

**REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

6:00 PM Special Meeting Begins

March 30, 2022

MINUTES

MEMBERS PRESENT: Rick Chellman, Chairman; Corey Clark Vice Chair; Karen Conard, City Manager; Ray Pezzulo, Assistant City Engineer; Beth Moreau, City Councilor; Greg Mahanna; Peter Harris; James Hewitt; Andrew Samonas, Alternate

ALSO PRESENT: Beverly M. Zendt, Planning Director; Stefanie Casella, Planner 1

MEMBERS ABSENT: Jayne Begala; Franco DiRienzo, Alternate;

.....

I. 6-6:30 PM

Call to Order and discussion with the Board regarding rules, regulations, upcoming meetings, and upcoming training topics.

DISCUSSION OF THE BOARD:

Chairman Chellman introduced the opportunity for Board Members to propose items for discussion. Member Mahanna requested workshop time to review agenda items prior to regularly scheduled Planning Board meetings. Member Hewitt suggested the Board look at the CIP for improvements, establishing an impact fee program, revising the abutter notification process, and revisiting the North End Visioning plan created in 2000. Alternate Member Samonas suggested revisiting the way the Board evaluates Design Review applications to create a more interactive process than is currently existing. The Board discussed Design Review and the history of the Planning Boards review process, post approval process, and potential work shop meeting times and topics.

II. 6:30-7:30 PM

Training Session with Attorney Stephen Buckley, *NH Municipal Association* regarding Planning Board roles and responsibilities.

PRESENTATION:

Attorney Buckley introduced himself and his role at the New Hampshire Municipal Associate where he provides legal services to member communities around the State. Attorney Buckley's

presentation incorporated the basic responsibilities of a Planning Board with the applicable state statutes with specific attention to the following:

- Right-to-Know law,
- duty to assist,
- quasi-judicial and legislative actions,
- conflicts of interest,
- subdivision and site plan regulations,
- zoning amendments,
- innovative land use controls,
- workforce housing,
- pre-application review,
- application review processes,
- and appeals.

QUESTIONS FROM THE BOARD:

Member Hewitt asked if individual members could visit proposed project sites outside of a defined public meeting. Attorney Buckley answered that this specific instance would not be classified as ex-parte communication but the information gathered at that visit should be disclosed during a public meeting so all the Board members have access to the same information as it may impact the outcome of the decision.

City Councilor Moreau asked for clarification on the Board's duty to assist. Attorney Buckley elaborated that it is the job of the Planning Board to "get to yes" with the applications presented to them and encouraged the Board to use Preliminary Conceptual Review and Technical Advisory Committee Review as a time to work out issues and assist the applicant move forward towards an approval.

Planning Director Zendt asked if the thresholds that trigger site plan review could be broader than that provided for under state law. Attorney Buckley replied that everything requires site plan review but encouraged municipalities to set a minimum standard so as to exempt the smaller scale projects as appropriate for each community.

Planning Director Zendt asked if State Law set a planning horizon for Master Plans. Attorney Buckley responded that State Law encourages updates every 5 years but does not require it.

Member Hewitt asked for clarification on the State law requiring notification to residents when they have within a Zoning district where a Zoning amendment is being proposed. Attorney Buckley explained that RSA 675:7 requires each property owner to be noticed by first class mail if the changes proposed are in relation to zoning district boundaries and will affect 100 or less properties. He then went on to explain that there is different State statute with similar requirements for minimum lot size and permitted uses, he will follow up on details if requested by the Board.

The Board then discussed the process the City uses to propose and adopt zoning amendments. Attorney Buckley reviewed the language provided in state law which addresses the responsibility of the Planning Board to recommend changes to the City Council.

Chairman Chellman asked what authority the Planning Board has over reviewing aesthetics of a project. Attorney Buckley explained that the Supreme Court has made it clear that there is a realm of authority that attaches to the Planning Board to review impacts to surrounding properties which includes aesthetics but further added it is always best to have requirements and standards articulated in the City regulations.

Member Hewitt asked about votes that result in a tie. Attorney Buckley answered that a tied vote is not a decision and the Board must make a decision to move forward.

III. 7:30-8:30 PM

Q&A session with Stephen Buckley and members of the Board.

DISCUSSION OF THE BOARD

Member Hewitt asked about Developments of Regional Impacts (DRI), the unique relationship between Pease Development Authority and the City of Portsmouth, and how if the City had any jurisdiction on Planning and Zoning in the Pease Development Authority. Attorney Buckley cited RSA 674:54 and went on to explain that entities created by the State of New Hampshire enjoy zoning and land use regulatory immunity, but he did not want to make a determination on if Pease was subject to that immunity and the DRI statute as he has not researched that matter. The Board then discussed the issue and cited local examples.

IV. ADJOURNMENT

The Board Adjourned at 7:56 pm

Respectfully submitted by Stefanie Casella, Planner for the City of Portsmouth.