



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

2006-2007:
James Roby Day, Jr., Chairman
Catherine Ellen Belcher, Vice Chairman

MINUTES

(Work Session Meeting of 28 September 2006)

AGENDA:

7:00PM - **Board Business**

7:15PM - **Information/Discussion**

- Handouts
- Master Plan
- Farm-friendly ordinance

9:15PM - **Adjournment**

CALL TO ORDER: Chairman Day called the work meeting of the East Kingston Planning Board to order at 7:00 PM.

ROLL CALL: Mrs. White called the roll. Members present were Vice-Chairman Mrs. CE Belcher, Chairman JR Day, Mr. RA Smith, Sr., Mr. EA Lloyd alternate, and Mr. RF Morales, ex-officio.

Voting Members – Chairman Day noted that Dr. Marston was not in attendance and announced that Mr. EA Lloyd would be a voting member for this meeting's proceedings.

An update on the condition of Dr. RA Marston was reported and the Board wished him continued recuperation.

Also in attendance were Dr. J Robinson, Rockingham Planning Commission (RPC) Senior Planner, Mr. LK Smith, Conservation Commission Chairman, and Mr. Peter Gilligan, 4 Autumn Lane, attendee.

Mr. Day informed the Board that the 8:00PM item had been deleted from the agenda on advice of counsel.

BOARD BUSINESS:

Minutes – Since the Board members had not had a chance to review the minutes and Mr. Day had yet to review the second half, approval was postponed until the next meeting. Mrs. Belcher offered one small change to page three, which will be incorporated.

East Kingston website – Mrs. Belcher referenced the unofficial East Kingston website and referred to information contained therein. She asked Mr. Day if the Board members could receive the information as well from the submissions provided to the Chair at the last meeting. Mr. Day will synopsise the information into a digestible form for the Board members to review before the next meeting, and stated that the original information would be made part of the 21 September minutes.

Living space definition – Dr. Robinson offered a definition of living space to the Board and discussion ensued. It was determined that several elderly housing communities were actually full sized homes at 2,200 sf, with two full stories and the capability of being much larger than the approved 1,500 sf. It was suggested to amend the height to 1½ stories, as opposed to 35 feet, with living space defined as two bedrooms, a kitchen and living room; closets and bathrooms would be included in the square footage. Mr. Morales hoped that these changes would alleviate the need to address this issue yet again. Mr. Day will make the changes and the Board will review at either the next regular or work meeting.

Discussion ensued with regard to where the 35-foot height reference originally came from. Mrs. Belcher offered that it might have been that 35 feet was needed between buildings for fire equipment to be able to get through. Mr. RA Smith offered it was because it was the height of the longest ladder the fire department had at the time.

Board materials – Mr. Day went over tonight's materials with the Board. Included is the new version of the Growth Management Ordinance and a report on Population Growth in Towns Abutting East Kingston. Mr. RA Smith noted that the population sometimes decreases due to catastrophic maladies such as diphtheria, as it did in the 1920s.

A new Town Center District draft and the East Kingston Doorstep chart were also included. Mr. Day asked whether or not the Board considered it imperative to include the actual count of individual house types at this time. Mrs. Belcher suggested taking that information from the tax cards, and Mr. Day reported that he had researched that possibility and found the designation of house style is not always correct on the Avatar tax cards on file at the Town Offices.

The RPC is putting the final touches on the Master Plan Community Profile chapter, for which the Board originally wanted to include this information. Mr. Day asked if the information would really be useful enough to dedicate the time to amassing it and after Board discussion, it was decided that the Board could conduct a proper architectural style count at their own pace and that information could be incorporated into the chapter; it would then not hold up the Master Plan chapter revision.

Mr. RA Smith asked if Mr. Day had driven around to count the number of houses on each street, and Mr. Day answered that he completed that task every year for the Fire Association, but he had only counted how many houses there were and not individual house types.

Mr. RA Smith told of an instance on Sanborn Road where only colonial houses were to be built and when the developer was out of town, the person who had purchased a piece of property installed a mobile home instead. The developer was supposed to be working on covenants but did not have any in place. Mr. Day explained that covenants were a civil contract between owners and the town has no jurisdiction.

Mr. RA Smith stated that there were many different house styles and sizes on Sanborn Road, and Mr. Day offered that it made for an interesting neighborhood as opposed to the cookie-cutter look.

Zoning Board of Adjustment (ZBA) Minutes – Mr. Day explained that Board members had been provided with two sets of ZBA minutes and would be receiving those minutes on a regular basis from now on.

Targeted Block Grant (TBG) – Mr. Day stated that he and Dr. Robinson had talked about the next TBG question, the farm friendly ordinance. He then turned the discussion over to Dr. Robinson.

Dr. Robinson explained that the East Kingston Planning Board had received a Targeted Block Grant to come up with farm friendly regulations, zoning, or projects to encourage farming in the town, and she presented some ideas to the members of the Board on how to achieve this goal. Some ideas could include Federal and State programs, and zoning, and voluntary and incentive tools that farmers could enter into.

She thought a starting point might be something similar to last year's Visioning whereby the Board would invite people from the community, particularly farmers, to participate and discuss the different tools available. The participants could offer their opinions of what they thought needed to happen to achieve this goal. The Board would receive new ideas, and the people would be more supportive having been included in the process.

Dr. Robinson stated that there has been research done on a nationwide basis, but the characteristics of New England farms are very different from the thousand-acre farms in the mid-west. The New England area has a lot of good farmland, and most of the prime agricultural soils in the state happen to be in the seacoast area.

Dr. Robinson explained that there are three main tools that can be used.

One tool is called an *agricultural protected zone*, which is very restrictive density-wise, to encourage agriculture. In areas where there is a lot of land, building can be restricted, for example, to one house on 20 acres. Farmers support this in some areas, but in places where there is not a lot of acreage, farmers don't believe this is a good idea. Limiting to such a density limits the potential development of that land, and makes the farmer's land worth less than it otherwise would be. Farmers don't always think this method is fair; it is the easiest to accomplish, but not necessarily the best.

Another tool is *agricultural mitigation*, which is more complicated to administer, but fairer to the farmer. If previous farmland is to be developed, the developer is required to buy a conservation easement somewhere else, or pay into an agricultural conservation fund in the Town. The Conservation Commission would purchase easements and farmers would pay a fee, but would not have to absorb the entire cost of development. The town would need to administer this and the cost would be higher. Mr. Day asked what the administrative costs would be. Dr. Robinson answered that the cost would be mostly time; that the developer would want information as to where to place the easement, etc. and someone would need to accumulate and distribute that information. Also, if they were paying into a fund, someone would need to keep track of the fund.

The last tool is *transfer of development rights*, which works best with a big central city with surrounding farmland. It works well because the density is wanted in the urban core, and there is plenty of area that can both absorb more density and be protected.

Deciding how much more density is wanted in East Kingston is harder since there is a limited area to work with, although it could still be done. The same could be done with *agricultural mitigation*; instead of having two matching parcels where the development rights would be sold and the density moves to the more urban parcel, a fee could be paid, which the Town could use in a variety of ways.

Any of the three options would be huge zoning changes, and according to Dr. Robinson, the opportunity for community input would be excellent.

The Federal Farm Bill provides a number of conservation programs farmers can participate in on a voluntary basis, such as the wildlife habitat incentive, wetlands preservation programs, and various other programs to protect habitat. Dr. Robinson reflected that when she

was a child, she lived on a farm and her family had received compensation from a Federal agency for planting 1,000 pines trees on a sloped area to help prevent erosion.

Most farmers are well educated in conservation, but one part of the approach could be to provide education or facts sheets about the different ways farmers could participate in conservation on a voluntary basis and where to go for resources.

Mrs. Belcher suggested inviting farmers not only from East Kingston but the surrounding areas, since there were so few actual farmers left in the town. The Board could use the feedback, and it would be a good dialogue for information. With the exception of Mr. RA Smith, none of the Board members were farmers and were not privy to all the things involved in running a farm.

Mr. LK Smith pointed out on the conservation map some properties that were already being put into conservation, and suggested the Board take a look at what they already had to work with before looking into a conservation easement. He reminded the Board that four of the largest properties in Town were already protected. He also reminded the Board that a lot of the farm programs Dr. Robinson has discussed were contingent upon the Congressional budget cycle for funding.

Mrs. Belcher stated that even though the properties were under conservation easement, they could still be farmed. Mr. LK Smith asked why they should discuss it since they were not still under consideration for development. Mrs. Belcher stated that the Town still should work to become more farm friendly.

Dr. Robinson stated that not only should farms be considered, but also the land around the farms where development is occurring. New Hampshire has a right to farm law, which means that if the farm is there first, neighbors can't complain about farm smells, etc., and there are protections for farmers against being sued for nuisance issues.

She stated that one of the things the Town could look at in their own regulations is a buffer between a residential development and the farmland. Some towns even have a cooperative arrangement between the development and the farm, and the residents would buy their produce from the farmer. There are a lot of creative things that can be done so it 's not subdivision versus farm.

Mr. Lloyd stated that he was not arguing against taking farm friendly actions, but the Board needs to recognize that there are things going on nationwide that their actions are not going to mitigate. He stated that there was a decline in farming, which would continue no matter what the Board decided. He stated that the Town should not have a standard, for example, that they wanted to have more farms in 10 years than at the present time for they would be setting themselves up for failure.

Mrs. Belcher stated that it was still important to encourage farming and that everyone appreciated the open space.

Dr. Robinson reminded the Board that niche farming was a growing trend, such as organic farming and specialties, which would be appropriate since there are a lot of things that are produced in New England.

Mr. Lloyd asked if the Board was suggesting that since the two largest areas in Town were locked up in conservation, zoning changes to encourage more parcels to stay undeveloped wouldn't be needed. Mr. LK Smith stated that since the Town was running out of parcels, that could be the case. Mr. Day disagreed. Looking at the map, there was discussion of the Board where there were still areas available.

Mr. Morales stated that when someone mentions the word farm, you tend to think of the traditional farm, but there are also beekeepers and organic farmers, to name a few.

Mrs. Belcher thought the Board should make a point of identifying the definition of a farmer, both large and small, when they invited them to the meeting.

Mr. Lloyd thought there were two issues of discussion; one being the zoning changes to conserve large parcels of land, and the other the survey Mr. LK Smith alluded to regarding "what constitutes farm friendly".

Mr. Day stated that the Board has that survey, and thought that the list of farms had been included in the last Master Plan. He thought that Dr. Robinson's plan of kicking it off with the visioning would be the only logical way of going about it.

Mr. Morales asked Dr. Robinson if she knew of any plan to entice the supermarkets to buy their produce from the farmers. Dr. Robinson stated she knew of a list of restaurants that use local farm produce. Mr. Morales stated that the issue was that there were not enough grocery stores buying local produce. Mr. Lloyd stated that most of the stores don't have any say in where their produce comes from. Dr. Robinson stated Durham Marketplace purchases a lot of their produce from local farmers.

Dr. Robinson offered to either work with the entire Board, or with a smaller group, on the visioning chapter in early October or early November. Topics of discussion could be the large farms, niche farms, and marketing of farm products for example.

Dr. Robinson suggested that perhaps a flyer could be sent out the same as Kingston had sent for their vision section, and said that money from the grant would cover costs of printing and mailing. Mr. Morales thought a mailing was a good idea since smaller niche farms might be overlooked if they were not contacted directly.

Mr. Morales stated that he had attended farmers market, organic farming and marketing seminars by Nada Haddad from the co-op extension in Brentwood, and Dr. Robinson suggested she be asked to come and talk to the Board.

Mr. Day stated that the TBG calendar is July to June, and asked if Dr. Robinson saw the Board going to Town meeting in March or the next year. Dr. Robinson said it would depend on what the Town wanted to do; the Board could work toward the March Town meeting, and if they were not ready by then, a large part of the work would already be done for the meeting after that. Mr. RA Smith asked of this chapter was in the Master Plan, and Mr. Day stated no, they would be looking at an ordinance.

Mr. Day reminded the Board that they were still in the brainstorming stage of the discussions, and what they had been talking about would entail a lot of work to be done in a short period of time to be ready for the next Town Meeting. Mr. Morales asked if there were any templates available and Dr. Robinson stated that there were some models that could be looked at.

Mr. Lloyd asked if the Board should look at the "big picture" first as a Master Planning chapter and then work from there. Dr. Robinson suggested they could add an agricultural chapter in the Master Plan.

Mr. Day wanted to know since they signed up for an ordinance, whether they could they switch to a Master Plan chapter instead, and Dr. Robinson stated that would be fine. Mr. Morales stated that the Master Plan would need to be detailed, but not as detailed as an ordinance would need to be.

Mr. Day suggested he and Dr. Robinson discuss putting together a visioning session, and the Board agreed. Mr. Day stated that more than one session could be scheduled where they could speak to different agriculturists. Mr. Lloyd stated he liked Mrs. Belcher's idea of reaching out to the surrounding towns. The Board discussed different ways to notify people including Public Notices, Press Releases and direct contact.

Mr. Day listed three items he wanted to discuss at the meeting: the Growth Management ordinance, the Conservation District and the other half of Town Center District. Mr. Day thought the Board was closest to the Growth Management ordinance, and hoped to conduct a hearing on it in October. He thought the Town Center District would be in either October or November.

GROWTH MANAGEMENT

Mr. Day provided updated information on the Growth Management Article to the Board members. He had solicited information from Mr. Ray Donald, Building Inspector, and incorporated his questions into the draft.

Mr. Day reviewed section by section with the Board members for their input.

- A. *Authority* – straightforward; no changes.
- B. *Purpose* – Mr. Day put together a purpose, as one was not included in the previous version. Board members thought it was comprehensive and readable.
- C. *Finding of Fact* – 1. Unchanged; historical data. 2. Share of housing units – Shows East Kingston has a growing portion of the housing units in the six-town district. 3. Housing stock – Mr. Day thought the doorstep count was revealing. He directed the Board to the figures at the bottom of page 3, which showed a significant percentage of change from 2001 to 2006, and even the projected 2007 number if all approved building permits were completed.

Mr. RA Smith asked if the elderly housing was included and Mr. Day acknowledged that they were. Mr. RA Smith thought it would throw the average off if they were included and stated the difference would be seen if they were eliminated. Mr. Day said they were doorsteps and should be included since the town supported them. Mr. RA Smith said the elderly housing was not tied to the Growth Control ordinance. Mr. Day agreed that was true, but this particular number was simply a documentation of the housing stock.

Mr. Lloyd suggested presenting it with a subtotal of elderly housing and a subtotal of non-elderly housing. Mrs. Belcher agreed with Mr. Day as she thought of it as growth, regardless of how it got there or what type it was. Mr. Lloyd stated that the numbers were being used as justification for an ordinance that will control the non-elderly housing portion and the numbers needed to be separate. Mr. Day answered that the effect of the elderly housing on the housing stock and growth of the Town was being documented. Growth Control does not affect elderly housing, but elderly housing does have an impact on municipal services. Growth rate percentages for the other towns listed also include the elderly housing, and the numbers are useful in understanding how the Town is growing.

7. Population estimates – The 2002 information is a little stale and Mr. Day thought that paragraph should be deleted; the Board agreed. 8. Schools – This paragraph shows school population back to 1998 and proves that the student population is not driving population growth; East Kingston has a lot older population.

Mrs. Belcher pointed out that although East Kingston's student population is not growing, the other towns in the SAU are, which is the reason bigger and better schools are being built. Dr. Robinson pointed out that population growth tended to follow the better schools.

9. Property revaluations – Mr. Day updated the information to include current housing values. 10. Road improvement – This paragraph speaks for itself. 11. CIP – Capital investments continue to go up. 12. Building Permit history – information has been updated.

- D. *Findings Analysis* – These are conclusions derived from existing data.
- E. *Building Permits* – This information was taken mostly verbatim from the existing plan. Mr. Day reported that the Building Inspector had asked for clarification on the timeframe for start and completion of rebuild. Discussion ensued whether or not to eliminate paragraph two, or if it should just be reworded. It was decided that some sort of paragraph needed to be included to control the amount of time required for rebuild.

