



PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE

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

MINUTES

(Work Meeting and Public Hearing Minutes of 9 November 2006)

AGENDA:

- 7:00PM - **Board Business**
- 7:05PM - **Public Hearing** for a Zoning Ordinance Revision proposal to Article XIII – Growth Management
- 7:45PM - **Continued Board Business**
- 9:00PM - **Adjournment**

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

ROLL CALL: Mrs. White called the roll.

Members present – Vice-Chairman CE Belcher, Chairman JR Day, Mr. RF Morales, ex-officio, and Mr. RA Smith, Sr.

It was noted that alternate member Mr. EA Lloyd, Jr.; Mr. RR Donald, East Kingston Building Inspector; Mr. A Conti, East Kingston Fire Captain, Mr. LK Smith, Chairman, East Kingston Conservation Commission Chairman, and Dr. JR Robinson, PhD, Senior Planner, Rockingham Planning Commission (RPC) were not present. Mr. Day noted that there was a quorum of voting members.

BOARD BUSINESS:

Planning Board Secretary - Mr. Day announced to the Board members that Mrs. White had received an excellent 6-month probationary evaluation and was now the fully-fledged Planning Board Secretary. The members of the Board congratulated Mrs. White.

Mrs. Belcher – Mr. Day made a presentation to Mrs. Belcher of her own belaying pin gavel. Mrs. Belcher said she was privileged and honored to receive the gift. Mrs. White took a picture of the presentation.

Mr. Day read, *“We present this belaying pin to Mrs. Catherine Ellen née Lemieux Belcher, the Vice Chairman belaying pin to be used in the course of her official duties. With it, she may belay the pandemonium that will arise on occasion in the course of Planning Board business in her efforts to bring order out of chaos.”*

When Mr. Morales enquired where Mr. Day had acquired the belaying pin, Mr. Day replied that he had made it from red oak on his grandfather's lathe and explained it was an exact replica of the belaying pins that are found on a Far East trader in the maritime museum in San Francisco.

Approval of Minutes - Mr. Day enquired if the Board was ready to approve the 19 October 06 minutes. It was decided to defer approval of the minutes until the 16 November 06 meeting. Mrs. White informed the Board that changes suggested by Mr. LK Smith had been incorporated into the minutes.

Prospective Planning Board member - Mr. Day introduced Mr. David F. Sullivan to the Board members as a prospective alternate member. Mr. Day asked Mr. Sullivan why he wanted to serve on the Board, to which he answered that he found it interesting and would like to help out. He feels he is an objective and fair person.

Mr. Morales asked Mr. Sullivan if he was still in the logging business, and Mr. Sullivan answered that he had sold that business and was now in the excavation business.

Mr. Day explained that the Planning Board had no actual formal process by which to appoint people to the Board. They would ask Mr. Sullivan questions and ascertain the appropriateness of recommending him to the Board of Selectmen. The Board would then write a letter of recommendation to the Selectmen, who, in turn, would approve or disapprove an appointment.

Mr. Day noted that in the late 1990's, Mr. RA Smith and Mr. Day had done some interviews when the Board had advertised for members. Mr. Sullivan noted that it was a shame that in a Town the size of East Kingston, advertising for members for the Board

had been necessary. Mr. Day explained that there were 1,467 voters in the Town today, and yet finding people to step forward and be involved in civic affairs was like pulling teeth.

Mr. Day observed that the Selectmen would be faced with filling a future vacancy very shortly, as Mr. Don Clark would be retiring, and leaving a large void to fill. Mr. Morales explained that Mr. Clark did a lot behind the scenes that most people did not realize. He is also wealth of knowledge and knows just where to go to get the information needed.

Mr. Day explained that there is hard work involved in being a Planning Board member, and Mr. Morales added that it was work to prepare for the meetings. He estimated he has spent 50 hours so far this year at regular and work meetings, which does not count preparation time and workshops. Mr. Sullivan said he had no problem with the amount of work needed, but said he might have a few questions along the way until he "got up to speed."

Mr. Day explained that the Master Plan was the Board's main responsibility, as well as knowing the State statutes and the Town's Ordinances and Regulations. He explained that the Board is charged with implementing the creative thinking for the Town, which can be onerous and very frustrating at times.

Mrs. Belcher asked what Mr. Sullivan's perception of the role of the Planning Board was and how he felt he would "fit" into the Board. She further clarified that it was acceptable if Mr. Sullivan did not know, and that the Board could explain what it did.

Mr. Sullivan answered that he knew some of the workings of the Board, encountered during implementation of a housing development with Mr. Richard Cook. His interpretation of the responsibilities was that the Board would make sure the process moved along smoothly, along with having responsibility for the Master Plan and some dealings with Home Occupations.

Mrs. Belcher explained that although the Board did manage a lot of the ordinances and regulations, and walk people through the processes, they were not the enforcement Board; that would be the Board of Selectmen's responsibility. The Planning Board needs to make sure they are careful where they start and stop, so as not to infringe upon the responsibility of another Board.

Mrs. Belcher asked if the current issue with the cell tower had generated Mr. Sullivan's interest to serve on the Board, and if had he seen any of the "blogs" on the website. Mr. Sullivan answered that the issue had nothing to do with his decision, and that he had seen the website, but it had been 6-8 weeks ago.

Mrs. Belcher emphasized that attendance at the meetings was critical, and that the Board needed someone who would be committed to attending all the meetings as everyone's perspective on the issues was very important. She also explained that there would be mandatory training sessions to attend, which she believed were held mostly on Saturdays. Mr. Morales interjected that some of the classes on land issues held in Newmarket seemed to be held at World Series time. Mr. Sullivan stated that he did not follow sports, so that would not be an issue.

Mrs. Belcher also stressed that in order to keep the integrity of the Board, it was important not to discuss the matters before the Board beyond the walls of the Town Hall and the public hearings, even with other Board members.

Mr. Sullivan answered that he had been a policeman for 23 years and respected the process of "keeping your lips sealed". He also assured the Board he had no "hidden agenda" for wanting to serve on the Board, he just thought it would be interesting and would like to help out.

Mr. Morales clarified that an alternate member would need to be as prepared as a regular member, as they could be asked to vote at any time due to the absence or conflict of interest of a regular member and they would need to be abreast of what the issues were. He also explained that there are often two meetings a month, one work meeting and one regular meeting, and that the Board needed someone who would be committed to that schedule and be willing to participate on a regular basis.

Mr. Day explained that it was most important for Board members to be dispassionate and deliberative in their decisions. Mrs. Belcher interjected that it was necessary to have a thick skin.

Mr. Day noted that Mr. Sullivan had come to the Board during their busiest time of year, as they were preparing for Town Meeting. Mr. Sullivan answered that there would be no problem with the schedule that had been explained.

Mr. Day stated he was not sure just how to proceed from this point, and Mr. Morales interjected he thought the next step would be for the Board to write a letter to the Selectmen recommending Mr. Sullivan as an alternate planning Board member. Mr. Day explained that he had meant how to proceed in the course of tonight's meeting.

Mrs. Belcher stated that based on the information Mr. Sullivan had represented to the Board, his interest in serving the Town, and his ability to facilitate the regulations with an unbiased position, no more could be asked from a prospective member, and she would recommend the Planning Board propose Mr. Sullivan to the Board of Selectmen for approval as an alternate member; the Board agreed. Mr. Day concluded that a letter recommending Mr. Sullivan for alternate member will be sent to the Board of Selectmen.

Mr. Sullivan thanked the Board, and departed.

PUBLIC HEARING FOR A ZONING ORDINANCE REVISION PROPOSAL TO ARTICLE XIII – GROWTH MANAGEMENT

Mr. Day opened the public hearing.

