



PLANNING BOARD
TOWN OF EAST KINGSTON
New Hampshire

2009-2010
David F. Sullivan, Chairman
Edward Warren, Vice Chairman

MINUTES
(Public Hearing of 16 April 2009)
7:00pm

AGENDA:

- ◆ **Call to Order**
- ◆ **Approval of Minutes** for 19 March 2009
- ◆ **Discussion** with Jeff Caley regarding elderly housing ordinance questions
- ◆ **Discussion** with representatives from the elderly communities regarding revising documentation for trash pick-up/recycling for the elderly housing
- ◆ **Michael Castagna**, Castagna Consulting Group, for Plan NH to explain how the mini charette will work
- ◆ **Community Technical Assistance Program (CTAP)** application discussion with the Conservation Commission
- ◆ **Discussion** on the Wind Energy Ordinance draft
- ◆ **Board Business**

CALL TO ORDER: The regular meeting of the East Kingston Planning Board was called to order at 7:00PM.

ROLL CALL: Mrs. White called the roll.

Members present – Dr. RA Marston, Mr. D Sullivan, and Mr. D Pendell, ex-officio.
Mr. E. Warren and Mr. R Morales was not in attendance

Alternate members present –Mr. J Cacciatore. Mr. R Forrest were not in attendance.

Advisors present – Julie LaBranche, Planner, Rockingham Planning Commission (RPC)

Others present – Representing the elderly communities:

Cornerstone – Tom Christensin

Maplevale Farms and Woods – Bruce Kalapinski

Cricket Hills – Barbara Williams

Country Hills – Peter Gilligan

Also present: Michael and Ina Castagna; Diana Whitmore; Scott Urwick, Gary Hinz

Voting Members: As Mr. Morales was not in attendance, Chairman Sullivan appointed Mr. Cacciatore as a voting member for the meeting.

Board Business

Approval of March Minutes. As Mr. Caley was not in attendance, the Board moved to the approval of the March minutes. Mr. Sullivan asked if there were any changes or additions to the minutes. There being none, he asked for a motion to approve.

MOTION: Mr. Pendell **MOVED** to accept the March 19th minutes as presented. Mr. Sullivan seconded. The motion passed unanimously.

RPC Commissioner Opening. There was still an opening for one more RPC Commissioner, and Mr. Sullivan expressed an interest in filling that void. The procedure was for the Board to nominate a person and send a recommendation to the Board of Selectmen for approval.

MOTION: Mr. Pendell **MOVED** to nominate Mr. Sullivan for the position of RPC Commissioner and send the appropriate letter to the Selectmen. Dr. Marston seconded. The motion passed unanimously.

Diana Whitmore Home Occupation. Mrs. Whitmore was in attendance to explain her proposed home occupation application to the Board as she would not be able to attend the formal public hearing in May. She would send a representative to that meeting, but wanted to explain to the Board why she was back before them. In November of 2007, she had been before the Board with a proposal for a kennel operation, which entailed building a large free-standing structure at the rear of her property. The Board determined at that time that what she was proposing was not a home occupation but a business in a residential zone, which the ordinances did not allow, and the Planning Board did not have the authority to change. Her proposed use also was not on the recommended list of home occupations. They recommended she approach the Zoning Board of Adjustment (ZBA) for relief in the form of a variance.

When she approached the ZBA, she presented them a much more scaled-down proposal than she had originally approached the Planning Board with. This new proposal was to provide services out of her home and did not involve any new separate building. Part way through her application, the ZBA determined what she was proposing might actually qualify as an invisible home occupation and that she should approach the Board of Selectmen as Article XVI.E.11 of the Home Occupation Ordinance states that "*Occupations not listed above that are of a similar nature, and only if the Board of Selectmen finds that the occupation meets the provisions of this section.*" The ZBA tabled the hearing for a period of 60 days to allow Mrs. Whitmore time to approach the Selectmen for a determination of her proposal.