1. It was decided to remove the phrase “*or replacement of existing dwellings*”. 2. Mr. Lloyd offered a new paragraph number two, which reads as follows: “*Issuance of a building permit for the replacement of an existing dwelling after damage, destruction or demolition will not be affected by these provisions providing such permit is issued within two years of the damage, destruction or demolition.*” Mr. Lloyd stated this would clarify under what circumstances the replacement of an existing building is subject to growth control.

Discussion ensued in regard to the time that should be allowed. Mrs. Belcher debated the issue of fairness in the timeframe in the instance of multiple occurrences at the same time, such as an earthquake or a hurricane, or financial hardship. She suggested adding, “*unless waived by the Board of Selectmen*” and the Board agreed. Mr. Lloyd offered adding another sentence, which would read: “*After two years, the issuance of a building permit will be subject to growth control unless waived by the Board of Selectmen due to extenuating circumstances.*” The Board agreed on this addition. Mr. Morales stated it gave the Board of Selectmen some flexibility.

3. Calendar year - Stays the same. 4. Rate of growth in conventional residential housing units – this is a substantial change from the last version of the Growth Control article. Mr. Day verified that it was based on finding of fact from the Rockingham Planning Commission (RPC) and the New Hampshire Office of Energy and Planning (NH OEP) and explained how the percentage was derived (abutting towns/regional rate of growth) X (total East Kingston Housing Stock) = number of building permits for conventional residential housing approved per year.

Discussion followed on whether or not to include the SAU in with the abutting towns for a more accurate number. Mr. Day brought up the apparent arbitrary number of 2% that was used in the old ordinance, as the finding of fact all spoke in larger numbers. He asked the Board where the 2% number had come from, as he thought the Board needed to chose a method that was defensible. Mr. RA Smith stated that when the board was first looking at growth control, they figured it out to be 2% and had used that number from that point on.

Mr. Day offered that the original first finding of fact was the average annual percent increase in housing units in East Kingston, which was 4.5%, and the annual increase in East Kingston and abutting towns, which was 1.6%. Using that reasoning, the allowable growth rate would be in the neighborhood of 2%. Mr. Morales commented that that would be *going along* with growth, instead of controlling it. Dr. Robinson offered that if the growth control figures were to be tied to anything, they should be tied to the year-to-year numbers, which reflect 2%. Mrs. Belcher stated that it was population growth versus housing growth; the Board agreed. Mr. Day stated that the original ordinance spoke in terms of housing growth and not population growth.

Mr. Day reread the paragraph and reiterated that it referred to housing units and not population. Dr. Robinson stated that it should be tied to the first finding of fact, which was the yearly increase in housing units. Mr. Day argued that the data was stale, and Mr. Morales said it may be stale, but it was real. Dr. Robinson stated it was 10 years of data, and that OEP data could be added if the Board felt it was needed. Mr. Day thought data from Appendix XIII-A *HISTORICAL REGIONAL COMPARISONS OF HOUSING STOCKS*, should be used as it was updated each year, and Mr. Morales agreed. Dr. Robinson stated the comparison was from Town reports and reports from other towns to the EOP.

Mr. Day’s recommendation was to use the year-to-year data and end up with an average. Mr. Morales stated that reports from the other towns could be kept on file for reference. Mr. Day inadvertently left it off the report, but the 2004 original area total was an average increase percentage in housing units of 3.3%; if the same logic were to be applied to the calculation, that figure would be used. The Board agreed and suggested rounding down to the nearest whole integer.

Mr. Day stated that information from the State said “*it was reasonable to apply growth management where an individual Town is pressured with a growth rate greater than the region*”. Mr. Day stated that the much of the rest of the section was boilerplate.

F. *Monitoring and Review* – Mr. Day went over the second paragraph, which states when the ordinance would expire. Mrs. Belcher suggested adding, “*shall be subject to continued annual reviews.*”

Mr. Day went back to Building Permits E.10. and reviewed a new addition to the first paragraph which states “*at the end of which they shall expire*”, which was taken directly from the Town of Barnstead’s plan. The Board agreed with this addition.

