

**Pembroke Planning Board  
Minutes of Meeting  
(Adopted)  
Tuesday, July 8, 2008**

**MEMBERS PRESENT:** Robert Bourque, Chairman; Alan Topliff, Vice Chairman; Mark Zydel; Kevin Krebs; Kathy Cruson; Todd Terrien

**ALTERNATE PRESENT:** Brian Seaworth

**EXCUSED:** Cindy Lewis, Selectmen's Representative

**STAFF PRESENT:** Geoff Ruggles, Alternate Interim Planner and Jocelyn Carlucci, Recording Secretary

Chairman Bourque opened the meeting at 7:00 p.m.

**Guests**

**1. Consultant Interviews for Open Space Ordinance and Growth Management Ordinance**

**Gerald I. Coogan, AICP, Planning and Development Consultant**

Gerald Coogan introduced Steve Keach of Keach-Nordstrom who would work with him on this project.

With regard to the open space ordinance, Mr. Coogan said that they would: (1) Meet with the Board to discuss the existing ordinance and define goals and objectives; (2) Prepare a comparative layout of a few properties to illustrate how the Board's goals can be achieved; (3) Discuss amendments to the zoning ordinance to achieve the Board's goals; (4) Prepare a report on strategies to achieve the goals; (5) Review the report with the Board; (5) Update the open space ordinance; and (6) Finalize the ordinance.

Messrs. Coogan and Keach developed Sandown's open space development ordinance which can be seen online. They also worked together on Deerfield's open space ordinance.

Mr. Keach did not feel that it would be difficult to create an open space ordinance that meets the Board's goals. He has worked on open space ordinances for Bedford, Atkinson, and Derry.

In response to Vice Chairman Topliff's question regarding alternatives for cul-de-sacs in an open space subdivisions, Mr. Keach said that he does not see a road length as something that the Board would want to regulate through the zoning ordinance but rather through the subdivision regulations.

Mr. Keach suggested creating a framework of an ordinance, and leaving the utilities and street networking to the subdivision regulations.

Mr. Coogan said that they will review the site plan regulations while drafting the open space ordinance.

Mr. Coogan suggested that the Board do a site walk on the land that a developer is proposing to build a subdivision.

Mr. Keach suggested that the Board create incentives for the developer to the open space ordinance.

Mr. Keach will not work on the growth management ordinance (GMO).

Mr. Coogan said he would have a graphic designer from his staff prepare comparative graphics for Town meeting.

With regard to growth management, Mr. Coogan recently completed Loudon's growth study. He said that the state legislature recently amended HB 1260. It now requires a definitive growth study that shows that the Town has an issue and that those issues will be addressed in a set time-frame. Mr. Coogan said that his approach is to do a limited study on population, infrastructure needs, etc. and give the Board recommendations and whether he feels that Pembroke has justification to continue the GMO. The new Bill makes it more difficult to continue the GMO.

Mr. Coogan said that they came up with alternatives to managing growth management in Deerfield such as zoning amendments.

There being no further questions, Messrs. Coogan and Keach were thanked for their participation.

**Steve Whitman, Jeffrey H. Taylor and Associates, Inc.**

Steve Whitman said that Jeffrey Taylor was on vacation and, therefore, would not be present.

Mr. Whitman works with Mr. Taylor at Jeffrey H. Taylor and Associates, Inc. of Concord. They have worked together for 5-1/2 yrs. Prior to that, they worked together in the Office of State Planning. They have worked on various aspects of Durham's zoning, and are presently working with Berlin on their master plan.

Mr. Whitman said that they are interested in working on both the GMO and open space ordinance but would be agreeable to working on one portion or the other if the Board wished. They have not done a great deal of work on growth management. They last worked with Attorney Bates on Farmington's growth management and infrastructure needs.

Mr. Whitman worked on open space ordinances as part of rewriting zoning ordinances. At the Office of State Planning, he worked on open space technical bulletins for 10 years. He found ways to avoid cul-de-sacs and create traffic calming. In Berlin they are trying to require connections to existing developments or provide for future connections to developments that may come before the Board.

With regard to the open space ordinance, Messrs. Whitman and Taylor would: (1) Review the regulations; (2) Meet with the Board to share their findings, and discuss the Board's goals; (3) Draft new language and suggest options, which would then be sent to the Board; (4) Meet with the Board to discuss options; and (4) Refine the ordinance. Mr. Whitman said that monthly meetings would increase the cost. They bill hourly.