Mrs. Whitmore went before the Board of Selectmen. Since one Selectmen was an abutter and the other was not in attendance, the remaining Board member could not make a decision. That Board member saw no problem with what her scaled-down proposal was and recommended she go back to the Planning Board with her changed proposal for home occupation. The Selectmen also suggested she ask for the most amount of dogs she thought she might ever have so she would not need to come back before the Board for a change. Her original request was for 3 dogs; she would like to amend that to "up to 5 dogs". That was why she was here.

Discussion regarding Community Technical Assistance Program (CTAP)

At the February meeting, RPC Planner Julie LaBranche was asked to provide more information about this program in the event the Board might want to submit an application.

Ms. LaBranche explained that the New Hampshire Estuaries Project was renamed and was now the Piscataqua Region Estuaries Partnership as it also includes parts of Maine. The program is a revolving grant program, which accepts applications 3-4 time a year, and the preference is that the programs they sponsor are in alignment with the program's overall goals. They like the grant funds to be used to further their goals and objectives for the estuary itself. The program is now in Round 4 and could grant up to \$8,500 for a project.

Ms. LaBranche provided a handout on CTAP and an NHEP Management Plan Update for Land Use, Development and Habitat Protection. She reviewed the eligible activities for submission to the program, and explained that there could be local spin on the project to be compatible with what is relevant to the particular community.

Land Conservation Planning/Natural Resource Protection

- *Development of GIS-based natural resource inventories*
Can be done using data from the GIS at Granite. This report includes all your natural resources.
- *Development of land conservation plans to identify and protect areas of ecological priority*
Can be customized to what your community deems is very important. Information is available from statewide plans completed over the past few years.
- *Development of a conservation lands inventory and/or stewardship plan to track and protect ecological values of Town-owned conservation lands and town-held easements.*
Self-explanatory.
- *Implementation of conservation strategies identified in the Land Conservation Plan for NH Coastal Watersheds, which includes developing conservation overlay district and conservation strategies.*
Self-explanatory.

Ms. LaBranche asked if the Board was familiar with the *Land Conservation Plan for NH Coastal Watersheds*. Mr. Morales asked if she was referring to the new setbacks information they had received in the Shoreland Protection Act, and Ms. LaBranche stated that was a different plan. The plan she is speaking of is a scientific evaluation of the clustered occurrence of sensitive resources in every community in the coastal watershed. A list of all the resources in the area was submitted to a panel of experts to rank, and the most important resources were put on a map to see where they occurred on the landscape. Where the most number of those highly ranked resources occur, they are designated as *sensitive resource areas*. There are also supporting landscapes, which are broader areas around the sensitive zones that help support the functions of the core areas. For example, they sometimes act as a buffer between the core sensitive areas and roads.

Ms. LaBranche stated that she was certain that East Kingston included two sensitive areas. Mr. Sullivan offered that one was the swamp south of the Post Office, as it is a seepage swamp. Ms. LaBranche opined it might be a bog; she will check on the two areas and contact the Secretary with the information.

The plan advocates for communities to develop more stringent environmental regulations in the core focus areas. It recommends that buffers be put on all streams and wetlands, and certain provisions be provided such as conservation subdivisions with smaller lots. Their intent is to preserve the quality and integrity of the sensitive areas.

Buffer/Wetland Protection

- *Development or amendment of buffer protection ordinances*
Covers adding buffers to wetlands and streams not protected by the Shoreland Protection Act.
- *Development or amendment of subdivision and site plan regulations to strengthen provisions related to buffer protections.*
Self-explanatory.
- *Development and assistance in implement an outreach program to Town residents on the important of buffer maintenance and protection.*
Teaches buffer maintenance and protection to homeowners who want to voluntarily maintain their areas.
- *Wetlands evaluation (conducting wetlands inventories and evaluations)*
Would include an inventory and identification of high value and prime wetlands. Ms. LaBranche asked if the Town had done a wetlands study; the Board was not sure. The note after this bullet indicates this is a project that could average from, \$15,000-\$20,000, and Towns wanting to tackle this project would need to provide the additional funding.