Dr. Robinson provided Mr. Day with the 2004 and 2005 housing stock numbers, and Mr. Day stated he would add these figures to the chart.

Mr. Day asked if the Board was ready to go to Public Hearing with the ordinance, and they agreed. He will send this version of the Growth Control ordinance with their changes to John Daly, Town Counsel, for review and feedback. The Board will go over any changes/additions Town Counsel might have at the next meeting.

Dr. Robinson suggested that the Board make sure that what they created wouldn’t conflict with building codes. Mr. Day reminded the Board that they could make more restrictive requirements for Growth Control.

MOTION: Mr. Morales **MOVED** to place Zoning Ordinance Article XIII, Growth Management, on the warrant for Town Meeting 2007, to be publicly heard on 19 October 06. Mr. Lloyd seconded, and the motion passed unanimously.

CONTINUED BOARD BUSINESS

Town Center – Mr. Day suggested a work session in October to discuss this item. He stated he had done as much as he could on the Town Center District ordinance, incorporating both Dr. Robinson's and the Board's comments. He asked the Board to look carefully at the ordinance, especially the red-letter blanks, and offer their suggestions at the next meeting. If they could get their work done on the Town Center District, they could take it to Public Hearing in November.

Town Center – Mr. Day stated that the Board did not get to the other half of the Town Center Conservation District. He was not overly concerned, as it could be taken to Town Meeting the following year. Mr. Lloyd stated that it tied into the farm friendly issue.

Conservation Committee meetings. Mr. LK Smith invited the Board members to attend two presentations in November. The first is on November 6th at 7:00 PM at the regular Conservation Commission meeting, when Theresa Walker will make a brief presentation on the Exeter River Watershed Restoration Plan, which will lead to an updating of the management plan.

The second meeting is on Tuesday, November 28th at the Exeter River Local Advisory Committee (ERLAC) meeting, where Fish and Game will present the Wildlife Action Plan. Invitations to this meeting will be sent to Planning Boards, Conservations Commissions, and the general public. The location of this meeting has not been determined as of yet. Mrs. Belcher agreed that this was information the Board needed to know.

Coastal overlay. Mrs. Belcher asked if the Coastal Land Conservation Overlay District draft could include a definitions page, since not all the terminology was easily understood. Dr. Robinson agreed that that was a good point; even though the information was in the plan, it also needed to be in the ordinance.

Mr. LK Smith reported that the Planning Board would be receiving the executive summary and a CD, and the Conservation Commission would receive a full hard copy of the plan.

Steep Slope information – Mrs. Belcher stated she loved the steep slope and ridgeline protection information, as it gave her a better understanding of the Board's reasoning to its development restrictions, and the causes and preventions for it. She thought the information would be good supporting documentation for the Master Plan and the ordinances for development on slopes.

Mr. LK Smith asked where the information came from, and Dr. Robinson replied it was from a handbook on zoning ordinances which was a project between the New Hampshire Department of Environmental Services and the nine Regional Planning Commissions. Mr. LK Smith asked if each Regional Planning Commissions was assigned a different chapter, and Dr. Robinson answered they were. She stated that the entire handbook might be finished as early as spring of 2007 and be available to the Board.

Mr. Day asked what chapter the RPC was responsible for, and Dr. Robinson answered they had worked on the Village Plan Alternative Subdivision and Wildlife Habitat Protection sections.

October 19 Meeting -- Mr. Day explained that the next regular meeting, on October 19th, would be a test of the Board's organizational skills, and he would make sure the Board members had all the tools necessary to make decisions.

Adjournment:

MOTION: Mr. Lloyd **MOVED** that the Board adjourn. Mr. Morales seconded, and the motion passed unanimously.

The board adjourned at 9:15 pm.

Respectfully submitted,

Barbara A. White
Recording Secretary

James Roby Day
Chairman

Distribution:
PB file(s); PB members; RPC Senior Planner; Board of Selectmen; ZBA members; Conservation Commission; Fire Department; Building Inspector.