

FINAL

LEBANON PLANNING BOARD- PLANNING SESSION

Lebanon Middle School

3 Moulton Ave.

Monday, February 25, 2019

6:30 PM

MEMBERS PRESENT: Chair Keith Davio, Vice Chair Bruce Garland, Gregory Schwarz, Matthew Hall, Kathie Romano, Laurel Stavis, Matthew Cole (Alt.)

MEMBERS ABSENT: Joan Monroe, Sarah Welsch, Karen Zook (Council Representative) and Jim Winny (Alt. Council Representative)

STAFF PRESENT: David Brooks (Planning and Zoning Director), Christine Fillmore, Esq. (City Attorney)

1. CALL TO ORDER – Chair Davio called the meeting to order at 6:30 PM.

Mr. Matthew Cole was appointed to sit in for Ms. Monroe in her absence.

2. APPROVAL OF MINUTES: January 28, 2019

Amendments:

Page 1, lines 3 and 18: change “Matt” to “Matthew”; Page 1, line 30: change “meet” to “meeting”; Page 6, lines 43 and 46: change “Cole” to “Hall”; Page 7, line 15: change “EPA” to “NHDES”. A few grammatical changes.

In response to Mr. Schwarz’s question, Mr. Brooks said that documents presented to the Planning Board from the public during a meeting become part of the public record and are accessible by the public.

A MOTION was made by Vice Chair Garland to approve the January 28, 2019 Minutes as amended and presented in the February 25, 2019 agenda packet.

Secinded by Mr. Schwarz.

**The MOTION passed unanimously (7-0).*

3. STUDY ITEMS

A. RECAP OF THE HOUSING CONVERSATION WITH MIKE KIESS FROM VITAL COMMUNITIES

Representing the above item were Mr. Mike Kiess, Mr. Jim Wasser and Dr. Bill Cioffredi.

Mr. Kiess informed the Board that the City hosted a “Community Conversation on Housing” on November 5, 2018. This event was co-sponsored by Vital Communities, the Lebanon Area Chamber of Commerce, the Upper Valley Lake Sunapee Regional Planning Commission, and the New Hampshire Listens. The objective was to better understand the current state of housing in the City. Mr. Kiess reviewed the Summary of Findings report from this event with the hope that it would kindle a broader discussion about the actions the Board might take regarding housing. (All the detailed materials related to the outcomes of the Community Conversation on Housing, in their entirety, were provided in the February 25, 2019 agenda packet.)

Mr. Wasser presented some action items from this event which included:

- Can anything be done with the City’s Zoning Codes that would help promote more housing, not just for large developers.
- Are there City policies that could be implemented to encourage housing development diversity through public/private partnerships.

- Are there infrastructure elements that could be incorporated by the City to help promote more diversity in housing development and attract people to settle in Lebanon, NH.
- Letting the public know what a great/vibrant community Lebanon is, but also letting them know that Lebanon has a big issue right now with housing.
- How Lebanon can work with other communities in the Upper Valley region to create diversity in housing.
- Encouraging expansion of the transportation system to bring younger/senior residents together, as well as renters - not just buyers.

Dr. Cioffredi said his particular interest is the need to create more housing such as housing for assisted/independent living and housing that supports neighborhoods. He explained that medical research has shown that deep relationships with people are one of the most important things related to people's health – much more than their blood pressure/cholesterol level.

