

**DRAFT MINUTES
PEMBROKE PLANNING BOARD
May 22, 2007**

Attendance: Roland Lemoine, Chair; Bob Bourque, Vice Chair; Cindy Lewis, BOS Rep., Kevin Foss, Alan Topliff, Todd Terrien, Dan Crean, Alternate; Kathy Cruson, Alternate

Excused: Mark Zydel

Staff: Laura Scott, Director of Planning; Susan Gifford, Recording Secretary

CALL TO ORDER

Chairman Lemoine called the meeting to order at 7:00 p.m. Dan Crean was designated to vote for Mark Zydel.

I-93 Community Technical Assistance Program – CNHRPC Presentation

Jim Powell of Central NH Regional Planning Commission gave a PowerPoint presentation about the CTAP – Community Technical Assistance Project – to assist towns in planning for land use and transportation given the effect of the I93 widening project. Mr. Powell stated that his goals for the presentation were:

1. Briefly explain the CTAP five year process.
2. Explain the Community Assessment (114 question survey)
3. Present suggestion and recommendations based on the results of conducting the assessments.

The I93 widening involves building two additional lanes from Salem to Manchester by 2013. CTAP provides a build out analysis of the projected impact to 26 abutting cities and towns. The build out analysis goes 20 years into the future. Pembroke's population will grow 25% by 2020 without the widening, and an additional 7.5% due to the widening project, to 9,600 people. This would indicate a need for 4,300 more housing units in Pembroke by 2020. Mr. Bourque asked Mr. Powell if the environmental hurdles for the widening project had been overcome. The hurdles have not been resolved, but there has been mitigation of the current salt issues by NH DOT use of brine trucks with less salt usage.

The CTAP assessment has 114 questions over 4 theme areas. NHRPC collected growth audits from NH and the rest of the country to compile the assessment. Staff read Master Plans, ordinances and other documents to answer assessment questions. Some contact was made with the Planning Director to answer yes or no questions. Mr. Powell stated that CTAP municipalities are eligible to apply to NH DOT for up to \$15,000 grant money in the first year, with more funding expected in later years, for related projects. Concord has applied for funding to prepare an aquifer protection plan. Theme A is Funding and Delivering Municipal Services and Regional Cooperation on Housing and Transportation. Theme B is Land Use, Natural Resources and Open Space. Theme C is Downtown Village Centers and Theme D is Economic Vitality, Business Development, Agriculture and Working Landscapes. CNHRPC staff has provided five key recommendations for each theme. From these, CNHRPC has six recommendations for Pembroke based on the CTAP report, which is in final stages:

1. Create an economic development plan.
2. Enhance the impact fee schedule.
3. Utilize the range roads to improve traffic flow.
4. Expand access management standards.
5. Develop a separate plan for 'Suncook'.
6. Protect and preserve land

Chairman Lemoine posed a question about why money is not being spent to develop industry further north of Concord along Route 93. Why is the State of NH spending over 100 billion dollars to provide bedroom communities for MA workers? Mr. Lemoine suggested that CTAP be stopped and funding be put into building infrastructure further north. Mr. Topliff is interested in obtaining more information about the

\$15,000 grant and suggesting using the grant to keep the Master Plan and ordinances current. Mr. Powell stated that CNHRPC has professionals available to use at \$15,000 to help the town develop changes to the ordinance. In fact, Mr. Powell stated that the Pembroke Board of Selectmen submitted a grant application to explore alternatives to Route 3. Ms. Scott stated that Fred Kline is the current Pembroke CTAP representative and she is a resident representative to CTAP. As representatives, neither has heard much about this assessment process or the recommendations from it.

Dan Crean summarized the CTAP project as development of a community assessment survey with 114 questions, then answering the questions in-house, based on a review of town planning documents and town reports. Mr. Powell stated that Ms. Scott, Planning Director, was the contact in the final stages of completing the report. In that sense, Planning Board input was incorporated. Pembroke Planning Board feedback is requested now that the final report is being prepared. The Planning Board members agreed they would like to have been more directly involved in the assessment from the start. Chairman Lemoine requested that the Planning Board receive a full copy of the 114 questions and the answers provided for Pembroke. Ms. Scott noted most of the questions she reviewed were a yes/no answer and were not subjective.

Mr. Powell asked for input and reactions from Planning Board members. Mr. Lemoine stated that before the Planning Board could provide input, they need to see a copy of the questions and answers. Sharon Wason, Executive Director CNHRPC, stated that she would ensure that Pembroke Planning Board members are provided with a copy of the assessment for Pembroke before their June 12, 2007 work session so they can provide input by June 30, 2007.

