

**Pembroke Planning Board  
Minutes of Meeting  
Tuesday, August 10, 2010**

**MEMBERS PRESENT:** Alan Topliff, Chairman; Chairman; Brian Seaworth, Vice Chairman; Cindy Lewis, Selectmen's Representative; Kathy Cruson, Kevin Krebs, Larry Young, Sr., Robert Bourque

**ALTERNATES PRESENT:** Ron Nowe

**STAFF PRESENT:** Jeffrey Gaeta, Town Planner; David Jodoin, Town Administrator; and Susan Gifford, Recording Secretary

**Guests**

**Nik Coates from CNHRPC to discuss energy efficiency regulations.**

Jeff Gaeta provided a copy of Chapter 3.5:Energy Efficiency Development from the Innovative Land Use Planning Techniques handbook, and a copy of a flyer on Energy Technical Assistance & Planning for NH Communities (ETAP) funded by ARRA Energy Efficiency Conservation Block Grant for Planning Board review in the member agenda packet. Nik Coates arrived at 7:30 due to this being his fifth presentation of the day. Nik was here to discuss an application Pembroke filled out a year ago, and to provide a brief update on commercial and residential energy efficiency. Nik is here to listen to Pembroke priorities.

Chapter 3.5: Energy Efficiency Development, provides model options to encourage energy efficiency in building non municipal structures. Nik Coates stated that the critical aspect of incentives for energy efficiency is to 'work with' developers. For example RSA 674:17 (j) addresses use of solar and wind energy. Incentives can include property tax deferments, abatements, provision of technical assistance, and density bonuses. The first thing to do is update the town Master Plan. What is in the Master Plan that encourages energy efficient development. Then, update Subdivision Regulations, look at town building codes (they can exceed the State standard), and the capacity of the building inspector. Nik Coates stated that the best way to implement an energy efficiency program is as a performance zoning or overlay district.

Mr. Coates described three programs funded by ARRA Energy Efficiency Conservation Block Grant. 1) funds to cities for beacon projects, 2) direct aid to communities who applied for specific lighting improvements, solar panel use etc and 3) ETAP ARRA funds geared toward making municipal buildings more energy efficient (saving heat in the winter, etc). The program goes on until mid 2012. Nik Coates stated this is the 100,000 feet overview.

Member Cruson asked, why not go directly to the builders with this program. That is not the role of CNHRPC. The intent is to help communities consider town code to move development to the desired outcome, and go through the process of identifying priorities. CNHRPC offers sessions to communities to discuss incentives that work with builders. CNHRPC will help develop a process. Member Cruson noted that building supply stores offer information on more efficient materials. Product information and qualities are often available at trade shows and conferences attended by builders. This is all valuable input to the building code process.

Chairman Topliff summarized that encouraging energy efficiency is appropriate but can only be encouraged at the local level. Information available to builders tells them these are possibilities, this is available to encourage the use of energy efficient materials. Member Bourque stated the incentive should not be a tax break to builder of energy efficient homes made up by other taxpayers. Member Young stated that competition is the best leveler. Consumers want energy efficiency. Nik Coates stated you can craft language to encourage use of energy efficient materials.

Chairman Topliff asked, as a Board are you interested in exploring the possibilities? Member Cruson responded, not at the Town level. Member Krebs also said no. Member Seaworth asked why we would write zoning rules that require town staff to do free work. Selectmen's Representative Lewis stated that International Building Code is already all over this. She said that she is particularly annoyed by the suggestion of using landscaping to provide shade and natural cooling, then an insurance company tells the homeowner to cut down the full grown tree to lessen risk of it falling on the house. Member Bourque is interested in energy efficiency only at the town building level. Member Nowe agreed. Member Young stated anything we can do to encourage efficiency is a good thing in municipal buildings, and in providing educational handouts to residents.