Discussions took place regarding:

- How does the City come up with a solution to housing, with Mr. Kiess noting this should not be the Planning Board's responsibility - it is up to folks to bring a broad range of projects before the Planning Board.
- How can people's perception about the Planning Board be changed to reflect that the Board is open minded.
- The need for public transportation turn arounds near the Alice Peck Day Hospital and surrounding community.
- The restrictive R2 Zones around Lebanon and if some of these can be changed to allow more diversity in housing.
- The costs involved with converting to, or updating, multi-family dwellings such as adding sprinkler systems and smoke detectors.
- The conflicts that exist in the City's Master Plan regarding affordable housing.
- Encouraging the public to participate in Planning Board meetings so they can understand the diversity of viewpoints that some groups have regarding housing in Lebanon (e.g., the political environment and community engagement communication with the Planning Board). Having more diversity in viewpoints from the public would be helpful for the Planning Board.
- How the Planning Board makes their judgements, which are based on the City's regulations.
- Employer sponsored housing possibilities.
- The need to take the long-term effects (both positive and adverse) of certain housing units under consideration in certain areas of the City.
- The importance of having people involved with, and becoming champions for, legislation at the State level because in the world of Concord, NH, Lebanon does not exist.
- The change in the definition of "Family" now before the City Council.

Mr. Brooks said that the Planning Board cannot dictate what an applicant applies for – Board members have to remain completely impartial while reviewing an application against the City's regulations. The Board can change regulations to stream line the process. The Board can change the conditions of Zoning, and they do have a role in trying to change what the Master Plan says. He hopes there is a willingness from the Board to take whatever steps that they can reasonably take with some of those next actions. There is a need to have more Regional discussions and Lebanon has to play their part, which they have done in the past. This discussion will be continued further in the coming months.

B. LEGAL UPDATE/DISCUSSION WITH ATTORNEY FILLMORE

Representing this topic was City Attorney C. Christine Fillmore.

Attorney Fillmore handed out a summary of the 2018 Land Use Law Update to Board members and explained the items she felt was important. (Not included in agenda packet). This included:

- **Statutory changes – 2018 Legislative Session:**

- *Statutory Definition of “Agritourism” is now Mandatory*; State Commissioner of Agriculture can rule on local disputes. 2018 Dh. 56 (SB 412) which amends RSA 674:32-b, II. The Board has to have a definition of “Agritourism” in their Ordinance that is the same as what is in the State Statute (RSA 21:34-a.....).

- *Zoning Ordinances may be amended to provide for termination of Variances and/or Special Exceptions approved before August 19, 2013. 2018 Ch. 75 (HB 1533 amends RSA 674:33.* Unexercised variances and/or special exceptions granted before August 19, 2013 can be terminated if not exercised within two years

• **2019 Pending Legislation as of February 22, 2019.**

- *HB 143: Prohibition on Multiple Board Membership.* This would amend RSA 669:7, I and RSA 676:5 I to prohibit one person from serving on 2 or more city or town boards “if decisions of one are appealable to the other.”
- *HB 370: Planning Board members serving on other boards.* This would correct a problem in RSA 673:7 governing City Planning Board members’ ability to hold other positions in City government.
- *HB 247: Update to State Building Code.*
- *HB 311: Municipal Regulation to regulate Sober Living Facilities.*
- *HB 312: Tiny Houses. This bill is in the early stages.*
- *SB 306: Housing Appeals Board.*
- *SB 69: Regulation of Short-Term Rentals.*
- *Right to Know Law Ombudsman bills: HB 103, HB 729 and SB 313*

• **Court Case Opinions – 2018:** Most of these involved Zoning Boards.

Attorney Fillmore explained the Trustees of Dartmouth College v. Town of Hanover Supreme Court of New Hampshire case. (This document was included in the February 25, 2019 agenda packet.) She suggested The Planning Board should think more about the rationale for denying an application and not just deny an application through a general statement of principle and intent because it is harder to defend in court. She answered the Board’s questions regarding recusals and a recused Board member speaking as a member of the public; what is considered a certified record of a meeting (e.g., minutes and tape recordings); what the minutes must legally contain (e.g., a brief discussion of subject matter discussed, motions and actions taken). She said Land Use Boards are different and described the differences. Whether it hurts you or helps you in court, if you have a standard with respect to minutes and stick to it, that is a good thing because regardless of any decision made, people will have a sense that you are being above board about what you do.