Mr. Whitman stated that the open space ordinances that have been successful provide an incentive for the developer. He would also suggest listing a four-step design process that the Board would like the developers to follow.

Mr. Whitman said that the Board could review the open space ordinances for Meredith, Rollingsford, and Gilmanton which he has worked on.

Mr. Whitman said that Mr. Taylor works with developers and local economic development groups (such as Berlin) and, therefore, provides a developer's prospective to their projects.

Mr. Whitman said that the best open space ordinance clearly articulates what the Town is trying to accomplish with the regulation and what the Town is willing to provide for developers in order to meet its goals.

Mr. Whitman said that they can also perform a cursory review of other sections of the subdivision regulations and zoning ordinance. If the Board wanted them to make recommendations on changing other ordinances, it would require a more thorough review of the ordinance and there would be an additional cost. They are capable of preparing graphics for Town meeting.

There being no further questions, Mr. Whitman was thanked for his participation.

### **Sharon Wason, AICP, Central NH Regional Planning Commission**

Ms. Wason said that she responded only to the open space ordinance portion of the request because her heart is close to conservation subdivisions. She has worked for Massachusetts Audubon for many years encouraging communities to adopt conservation subdivisions. Her choice not to respond to the GMO is based on a number of bills that were proposed at this legislative session that make it more difficult to keep a GMO and her heart was not in it. She feels that by phasing subdivisions, and using impact fees, Town's can accomplish 95% of what they would gain from a GMO.

She proposes a several step process: (1) Meet with the Board in a workshop session to discuss the bylaw, look at plans for recently submitted conservation subdivisions, and discuss the Board's goals; (2) Prepare a regulatory-type audit to review the conservation subdivision ordinance and subdivision regulations; (2) Meet the Board in a workshop to review proposed changes; (3) Draft language, and hold meetings as necessary.

Ms. Wason suggested that when a subdivision is proposed, the Board walk the land and identify those features that should be preserved and then work around those features. It would also give the Board a clearer understanding of what the developer is proposing and why. Her impression of Pembroke's ordinance is that it is inflexible and felt that it would not work on all parcels. She felt that the Board should have the ability to be more flexible and be more respectful of the land.

She said that one of the regional planners at Central NH Regional Planning Commission (CNHRPC) would perform the regulatory review (possibly Matt Monahan) in order to gain a broader prospective on the problems. Ms. Wason would meet with the Board and draft the ordinance.

Ms. Wason said that phasing subdivisions (building a subdivision over a period of time) has been upheld by the courts as being a reasonable use of public police powers. She feels that phasing plus monetary tools, will bring the Town 95% closer to their goal without the legal liability of a GMO.

She said that CNHRPC would be willing to write an ordinance which would include authorized phasing within the zoning ordinance and appropriate language in the subdivision regulations. She said that, in the past year, they have completely rewritten zoning ordinances for three towns. She said that Deering's zoning ordinance is online and includes open-space language. She prefers that the zoning ordinance include dimensions and processes and the subdivision regulations include design standards and procedural information.

Ms. Wason said that the NH Department of Environmental Services (NHDES) has a Regional Environmental Planning Program which has partnered with the nine Regional Planning Commissions to create an Innovative Growth Ordinance Handbook. They have funds to assist 5-6 communities to update

specific sections of their ordinances. They have committed to Pittsfield and Salisbury to do conservation subdivisions.

Ms. Wason said that CNHRPC's standard member rate is \$50 an hour.

There being no further questions, Ms. Wason was thanked for her participation.

While awaiting the next applicant, many of the Board members discussed the GMO and agreed that they should work toward doing away it.

Mr. Ruggles said that a copy of the June 26, 2008 letter from Pembroke 600 to the Sewer Commission was included in the Member packets. He said that he also received a letter from Attorney Gartrell today outlining their anticipated timeline for the conditions less the engineering portion of the project. He received a letter from their engineer with a timeline on when they could complete their work. Mr. Ruggles recollected that they were requesting a 60-day extension from the date of the letter. According to Attorney Gartrell, he anticipated at least 60 days to receive the signoff for the gas company and Public Service of NH.

Vice Chairman Topliff suggested that the Board meet with Town Counsel to discuss Pembroke 600's continued extensions and grounds to not accept any further extensions.