Stormwater Management

- *Development of regulations to limit stormwater runoff, including site plan and subdivision regulations and conservation design alternatives...*
Includes limiting stormwater runoff and impervious surfaces, and implementing some new stormwater management projects.
- *Delivery of training for boards/committees on low impact development practices and stormwater management designs...*
Self explanatory

Projects falling loosely into any of these categories could be eligible and you could apply.

The Board inquired about the timeframe for submission of the application, and Ms. LaBranche explained it was a revolving program running from March to November. The sooner you submitted your application, the more likely there would be that funds would still be available. If chosen, you would work with the Estuaries Project to develop a scope of work for the project (how you budget your money, what you would use it for, the products you would produce, a timeframe for completing the project, any participation the Town would like to have). There would be a pre-approved list of providers to choose from and you would bid the project out to a proposed provider to see if they would accept the scope of work for the \$8,500.

Mr. Warren asked how beneficial would it be for the Planning Board to apply? It seemed to him that it was more geared towards Conservation. Mr. Pendell agreed it seemed as if it would be more directed to Conservation efforts. Mr. Morales, who is on the Conservation Commission, stated they had briefly discussed this at their last meeting. He noted that there were more items on the list of choices geared towards the Planning Boards than would initially be thought.

For example, the first section which is *Land Conservation Planning/Natural Resources*. It is Conservation, but also pertains to the Planning Board. As the Planning Board reviews subdivision applications, one of the things they would do is fit it to the identified areas that need protection.

Ms. LaBranche identified several areas that would apply directly to the Planning Board such as buffer ordinances, amending site plan regulations, and site plan and subdivision regulations for stormwater runoff.

Mr. Morales also noted that he had some concern as to how many projects could the Board handle and expect the Town to also participate in.

Mr. Pendell asked the Secretary if she had heard anything on the Plan NH decision yet; she had not. He suggested that if the Plan NH was accepted, they might want to wait until the following year apply for the CTAP since it was offered each year. This way they could focus their energy on one project at a time.

The Board ascertained that it would be beneficial to brainstorm with the Conservation Commission on a project for which they could submit an application. Forming a work group for this was discussed, as well as asking for a joint meeting with the Conservation Commission. They might decide on a project to submit either this year or next.

MOTION: Mr. Warren **MOVED** to invite the Conservation Commission to the April Planning Board meeting to jointly discuss a possible project for application to CTAP. Mr. Pendell seconded. The motion passed unanimously.

The Secretary will send a letter to the Conservation Commission inviting them to the April meeting.

Building Inspector and Windmills

Mr. Donald had attended a training seminar at which there was a discussion regarding the ordinances associated with windmills. The ordinances become state law effective July 11 of this year. Mr. Donald gave Mrs. White a copy of the ordinance, which she will distribute to the Board members before the next meeting. In essence, if there is no ordinance, you will need to comply with state ordinances. The way the state law is written, if an application is received, the Building Inspector is responsible for notifying all the municipalities that might be able to see the windmill and the abutters. Comments need to be accepted from abutters or anyone else interested for 30 days. Those comments then need to be evaluated and determination made on whether further evaluation has to be made and would it have a negative impact. He would then decide if he could issue a Building permit.

Mr. Donald does not think that one person (i.e., the Building Inspector) should have the latitude to make the decision himself; it should be in conjunction with the Planning Board. He was hoping the RPC might be able to look into this. A Town cannot bypass state law, but can make it more restrictive.

Mr. Donald reported that there are two windmills at present in Kensington and three in Deerfield. Mr. Pendell asked if any were the new helical style, and Mr. Donald stated that the only one he had seen was a traditional one with propellers. Mr. Pendell stated that there are rebates offered from the state and the Federal government, so it could only end up costing a person \$3,000 to install a windmill.

Steve White, 30 Main Street asked Ms. LaBranche if there had even been any aquifer studies done in the Town and if not, was there any money available for such studies? Things such as tracking individual wells and water tables, etc. Ms. LaBranche stated it would be quite expensive to do what Mr. White was referring to. There was statewide aquifer mapping. A new study that came out last year is a water availability study. This evaluates each community and does a consumptive analysis of how much water you are using now. And you can project what your needs and consumption will be in the future.