The Board discussed this case and Attorney Fillmore answered their questions.

C. REVIEW THE INITIAL DRAFT CIP PROJECT LIST FOR 2020-2025 CIP

Mr. Brooks reviewed the draft CIP Project List with the Board as provided in the February 25, 2019 agenda packet. This list is from the most recently-adopted CIP but excludes projects for all anticipated funding appropriated for the current budget year (2019). Any project that was not fully funded by the City Council for the current year, or which is anticipated to be additional funding in subsequent years (2020-24), has been retained within the draft Project List. Municipal Departments, Department Heads and the Lebanon School District have been informed of the updated CIP Policy and Procedures.

Per CIP Procedures, the Board shall complete the preliminary CIP Project List and submit it to the Planning Director by the March 25, 2019 Planning Board Work Session where it can be finalized. Mr. Brooks suggested that the Board consider a potential ranking systems to enable the CIP Subcommittee to “classify projects according to urgency” as required by RSA 674:6. He explained that classification is frequently done by either Grouping projects by Class or using a Point System and described how each system works. Questions from the Board were answered.

4. COMMITTEE REPORTS

- Planning Board Subcommittees: **No Report.**
- Planning Board Capital Improvement Program (M. Hall/S. Welsch/B. Garland/K. Davio)
- City Council Subcommittees: **No Reports.**
- Class VI Roads Advisory Committee (J. Monroe)
- Lebanon Energy Advisory Committee (K. Davio)
- City Council Representative: (K. Zook/ J. Winny): **No Report.**

- Heritage Commission: (G. Schwarz):

Mr. Schwarz reported that the Heritage Commission Fountain Working Group will not be retiring after all because they received a generous anonymous donation. They will continue the work they started on the Glenwood Cemetery Fountain.

- Pedestrian & Bicyclist Advisory Committee: (VACANT) – **No Report.**
- Upper Valley Lake Sunapee Regional Planning Commission: (VACANT) – **No Report.**
- UV Sub-Committee of the Connecticut River Joint Commissions: (B. Garland) – **No Report.**
- Upper Valley Transportation Management Association: (S. Welsch) – **No Report.**

- Mascoma River Local Advisory Committee: (K. Romano):

Ms. Romano reported that this committee will now be required to have a Master Plan. She mentioned a property along the river by the hydro dam where the river has silted and is causing more flooding than it has in the past. There is some uncertainty about who should be responsible for taking care of this.

- Steering Committee for the Implementation of the Master Plan: (B. Garland/G. Schwarz/K. Davio/J. Monroe) - **No report.**

- Planning Office - Task Status: (D. Brooks/ M. Goodwin/T. Corwin/R. Owens)

Mr. Brooks informed the Board about the following:

- Mr. Mulholland informed the City Council about a notice he received from the Office of Strategic Initiatives regarding surplus property. The City has until March 11, 2019 to send them comments.
- There will be a Public Hearing regarding the definition of “Family” on March 6, 2019. The Planning Staff has tried to clarify what a single housekeeping unit means as well as incorporating adoption/foster children/guardianships and access to a household’s common use of space to the definition.

5. OTHER BUSINESS

- A suggestion was made to have Planning Staff write a memo regarding regulations that could be adjusted (e.g., housing), or create a subcommittee of the Board that could deal with regulations that need to be updated.
- A request was made to define what affordable housing is and to find a champion who would be responsible for overseeing affordable housing.
- Chair Davio requested a location change for the March 11, 2019 meeting due to the City/School Election being held on March 12. The current location was set for the West Meeting Room and this room is too small. Mr. Brooks will find another location.

6. OPEN DISCUSSION: NONE

7. ADJOURNMENT

Mr. Hall MOVED to adjourn the meeting at 8:43 PM.

Seconded by Ms. Stavis.

***The MOTION passed unanimously (7-0).**

The meeting was adjourned at 8:43 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary