



**PLANNING BOARD
TOWN OF EAST KINGSTON
NEW HAMPSHIRE**

2005/2006
James Roby Day, Jr., Chairman
Richard A. Smith, Sr., Vice Chairman

MINUTES
(Work Session November 10, 2005)

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

ROLL CALL: Ms. Helen Lonek called the roll.

Members present– Mrs. CE Belcher, Chairman JR Day, Vice Chairman RA Smith, Sr., Mr. R Morales, ex-officio, Dr. RA Marston, DVM
Alternate members present – Mr. EA Lloyd

DESIGNATED VOTING MEMBER: Mr. Day stated that Mr. Lloyd is the alternate.

BOARD BUSINESS:

Law Lecture Series Mr. Day stated that he attended three law lectures. He stated that Mrs. Belcher has a book from one of them that goes into great detail regarding variances. Mrs. Belcher stated that it explained how variances have no “teeth“ anymore. Mr. Day stated that the courts tried to simplify and explain and in the process made it more complicated.

Mr. Day stated another of the lectures dealt with ethics for land use Board members. He stated that this issue bears refreshing because the Board members all know each other professionally as well as socially. He stated that technically there can be no discussion about a public hearing outside that forum. He reminded that it is unacceptable according to statute to hold a conversation or exchange emails about an application outside the arena of a public hearing. He stated that the Board members could compromise themselves. He added that it could disqualify an individual Board member. Mrs. Belcher added that it is not just outside communication between Board members, but also conversations with applicants or abutters of an application.

Mr. Day stated that the third lecture dealt with off-site exactions and impact fees. He stated that East Kingston has a superlative impact fee ordinance but not a schedule of fees. He added that he has been slow to work on a schedule of fees because he is reluctant to impose that kind of burden on the Town. He stated that it is an onerous task for a Town to properly administer impact fees and there are consequences if it is not done right. He added that where the Town does apply impact fees, it cannot apply growth control.

Mrs. Belcher stated that, given the conservation focus and the townspeople’s desire to purchase open space in order to preserve it, these actions may eventually preclude the need for Growth Control. She added that the make-up of the property would control growth all by itself. Mr. Day stated that with what Mr. LK Smith is doing with the conservation program and what the Board is doing with elderly housing and cluster housing, we may be pointed in the right direction.

Clark/DeBross Motion for Reconsideration Mr. Day stated that with regard to the Clark/DeBross motion for reconsideration, the judge denied the original for which they filed a motion for reconsideration as a matter of course. The judge denied that as well. He added that they have 30 days to take it to the Supreme Court. Mrs. Belcher noted that there is a new sign on the Clark property stating that land is for sale. There was some discussion as to whether the sign was for land for sale or lots for sale. Mr. Day stated that if they come back with a revised plan that meets the Board’s intention, there will still be lots for sale. Mr. Morales agreed that there would be fewer lots available.

Rowell Road Hearing in Kingston Mr. Day referred to the public hearing in Kingston recently that the East Kingston Planning Board was invited to dealing with the dirt road at the end of Rowell Road. He added that since 1937, the East Kingston portion of the road has been closed. Mr. Day stated that he Selectmen Mr. Morales and Mr. Forrest attended the hearing. He referred to a letter from New Hampshire Fish and Game objecting to the application. Mr. Day stated that the Kingston Selectmen denied the petition. He added that the suit went to Superior Court and lost. Mr. Morales stated that the attorney for the applicant seemed to indicate that there was a suit presently in the Supreme Court.

George Street 46-acre parcel. Mr. Day noted the sheet from Mr. LK Smith showing where all the wetlands are located on the property and there appear to be quite a bit.

December 15 Agenda: Mr. Day listed the possible agenda items as:

- Elderly Housing provision annual review.
- Brian Beattie's site plan
- Clark/DeBross
- Mr. Turner on Haverhill Road with a two-lot subdivision
- Steven Davis in regard to a possible subdivision discussion only
- Any zoning ordinance warrant articles

Clark Site Walk. In regard to the Clark site walk on October 8, 2005, Mr. Day stated that the heavy rain really helped point out the drainage problems on the property.

Minutes–

MOTION: Mrs. Belcher **MOVED** that the Board accept the minutes of the October 8, 2005 site walk as presented. Mr. Morales seconded and the motion carried unanimously.