Chairman Lemoine noted again, his question is why not spend money developing industry heading north from Concord NH? Sharon Wason, Executive Director of CNHRPC, stated that the plan to widen Interstate 93 goes back 18-19 years. Work has been done on Route 16 and other northern routes. Ms. Wason stated that 43% of discretionary NH DOT funds go to Ray Burton's District in North Country, which is also the primary route to Canada for international movement of goods.

Meeting Minutes

- April 24, 2007

Motion: Mr. Topliff moved to approve the minutes of April 24, 2007 as amended. (page 11, paragraph 3, should be 'opportunity for informal discussion', page 3, eliminate extra 'did', page 4 'its' not 'their', page 1 no possessive on 'mezzanines', page 3 "Planning Board proposed a new ordinance", page five, action is 'accept' for applications accepted in for review and 'approved' for approval of plans, either list out conditions or append the document referenced to the minutes, page 8 Item 2, "approval" not 'approve', page nine clarify 'obtain a copy from' not 'invited Concord Planning Board ...' Mr. Terrien seconded.

VOTE: CINDY- Y TODD - Y DAN- Y BOB-Y
KEVIN - Y ALAN - Y KATHY - Y ROLAND -ABSTAIN

MINUTES OF APRIL 24, 2007 APPROVED AS AMENDED ON A 7-0-1 ABSTAIN VOTE.

- May 8, 2007

Motion: Mr. Topliff moved to approve the minutes of May 8, 2007 as amended. (spelling of 'Kathy Cruson' page 4, and eliminate a 'be', page 4, Dan Crean clarified that 'PC files would not be subject to discovery', not 'PC would be taken') Mr. Terrien seconded.

VOTE: CINDY- Y TODD - Y DAN- Y BOB-Y
KEVIN - Y ALAN - Y KATHY-Y ROLAND -ABSTAIN

MINUTES OF MAY 8, 2007 APPROVED AS AMENDED ON A 7-0-1 ABSTAIN VOTE.

Dirt Doctors/ENPRO Site Plan Approval – Legal Response

The Planning Board discussed which documents were sent to legal counsel for review. Ms. Scott sent the approved minutes of the meeting where the ENPRO plan was approved and a copy of the Pembroke Water Works letter to ENPRO. ENPRO was paying for the cost of testing the monitoring wells at that time. Ms. Lewis stated that the requirement for monitoring wells was at the cost of the land owner. The land owner did not object to the requirement for payment for installation of monitoring wells. There is not adequate detail for a cap on number of times monitored, frequency, length of time for testing etc. Dan Crean stated that relying on a pattern of practice where the land owner was paying the costs of testing for years and then questioned the continuance of this requirement. Mr. Topliff stated that the cost of testing is currently \$1,000 annually. Pembroke Water Works is willing to pay it. Mr. Topliff stated that the Planning Board should be very clear in future approvals and move one. Obtaining another legal opinion was discussed. Mr. Bourque stated that the Planning Board and/or Pembroke Water Works should develop a document that is part of the application package regarding monitoring well testing, frequency, property owner responsibility to pay costs associated with testing etc. so it is very clear from the start what the intent is. Mr. Crean stated that once developed, that document should be attached by reference to future approvals or spelled out clearly in conditions for approval.

Mr. Bourque stated that the Planning Board needs clarification of what Pembroke Water Works will do. Mr. Bourque suggested that the Planning Board look over the material one more time. Ms. Scott will provide all the evidence and all the site plans where ENPRO was involved from 1999 forward.

Motion: Mr. Bourque moved to set up a subcommittee to review Dirt Drs/ENPRO site plans from 1999 forward. The subcommittee will consist of Bob Bourque, Kevin Foss and Todd Terrien. Mr. Topliff seconded.

VOTE: CINDY- Y TODD - Y DAN- Y BOB-Y
KEVIN - Y ALAN – Y KATHY-Y ROLAND -ABSTAIN

MOTION TO SET UP SUBCOMMITTEE TO REVIEW ENPRO PLANS FROM 1999 FORWARD APPROVED ON A 7-0-1 ABSTAIN VOTE.

Tape Policy – Review Legal Comments and Revise Current Policy

Ms. Scott noted the ZBA adopted a revised tape policy on 5/21/07. Discussion ensued on how long after the meeting minutes are approved, the tapes should be erased. Mr. Crean suggested within two weeks after the appeal period expires to allow time for service. Other suggestions were 60 days after the meeting date if no litigation is filed. Key is that tapes will be “erased” not “destroyed” and how much storage space is available. Legally, tapes are not the minutes of the meeting. Mr. Crean stated that new rules require that electronic evidence can not be spoiled. Tapes, if they exist, could be subpoenaed or be subject to discovery.

Motion: Mr. Bourque moved to adopt a revised tape policy whereby tapes will be erased no sooner than 15 days after the appeal period ends if there are no appeals. If litigation or an appeal is filed, tapes will be retained until final resolution. Mr. Topliff seconded.

VOTE: CINDY- NO `TODD - Y DAN- Y BOB-Y
KEVIN - Y ALAN – Y KATHY-Y ROLAND -ABSTAIN

MOTION TO ADOPT REVISED TAPE POLICY APPROVED ON A 6-1-1 ABSTAIN VOTE.

Trash Pick-up on Plausawa Hill Road – Planning Board Condition

Ms. Scott noted that there was a note on the approved plan that there would be no curbside trash pickup, and that trash would be picked up if it were brought to the intersection of Pembroke Street and Plausawa Hill Road. As requested by the Board of Selectmen, Ms. Scott researched every lot on Plausawa Hill Road for this or any other conditions. No other subdivision, in the Planning Board approval, plan notes or minutes has this restriction. Residents of Plausawa Hill Road have petitioned the Board of Selectmen for trash pick up. There is a new Road Agent, who did not know or ask the Planning Board for past history. It was the clear

intent of the Planning Board in 2005 that curbside pickup would not be provided to the subdivision. Property owners were aware of the restriction. It is expected that over the years, things change and residents will come back in to question conditions. It has not been that long since the plan was approved. Mr. Crean clarified that it is within the Board of Selectmen's authority to decide on trash pickup (provision of municipal services).

The Planning Board discussed that the Board needs to make sure that conditions of approved plans are articulated clearly, describing why the decision was made, what else was considered and reasons for the decision. Kathy Cruson stated she uses a document at work that accomplishes this for recording major decisions. Ms. Scott stated that she does prepare a Notice of Decision, approved by the Chair that goes out to every applicant on Wednesday or Thursday after the decision. RSA 676:3 provides a certain timeframe for notice of decision, which starts the appeal time period. The Chair, or someone designated by the Chair, can insure all the conditions are clearly delineated in the Notice of Decision. It would be helpful to have the written motion in front of the Planning Board while comparing to the Notice of Decision to ensure all the conditions are clearly stated. The minutes should document why the decision was made. Mr. Topliff stated that Mr. Crean has point out before the value of the Notice of Decision. The Planning Board Chair does review the notice before it is sent out.

Ms. Scott agreed that in the future, the Notice of Decision for each approved case can be included as Correspondence in all Planning Board member packets.

Motion: Mr. Crean moved that all conditions of approval for the Plausawa Hill subdivision be adhered to, as there is no change of conditions that warrants a change now. Ms. Lewis seconded.

VOTE: CINDY- Y TODD - Y DAN- Y BOB-Y
KEVIN - Y ALAN - Y KATHY-Y ROLAND -ABSTAIN

MOTION TO ADHERE TO CONDITIONS OF APPROVAL FOR SUBDIVISION IN QUESTION
APPROVED ON A 7-0-1 ABSTAIN VOTE.

Ms. Scott noted that in recording the notice of decision, the conditions are stated clearly. It is completely mechanical, taken from the minutes, but could be more concise. Planning Board agreed to be very specific in future conditions about anything important.

Legal Bills – 2006 & 2007 Planning Board cost breakdown

Ms. Scott provided the total of Planning Board legal costs that do not represent any costs paid by applicants, or for Board of Selectmen/Town Administrator work. The costs were \$6,366.23 in 2006 and \$735.50 for January through April 2007. In 2006, the Planning Board was sued and had many inquiries about Class VI road building permit policy.