Mr. Morales confirmed that he had the latest version of the Ordinance dated 9 November 06 and Mr. Day confirmed that it was the most current version. Mr. Day pointed out that that version included two new tables that had not been incorporated into the old version. One new table was the Historical Regional Comparisons of Housing Stocks, and the other was the Taxation History Analysis.

Mr. Day explained that the significant difference in this new ordinance article and the former article is how the number of building permits to be allotted for the next year is calculated. Another important difference is the provision for a certain amount of carryover from one year to the next. He noted that the Town of Barnstable model was used in great part. Building permits that are not used within a year expire after one year, meaning that any given permit may have a potential two-year shelf life. It will be up to the Building Inspector at the beginning of the year to identify the permits available and track them by year number so that at the end of the second year, those permits will expire.

Mrs. Belcher noted Mr. Day's groundwork, stating she thought the Growth Management Ordinance was very well written. Mr. Day answered that it was a collective effort on everyone's part, and much was taken from other sources which haven't proven effective.

Mr. Morales noted that enrollment for the East Kingston Elementary School had gone down, and Mr. Day replied that when dealing with growth management questions, he had found school populations a "red herring" for many towns, but that towns continue to spend for school expansions; a point which is glaringly obvious on Table B.

Mr. Morales pointed out that population was in a relatively tight range, but spending continues to go up. Exeter, which used to be a large piece of the pie, is becoming a lesser piece of the pie because of towns like Brentwood and Stratham taking a larger piece of the pie. As the pie gets larger, East Kingston's piece of the pie gets proportionately larger also.

Mr. Smith asked where it was noted how many permits were issued each year. Mr. Day referred him to Page 7, Paragraph E 4; *(Abutting Towns/Regional Rate of Housing Stock Growth Rate) X (Total East Kingston Housing Stock) = # of building permits for conventional residential housing approved per year*. This is the formula to be used for calculating how many building permits will be issued each year. For this year, the calculation results in 2.3%, rounded down to 2%. Mr. Day explained that every year the Board would receive housing stock information from the RPC to calculate the number of permits for the next year. He noted that the resulting number could change every year.

Mr. Smith said that they used to state just how many permits would be issued during the year, which they were not doing in this version. Mr. Day pointed out although they may have stated "X" number of permits for the year in the past, the calculation was arrived at similarly, but was now more defensible.

Mr. Smith thought it was not plainly explained in the ordinance, and Mr. Morales explained that the number of permits could always be obtained from the Building Inspector. The number of permits available for the year would be announced at the beginning of the year and that number would be depleted as building permits were issued.

Mr. Day directed the Board's attention to Table A; he explained that this is the table from which the calculations would be derived each year and noted that Abutting and SAU-16 Sending Towns households grew 2.3% on average during 2004 to 2005.

Mr. Smith asked why the Town had issued 58 building permits in 2003, and Mr. Morales and Mr. Day answered that the number included elderly housing, which was not subject to growth control.

Mr. Day explained that how the region is growing, including East Kingston, is taken into consideration and if the figure is at 3% next year, that is the rate of growth the Town can allow in its own residential number. Mr. Day stated that it is a very clean and straightforward way of calculating the figure, and has also been found acceptable by Town Counsel.

Mr. Day pointed out that if you look at the increase in valuation from year-to-year on Table B, there should be little doubt in one's mind that the tool of planning management is necessary. One needs only to look at the Taxation History Analysis.

The average increase in valuation between 1992 and 2006 was 4.07% per year, and the average change in the CPI for the Boston area was less than 2%. East Kingston's valuation is growing at 4%, and the change in the tax bill since 1992 has been 4.05%. If you look at the rate of spending above the CPI, East Kingston has spent almost 2.5% more per year. The valuation is going up at a higher rate than inflation. The two things that contribute to valuation are 1) valuation of the housing market, and 2) increased development.