Action Items –

Capital Improvements Program 2005-2010

Mr. Day noted the paperwork that was given to the department heads to update and the incorporated Tables 9, 10 and 11 for this year. He added that last year a Table of Contents was generated as well as some verbiage revisions. He added that he didn't think verbiage revisions were necessary this year, but in two years a complete overhaul will be due.

Mr. Day noted Table 9–Requested Capital Projects dated November 17, 2005. Mr. Day stated that this is what the department heads give him as their wish list. He added that he has not gotten information from the Recreation Committee and the Historical Committee. He added that he got the Coop information late in the day from SAU-16 so it has not been incorporated into the tables as of yet.

The Board went over the various requests from the departments comparing them to last year's. Mr. Day stated that Fire and Rescue has done some serious refiguring since they got the new ambulance last year, and changed one item described as "paint the engine" to "engine refurbishment". Mr. Day has suggested to them a capital reserve fund. Mr. Day stated he thought they wanted to replace the forestry. He added that the Fire Department does not have to replace the radio system because the Police are getting their equipment for the new facility from the State and the fire department will be involved with that.

Mr. Day stated that instead of replacing failed fire cisterns, the Fire Department wants to focus on installing new fire cisterns in areas of Town where they feel a need might emerge, but there is no development that would be a vehicle to pay for it. Mr. R Smith stated that the dry hydrants used to be budgeted each year and different people would provide the land for them. Mr. R Smith stated that he thought the dry hydrants should be paid for by the Town and not one individual owner. Mr. Belcher stated that a developer should be responsible for the cost. She added that it was her understanding that Mr. Conti stated at the last meeting that the Fire Department was going to propose language that said that a single two-lot subdivision would not need a cistern, but when a three-lot subdivision was

involved, a cistern would be required. Mrs. Belcher stated that she thought the Board had all agreed that it would be a hardship for a single lot to be required to have a cistern. Mr. Day stated that the language the Fire Department is working on is to give to the Planning Board to consider for subdivision regulations.

Mr. Day stated that the Police Department is asking for \$850,000 for a police station. He added that the land acquisition was left in there just in case the voters say "no" for the next four years and the land offer disappears and land is needed. Mr. Day stated that the Plat for the land for the police department is a recorded subdivision and it is now in the hands of the Selectmen, the Police, the Sullivans and Cooks to sort out the deed. He added that the approved plan shows a location of a structure. Mr. Lloyd stated that there is four years left on the offer of the land.

Mr. Day noted the Highway Department items. Mr. Day stated that there is a line for money for a salt shed. Discussion ensued regarding putting a salt shed where the recycling center used to be and whether it was a big enough lot (Mr. Rossi stated that he needed two acres minimum). Mr. Day stated that the capital reserve fund is dedicated to the salt shed. Mr. Morales brought up the issue that the size of the salt shed would depend on how much inventory would be needed and maybe they could lock into a price when the market is favorable.

Mr. Day stated that with regard to the Cemetery Trustees, the Monahan family was going to donate a small piece of land next to the Union Cemetery, but asked the Town to pay the legal fees to transfer it over. He added that this was on last year's as well and he did not know where the negotiations were presently.

Conservation Commission. Mr. Day stated that last year the Conservation Commission asked for \$30,000 for an aerial photo of the Town, but now Mr. Smith has stated that what he gets now from the RPC in the way of GIS mapping is far superior to an aerial photo.

Library Trustees. Mr. Day stated that they have come up with a revised price; \$650,000 for a new library and they have almost \$187,000 in capital reserve. He added that Mr. Lloyd believed there were a lot of donations as well. Mr. Lloyd stated that the Library Committee has dramatically reduced both the size of the proposed building as well as the construction methods in order to cut costs.

Town Clerk. Mr. Day stated that the Town Clerk thinks that vital records should be preserved and microfilmed and she will be talking to the Selectmen on November 28 about it.

Historical Committee. Mr. Day stated that Sue St. Martin is in Florida and he hasn't heard from anyone.

Recreation Committee. Mr. Day stated that he has not heard from them.

