

04-24-19 These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester**  
**Planning Board Meeting**  
**Wednesday, April 24, 2019**  
**Municipal Complex**  
**Approved Minutes**

**Members Present:**

Evan Sederquest, Vice Chairman  
Richard Snyder, Member  
Elizabeth Richter, Member  
Aaron Hume, Alternate Member  
Dana Theokas, Alternate Member

**Members Absent:**

Brian Sullivan, Chairman  
Michael Weider, Member  
Cass Buckley, Ex-Officio

**Staff Present:**

Andrew Hadik, Planning Coordinator

**Others Present at Various Times:**

Matthew Cardin, Eversource  
Elizabeth LaRocca, Eversource  
Cathy Moore, Chester resident  
Corinna Reishus, Recreation Director  
Michelle Trask, Recreation Commission Chair

Vice Chairman Sederquest opened the meeting at 7:05 pm.

Vice Chairman Sederquest noted that Ms. Theokas is the alternate for Mr. Weider, and Mr. Hume is the alternate for Mr. Sullivan.

**Meeting Agenda**

**General Business**

- Review and sign invoices and time sheets.
- Review and approve minutes for the April 10, 2019 meeting.

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- FYI: Update on the sanctioned status of Chester Technical Review Committee by the BOS.
- Discuss the Recreation Commission's request for the release of \$20,000 in impact fees for the Fitness Trail CIP project.
- FYI: DuBois and King letter re: Buxton Estates/ Ruth Ray Road pre-wear course paving requirements.
- TABLED – Review documentation and discuss recommendations to BOS of Ruth Ray Road of Buxton Estates for acceptance as a Town Road.

#### **7:15 PM – Appointments**

Matthew Cardin to discuss the modification of Eversource's Conditional Use Permit for replacement of select utility structures on transmission lines (373/391 – 345Kv) in Chester.

#### **7:30 PM - Public Hearings**

**A continuance of the Public Hearing to May 8, 2019, is being requested.**

Application by Brady Sullivan Southwoods LLC, Owner, 670 N. Commercial Street, Suite 303, Manchester, NH, 03101, for approval of amended plans for the Southwoods Subdivision on Map 1, Lot 76, just off Route 102 (Derry Road) in Chester, NH.

The amendments to the plans are required meet new storm water management standards and runoff mitigation requirements. These new plans have already been approved by NH – DES.

#### **Future Meeting Dates:**

- May 1 – no meeting
- May 8 -
- May 22 –

Mr. Hadik addressed the audience and announced that a Request for Continuance has been received to postpone the public hearing for the Southwoods Subdivision until May 8, 2019.

Two members of the Public, unknown to this recording secretary, departed the meeting at 7:07pm.

#### **Review and approve minutes for April 10, 2019 meeting.**

The Board reviewed the minutes from the April 10, 2019 meeting.

Lines 64 -66 were restructured to read: "There is a signed and notarized warranty deed for the Right-of-Way approved by the Town Attorney. There is also a lien-free certificate by Attorney

Sumner Kalman.” The Board moved to authorize Mr. Hadik to draft a letter to advise the Board of Selectman that the road is ready for acceptance.

Lines 107 – 108 were amended to read: “Twenty utility poles would be replaced: Nine along line 391 and eleven along line 373.”

The word “her” was changed to “here” on line 112.

The word “Line” was added before “345” on line 117.

“Ms.” was changed to “Mr.” and the “?” was changed to a “.” on line 124.

Mr. Snyder made a motion to approve the minutes from April 10, 2019, as amended; Ms. Richter seconded the motion. Motion approved, 3-0-2, Ms. Theokas and Mr. Hume abstained.

**FYI: Update on the sanctioned status of Chester Technical Review Committee by the BOS.**

Mr. Hadik reviewed the history of the TRC. He noted that in 2017 Selectman Mr. Trask (not present), had recommended putting together a technical review committee, with a member from each group in Town represented, including the Fire Department, Police Department, School, Planning Coordinator, Building Inspector, ZBA Administrative Assistant etc. Mr. Hadik explained that the TRC was very successful helping with the Crowley Woods and Pipit Estates subdivisions.

Mr. Hadik explained that Selectman Steve D’Angelo (not present), wants the TRC to be officially sanctioned by the BOS.

Mr. Hadik said that a kick-off meeting has taken place. He said that Mr. Bunker (not present), the Town Building Inspector, is chairing establishing the ground rules for the committee.

Mr. Hadik noted that Mr. Bunker has developed a purpose that states: “The purpose of the technical review committee is to provide project or event specific oversight from all departments, commissions, boards, as applicable. The committee is advisory only.”

Mr. Hadik read the description of the process through which one will navigate.

Mr. Hadik explained that this committee is only an internal advisory committee.

The Board discussed how this committee may impact the pace of applicants through the Planning Board.

Mr. Hadik said that he thinks that the TRC will help streamline the approval process and used the Library renovation project as an example of a project that could have benefited from TRC review.

**7:30 PM - Public Hearings (A continuance of the Public Hearing to May 8, 2019, is being requested.)**

1. Application by Brady Sullivan Southwoods LLC, Owner, 670 N. Commercial Street, Suite 303, Manchester, NH, 03101, for approval of amended plans for the Southwoods Subdivision on Map 1, Lot 76, just off Route 102 (Derry Road) in Chester, NH.

The amendments to the plans are required meet new storm water management standards and runoff mitigation requirements. These new plans have already been approved by NH – DES.

Mr. Snyder made a motion to open the Public Hearing; Ms. Richter seconded the motion. Motion approved, 5-0-0.

The Public Hearing was opened at 7:30 pm.