June 12th Community Forum – Organization & Goals of meeting

Ms. Scott put a notice in the town newsletter inviting the public to attend a community forum on June 12, 2007. Citizens should know the Planning Board makes decisions and the reasons why. Chairman Lemoine stated that there is criteria the Planning Board has to follow. Mr. Topliff suggested seeking public comment on recent decisions and whether residents are comfortable with the zoning ordinance and Master Plan. A CTAP grant would help ensure that ordinances are in place to deal with the expected impact of the I93 widening. Mr. Crean stated that he envisioned a brief presentation on the role of the Planning Board and an opportunity to begin the process of updating our Master Plan. The primary role of the Planning Board is to look toward the future and ascertain community needs. There needs to be an agenda for the forum and a reason for residents to come, such as to have input to the decision making process. Ms. Scott will put another notice out and add information. Mr. Bourque would like to explain resources to the town through CTAP. A PowerPoint presentation and projector to explain what the Planning Board does would be nice to have. Mr. Foss offered to help organize information for a presentation. Subcommittee members Alan

Topliff, Roland Lemoine and Kevin Foss will come up with content for a 10-minute presentation for the June 12 forum. Kathy Cruson suggested advertising the forum in local church bulletins. Ms. Scott will post information at the Safety Center, Library and other town buildings. She will also put a press release in the Banner calendar section and committee updates.

Committee Updates

- *Site Plan Review and Subdivision Regulation Subcommittee* – Mr. Crean reported the subcommittee got a good start. Minutes were kept, but are just preliminary discussions at this point.
- *Conservation Commission*- Mr. Terrien reported that the Conservation Commission discussed a conservation easement use on North Pembroke Road, held annual election of officers, discussed the uses allowed on the Schuett easement, went on a site walk of Map 39 Lot 4 on Buck Street for possible acquisition, went on a site walk of White Sands with PSNH representatives, fire and police.
- *Roads Committee* – no update.
- *Board of Selectmen* – Ms. Lewis reported that a public hearing will be held tomorrow night, 5/23/07, on transfer station/solid waste/recycling issues including disposal of construction debris. It costs the Town of Pembroke \$80,000 per year for disposal of construction debris when contractors could go directly to Concord or Allentown and pay per ton. The Board of Selectmen also attended the site walk of White Sands.
- *CIP Committee*- Mr. Lemoine reported that the first CIP meeting for this year will be on 6/4/07.
- *Economic Development Committee*- Mr. Foss reported that Chief Lane met with the EDC to discuss downtown parking and the responsibility of pet owner to pick up animal waste.

Miscellaneous

- Alternate Member Position – Kevin Krebs was present at tonight’s Planning Board meeting. Mr. Lemoine stated that Mr. Krebs has quite an understanding of planning rules and regulations. He is very interested in serving as a Planning Board Alternate, can make unbiased decisions and would be a great addition to the Planning Board. Mr. Bourque stated that he has known Kevin Krebs for 20 years and finds him to be upstanding, forthright and tenacious.
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Motion: Mr. Bourque moved to recommend Kevin Krebs to the Board of Selectmen as an Alternate Planning Board member. Mr. Terrien seconded.

VOTE: CINDY- Y TODD - Y DAN- Y BOB-Y
 KEVIN - Y ALAN – Y KATHY – Y ROLAND -ABSTAIN

KEVIN KREBS RECOMMENDED AS ALTERNATE PLANNING BOARD MEMBER ON A 7-0-1 ABSTAIN VOTE.

Chairman Lemoine stated that the next step is that the appointment is discussed at a Board of Selectmen meeting. Once the appointment is approved, paperwork is processed and the person is sworn in. Mr. Bourque would like to see Larry Young come back to the Planning Board in some capacity.

- 2007 CNHRPC Traffic Count Request – Route 3 Corridor Study Information – Ms. Scott sent a letter to CNHRPC. The Route 3 Corridor Study has not started yet. Traffic counts were being taken in the roundabout.
- 5/15/07 Budget Update – Copy provided for member binder.
- CTAP – The Planning Board discussed their frustration with the lack of participation of the town in the assessment process. CNHRPC staff compiled the questions, answered the questions and developed the recommendations without any input from Pembroke’s CTAP representatives – Fred Kline and Laura Scott. Ms. Scott noted that there wasn’t any outreach or involvement with the town reps. Work meetings were scheduled during the day, usually in Salem or Bedford NH. With the report in final

Pending 5/25/07

stages, how will the town and Planning Board react to the recommendations in the report? There may be a need for safety improvements on Interstate 93 but not to facilitate employment out of state. The Planning Board has concern about lack of input. Members are particularly dissatisfied with the process of giving the Town of Pembroke recommendations before getting input from the Pembroke Planning Board. The Planning Board ought to be leading the effort, or funneling information to our CTAP representatives.

Adjournment

Motion: Mr. Crean moved to adjourn. Mr. Bourque seconded. Vote was unanimous in favor of motion. Meeting adjourned at 9:36 p.m.

Respectfully submitted,

Susan P. Gifford
Recording Secretary