

**Town of Boscawen
PLANNING BOARD
Boscawen Municipal Facility
FINAL MEETING MINUTES
Tuesday, February 6, 2024**

Members Present: Loren Martin – Chair, Barbara Randall – Vice Chair, Ed Cherian, Josh Crawford, Roberta Witham, Lorrie Carey – Ex-Officio and Bill Bevans – Alternate Ex-Officio

Members Excused: Gary Tillman

Staff Present: Kellee Jo Easler – Planning & Community Development Director, Kara Gallagher – Planning & Community Development Coordinator, Ruth Ashby - Planning & Community Development Assistant, Dean Hollins – Public Works Director, Tim Kenney – Fire Chief, Katie Phelps – Town Administrator

Guests Present: Mike Tardiff – Central NH Regional Planning Commission, Matt Monahan – Central NH Regional Planning Commission, Stephanie Alexander (Virtual) – Central NH Regional Planning Commission, Jeff Burd – RJB Engineering, LLC., Tom & Jody Berkeley – Riveredge Properties, LLC. and Robert Saunders – Underwood Engineers Inc.

Chair Martin opened the Public Meeting at 6:32 p.m.

PCD Director Easler completed roll call.

Minutes:

Ex-Officio Carey motioned to accept the draft minutes as presented. Seconded by Vice Chair Randall. All in favor. None opposed.

Member Reappointment:

Chair Martin’s appointment will expire in March. The Board must decide whether to reappoint her for another term.

Vice Chair Randall motioned to reappoint Loren Martin. Seconded by Mrs. Witham. All in favor. None opposed.

New Business:

Eagle Perch Drive Discussion: Chair Martin said a representative from Underwood Engineers was present to discuss the Road Construction Procedures Manual as well as the owner of Riveredge Properties, LLC. and their engineer. Mr. Burd explained that Mr. Berkeley has built the road to substantial completion and had received a partial release of the bond in August of 2023. He said the Road Construction Procedures Manual states in Section 3F(2)(e) that 25% of the bond must be

held until one year after the Temporary Certificate of Performance is issued by the Project Administrator. The problem with this is Mr. Berkeley would like to hold off on paving the final wearing course until most homes have been built and construction activity level has diminished. There will be 5 out of 16 homes occupied this year, and they thought 80% of the houses should be built before the final wearing course is put down. They would like to request relief from that requirement so Mr. Berkeley can get the remainder of the bond released. He said they would like clarification on when the final wearing course should be put down. Mr. Saunders empathized with the developer but stated that the standards are in place for a reason and must be followed. He said that 25% of released items or built items have a one-year period, and so as a project gets built all those items have a different schedule as to when they were completed and there may be some give on the bond. For example, in May they could look back to see what was done a year before and make a recommendation to release some of the bond. He wanted to remind the Board the town is holding individual bonds on the house lots to allow the developer to break ground on different lots as he moves through the process. This would amount to an additional \$20,000 being held at the town level outside of the 25% being retained for the development. Underwood's position regarding the paving is always binder pavement should not see any more than two summers or two winters. This amounts to roughly 18 months. The town generally has a limit of 2 years. There is currently no standard in town for this particular element, but there is a precedent that has been upheld consistently. Mr. Burd asked if part of the 25% of the bond could be released at the end of the year. Mr. Saunders said the rules say, "a year from substantial completion". There were 3-5 months during recent construction that tasks were being completed. Underwood has a list of items that went into the bond. Mr. Burd said their understanding was that the remaining bond was held until the town accepts the road. Mr. Saunders clarified that 25% of the bond must be held until one year after the Temporary Certificate of Performance is issued by the Project Administrator or substantial completion. Mr. Burd said that had not yet been issued. Mr. Saunders agreed but said when the binder went down last fall that would normally meet a substantial completion checklist. He said, in the town's regulations, the definition of substantial completion was basically at the point when the project was functional. He would agree this project became functional when the binder went down. Mr. Saunders said the typical process is a developer would come in and focus all efforts on building the road before disturbing individual lots. In this case, other bonding opportunities had to be put into place to protect the town while working with the developer so that he could develop the road and individual lots simultaneously. Mr. Berkeley said the road is virtually complete minus the final wearing course. Public Works Director Hollins agreed and would be comfortable moving forward. Underwood would be comfortable working with the developer over the next several months to reduce the bond down. Mr. Saunders asked Mr. Burd to put together a list of the major milestones for the 25% being held for each, then Underwood would put dates to those and that would lay out the schedule for the bond to be released. Mr. Berkeley asked if the individual lot bonds were still necessary with the road being 100% stabilized minus the final wearing course. He has three open permits currently and would like to open 2 more. Mr. Saunders said he would need to review that information before providing an answer. Potentially, he would recommend releasing that bond provided only a certain number of lots remain disturbed at a time. Chair Martin said the Board would need to review the Notice of Decision Conditions of Approval before making any recommendations or decisions. Mr. Saunders recalled a conversation of every time Mr. Berkeley disturbed a new lot, he would need a \$5,000 bond, therefore, every disturbed lot would require a separate \$5,000 bond. PCD Director Easler stated that was her

recollection as well. Mr. Burd asked for clarification on if the final wearing course could be laid in fall 2025. Mr. Saunders and PW Director Hollins concurred.

PCD Director Easler asked Mr. Saunders had anything he'd like to add to the Land Development Regulations once those are reviewed. Mr. Saunders did not.

Impact Fee Assessment Schedule Review: PCD Director Easler said she and Finance Director Kate Merrill have been working with Ms. Stephanie Alexander and Mr. Tardiff on impact fees over the last few months. Chair Martin mentioned there was a study done on impact fees in 2017. She also mentioned the Zoning Ordinance stated the Board should review impact fees and update the schedule annually. Ms. Alexander said she and Mr. Tardiff were present for technical assistance. She said they were able to review the study from 2017 and the tracking file. She said generally in Boscawen impact fees can only be used to enhance the capacity of public schools (elementary school debt service and middle and high school improvements), municipal office (building debt service and facility improvements), the police department (building debt service, facility improvements and cruisers) and to enhance the capacity of roads (contracted cost of rebuilding collector roads only). Ms. Alexander said it was good practice to look at the impact fee schedule every year and adopt, change, or move forward with it to keep the numbers active. She suggested implementing an Impact Fee Accounting, Reporting, and Expenditure Policy that would help guide future policies and procedures moving forward. This is something that is done in other towns. Another suggestion was to get a brand new impact fee analysis that would come with a new schedule and putting a brief expenditure list of the impact fees collected and spent into the town report. Amherst has done this recently. Mr. Tardiff has shared this document with PCD staff. PCD Director Easler will send the document to the Board. Chair Martin said if the town doesn't have some sort of study to show that the growth that we've been experiencing over the previous years was substantial enough to require expanded infrastructure or upgrades to facilities then how can the town ask taxpayers to pay impact fees. Mr. Tardiff said the Board needed to decide if money should be spent on a new study. A new study could determine whether there were capital needs that a percentage could be paid for through impact fees. Ex-Officio Carey stated that debt servicing was one of the items allowed to be paid for by impact fees. She asked Mr. Tardiff if the town should have used a portion of impact fees to pay off a previous 20-year bond with the Merrimack Valley School District. Mr. Tardiff said that would be a question for the town's attorney. He suggested asking any similar questions to the town's attorney. Mr. Cherian thought there was now more of an impact from growth on water, sewer, and the fire department rather than the school. Mr. Tardiff said the administration of tracking impact fees was difficult. Chair Martin agreed and voiced that she did not believe that it had been managed well in the past. The current record shows what impact fees have been collected, how they're broken down to match the impact fee schedule, and then the fees that were expended by year. She believed the record needs to reflect whose money was being spent and the date of when it was collected. She believed the oldest fees should be expended first. Discussion ensued. Mr. Cherian said the Planning Board had the power to recommend a fee structure, but the Select Board held the authority to decide what was spent. Ex-Officio Carey said she thought it made sense to contribute to the Fire Department rather than the school district. There was a 20-year bond that was just paid off and no anticipated improvements. Mr. Cherian thought that a case could be made because the Fire Department has been small and volunteer for years, the number of calls has significantly increased, and now the Chief is trying to expand to have more of an EMS type of role. PCD Director Easler said staff have been looking for

a consultant to do a study for almost a year and have gotten no responses. She mentioned that a study was not required to update the impact fee schedule and the Board can simply amend it. Mr. Tardiff said CNHRPC would try to help on the administrative side by sending examples of tracking sheets, policies, etc. They will also try to find out if there are consultants out there that are proficient in impact fees.