Continuation of RPC Services

Mrs. White stated the Selectmen had received notification it was time to renew the contract with the RPC for the Planner Services. Last year when the Planning Board made the decision to renew, they also made the determination they did not have the authority to sign the contract. They sent a letter to the Selectmen making known their wishes to continue with the RPC and asked the Selectmen to renew the contract. Did the Board wish to do the same this year? After Board discussion, it was decided that they did want to do the same as last year.

MOTION: Mr. Warren **MOVED** to send a letter to the Selectmen stating the Planning Board would like to continue the RPC Planner services and asking the Selectmen to sign the renewal contract. Mr. Pendell seconded. The motion passed unanimously.

Growth Management

Mrs. White reminded the Board that at the December Meeting, they had decided to table their review of the Growth Management ordinance until sometime in 2009. In December, they were quite busy with finishing up all changes for warrant articles for Town Meeting. Also at that meeting, it was determined that Dr. Robinson, the RPC Planner at that time, and Mrs. White would get together and update the information on the charts so it would be current and ready for the Board to review.

Dr. Robinson had since left the RPC and the meeting between she and Mrs. White had never taken place, so there had been no update of chart information. Mrs. White reported she would need to meet with Ms. LaBranche, and find out who was going to be responsible for updating what charts and then have the Board review the ordinance when the information was current.

Ms. LaBranche asked if the Board would like her to use some of her hours to review the Growth Management ordinance. Also, she would like to determine if all the charts that are now included would still be necessary to be included. At a cursory glance, she determined it could take many hours to update all the information contained at the present time. The Board agreed she should review the Growth Management ordinance.

Mr. Morales thought the charts in the ordinance made it quite detailed and contained much information needing to be updated each year. He suggested some of the charts might be referenced to in the ordinance, but would not actually be a part of the ordinance. He asked if Ms. LaBranche could also determine what detail could be excluded and keep the ordinance a working document. She agreed to do that.

Jeff Caley

Ms. White reported that Mr. Jeff Caley would like to attend the April meeting and would like to discuss the following items:

1. ***Regarding the 55-age restriction on both parties for elderly housing.*** He states that Federal Guidelines mandate only one party needs to be 55. He has 12 homes left for his development and would like to know if the Board would consider the one party 55 age restriction for the remainder of his development.
2. ***There is now a 17% elderly ratio and the cap is 15%.*** Federal Guidelines permit 20% of the houses in an elderly housing development to not be age restricted.

Mr. Caley is hoping there is some latitude in these restrictions so he can finish his development and the Town can benefit from the revenue.

Mr. Warren noted that the Town had made many concessions to enable the elderly housing developments to be built the way they are. It would have taken somewhere between 18-21 years for them to build what they did in 3 ½ years if they had had to conform to standard building regulations. Everyone who lives in the elderly developments signed a piece of paper before they moved in acknowledging and understanding the restrictions. He opined that each restriction that is lifted and modified opens the door for another one. He is concerned about a snowball effect.

Mr. Pendell asked if Mr. Caley lived in Country Hills. Mr. Sullivan noted Mr. Caley was one of the owners of Country Hills elderly housing development, but he did not live there.

Ms. LaBranche noted that in the Elderly Housing Ordinance, the definition of a unit is: *A structure, or part of a structure, in the elderly housing development intended to house a family group or similar body, all members of which are at least 55 years of age, and for which there is a single and separate deed.*

Mr. Donald suggested the Board ask Cathy Belcher and Roby Day to the April meeting. They noted they were both very involved with the process of constructing that ordinance, along with Dr. Marston who is still on the Board.

Mrs. White will send a letter to both Mrs. Belcher and Mr. Day inviting them to attend the April 16th meeting.

Mr. Sullivan asked if the members of the audience had any questions.

Mr. Guilmette asked for clarification on the discussion on the February minutes and the wording "*amended from town center to commercial*". Was the intent to change the Town Center District to commercial? Mr. Morales answered that it was not. They had been referring to the Citizen's Petition and the fact it could not be amended to read Commercial District and not Town Center District. He also explained that the Warrant Article had been voted down.