Recycling. Mr. Day stated that there is no recycling budget, but brought up the problem with the elderly housing trash and recycling issue. He stated that the developer agreed they would pick up their own trash, and town-wide recycling was in effect at the time. Mr. Morales stated that, in actuality, recycling is part of trash pick up.

Elementary School. Mr. Day stated that the classroom addition is the present debt that is being paid now for the first floor addition. He added that the School Board has assured him that they are probably going to address the drainage project this year at Town Meeting. He stated that there are serious problems with the gym roof. He added that they are looking to flat roll rubber the gym roof. He added that they are still thinking that they might have to add a second floor addition in 2009. Discussion ensued regarding the growth of the Town and the need for a larger school.

Exeter Regional Cooperative School District. Mr. Day stated he got their information from the SAU late in the day. He explained that in 2006 East Kingston will pay \$169,095 to the Coop, although they don't break it out by total original project cost. He stated that it looks like the cost will double the next year. Discussion ensued regarding being charged for depreciation.

Mr. Day noted Table 10, which is the six-year plan through 2011. He stated that all the numbers in Table 9 are reflected in Table 10. Mr. Day stated that Mr. Rossi has indicated the year he wants to do certain projects.

Mr. Day noted that he included the tax impacts, and the town valuation forecast is the present town valuation plus 3%, which is the assumed rate of growth.

Discussion ensued regarding road paving and preserving. Mr. R Smith stated that Sanborn Road is in terrible shape and there should be more money to maintain the roads. Mr. Day stated that maybe a town engineer survey of the roads would be appropriate.

Mr. Day stated that it is the Board's job to recommend or not recommend the budgets to the Selectmen. He stated that the Fire Department is asking for \$15,000 for engine refurbishment and he recommended to them to get a capital reserve fund, alleviating the need to go to the voters for money in the budget. Mr. Day stated the Fire Department is asking for \$65,000 for their capital reserve fund. Mr. Morales and Mrs. Belcher objected to this expenditure. Mr. Day stated that he thought the Fire Department had about \$18,000 in the fund after buying the new ambulance last year. Mr. Day stated that he agreed with the Fire Chief that they have to plan for large expenditures. Mr. Morales stated that there must be an expert that can predict the life expectancy of the fire equipment and when repairs would probably be needed. Mr. Morales stated that he felt the \$65,000 is an arbitrary figure and there is no data to support it. Mr. Day suggested the Selectmen put the question to the Fire Chief. Mr. R Smith stated that it will go through whether the Board recommends it or not, as the Fire Department can present a warrant article to the Town and it will be voted through. Mr. Morales stated that hopefully they will have to justify it.

Mr. Day explained that the Board is supposed to take the various needs into consideration in the overall planning for the town. He added that if the Board says the fire department does not need the money and all of a sudden the town grows and the need increases, then the CIP would not support charging impact fees or any other kind of action that would have to be taken as a consequence of long range planning. Mr. Lloyd suggested that if the Board has to make a decision whether or not to recommend something, then it would be good to have the various departments make presentations to the Board to explain their needs. Mr. Morales stated that the Board of Selectmen depend on the Planning Board's recommendations. He commended Mr. Day for his job of putting the whole thing together. Mr. Lloyd stated that he felt the Board needs more information to make a recommendation. Mr. Day stated that the fire department does have a plan for equipment replacement and the \$65,000 is pointed in that direction. He stated that he thought the next piece of equipment to be replaced is either the tanker or the forester. Mr. Morales asked if Mr. Day felt the \$65,000 was a reasonable number, to which Mr. Day stated that he did. Mr. Day also stated that it would be reasonable for Mr. Morales, as a Selectman, to ask for long range plans from the fire department.

Mr. Day stated that he is satisfied that the requests are reasonable in a fiduciary sense. He suggested giving the fire department what they are requesting, but ask for their long range plan.

Mr. Morales stated that when a new piece of equipment is purchased, the Town should know the life expectancy of it Mrs. Belcher stated that there are people who have been serving on the fire department for many years and they probably could predict the life of a piece of equipment.

Mrs. Belcher stated that she agreed with Mr. Lloyd's suggestion of having the departments give a presentation. She added that maybe next year the Board could facilitate a CIP night allotting each department ten minutes to do a presentation.

