

**York Planning Board
Minutes
Thursday, August 24, 2006, 7:00 PM
York Public Library**

Call to Order, Determination of Presence of Quorum

Chairman Glen MacWilliams began the meeting at 7:00 by introducing the Planning Board and staff. Vice Chairman Tom Manzi, Barrie Munro, Richard Smith, and Tom Manzi were present. Alternate Lee Corbin came in after the Subdivision Policy hearing (Page 4). When she arrived, she was asked to vote in place of Glenn Farrell, who was absent. Town Planner Steve Burns represented staff. Patience Horton took minutes. The meeting was televised, though the audio was not transmitting during part of the meeting. All aspects of the meeting were captured on videotape.

The Chairman called the meeting to order and stated that board constituted a quorum.

Public Input

Open to the public to address any issue other than the scheduled public hearings.

The Chair opened the Public Input session. No one came forward to speak, so he closed the session.

Field Changes

Carol Eaton, P.E., of Altus Engineering, Inc., representing Pine Brook Corporation, Contractor for the York Housing Authority's Village Woods Phase III, Deerfield Development, Inc. project, presented changes made and changes proposed to the original plan. She stated that Altus certifies that the civil engineering components of the project completed to date were built in accordance with the approved plans, and there are currently no life-safety issues associated with the construction site. She went on to say that a final certification of completion will be issued upon completion of the final site grading, all identified punch list items, and a final site inspection by Altus. Engineer Eaton referenced a letter dated August 17, 2006, and a Revised Landscape Sketch dated August 24, 2006. The letter and the plan detailed all changes to the original plan.

Builder **Dave Ranta** described the revised landscape sketch, showing what had been eliminated and what plants were new.

A discussion of the required construction certification process and procedure followed with instructions to the contractor and engineer, Carol Eaton. Interim approval was discussed, as it was necessary for occupancy. Glen MacWilliams told the engineer that the Planning Board should be informed before the engineering adjustments are made. He

then referred to a disclaimer in the landscape letter stating that the builder is not responsible for the quality of the work. Carol Eaton said that the engineers check the ongoing work, but not 40 hours a week. Glen MacWilliams explained that the Planning Board wants someone to oversee the work and then report that it is done in accordance with the plan. Town Engineer John Treat's okays of certain changes were discussed. Other changes have to come before the Board. York Housing Authority Director **Patricia Martine** said that the intention is to submit the as built after the project is finished.

Motion Barrie Munro moved to accept the changes presented to the Board conditional to receipt of landscape and engineering certified drawings. Richard Smith seconded the motion, which passed, 4-0.

Occupancy was discussed. Glen MacWilliams explained to builder Dave Ranta that Code Enforcement will understand that, as a result of this hearing, changes are approved but have to be certified. Patricia Martine said that she has senior citizens moving into the building on the 29th, five days away. She was assured that if she got the necessary signatures, people could move in, as scheduled.

2. **Andy English** was the next applicant. He requested field changes for **Sanford Institution for Savings** concerning vertical curbing, which is being replaced with sloped granite curbstones. The reason is that cars that rub against the verticle curbing sometimes get their tires damaged. A plan was presented showing the areas where the new and old styles of curbing will be placed. He said that Engineer Christopher Osterrieder (not present) had certified the plan, and the Board would get a copy.

Motion Tom Manzi moved to accept the change contingent on receiving the engineer's certified drawing. Barrie Munro seconded the motion.

In discussion, Barrie Munro asked if the changed curbing would change the drainage. Andy English said that the engineer had indicated it would not change the drainage in any way.

Vote The motion passed, 4-0.

Minutes

Minutes were not reviewed at this meeting.

Public Hearings

Comp Plan Amendments The Board will conduct a public hearing on each of the following proposed amendments:

1. **Growth Policy**
2. **Public Water and Public Sewer Policy**
3. **Timeframe for Implementation**

4. **Subdivision Policy**
5. **Net Buildable Lot Size Standards**
6. **Expand Use of Transfer of Development Rights Program**
7. **Comprehensive Plan Update Policy**
8. **Manufactured Housing and Mobile Home Parks Policies**
9. **Establish Land Conservation Policy for Water Supply Areas**
10. **Establish a Water Supply Plan for Rural Fire Protection**
11. **Adopt a Local Road Classification System**
12. **Regional Coordination for the Mouth of the Agamenticus to the Sea Conservation Initiative**
13. **Update Accomplishments**
14. **Generalize Zone Recommendations**

The amendments were treated in order. Generally, Town Planner Steve Burns pointed out key factors of the amendment, there was a Public Hearing for each amendment, and there was Board discussion. The voting over moving the amendments forward is on Page 8.

1. **Growth Policy**

Steve Burns put the map called **Growth Area** on the easel. Until a map was utilized, verbal (written) descriptions were made to describe the growth vs. rural areas. As the map shows it, the growth area is basically between the two rivers and east of the turnpike. Chairman Glen MacWilliams opened the **Public Hearing**.

Cliff Estes summarized his comments on all 14 amendments at once. He had handed out a letter, but read from something the Board did not have. He supports Amendments 1, 2, 5, 6, 7, 8, and 14, which is half of them. He feels that the current process for making Comp Plan Amendments disregards previous public approval. He said the changes undo what was previously endorsed. He was critical of the Town Planner, who he said promotes change that promotes growth. Those and other comments caused Barrie Munro to call Cliff Estes out of order for personalizing his comments. Mr. Munro stated that Town Staff does not have the sole responsibility for Planning Board proposals. Cliff Estes agreed with Barrie Munro. He handed out copies of his Comprehensive Plan comments.

No one else came forward to speak. The Public Hearing was closed. There was no further Board discussion.

2. **Public Water and Public Sewer Policy**

Steve Burns put the map called **Public Sewer Policy Map** on the easel. Sewer cannot go above the Cape Neddick River, except in the Lake Carolyn area and along Shore Road, where there are still over-board discharge systems in use.

By State law, public water has to be supplied wherever anybody requests it. Incentives should be considered for all areas throughout the Growth Area that now do not have Public Water. Water and Sewer availability, formerly described verbally, will be indicated

on the map, instead. Steve Burns also discussed Ogunquit's decision to no longer serve Pine Hill and other areas of York on the Ogunquit border. Glen MacWilliams questioned the logic of Ogunquit Water District's decision to lower its guard at protecting Perkins Cove by doing so.

Motion Barrie Munro moved that Staff should compose a letter for Chairman Glen MacWilliams's signature to the Chairman of the Ogunquit Planning Board questioning its decision to end further sewer service in that part of York. Tom Manzi seconded the motion, which passed, 4-0.

The **Public Hearing** was opened. **John Hughes** brought up the well ordinance. Steve Burns read from policy #3 about expansion of the jurisdiction of well areas, adding that it is expensive to extend water lines. Glen MacWilliams said that failed private water supply sources on the Nubble had triggered public water to be extended there, saying that failed wells and failed septic will trigger expansion, as well.

Cliff Estes said that replacing words with maps does not work. He reiterated his belief that the aggressive use of strike-outs would result in the loss of important public input to the Comprehensive Plan. He said that there is more information available, if the strike-outs are left in the Comp Plan. The Chairman closed the Public Hearing. There was no further discussion

3. Timeframe for Implementation

Steve Burns explained the purpose of the amendment is to change the system of establishing priorities based on a fixed number of years. Instead, priorities will be established based on generalized terms of time. Priorities will stay, but they do not have categorized and measured in absolute years.

The **Public Hearing** was opened and closed. No one came forward to speak. There was no Board discussion.

4. Subdivision Policy

Steve Burns said that the entire amendment was struck out because State laws must remain strictest in the regulation of subdivisions.

Lee Corbin came in at this point.

5. New Buildable Lot Size Standards

Steve Burns said that some developers avoid subdivision review before the Planning Board. The Board should apply net buildable standards as part of an effort for the town to become tougher at regulating subdivisions. One way to achieve lot size standards is through lot size by soil quality.

The Chairman opened the **Public Hearing**. **John Hughes** called the subject complicated. The standards could be considered the means of a significant taking. Net buildable is a

form of restriction. He discussed exempt subdivisions, which allow one lot to be developed from a larger tract of land every five years. By having an exempt subdivision, he said, a person can avoid the Planning Board, and the lot is buildable, not net buildable. Since a developer can get more lots than what are available to the exempt builder, the exempt developer is being punished. John Hughes told the board that there have to be definitions for both net subdivision and exempt subdivision. The situation is hurting every single person who has land that is dividable, and that hurts the town. He said that state law is being attacked, and that in doing so, the Board is defeating the purpose of state law.

No one else came forward to speak, so the Public Hearing was closed. In discussion, Steve Burns said that John Hughes's points were valid. Glen MacWilliams said that he would like to see the inducement aspect of the amendment taken out and that John Hughes should be asked to return when policy has been established.

6. Expand Use of Transfer of Development Rights Program

Steve Burns described the Beach area as the primary target for this amendment, which will give incentive to people whose lots are very wet. No citizen has come forward yet and used the opportunity, so Planning is not sure, to date, if the amendment is do-able.

The Chairman opened and closed the **Public Hearing**. No one came forward to speak. He read from a Memo to the Planning Board Chairman, from **Ala Reid** of York Harbor, dated August 23, 2006, which states that the amendment might serve better if approached as a high priority, rather than mid-term priority, matter.

7. Comprehensive Plan Update Policy

Steve Burns had researched the history of making changes to the Comp Plan, which had been originally adopted in 1970 and had undergone a major revision about every ten years. The method of introducing an entirely re-written document (as with Version 10B) had been replaced with the method of amending different parts at a time. Glen MacWilliams described this continual amending that is being practiced as a method of keeping the document from being static.

The **Public Hearing** was opened. **Cliff Estes** said that rather than using a system that involves just the Town Planner and the Planning Board, the public should be involved in developing the Comp Plan. The seven items he had listed as "major" during an earlier Public Hearing this evening, should have gone forward to a steering committee, he said. Barrie Munro commented that at one time, 40 meetings were conducted for refining the Comp Plan, and an estimated 1400 people had given input toward the final draft, which was 160 pages long. Barrie Munro went on to say that in the preamble to the Comprehensive Plan it calls for keeping the plan "Evergreen. The preamble recognized that not all of the provisions of the plan would be approved, and that as time passed, the needs of the town might change."

Cliff Estes added that the Board is eliminating the good public input. Glen MacWilliams encouraged Cliff Estes to get a committee and community involvement going. Steve Burns suggested delaying this particular amendment from going forward to the Selectmen for another year, allowing it to be refined to accommodate neighborhood meetings.

8. Manufactured Housing and Mobile Home Parks Policies

Steve Burns said the amendment is a result of an obligation to correct inconsistencies with policies already in place by bringing them in line with State law. The **Public Hearing** was opened and closed. No one came forward to speak. There was no Board discussion.

It was 9:00. There was a short break

9. Establish Land Conservation Policy for Water Supply Areas

Steve Burns said that people treat water district land as if it is conservation land, but it is not. The water districts could sell the land. The amendment is an effort to put in a policy about water district lands, perhaps creating incentives to make them conservation lands. Perhaps property taxes should be in place for the Kittery Water District.

The **Public Hearing** was opened. Into the record, Chairman Glen MacWilliams read a memo From **Don Neumann** to Steve Burns, dated August 24, 2006, regarding Watershed Land. It states that, should a water district sell water resource land, there must be an eight-month advance notice, and the municipality where the land is located must be offered first refusal for its purchase.

Representing York Land Trust Director, **Doreen McGillis**, who left the meeting early, **Helen Weinbaum** commended the Town Planner and the Planning Board for taking the initiative to write the amendment. The York Land Trust will provide assistance to help the Town achieve the goal.

David Tibbetts of the York Conservation Commission said he was in favor of the amendment. Water resource land supplies two communities with water, and a conservation easement is extremely important.

Roger Cole of the Mount Agamenticus to the Sea Conservation Initiative said that whatever the water districts do with their lands, the long-term protection of the watersheds benefit the region.

Glen MacWilliams read from **Ala Reid's** memo, previously cited on a different matter earlier in the meeting. In it, she encourages further land purchases by the districts and permanent protection of water district holdings.

10. Establish a Water Supply Plan for Rural Fire Protection

Steve Burns said that the amendment concerns water supply for the Fire Department where roads around Mount Agamenticus do not have public water and fire hydrants.

Getting a better water supply to that region has to be solved. The **Public Hearing** was opened and closed. No one came forward to speak. There was a brief Board discussion about sprinkling.

11. Adopt a Local Road Classification System

Steve described two classes of roadways illustrated on two different maps he described. The local map shows street access to homes and businesses. The State and Federal view concerns massive traffic movement, like that on I-95. He would like to see the State and Federal road systems consider the local map in the periodic update of their interpretation of York roads, because the combined maps contain a precise view of how the roads function from York's point of view. The **Public Hearing** was opened and closed. No one came forward to speak. There was no Board discussion.

12. Regional Coordination for the Mount Agamenticus to the Sea Conservation Initiative

Glen MacWilliams began by reading **Ala Reid's** comment about this item into the record from the same memo cited twice above. She said Amendment 12 would help set a goal for regional cooperation in analyzing the threats and establishing a framework for conservation protection values. She also coined the abbreviation for the initiative **MTA2C**.

Steve Burns said that the policy change is the most important of the 14 Comp being proposed. It lays out values in the region for York, Kennebunk, Eliot, South Berwick, Ogunquit, and Wells, and it challenges 10 agencies to finalize its endorsement. The Chairman opened the **Public Hearing**.

David Michniewicz said he was pleased to endorse the amendment that will set values and goals to help guide conservation entities in the future.

Roger Cole, Coordinator of the Mount Agamenticus to the Sea Conservation Initiative, said that the 10 conservation organizations would collaborate on water resources, wildlife corridors, and conservation, all along making recommendations for managing the area's shared resources. He thanked the Planning Board for bring this opportunity about.

David Tibbitts of the York Conservation Commission said that a global organization had taken an interest in this unique area that otherwise might be taken for granted. He said that it would benefit the town to support this resource.

The Chair closed the Public Hearing. There was no further Board discussion.

13. Update Accomplishments

Steve Burns said that the amendment recognizes policies in the Comp Plan that have been completed the way the Comp Plan says they should be done, including protection of historic and archeological resources. The **Public Hearing** was opened and closed. No one came forward to speak. There was no Board discussion.

14. Generalize Zone Recommendations

Steve Burns said that the amendment was put forward because of inconsistencies between the Ordinances and Comp Plan, making certain zoning decisions easy to challenge. In this amendment, specifics, like zone names and density recommendations, are taken out.

The Chair opened and closed the **Public Hearing**. No one came forward to speak. In discussion, Lee Corbin said that by definition, the Comp Plan is a policy statement, where the ordinances deal with the nitty-gritty. Keeping the policy in the Comp Plan and striking out the nitty-gritty that is there puts things where they belong.

Old Business

Decide on action for each proposed Comp Plan amendment

Chairman Glen MacWilliams asked for discussion specific to each proposed Comp Plan amendment.

Richard Smith discussed **Item 5, Net Buildable Lot Size Standards** with regard to two different types of developers, both of whom are penalized in some way by the net buildable. One is penalized if the soil test cannot be passed. Being allowed only one building lot every five years penalizes the other. Richard Smith asked to have the amendment put off until Soil Scientist Mike Cuomo could give the Board more information.

Glen MacWilliams said that lot size by soil type is a good approach for the Town to consider. Barrie Munro said that a small subdivision might not be properly sited or engineered. Glen MacWilliams added that when the standards are not imposed, there are risks surrounding driveways, roadways, and the availability of water, where the water quality might not be part of subdivision review. Barrie Munro added that under family subdivision rule, the land could be overdeveloped, which would be a big deal, if the soil cannot handle the development. He added, that if Item 5 is the only item with difficulties, the Board could vote for all the others.

Motion Barrie Munro moved that with the exception of Amendment 5, Net Buildable Lot Size Standards, all the other amendments will be forwarded to the Board of Selectmen. Tom Manzi seconded the motion.

In discussion, Steve Burns said that if an extra year is needed to work out the amendment, an extra year could be taken. The already state overruled the more restrictive §1.3.2. By leaving the amendment out, we can bring a soil scientist in to see if the density by soil type works.

Barrie Munro said that the Board is trying to compare development opportunities in terms of economics. The State set out to help people with sizable property who want to give some to their children. This amendment gives a businessperson the opportunity to sell off pieces. Glen MacWilliams said that John Hughes had said during the Public Hearing

that this amendment creates an iniquity. Barrie Munro added the John Hughes's comparison to cluster housing is erroneous. It presumes significant advantages to cluster that do not exist.

Motion Tom Manzi moved to accept the amendments as written with minor changes in the language. Barrie Munro seconded the motion, which passed, 3-2. Richard Smith and Lee Corbin voted against the motion.

Other Business

In Other Business, Steve Burns discussed his memo to the Planning Board, dated August 11, 2006, regarding the Worksheet on Codes and Water Quality, which he nicknamed the Report Card. It contains 66 questions about land use codes. Initially, Glen MacWilliams came up with a 51 score, Lee Corbin with a 73, and Steve Burns with a 62, though all admitted they did better when they approached it with more time. The Board went over some of the questions before moving ahead.

In Other Business, Glen MacWilliams gave a note to Steve Burns from York Housing Authority requesting placement on a future agenda.

New Business

- 1. Evaluate York's land use codes with respect to water quality impacts. Discuss means of improving codes in this regard**
- 2. Discuss amendments to the Site Plan & Subdivision Regulations.**

In brief discussion of the amendments to the Site Plan & Subdivision Regulations, and in review of the language of the amendment that Steve Burns had handed out and from which everyone was working, Lee Corbin suggested including geologic features to the description of the desired areas and descriptions throughout the document. Though the amendment applies largely to grading for roads, driveways, and foundation, Barrie Munro added that it the amendment will not pertain to building foundations.

Motion Barrie Munro moved to accept the changes made to §7.3.1, Amendment of Preservation of Natural and Historic Features, and to post the amendment for hearing at the next Planning Board meeting. Tom Manzi seconded the motion, which passed, 5-0.

Other Business/Adjourn

Steve Burns said that on September 14, the next meeting, there would be an Executive Session about the Highland Farm application that will last ½ hour.

The meeting adjourned at 10:30.