Mr. Smith noted that the housing valuations were not as variable as last year and were going down; people were lowering the asking prices to sell their houses. He wanted to know how that would affect the total valuation. Mr. Day observed that markets always went up and down, and that the tax card prices would need to be checked to compare with what was being asked for a property.

Mr. Smith noted that there were 72 foreclosures in this week's *Union Leader*. Mr. Morales suggested that people could have bought them with high debt that can result from adjustable rate mortgages, and then the rates went through the roof.

Mr. Day stated he could not speak for inflated prices, but there was one rule of thumb in the world of economics, which is "*the market knows the price of everything and the value of nothing.*" Mr. Day noted that we have lived in a period of fairly constant inflation since World War II, and those of his generation and later have never known anything like the depression of the 1930's, and cannot even fathom a shrinking economy. The closest the Town had come was in the early 1990's with shrinking property values and negative growth. Mr. Day explained that the numbers speak for themselves; we are spending at a rate faster than the economy is expanding.

Mr. Day opened the floor to comment.

Mr. Jason White, Winslow Drive – Mr. White asked if Mr. Day could go over the number of building permits that would be issued between the present time and when the new growth management ordinance was approved, and if the revision he was looking at was the revision that would be offered for approval. He wanted to know if it needed to be approved by the public or if the Planning Board would be approving it.

Mr. Day stated the ordinance would take effect on 14 November 06, and the Board would vote at this Public Hearing to take it to Town Meeting. He further explained that in the State of New Hampshire, after having held a Public Hearing for a proposed ordinance change, the ordinance change recommendation could be enforced 120 days before a Town Meeting. This would be pending the voter's decision on March 13, 2007.

Mr. White asked if that meant all building permits would be suspended from November 14 until March 13. He said that although he knew his interests were grandfathered, as he had bought a development that had already been approved for building, he was interested in understanding the ordinance in general. Mr. Day directed Mr. White's attention to page 8, paragraph 6 and explained it was the calculation for the time period between 14 November 06 and the end of the year.

Mr. Day acknowledged he had spoken to Mr. White several times on the phone, and referred him to the applicable RSA 674.39, which would give him a 4-year exemption to build in the development. Mr. Day reminded Mr. White that there were stipulations that would have to be met before the building permits would be issued, and explained to Mr. White that he could find those stipulations on the conditions of approval for his subdivision. He reminded him that that particular discussion was outside the realm of this public hearing.

Mr. White's last comment to the Board was that on page 3 in the Housing Stock Table, Winslow Drive was listed as having eleven (11) houses and he noted that there were actually ten (10) houses. Mr. Day informed Mr. White that the old Bean residence, which faces Rowell Road, had been included in that number.

Mr. White thanked the Board, and Mr. Day closed the floor to comment.

Mr. Day entertained a motion to place the Growth Management zoning ordinance proposal on the warrant for Town Meeting 2007.

MOTION: Mrs. Belcher **MOVED** the Planning Board present the new zoning ordinance Article XIII - Growth Management as presented to replace the former Growth Control ordinance article adopted in 1998, and for it to be placed on the warrant for Town Meeting 2007. Mr. Morales seconded and the motion passed unanimously.

Mr. Day closed the public hearing.

Mr. Day passed around the cover sheet for signature.

CONTINUED BOARD BUSINESS

Subdivision language proposal – Mr. Day referred the Board to Mr. Morales's language proposal and Mr. Daly's comments and concerns. He explained to Board if they did not have time to get to this item at this meeting, they had license to work on it within the meeting next week since it is a regulation. It was decided to hold this item over for the 16 November meeting.

Farm Friendliness – Mr. Day met with Dr. Robinson, RPC, who had some ideas on how to go about the proposed "soirée". She was beginning to identify people to talk to the Board about farm, agricultural and conservation issues.