Mr. Ruggles said that a letter from the Amoskeag Rowing Club was received along with a request from DES for more information.

The Board agreed to have Mr. Ruggles schedule a meeting with Town Counsel for 6:00 p.m. on June 22, 2008.

#### **Roger Hawk, Hawk Planning Resources, LLC**

Mr. Hawk said that he would: (1) Review the Town's regulations; (2) Meet with the Board to discuss their goals; (3) Draft the ordinance; (4) Review the ordinance with the Board; and (5) Finalize the ordinance. He said that, given House Bill 1260 regarding the GMO, he would need to speak with Town Counsel to consider ideas that would work with the new law.

He has over 35 years of planning and community development experience. He has worked with Portsmouth, Nashua, Manchester, and Concord. He presently works alone as a consultant. He has experience creating municipal regulations and overseeing how the regulations work.

Mr. Hawk would also be willing to work on alternatives to the GMO. He suggested allowing the developer to phase a large project prior to the Board's approval. His experience is that a developer would prefer phasing over a building permit raffle system.

Mr. Hawk said that he has not written many open space ordinances in the last 5-10 years. He has had his "fingerprints" on Concord's ordinances from 2001-2005 and Nashua prior to 2001. Concord's open space ordinance which he assisted in preparing, is available on Concord's website.

He said that he would suggest looking at the natural features of a property and comparing its outcome with a "what if" scenario and the outcome using the current regulations. He also said that being aware of the Board's desire to create a "scenic road", for example, would be important to the future use of land in a specific area.

Mr. Hawk said that one way to design a cluster subdivision is with common open space favoring one side of the development and another cluster subdivision with the common open space favoring the first cluster's open space. This would allow for a more sizable protected land.

He is presently working on a transfer development rights ordinance in Concord's regulations. Conceptually, it would allow higher density development in an area in exchange for conservation easements in the natural area that the Town is trying to protect.

Mr. Hawk also said that another approach would be to allow a townhouse developer, for example, to receive "bonus" units (1-5 family units) in exchange for designing the home with the goal of creating a single-family Victorian neighborhood similar to those presently in the Concord area. The structure would not be required to have the exact physical features of the older homes, but rather be similar in density set-backs, scale, and mass. This makes it more palatable to the abutters who do not want to see development around their homes and more desirable to the developer.

There being no further questions, Mr. Hawk was thanked for his participation and suggestions.

### **Discussion**

#### **2. Approve LCHIP Required Fee Note Addition to Fee Schedule**

Mr. Ruggles said that he received notification from the NH Registry of Deeds Association that, effective July 1, 2008, an L-CHIP surcharge of \$25 will be required in a separate check, and cannot be billed back to the Town as part of the recording fees. He and Stephanie Alexander, the Interim Planner, suggest that the fee schedule be revised to show that a separate check payable to the Merrimack County Registry of Deeds will be required at the time that the plans are signed. The Board agreed with the recommendation.

With regard to the consultants:

Member Krebs: Was not in favor of Mr. Coogan, and did not feel that Mr. Hawk had the necessary experience to accomplish the goals. Ms. Wason was preferred because she had a general idea of what the Board wanted.

Member Terrien: Noted that, according to Mr. Whitman, he did not have experience with growth management ordinances. He preferred Ms. Wason.

Member Zydel: Preferred Messrs. Coogan and Keach because they are consultants and the Board would benefit from their professional experience rather than someone in the public sector. He was not in favor of Ms. Wason and thought that she may be too busy to respond to the Board's needs. He was in favor of choosing one person for growth management and another for the open space ordinance.

Chairman Bourque asked Mr. Ruggles to explain the budget for the work needed. Mr. Ruggles said that \$7,500 was earmarked for at least one of these ordinance revisions, and \$2,000 for general consulting. He reminded the Board that Selectmen Kline was investigating the possibility of CTAP money being available for the review of both ordinances. Mr. Ruggles suggested that the Board establish a game plan and then speak with Selectman Kline.

Member Cruson: Was not in favor of Messrs. Coogan and Keach. She enjoyed listening to Mr. Hawk's ideas and would enjoy speaking with him further. Ms. Wason spoke strongly of conservation. Mr. Whitman seemed quite knowledgeable.

Chairman Bourque: Was not comfortable with Messrs. Coogan and Keach. He preferred Messrs. Whitman and Taylor and Ms. Wason. He said that Ms. Wason has many resources at her disposal and liked her idea of going beyond growth management but questioned her focus on conservation rather than open space.

Alternate Member Seaworth: Was concerned with Ms. Wason's focus on conservation.

Vice Chairman Topliff: Would vote for Messrs. Whiteman and Taylor.

Member Cruson said that Messrs. Whitman and Taylor and Ms. Wason said that they would prefer to concentrate on the open space ordinance because they did not have experience with growth management. If the Board is considering how to eliminate the GMO, it may be wise to ask Messrs. Whitman and Taylor what they would have to offer with regard to eliminating the GMO.

Chairman Bourque asked Mr. Ruggles to send a letter to Messrs. Whitman and Taylor inquiring as to how they would accomplish working toward the elimination of the GMO.

Mr. Ruggles sensed that the Board was leaning toward Messrs. Whitman and Taylor. Since he is familiar with the Planning Director in Meredith, where Messrs. Whitman and Taylor worked, he would be willing to speak with the Planning Director. The Board agreed.

Mr. Ruggles also pointed out that Mr. Keach was not part of Mr. Coogan's GMO process. He said that one option would be to hire Messrs. Whitman and Taylor for the open space ordinance and Mr. Coogan for the GMO. Mr. Coogan could perform a growth study to see if the GMO was justified. At that time, the Board could either continue with the process or poll the consultants again to see if they would have alternatives to growth management.

The Board concluded that they preferred Messrs. Whitman and Taylor for the open space ordinance and Mr. Coogan for the GMO.

Chairman Bourque asked Mr. Ruggles to get references and Ms. Alexander's opinion on Messrs. Whitman, Taylor, and Coogan.

### **3. Finalize Driveway Regulations**

After a brief discussion, the Board approved the following revisions:

§198-11C: Driveway construction plans shall be approved by the Public Works Director with signoff by the Fire and Police Departments prior to the issuance of the permit.

§198-12C: Temporary driveway permits are valid for a period of six (6) months and shall require a five (5) foot paved apron to protect the town roadway. The temporary driveway permit may be extend for two (2) additional 6-month periods.

### **4. Finalize Active and Substantial Development Regulation**

The Board agreed that Mr. Ruggles would speak to Ms. Alexander for the proper placement of the proposed amendment presently labeled as Section 205:24-A.

**5. For Informational Purposes: Gravel Excavation Regulations**

Mr. Ruggles said that the Town reclamation plans seem to lack appropriate language pertaining to the grandfathered pits. He said that it would require someone to review the information presently stored in the Town Hall storage room.

He said that it is the pervue of the Board to keep the regulations up-to-date and police them. He said that the Board gave the Code Enforcement Officer the authority to take action for the Board and, therefore, Mr. Hodge is presently aware of an issue on the Kruger property.

Mr. Ruggles said that the noise ordinance which passed at the last Town meeting is from 10 p.m. to 6 a.m. on weekdays and begins 11 p.m. on Friday and Saturday nights.

**6. Abutter Regional Impact Notification for PSNH Merrimack Station Clean Air Project in Bow For power plant in bow.**

The Board did not feel it was necessary to have a presence at the Bow meeting scheduled for July 10, 2008.

**Minutes**

**7. Review and Approve Meeting Minutes of June 24, 2008**

**MOTION:** Vice Chairman Topliff moved to approve the June 24, 2008 meeting minutes as amended. Seconded by Member Zydel. Unanimously approved.

**Miscellaneous**

**8. Receipt of July 8 Materials for July 22 Meeting**

Mr. Ruggles said that at the last Board of Selectmen's meeting, Sewer Commissioner Harold Thompson indicated that the Sewer Commission may grant the six-month extension to Pembroke 600 with the 18,000 gallon reduction in sewer capacity.

**9. Correspondence**

Mr. Ruggles said that the following correspondence was available for the Board's review: (1) A notice from the Town of Farmington on a minor site plan approval of a Verizon Wireless microwave dish; (2) A pamphlet on L-CHIP; (3) a NH Business Review paper; and (4) a paper from NH Employment Security.

**10. Committee Reports – nothing to report.**

**Adjournment**

**MOTION:** Vice Chairman Topliff moved to adjourn. Seconded by Member Terrien.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 10:05 p.m.

Respectfully submitted,  
Jocelyn D. Carlucci, Recording Secretary