. Coish said the windows in middle school are residential not commercial and they need to be replaced.

Mr. Young attended a School Board public forum where the principals outlined all the problems with the schools and to him, they sounded substantial and immediate. Mr. Young is concerned why the Town's assets are not being maintained. Mr. LoChiatto said that this was not under the purview of the Planning Board but rather the School Board.

Mr. Young went on to say he agreed with Mr. Breton regarding impact fees, wondering where the money is and how it gets applied and thinks they should be included in the CIP. Mr. Merchant said that they were there to offset bond payments for the middle school. The bond fell off the CIP and Mr. LoChiatto said that just because the impact fees were not included in the CIP, the money did not go away. Mr. Merchant said that he will make sure the impact fees are included in the 2011 CIP. Mr. Young was concerned that the CIP will not be accepted without the impact fees and Mr. Breton indicated that by law they need to be shown and that money collected in 2009 should be shown on the CIP for 2010.

Ms. Scott indicated that impacted fees collected now do not have to be spent for six years thus money collected in 2009 does not need to be spent in 2010. Right now the school impact fee methodology is being updated, which should be showing the high school bond payment because there was an expansion for future growth, and for any other school expansions. It was agreed by the Board that these funds should be shown on the CIP spreadsheet.

Mr. Case qualified where the funds from the impact fees are allocated. Mr. Case indicated that looking at the zoning regulations, money collected for impact fees pays off the bond for the middle school. He went on to say even though the middle school is paid off and there is no bond for the middle school, he does not think the Town should still be collecting the money. The money is currently shown as an offset for taxes.

Ms. Scott outlined for the Board how the impact fees are spent and the only way any impact fees can be spent is if the funds are requested to be spent by the School Department or the Fire or Police Department.

Mr. Young made comment on impact fees and thinks they are integral to the CIP and thinks there should be an accounting for them in the CIP and he is surprised that the CIP and the Planning Board do not know what the status is and where they are and how they are being used. The Board discussed impact fees and the allocation of impact fees and what has happened to the funds since the middle school bond has been paid off. It was agreed this needs to be researched for the 2010 process.

In addition, Mr. Young questioned the Highway Agent's proposal for 1.8M per year to keep pace with maintenance of the roads, yet Mr. McCartney was requesting \$300K for road improvements. Mr. Breton responded that Mr. McCartney spends the same amount of money every year. Mr. Young was concerned that if it takes \$1.8M a year to maintain the roads and we are spending \$300K per year are we losing infrastructure and Mr. Breton answered that we are not losing infrastructure and the new roads we are building last longer.

Mr. LoChiatto wrapped up the CIP discussion and indicated Ms. Scott will look into the impact fee funds and report to the Planning Board. He also thinks that the Salt Shed should be fully funded and be part of the motion.

Mr. McCartney said that if he could get the extra \$190K for the salt shed that would alleviate the interest payment on the bond they were going to take out for the Salt Shed. Mr. Merchant said if they want to make the change to fully fund the Salt Shed they could change the spreadsheet to include the \$190K for the Salt Shed and reduce the CRF by the same amount.

Motion by Mr. Wren to reallocate the funds according to current discussion to apply \$610K to the salt shed for FY 2010 and reduce the CRF funds to the school to \$650,072 for FY 2010. Second by Ms. Skinner. Motion passed 4-0-1 with Mr. Breton abstaining.

Ms. Skinner made a motion to adopt the FY 2010 CIP as amended with the Salt Shed and the CRF. Second by Mr. Wren. Motion passed 4-0-1 with Mr. Breton abstaining.

Ms. Skinner made a motion to send the document to the School Board and Board of Selectman with the Planning Board approval and amendments. Second by Mr. Okerman. Motion passed 4-0-1 with Mr. Breton abstaining.

Public Hearing - Minor Site Plan/Change of Use Application

A Minor Site Plan/Change of Use application has been submitted for Lot 8-C-1 (Rockingham Road) in the Professional, Business, & Technology District and the Route 28 Overlay District. The applicant, Edward N. Herbert Assoc., Inc., on behalf of Bruce Richardson, is proposing a 2-bedroom accessory dwelling unit within an existing office/storage building for the property manager to reside in.

Ms. Scott outlined for the Board the information they received in their packet including:

- Memo from Ms. Scott dated 11/12
- Minor Site Plan Classification Criteria dated 11/10
- Email from Building Inspector dated 11/13/09
- Site Plans

Ms. Scott has reviewed the application and stated it has been through the Technical Review Committee and there are no outstanding items.

Kristi St. Laurent arrived at 8:45 p.m. Ms. St. Laurent is seated for Nancy Prendergast.

Mr. Breton made motion to consider the application a Minor Site Plan under section 306 of the Town's zoning ordinance based on the November 10 letter submitted by the applicant outlining sections 306.1 through 306.12 explaining why this is a Minor Site Plan. Second by Ms. Skinner. Motion passed 6-0.