Mrs. White noted the Board had only been clarifying the statement for the minutes, as the minutes had misquoted that the Citizen's Petition had been changed from Town Center District to Commercial District. In fact, the Deliberative Session had not taken place as of the date of the February meeting. The minutes should have stated it was a proposed change, and that was why the Board had discussed changing that statement in the minutes.

Mr. Guilmette also asked when the Board met, and Mr. Morales answered on the 3rd Thursday of each month and the meetings would continue at the Pound School. Mr. Morales also noted that all the minutes were on the official Town web site.

Previous Motion on January 6

Mrs. White mentioned that at the January 6th meeting, the Board had made a motion to allow Mr. Donald, Chief Richard and Dr. Robinson to review the ordinances and clean them up for later presentation to the Board and for submittal to the warrant for the following year. She inquired since Dr. Robinson was no longer with the RPC, did the Board feel it was necessary to amend that statement, and if so, should it either include Ms. LaBranche's name or just state RPC Planner? The Board decided that a new motion was required.

MOTION: Mr. Morales **MOVED** to give permission to Mr. Donald, Chief Richard and the RPC Planner to review the ordinances and clean them up for later presentation to the Board and for submittal to the warrant for the following year. Mr. Warren seconded. The motion passed unanimously.

Steep Slope Information

Mrs. White noted that Mr. Warren had referred to some information he had received as RPC Commissioner pertinent to Steep Slopes at the last meeting. She had requested that information from Ms. LaBranche and had made copies for the Board as it might contain some information to add to or change the existing steep slope ordinance.

Mr. Pendell asked if there was a specific concern. Mr. Warren stated that they had recently talked to Julie Turner about her property and coincidentally he had just received the mentioned steep slope information at a Commissioner Meeting but had not had time to review it.

Pound School

The Board will continue meeting at the Pound School.

Selectmen's Meeting Minutes

Mrs. White noted there was a paragraph in the March 2 Selectmen's minutes that read: *"It was also mentioned that the Planning Board Secretary is preparing a written statement with the correct facts for the Planning Board members and the public, regarding what has transpired with the citizen's petition, Warrant Article #11, to be voted on March 10, 2009. Recent meetings and newspaper articles have had incorrect information."*

She had distributed a handout on this for the Board members, and since she was intending on sending a copy to both Mr. Hinz and Mr. Guilmette, she gave them their copy at this meeting.

Workforce Housing

Mrs. White reported she had attended the Home Show in Manchester the week before and noted she had seen a very nice presentation regarding Workforce Housing. She had asked the architect to send her the information and passed it around for the Board to see what that proposed development would look like as an example of workforce housing.

Mr. Warren stated the warrant article in regard to workforce housing had been a tie, and asked Mr. Pendell what would happen next? Mr. Pendell answered that they were arranging for all the required parties to meet to conduct a recount early the next week.

Mr. Donald/Windmills

Mr. Donald noted there had been no further discussion on the topic when he had brought it up earlier, and inquired if the Board was intending on asking Ms. LaBranche to look into what they could do or were then going to let the state mandates apply. Mr. Donald noted that the model ordinance was written by a previous RPC Circuit Rider to the Board, Eric Steltzer.

Mr. Warren thought it the Planning Board should be the ones to deal with it. Mr. Morales asked if they could get a copy of the ordinance; Mrs. White noted she would get a copy to the Board members before the next meeting.

Mr. Pendell agreed the Board should implement something as soon as possible. He had heard of at least two potential windmills. It cost \$13,000 to install; the Federal Government will reimburse \$6,000 and the state will reimburse \$4,000, so the total cost would be only \$3,000. His thought was that at that cost, there could be many people wanting to install windmills.

Mr. Donald noted that if the Board passes the ordinance, it goes into effect within 90 days and remains as such until the next Town Meeting in March.

MOTION: Mr. Warren **MOVED** the Board ask the RPC to help formulate a windmill ordinance. Mr. Morales seconded. The motion passed unanimously.

Mr. Sullivan asked if there were any questions from the public.

Mr. Guilmette, in looking at the handout, asked if it was still Mr. Pendell's intent to add sections of commercial area extending from the end of the Town Center District to the Town lines?