Mrs. Belcher stated that when people go to vote they do look for Planning Board approval in making their decision. She added that the CIP is attached to the Master Plan and if they are not up-to-date when the Town goes to court, it's a problem. She stated that the ordinances and subdivision regulations fall apart if these documents are not up to date. Mr. Day noted also that if an application comes in, and the Board wants to charge an off-site exaction, the need should be reflected in the CIP. He added that if there is no demonstrated requirement, then no off-site exaction. He added that the voters voted for a CIP at Town Meeting.

Mr. Lloyd stated that the department heads have to understand that submitting their requests is a necessary step and he suggested that maybe telling them "no" because no plan was presented would send that message. He added that it would hurt the Town short term, but long term it's what is needed.

Mr. Morales asked if the Board opens a capital reserve fund for land for the salt shed and then land is found, what happens to the funds. Mr. Day stated that it depends on how the warrant article is written.

Discussion ensued regarding having just a salt shed, or maybe a department of public works would be better. Mr. Day stated that a department of public works implies sewer, municipal water as well as roads and infrastructure.

It was agreed that the Board would recommend the Selectmen approve the money for the fire department, police, highway agent, library and the drainage for the elementary school.

Mr. Lloyd stated that the library will put two things on the ballot; so if the bond fails, a downsized capital reserve fund.

Mr. Day stated that there will be more discussion at the next regular meeting regarding the CIP. He added that there doesn't have to be a public hearing, that the Board recommendations are just an administrative action.

Home Occupation Zoning Ordinance Revision Mr. Day stated that Mrs. Belcher put together draft wording amending Article XVI– Home Occupations to include a provision to clarify permitted uses by inserting a new Article XVI.E.10 and renumber the existing sections accordingly. Mrs. Belcher stated that she is changing the existing 10 to 11. She stated that the reason she was asked to do this was to clarify what actually constitutes a home occupation. She added that her impression of a home occupation did not include commercial businesses.

Mrs. Belcher suggested:

- 10. Businesses or services that are conducted off-site of the premises (excluding administrative duties), and meet ALL the standards outlined under Article XVI.C. Examples of these types of businesses include, but are not limited to carpentry, electrician, general contracting, septic services and landscaping.*

Mr. Lloyd stated that he thought this was a very good addition but recommended rearranging the wording to:

- 10. Administrative activities for businesses or services that are conducted off-site of the premises and meet ALL the standards outlined...*

Mr. Lloyd stated that he thought this clarifies that what is being approved is the administration of a business that is conducted somewhere else.

Mrs. Belcher stated that it is her belief that the above types of businesses are clearly not home occupations since they are commercial. She added that since the rest of the Board felt they should be allowed, she wanted to clarify the ordinance. She stated that she felt the other standards do create filters to avoid full blown commercial businesses being conducted at a premises. She added that these protect the people in a residential area.

Mr. Day stated that this has to be put in the form of a warrant article and put before the voters.

It was agreed that the change would be:

- 10. Administrative activities for businesses or services that are conducted off-site of the premises and meet ALL the standards outlined under Article XVI.C. Examples of these types of businesses include, but are not limited to carpentry, electrician, general contracting, septic services and landscaping.*

Mrs. Belcher stated that it would be her intention that these people pay the \$25.00 annual fee for home occupations since they use the office area for their business and they would need an annual fire inspection. She added that people who can demonstrate that their businesses are “invisible” could be exempt from the fee.

Discussion ensued regarding what businesses would be considered “invisible” and some businesses in town that are considered “invisible” and clearly are not.

MOTION: Mrs. Belcher **MOVED** for a public hearing on the amendment to Article XVI as stated above on December 15, 2005. Mr. Morales seconded and the motion carried unanimously.

Mr. Day asked if they could conduct another work session on December 8, 2005 to discuss "Building" vs. "Structure" meanings, and fees in Zoning Ordinances and Regulations. Mr. Day stated that a lot of the fees seem to be arbitrary and don't reflect reality. He stated that they could come up with some zoning ordinance change recommendations as well as definitions. He added that he would also like to work on the goals and visioning for the Master Plan.

MOTION: Dr. Marston **MOVED** that the Board adjourn. Mr. Morales seconded and the motion carried unanimously at 9:15PM.

Helen M. Lonek
Recording Secretary

Approved on: 12/8/05