Conservation Overlay Districts – Mr. Day reported that at their meeting last Monday evening, the Conservation Commission spoke about watershed protection with Ms. Theresa Walker (RPC planner), and the Commission is very much attuned to where the Planning Board is headed. Instead of changing zoning, the Town would use the tools it has already, and identify "*hot spots*" to

protect. Mr. Quintal reported he had been talking to people about this approach, and the feedback he was receiving was that people didn't want to be told what they could do with their property. Mr. Day stated that the Board would need to convince people that this is a good thing, and how the ordinance is crafted will be important. Mr. Morales said he saw a lot more positives than any perceived negatives with the ordinance, as it gave people more capabilities to do things they are presently hobbled by the current ordinances to do.

Glenn Clark's predicament – Mr. Glenn Clark spoke with Mr. Day and Mrs. White in regard to the status of his development on Burnt Swamp Road. Mr. Day told him that nothing had been done since the last meeting, which was in May. Mr. Day noted that Mr. Clark had been assured that progress depended entirely upon the conditions of approval being fulfilled. Those matters were in Mr. Clark's hands for action. Mr. Clark expressed his personal concern that nothing appears to have been done by the developer, and said the Planning Board would be hearing something by the end of the next week, even if that meant he had to take the subdivision back. He is hoping to be ready for a compliance hearing in January.

Growth Management and Impact Fees – Mr. Day explained that Jason White had purchased the second half of the Bowley development and had asked questions about building permits. The statute is clear that the Board cannot impose growth management on existing developments, but impact fees could be imposed if the Town wished to. Mr. Day noted that to do so could be an administrative nightmare.

Mrs. Belcher reported that the SAU she works for received a \$70,000 check for impact fees, and felt if the Town of East Kingston could get that much money for the school, it would be worth the effort.

Mr. Day explained he had worked on a fee schedule, and had run a sample example and came up with very little. He noted that impact fees are intended to defray expenses from capital investment in new development (construction), i.e. new schools, new fire houses, etc. If the money were not spent on such items, the money would be returned; it could not be used for replacement fire engines or police cruisers.

Mr. Morales explained that Plaistow was a much larger Town than East Kingston, and impact fees were directly proportional to the opportunity to grow in certain areas and collect those fees. East Kingston is so small, that even though the growth is large to the Town, it is still nowhere near the growth of the larger cities. Although that is the case at the present time, Mr. Morales interjected that there was no reason the Board could not put something in place in case they ever needed to execute that plan. It could also be indicated "at the discretion of the Planning Board". Mrs. Belcher agreed. Mr. Day disagreed.

Mr. Smith recalled attending a meeting some time ago in Portsmouth at which he had first heard of the money the Town could gain from impact fees. He presented the prospect of an ordinance to the Board of Selectmen, but they opted not to vote on it. He noted that every time since, when the subject of impact fees was presented, the Selectmen voted it down. Mr. Morales said the present Board of Selectmen was always looking for new ways for the Town to make revenue.

After much discussion, Mrs. Belcher said she would obtain information from the Planning Department of the Town of Plaistow regarding how they executed their impact fees and how they decided to spend the money. She would like to make certain impact fees are not being implemented NOT because the process is complicated, but because it is not worth it.

Master Plan Community Profile Chapter update – Mr. Day referred to Glenn Greenwood's (RPC Assistant Director) draft to the Board members, and asked them to review it for discussion next week. The matter is on the agenda for 16 November.

Mr. Smith asked if the community profile was final, and Mr. Day stated it was only the first draft he had received.

Mrs. Belcher stated she had a hard time understanding the line chart on page 6 and asked if it might be presented in another, more understandable format. She also pointed out there were some typographical errors in the report that needed to be corrected.

Mrs. Belcher had a question regarding the table at the bottom on page 3. It was her opinion that the 31.2% under "Other Rockingham County" should be broken down to list the individual towns and percentages. Mr. Morales agreed and stated it was not really clear the way it was presented, as it seemed to indicate that there are many other cities with percentages much less than the 0.8% of Derry/Londonderry, which is listed individually.

Mr. Day asked the Board to suggest a place in the profile in which to insert the information on architectural style they had collected.

Mrs. Belcher noted that the report focused heavily on employment and wondered if it could be considered as "overkill." Mr. Day reminded the Board that they had asked Mr. Greenwood to update the original information. He indicated he would compare this version with the old version. Mr. Morales stated he thought the employment information was good to have.

Mr. Morales asked if the charts were indicative that over 90% of East Kingston residents worked in Rockingham County and he took issue with that fact. Mr. Day pointed out that in the chart on page 4, counties from Maine and Massachusetts were listed, but not identified as such. He will ask Mr. Greenwood to identify those counties.

21 December Agenda – The agenda will include the Elderly Housing ordinance article annual review.

New cell tower materials – Mr. Day had distributed two new items for the Board to review: 1) a list of application file contents, which continues to grow; and 2) a worksheet summarizing all the comments for the Board members to review and consider, with 19 concerns listed at the end of the summary sheets. Mr. Day suggested the Board address each of the concerns during the course of the hearing. Mrs. Belcher stated that the worksheet provided would be most helpful in the decision process.

December meeting location – Mr. Day has arranged to hold the December Public Hearing at the Elementary School, and will be meeting with the custodian about how to arrange the seating. Mr. Day noted that at the September meeting, there had been 82 people present and at the October meeting, when it was requested that the meeting be held at the school, there were only 66 people present.

Town Center – Mr. Day indicated he has sent the Town Center information to Town Counsel for review.

Mr. Day referred the Board to Dr. Robinson's definition of "fenestration" and explained that it was defined as how a wall is configured with windows and doors. He had asked Dr. Robinson for a suggestion on the percentages, which she supplied. Discussion ensued on what percentages should be inserted for the Town Center District. After much debate and noting that residential homes were included in the Town Center, as well as businesses, the figure of *at least 25%* on all sides of a structure was decided upon.

Mr. Smith indicated he thought the Town field and pond should be included within the Town Center on the map. Mrs. Belcher explained that they were eliminated because they did not have any road frontage and Mr. Day pointed out that on page 3, paragraph G1 stated that "*all parcels in the District shall have frontage on Depot Road or Main Street.*"

Mr. Day indicated that the map did include the part of the park with the pavilion since it was within 500 feet, and Mr. Smith thought it wrong to cut the only Town Park in half and not include the entire piece of property. Upon further examination, Mr. Day noted that according to the *Purpose* of the Town Center District, and the definition in *paragraph F*, under *Permitted Uses*, since it was not meant to be developed, none of the Town Park area should be included after all. Mr. Smith agreed and Mr. Day will adjust the area on the map to eliminate any part of the Town Park and submit an updated version for next week's hearing.

Mr. Smith stated that under *General Standards, paragraph H-12*, the height of 35 feet indicated a building could be three stories high. Mrs. Belcher agreed that it could be misconstrued and after discussion, it was decided to take out the phrase "*35 feet encompassing up to*" in paragraph 12.

Mr. Day will make the corrections to the Town Center District information.

Mr. Day entertained a motion to take the Town Center District Ordinance to Public Hearing.

MOTION: Mr. Morales **MOVED** to take the newly proposed Article III-A - TOWN CENTER DISTRICT as amended to a public hearing on 16 November 2006 at 7:15 pm. Mrs. Belcher seconded, and the motion passed unanimously.

Capital Improvements Program (CIP) – Mr. Day announced the Board was on time with the CIP; he just needed to sort out the accounting for the middle school and high school expenses to complete the spreadsheet. He pointed out to Mr. Morales that the Selectmen's Administrative Assistant had his most updated version of the tables, and areas noted in red indicated information that had not been updated.

ADJOURNMENT:

MOTION: Mrs. Belcher **MOVED** the Planning Board adjourn. Mr. Morales seconded, and the motion carried unanimously at 9:00PM.

Respectfully submitted,

Barbara A. White
Recording Secretary

James R. Day, Jr.
Chairman

Minutes approved December 21, 2006