Mr. Pendell stated that at a previous meeting, there had been discussion on how to expand the Town Center. It would not be fair to choose a certain area. Mr. Pendell wanted to put together a proposal for the Board to discuss, and the thought was to make the areas from the ends of the Town Center District to the Town lines commercial and address each area separately. The Board noted that there was not enough time to properly evaluate it, and tabled it for discussion the following year.

Then the opportunity came to apply to Plan NH and they Board thought it was a good opportunity to get some assistance on this. The Board would have time to discuss it, and have visioning sessions with the citizens. This way they could determine if it was feasible, where areas of development should be, and what types of development should be allowed.

Mr. Pendell clarified that if you looked at his proposal and broke it into six parts, and they all passed, then yes, it would mean that it would be commercial from the ends of the Town Center District to the Town Lines in all directions. It was broken into six sections so the Board could discuss the positives and negatives of each one separately. The Board determined that there was not time to properly evaluate it in the time left before Town Meeting, so they tabled it for this year. Mr. Pendell asked if that answered the question, and Mr. Guilmette stated that it did.

Workforce Housing Warrant Article

Mr. Hinz asked about Article 10 and the tie vote. Mr. Sullivan explained that in the event of a tie, it constitutes a failure. There is going to be a recount, and if it is still a tie, it fails. Mr. Warren noted that Workforce Housing is mandated by the State, and the Board was trying to put some controls on it. If the article fails after the recount, they will have to abide by the State's rules.

Planning and Zoning Conference – May 2

Mr. Warren expressed an interest in attending the May 2nd Planning and Zoning Conference in Manchester on May 2, and inquired if anyone else was interested in attending. Mr. Sullivan stated he was interested and requested that Mrs. White will have the Administrative Assistant in the Selectmen's Office register them for the conference.

Fire Pond and Cistern Regulation Changes

Chief Richard enquired if his changed fire pond and cistern ordinance was in effect as he had not seen it on the ballot. Mr. Morales noted it was a regulation and that regulations are handled by the Planning Board by way of Public Hearings. Ordinances are presented to the Town to vote on. Since that fire pond and cistern regulation had been to Public Hearing and motioned on by the Planning Board, it was now in effect. Developers would still need to come before them and receive approval from both the Planning Board and the Fire Chief to install sprinklers in lieu of a cistern or fire pond providing they met the distance guidelines stated in the regulation.

Mr. Pendell asked for clarification on that regulation as he recalled that it had been determined that the assessment fee Chief Richard had proposed along with the regulation was not allowed. It was reviewed that the regulation had come back before the Planning Board for removal of the one line pertaining to the assessment fee, voted on again with the change, and approved to be placed on the warrant as amended.

MOTION: Mr. Warren **MOVED** the Board investigate if an impact fee could be added to that regulation since an assessment fee was not allowed to be charged. Mr. Morales seconded. The motion passed unanimously.

Ms. LaBranche stated she would look into that and get back with the Board with the information.

Ordinance Review

Ms. LaBranche asked for clarification in regard to reviewing the ordinances with the Fire Chief and the Building Inspector. Mrs. White stated that there were several places in which there was redundant information and the thought was that the information was not necessary to be repeated in so many different places. Mr. Donald informed Ms. LaBranche that he and Chief Richard had gone over the ordinances and had several questions for her; basically they had done the ordinance review and now needed some clarification.

Mr. Sullivan asked for a motion to adjourn.

MOTION: Dr. Marston **MOVED** the Planning Board adjourn. Mr. Warren seconded. The motion passed unanimously.

Mr. Sullivan closed the meeting at 8:20 pm.

HANDOUTS TO THE BOARD

- Information and application for the CTAP Program.
- Steep Slope and Ridgeline Protection information.
- Citizens Petition clarification information.
- Great Bay estuary protection information.
- Selectmen Meeting Minutes of March 2.
- 2009 Selectmen's Meeting Schedule

Respectfully submitted,

Barbara A. White
Recording Secretary

David Sullivan
Chairman

Minutes approved _____