Old Business:

Master Plan Housing Chapter Update: Mr. Tardiff said last month the Board held a Visioning Session to discuss housing to gain feedback from residents. Mr. Matt Taylor sent the final draft housing chapter for review for this meeting. Mr. Tardiff was hoping to gather comments. He said some language would be changed if the proposed zoning amendments are passed at Town Meeting in March. This document will be the basis for the changes needed in housing in Boscawen. Mr. Tardiff recommended waiting until after Town Meeting to finalize the Housing Chapter to allow for any amendments that may pass. Chair Martin said in the *New Residential Units* on page 4 a significant spike in 2016 was shown. She questioned whether the numbers were accurate. She would like to have the information confirmed. PCD Director Easler said those numbers were given by the PCD staff. The data was gathered from the Building Permit software and the spike was due to the new development of Kayak Way and Shoreline Drive. Chair Martin said she looked at the data and found that there were building permits pulled in 2016 but Certificate of Occupancies were not given until later. PCD Director Easler confirmed the data was gathered based off when permits were pulled, not when the units were constructed. Mr. Tardiff said CNHRPC will clarify the data. Ex-Officio Carey had a question on defining what “character” is. She said under ***Objectives & Recommendations*** on page 12 there should be an adjective describing character. Chair Martin suggested the sentence could read “...preserving the rural character and natural resources of the town...”. Mr. Cherian countered that not all of Boscawen would be considered rural. We have commercial and industrial areas as well as farmland and agricultural areas. Chair Martin agreed, we want to stay rural, but we also want development. Mr. Tardiff said that was a perfect example of a cluster development, which creates development while protecting the open space in the area. He suggested adding more explanation to the cluster development section. PCD Director Easler reminded the Board that everything in the draft up to page 12 was what was stated in the Zoning Ordinance currently, with page 12 listing the ***Objectives & Recommendations*** should the zoning amendments pass at Town Meeting. Mr. Cherian suggested adding “encouraging infill and redevelopment” to ***Objective 2*** and rewording ***Objective 3*** after Town Meeting when hopefully the changes to the Accessory Dwelling Unit ordinance are accepted. Mr. Tardiff suggested the Board take the next month to review the draft and email any changes to the PCD staff.

Land Development Regulations Update: Mr. Monahan said the last revision to the LDRs was in September. He said a big change that was coming was Town Meeting will be voting on acceptance of roads going back to Town Meeting instead of the Select Board making that decision. He said there was another change to escrow and bond regulations. Mr. Monahan has been working on this and will have some language for those topics soon. PCD Director Easler said April 5th would be the time frame for the update, but Mr. Monahan said he would take questions or edits while they were discussing the document in this meeting. Mr. Cherian had a couple of questions:

-Page 26 Section 3.4 Determination of Regional Impact – Under paragraph 2 “...the Board shall automatically notify communities within 20 miles...” is written. He wanted to know where the 20

miles comes from. Mr. Monahan said there is an RSA for cell tower notification. Under that paragraph is a list of 60 communities. Mr. Cherian questioned if some of them were actually within 20 miles of Boscawen. Mr. Monahan said where a cell tower was situated would also change the 20-mile radius but guessed that the list was an approximation.

-Page 49 Section 8.2.12 – Mr. Cherian asked if there is a “Town of Boscawen Sewer Use Ordinance” PW Director Hollins said there is.

-Page 56 Section 8.10.9 – Mr. Cherian asked if applicants would need to obtain easements to access the sewer lines if they must cross abutting properties. Mr. Monahan said that would be an option or the applicant could request a waiver. Mr. Cherian suggested softening the language.

Mr. Monahan suggested the Board take the next month to review the draft and email any changes to the PCD staff. The Board discussed the changes to the Road Acceptance Policy and whether Underwood or CNHRPC would make the updates.

The next meeting will be held on March 5, 2024 @ 6:30 p.m.

Mr. Cherian motioned to adjourn. Seconded by Vice Chair Randall. All in favor. None opposed.

Respectfully submitted by Kara Gallagher.