Mr. Peter Zohdi, from Edward N. Herbert Assoc., Inc., addressed the Board regarding the Minor Site Plan and outlined how the request meets the Minor Site Plan classification criteria. Mr. Zohdi reviewed the site plan maps with the Board explaining to the Board that his client would like to have the resident manager live in the facility on the second floor by converting it into a two-bedroom apartment. His client would like to have the resident manager live on site for safety purposes. Mr. Zohdi indicated the Fire Department and Building Inspector, inspected the building and their only comment was to add stairs from the second floor going out of the building and Mr. Zohdi added them to the plans.

Mr. LoChiatto inquired about fire rating between the different uses and Mr. Zohdi answered they are all fire rated and have been inspected and were done when the building was constructed.

Mr. Okerman asked what the building was being used for now and Mr. Zohdi replied the second floor is an empty area.

Mr. LoChiatto inquired about the septic system, Mr. Zohdi said this area was a camp many years ago, there is an existing leach bed for a three-bedroom resident, and there is no resident there now and they are planning to use the existing leach bed. However, the building inspector wants a letter from the owner that the leaching system is in working condition. If the Board approves the plan, the owner will write the letter to Ms. Scott and the Building Inspector.

Ms. Scott indicated that most of the concerns that were raised would all be addressed through the building permit process.

Mr. Breton made motion to approve the application for lot 8-C-1 for Minor Site Plan. Motion second Ms. Skinner. Motion passed 6-0.

Spruce Pond Phase II - Field changes to roundabout

Ms. Scott outlined for the Board the memos in their packet for review.

- Memo from Ms. Scott dated 11/12
- Memo from Steven Keach dated 11/18.

Mr. Joe Maynard, Benchmark Engineering and representing HB Homes, addressed the Board explaining the project in question is Spruce Pond Estates, phase II and they are in the middle of building the second portion of this subdivision. Mr. Maynard went on to explain the portion of this development in question is known as the extension from Northland Road out to the town of Derry. As part of the approval there was a roundabout created at a future intersection with another road that is not yet constructed. As plans went through the Planning Board, the original design for the roundabout was a full size standard Windham cul-de-sac which has a 68 foot outside radius of pavement. Subsequently as the plan went through the Planning Board some changes that brought forth a detail known as the Town of Windham's Standard Roundabout detail, which is a much smaller amount of pavement and island, having the outside radius of 36-72 feet. During construction about 5 months ago, Continental Paving brought forth the discrepancy between the roundabout details. Mr. McCartney met with Mr. Maynard and indicated he would prefer to see the roundabout built without the pavers as they pose a maintenance issue. A detail of the roundabout in question, provided on Sheets 50 and 88, specifies the contractor is to furnish and install vertical granite curbing around the perimeter of the proposed landscaped island, while sheet 50 of 89 *graphically* suggests this same segment of curbing is to be the same Cape Cod berm that is to be laid at the edge of the pavement though the subdivision.

Mr. Wrenn asked if the roundabout was a state standard. Mr. Maynard said there was no state standard for roundabouts and each town has different plans.

Mr. Wrenn wanted to know if there was a purpose to using the cobblestone such as traffic control. Ms. Scott said a lot planners like the cobblestone on the inside and the outside as it creates the perception of a narrower travel width but still allows for larger

vehicles if they need to turn they can use the cobblestone. She went on to say it is also used for traffic calming and people tend to drive slower.

Mr. LoChiatto indicated that the reason for the initial roundabout was to limit the width of the roadway in the development. When looking at the roundabout he questioned if 24 feet of pavement around it was needed or could it be a narrower pavement considering a roundabout is only one way and needs to be only 18 feet wide. Mr. Maynard answered that if it were one way it should be 20 feet.

Ms. Scott relayed to the Board the concerns raised by the inspecting engineer and she believes this issue needs to be resolved, as the roundabout is already constructed and it would be easier to remedy the situation now before the bond release is requested. Mr. LoChiatto said since the plans were already approved there is some latitude for the Board to consider leniency.

Mr. Breton said he was fine with the way the roundabout is right now.

Mr. Wrenn asked about the amount of traffic to utilize this roundabout. This road connects to Windham Depot Road and Mr. Maynard does not believe that this is a major point of traffic. Mr. Maynard said he could put some landscaping in the middle of the roundabout to give the perception that the road is smaller and to give the desired affect.

Mr. Okerman believes this is an honest mistake but is concerned about setting precedence.

Ms. St. Laurent said she is fine with the way it is now, but it she thinks it should be looked at in person. Mr. LoChiatto stated that he did take the time to look at the roundabout last week and it looks fine.

Ms. Scott requested a letter from the Board stating they are in agreement with how this roundabout has been constructed. Mr. LoChiatto asked Mr. Maynard for landscaping with low plants so as not to obscure the view of vehicles in the roundabout. Mr. Maynard said this spring (2010) he will put in landscaping and provide the landscaping plans to Ms. Scott.

2010 Town Meeting Proposed Changes

- Buffers (Appendix A-1, Note #9; 702.5; 612.3.1, 614.2.1)

Ms. Scott outlined for the Board the proposed changes for non-residential/residential buffers. She thought that the ordinance was difficult to enforce and understand, in addition, the changes would provide uniformity and consistency to the ordinance. Ms. Scott proposed language changes to the following sections:

- Section 702.5 Area Frontage, Yard and Floor Area Requirements

- 612.3.1 Village Center District Development Standards
- 614.2.1 Professional, Business, and Technology District Development Standards
- Appendix A-1 Table Requirements

Mr. LoChiatto said he thought the proposed changes made sense.

Mr. Wrenn asked Ms. Scott what the thought process was with section 612.3.1 reducing the buffer in the Village Center District from 50' vegetation buffer to 25'. Ms. Scott replied she thought 25' was more appropriate and would provide a more appealing vegetative buffer.

Mr. LoChiatto thought the Village Center District Development Standards buffer could be eliminated. He questioned the buffers because of the mixed use and he said he is open to deleting the language from the ordinance. The Board agreed.

Ms. St. Laurent recommended changing the language in section 612.3.1 regarding 'residential and non-residential lot' and whose property the buffer could reside on. Ms. St. Laurent wondered if the buffer straddled the property line, perhaps the two properties could share the buffer.

Ms. Scott summarized the changes as follows:

- Delete the buffer standards for the Village Center District (no new language).
- Remove the language 'residential and non-residential lot' in sections 702.5; 614.2.1; and Appendix A-1.

Mr. Breton motioned to move the buffer proposed changes for non-residential to residential buffers to public hearing as amended. Second by Ms. Skinner. Motion passed 6-0.

- Aquifer Protection District (Section 609)

Ms. Scott thought the language in this ordinance needed to be changed for clarification to property owners. She said she had a difficult time interpreting and explaining this and it needs to be made clearer for all to understand.

Ms. Scott outlined for the Board the proposed changes she recommends for the Aquifer Protection District and making it more in line with the state law definitions.

The Board discussed the document and agreed to make the following changes:

1. Section 609.2
 - a. Add 'Commercial' to 'Animal Feedlot'
 - b. Clarify that wastes from subsurface disposal systems is defined as 'Leachable Wastes'
 - c. Define Solid Waste using NH RSA 149-M:4,XXII.

- d. Delete the word "toxic" and define Hazardous Waste" as in NH RSA 147-A:2;VII.
 - e. Delete the terms Minimum Lot Size, Dwelling Unit, non-municipal well, sludge and structure from the ordinance.
- 2. Section 609.4.1
 - a. Delete 'permitted uses'
- 3. Section 609.4.2
 - a. Amend Prohibited Uses to define Solid Wastes per NH RSA149-M:4Xxii
 - b. Define Hazardous Waste per NH RSA 147-A:2,VII to not allow waste processing or recycling.
 - c. Clarify that storage of leachable waste is prohibited
 - d. Clarify that subsurface storage or refined petroleum products and chemicals are prohibited.
 - e. State that non-contact cooling water discharge is permitted
 - f. Outdoor, open and/or uncovered storage of road salt and salt/sand mixtures is prohibited.
- 4. Section 609.4.3
 - a. Change language in Recharge Requirements that no more than 50% of the total parcel area within the District may be impervious surfaces and that paving requirements may be waived by the Planning Board.
- 5. Section 609.5.1
 - a. Delete title
- 6. Section 609.5.1.3
 - a. Delete language and replace with language regulating excavations permitted under RSA 155-E.
- 7. Section 609.6
 - a. Allow non-conforming use to continue unless the Code Enforcement Officer or Health Officer finds it to be a hazard.

Mr. Kolodziej arrived as was seated at 9:45 p.m.

Motion by Mr. Breton to move the Aquifer Protection District language to public hearing with the changes discussed. Second by Ms. Skinner. Motion passed 7-0.

Meeting Minutes Review & Approval – November 4, 2009

Motion to approve minutes as written from November 4, 2009, by Mr. Okerman. Second by Ms. Skinner. Motion passed 7-0.

Member Binder Updates

- Employee Media Relation Spokesperson Policy (Tab #13)
- NH OEP 2009 Planning Board Handbook (Tab #14)

Miscellaneous

Ms. Scott suggested an additional meeting on December 15. The Board agreed.

Adjournment

Motion to adjourn by Mr. Kolodziej. Second by Ms. Skinner. Meeting adjourned at 9.58 p.m. Motion passed 7-0.