Nik Coates stated that ETAP is the program that can provide consulting from CNHRPC at no additional cost to the town to explore lighting improvements, boiler replacements, how to add energy efficiency language to RFP's, how to heat buildings etc. Member Bourque asked if, for example, three of ten municipal buildings could have an energy company provide an audit and recommendations at no cost. Nik Coates clarified that CNHRPC work is at no cost to the town. Nik would need to ask the question and get back to David Jodoin, as the Board of Selectmen oversee public buildings. Some possible town buildings that could benefit are lighting at the library and the building on Union Street. Nik said he just learned about decamping (turning off some of the lights, or one of the fluorescent tubes in a fixture) to save energy.

Chairman Topliff stated that the Planning Board is uncomfortable with incentives coming from the tax base, and the potential complexity of putting standards in ordinances to tell builders how to build. Nik Coates asked the Planning Board to consider a short term strategy that might include looking at updating the Pembroke Master Plan to include future efficiency regulations. Pembroke was awarded the grant, so use it to add a chapter to the Master Plan. Chairman Topliff agreed the Master Plan is the foundation document. Nik Coates suggested that he would look at the Master Plan of communities of similar size. He knows that Bradford and Warner are doing some Master Plan work through ETAP to set up the structure for the future. Chairman Topliff took a poll of the Board to see if members were willing to look at suggested language for an energy efficiency chapter in the Master Plan. The consensus was to look at language for a chapter in the Master Plan. Members also support energy audits of town buildings with results directed to the Board of Selectmen.

Nik Coates thanked the Planning Board for their time.

### **Discussion**

1. **Exaction Fees-** Jeff Gaeta provided a draft copy of the Exactions language prepared by Stephanie Alexander last year, and a copy of RSA 674:21 Innovative Land Use Controls, which discusses impact and exaction fees, for member review.

Exaction Fees Chapter 205 Subdivision of Land was brought up in September 2009 before excavation, and then Town Meeting preparations became a priority. Exaction fees are impact fees for certain off site improvements required of an applicant, authorized by m. Impact Fees Chapter 674:21 Land Use Planning and Regulatory Powers. In the past, the Planning Board consensus was to suspend impact fee assessment because the funds collected had to be refunded if not used for the intended purpose within 6 years. Selectmen's Representative Lewis stated that previously, the Planning Board would receive a recommendations for off site improvement from Public Works after review of the submitted plan, and the impact the development would have on its surroundings. At one time, impact fees for schools were bringing in up to \$70,000 per year because schools had excess capacity. When the School District changed the calculation of their capacity figures, the impact fees brought in much less.

Member Young suggested that exaction fees would be useful if a commercial use in North Pembroke was asked to help with road and bridge improvements. Borough Road is not built to adequate standard for operation of 18-wheelers filled with gravel. If funds were collected, and earmarked for certain projects, it could be used within 6 years. Chairman Topliff stated that he believed the impact fee ordinance still exists in Pembroke, but the decision has been made not to impose them. David Jodoin stated that in Hooksett, impact fees are tied to major growth and used for school, recreation, police and fire, but not for Highway equipment and solid waste. For example, the Fire Department bought two ambulances and a pumper truck with impact fees. Bruce Mayberry did a study justifying the calculations. Legal representation is needed to prove the impact of growth and expansion. Member Seaworth stated the problem is that impact fees pay a very small percent of something big the town needs to pay for in full. Jeff Gaeta stated that exaction fees are set by the Planning Board to make specific improvements directly impacted by the developer. This could be based on traffic counts. A new development would pay 100% of new traffic on a road if it was all from the development. If it caused a 50% increase, they would pay 50% of the improvement. It takes approval at a public meeting (Town Meeting) to implement exaction fees. Chickering Meadow is an example where the developer reran water and sewer lines to bring water and sewer to the development. Chairman Topliff referenced Section 203-45, paragraph C, Article 7 existing language that discusses a "Financial Guarantee." Member Young asked, if a road cannot handle further development, can we make a developer set aside funds for a future planned project. It was discussed that it is preferable to have the developer do their portion of the improvement before they start their construction. Developers typically put a bond out for financial guarantee, and try to complete the work within a year so they don't have to renew the bond.

Chairman Topliff commented that exaction fees are assessed as part of the Planning Board review. An example of an exaction fee would be a requirement to put in a right hand turning lane based on impact to the road. Selectmen's Representative Lewis stated that impact fees can only be assessed as a result of excess capacity and are collected with the building permit fee. David Jodoin noted that a certificate of occupancy cannot be issued without payment of the impact fees. The fees have to be used for the intended purpose within 6 years. Selectmen's Representative Lewis stated that in the years that the school was realizing \$70,000 per year in impact fees, the impact fee on a house was about \$1,200 so it was a busier time of development. Member Young stated that bridge replacement, after repairs are no longer enough, could cost \$2-3 million dollars. Shouldn't developers and users of the bridge help pay some of that cost? Selectmen's Representative Lewis stated that for the last bridge repair, the State of NH paid 80%, Concord paid 10% and Pembroke paid 10%. The deterioration of the roads is on the Pembroke side. Concord clearly stated they will not help pay for any further bridge work. Member Bourque asked if Pembroke roads are posted for maximum weight in tons to travel a road until after the spring thaw. Most roads posted are dirt roads. Chairman Topliff summarized that exaction fees are an attempt to formalize the off site improvement process. The intent of the draft document before us is to define the process to work with developers. Selectmen's Representative Lewis stated that the Planning Board may still require an exaction of any development on a case by case basis with the language already in the ordinance. Member Young stated it should be easy to get an engineer's opinion on the damage to road shoulders. Member Krebs stated that exaction fees should relate to the cumulative effect, at full build out, if the schedule is known. Some towns set a radius and assess exaction fees within that radius for a certain impact. Member Bourque asked what happens when the bridge has to be repaired and closed for a time. It was discussed that the Roads Committee has set up a capital reserve fund for bridge repair. Selectmen's Representative Lewis stated that if the bridge is red listed again, the State may come back in and help.

**Action Item** - Jeff Gaeta will condense the draft on exaction fees. The road status, if the road has recently been done, limits our ability to assess exaction fees. Chairman Topliff asked Jeff to add "or is otherwise

substandard for the proposed use” to the language.

**2. Wetlands Protection (WP) District: Permitted Uses Exception-** Jeff Gaeta stated that a question came up on the Permitted Uses in the Wetlands Protection District, and whether an EXCEPTION needed a Special Use Permit. Section 143-72 gives a list of permitted uses. It is ambiguous about whether an EXCEPTION needs a Special Use Permit. Selectmen’s Representative Lewis stated that the exception was added to cover a situation where the applicant has an approved DES Wetlands Crossing Permit. We assume that the Wetlands Board has a higher standard or more information. What if a prior owner had secured a State permit. What is the statute of limitations on a State permit? A permit is good for five years and may be renewed. If the applicant goes to the Wetlands Board first, they would bypass the Special Use Permit process. Member Bourque stated that the intent is to be consistent, and require the applicant to provide the Planning Board with both a Wetlands permit and a Special Use Permit. At final approval, the applicant should have both documents no matter which was obtained first.

On another note, every Wetlands permit pulled goes to the Conservation Commission. Selectmen’s Representative Lewis stated that every permit should also come to the Planning Board as an FYI even if not involved with a current case. The language for a Special Use Permit should specify “Approved by the NH Wetland Board and reviewed by both the Planning Board and the Conservation Commission. Selectmen’s Representative Lewis stated that logging is not required to get a permit and does the most detriment to the wetlands.

**3. Tax Increment Financing (TIF) District-** Jeff Gaeta provided an information packet about the SRD Soucook River Development District and the Tax Increment Financing (TIF) prepared when the district was created. Project Launch 13 has since withdrawn their ZBA application for a Baptist College on that land. Residents provided significant opposition at the public hearing 7/26/10, citing the significant investment of the town in the district. Selectmen’s Representative Lewis corrected a myth that Associated Grocers was involved in the TIF District when it was created. AG was in before the TIF District was discussed and did not follow many of the SRD regulations. The town spent money running water and sewer up to Route 106 for potential development, not for Associated Grocers. It is true that AG trucks run off peak and do not impact peak traffic times on Route 3. Traffic studies at the time showed traffic was actually down from 10-15 years prior, due to less workers commuting to Concord when Blue Cross Blue Shield and other companies left. Member Young stated it would be good for the new Board to hear about the TIF District. The Board of Selectmen had some connection with the planned loop road. AG bought the house next to them for required frontage. Selectmen’s Representative Lewis stated that a TIF District is usually an area with no other way to develop it. Town Meeting changed the formula to 90/10 with 10% of taxes going to the TIF District infrastructure. The Town is not obligated to finish the loop road, or pay for improvements to make the 106 intersection a 4 way signalized intersection. Member Young said it was a project that made sense at the time.

**Minutes**

**Review and Approve Minutes of July 27, 2010**

**MOTION:** Member Young moved to approve the Meeting Minutes of July 27, 2010 as amended. Seconded by Member Cruson.

**VOTE:** Robert B. – Y                      Alan T. – Y                      Cindy L. – Y                      Kathy C. - Y  
                    Kevin K. – N                      Brian S. – Y                      Larry Y. – Y

**MOTION TO APPROVE THE MEETING MINUTES OF JULY 27, 2010 AMENDED PASSED ON A 7-0 VOTE.**

**Miscellaneous**

**Correspondence** - Jeff Gaeta reported that the Zoning Board provided a copy of the letter from Project Launch 13 withdrawing their ZBA application at this time. Strong Foundations Charter School, 715 Riverwood Drive, is going ahead with their expansion plans. Jeff received something from Division of Historical Resources on the lot at the end of the road. Ms. McClure wants to be a good neighbor and keep the town apprised of the progress. A letter from NH DES regarding the gravel pit expansion states that tests from the test wells are fine. Also, a copy of Business Magazine was received.

**Committee Reports**- Member Seaworth reported that the Roads Committee brought the Broadway road project before the Board of Selectmen. The work is more than anticipated so it was bid out as one big project, rather than three parts. The direction from the Board of Selectmen is that the Broadway project will be the priority of the roads plan until the Broadway project is complete. There may be an option to bond the project and fund the entire Broadway project at no additional cost to the Town over what the town planned to pay. It would be simpler, and maybe less costly, to do the project all at once.

Member Krebs reported that the Conservation Commission met last night. There was a public meeting with the Hillman property slide show. Member Krebs clarified that the applicant was not denied because the Planning Board does not like Conservation land. Jeff Gaeta also attended the Conservation Commission meeting. No final appraisal will be done until the subdivision is approved. The Board of Selectmen is meeting with the Conservation Commission next Monday, 8/16/10. David Jodoin confirmed the town will own the property and will grant an easement. There is an RSA regarding conservation land sold under USDA for farming purposes. The farming use can go dormant for years. The current use land becomes town land.

Member Nowe reported on his first time attending the CIP Committee. The library has issues with \$10,000 in missing books and materials. It was very educational and he looks forward to the next meeting.

**Other Business**

- a. August 24, 2010 agenda - Hillman Minor Subdivision (New Business), Spiewak Minor Subdivision (New Business)
- b. Planner Items- Jeff Gaeta received an email from CNHRPC at the request of David Jodoin, asking for a letter signed off by the Board of Selectmen that they endorse a program called *NH Sustainable Communities*. The Board of Selectmen met August 2, and the information arrived August 3, 2010. Nik Coates did not address this topic earlier this evening, so there is inadequate information for any action.
- c. Board Member items- Member Bourque asked about enforcement of Planning Board conditions of approval that are not met, not upheld or not maintained. The joint use agreement with PSNH has not yet been signed and provided.

**Action Item** - Jeff Gaeta will add an agenda item to the September Work Session on recourse available to the Planning Board when conditions of approval are not fulfilled, or have lapsed. It was suggested that the Code Enforcement Officer be included in the discussion.

- d. Audience Items - David Jodoin present to discuss Town Planner progress.

**MOTION:** Member Krebs moved to adjourn. Seconded by Member Bourque.

The vote was unanimous in favor of the Motion.

The meeting adjourned at 9:45 p.m.

Staff left the meeting and the Board had a personnel discussion with David Jodoin, Town Administrator.

Respectfully submitted,  
Susan Gifford, Recording Secretary