Mr. Hadik said that he had received a written request for a continuance from April 24, 2019 to May 8, 2019 from the applicant and explained to the Board why the applicant needed a continuance.

Vice Chair Sederquest asked for Public Comment.

Ms. Moore came before the Board and spoke at 7:36 pm.

Ms. Moore noted that she is a Chester resident of the Southwoods subdivision. She said that she is speaking out to bring attention to the condition the Southwoods neighborhood is being left in by the builders. Ms. Moore explained that for the past two years, while the construction has been going on, the builders have been leaving large amounts of trash on the site that then blows into the neighborhood. She said she picks up trash that blows into her yard and cleans up “all the time.”

Ms. Moore said that she has advised the developer, Mr. Steve Cotran (not present), of the trash with texts, pictures, videos, emails, and phone calls and asked him to clean the site and put lids on the dumpsters. She notes that he said that they clean the site regularly.

Ms. Moore asked the Board if they can put some type of restriction on Brady Sullivan to force them to clean the area on a weekly if not daily basis, as well as, put tops on the dumpsters.

The Board asked Ms. Moore about specifics of the trash blowing through the neighborhood and on the site.

Ms. Moore said that the trash left on the site and in overflowing dumpsters, including coffee cups, trash and plastic from the workers, blows all through the neighborhood, even up into the trees. She said once an entire Gaylord box rolled into her back yard.

Mr. Hadik said that this is a code enforcement issue.

Ms. Richter suggested creating a standard condition that all work sites be left tidy and secure at the end of every day.

Mr. Snyder asked if before the May 8<sup>th</sup> meeting, the Planning Board could request something be done about the problem.

Ms. Richter pointed out that this is the first time the Planning Board had heard of this issue.

Ms. Moore expressed surprise, saying she had called, texted, and emailed, the builder, Mr. Cotran, and has gotten nowhere and been ignored.

Ms. Moore explained that she will be gone on May 8<sup>th</sup> when Brady Sullivan will be at the Planning Board meeting. She said she had spoken with the Building Inspector, Mr. Bunker (not present), and that he had told her that because there is “nothing on the books right now,” he can’t do anything about the problem.

Mr. Snyder suggested the issue be addressed prior to the next Planning Board meeting on May 8<sup>th</sup>.

Ms. Moore departed the meeting at 7:44 pm.

Mr. Snyder made a motion to continue Public Hearing for the application by Brady Sullivan Southwoods LLC, Owner, 670 N. Commercial Street, Suite 303, Manchester, NH, 03101, for approval of amended plans for the Southwoods Subdivision on Map 1, Lot 76, just off Route 102 (Derry Road) in Chester, NH, to May 8, 2019; Ms. Theokas seconded the motion. Motion approved, 5-0-0.

#### **7:15 PM – Appointments**

**Matthew Cardin to discuss modification of Eversource’s Condition Use Permit for replacement of select utility structures on transmission lines (373/391 – 345Kv) in Chester.**

Mr. Cardin came before the Board at 7:48 pm.

Mr. Cardin said that he is here tonight to request an amendment / change to a conditional use permit that was requested at the Planning Board meeting on April 10<sup>th</sup>.

Mr. Cardin explained that the Chester Board of Selectman has denied permission of Eversource's use of Bridle Path Road. He said that Bridle Path Road was one of the key accesses to their powerline structures. Mr. Cardin noted that they need access to the structures that are on either side of Bridle Path Road.

Mr. Cardin stated that the amendment he is requesting tonight proposes temporary impact to about 4,000 square feet of wetlands, crossing the wetlands coming north from Pingree Hill Road for access to the Eversource structures.

Mr. Snyder asked if someone with an objective position could explain why the BOS denied access to Bridle Path Road by Eversource.

Mr. Hadik explained there is legal action between the Town and Eversource regarding the tax assessment of the utility structures.

Ms. LaRocca joined Mr. Cardin to address the Board at 7:55 pm.

Ms. LaRocca gave the Board a review of the issue between the Town and Eversource. She noted that Eversource and the Town are disputing the property taxes.

Mr. Hadik noted that a utility attorney is handling Chester's case.

After much discussion, the Board agreed that Eversource would have to have a Public Hearing with abutter notification to have the amendment approved. No date for the Public Hearing was chosen. The date of a new Public Hearing will be determined after Eversource has their next meeting with the BOS.

Mr. Snyder requested that Eversource have feedback from the Conservation Commission prior to the Public Hearing.

Mr. Cardin agreed that Eversource would submit the material and get the feedback from the Conservation Commission.

The Eversource representatives departed the meeting at 8:00 pm.

**Discuss the Recreation Commission's request for the release of \$20,000 in impact fees for the Fitness Trail project.**

Ms. Reishus and Ms. Trask joined the Planning Board at the meeting table at 8:00 pm.

Mr. Hadik said that the Recreation Commission representatives are here to discuss the request for the release of \$20,000 in impact fees for the Fitness Trail project.

Mr. Hadik noted that Attorney Bennett (not present) had said in his correspondence that in his opinion the “gate had closed for the release of impact fees when the most recent CIP had been adopted.”

Mr. Hadik explained that he originally thought the release of impact fees for funding projects followed the fiscal calendar year. He said that he learned from Attorney Bennett that the CIP runs from adoption date to adoption date, not from the start of the fiscal year.

Ms. Reishus stated that she had approached Mr. Hadik in November, after the Board and the Recreation Commission had met to review the new CIP project funding, and discussed that the Recreation Commission wanted to move forward with funding the Fitness Trail Project this spring with impact fees. She said that the project had been pulled out of the CIP for 2019 – 2020, but that the CIP hadn’t been adopted yet. Ms. Reishus said that back in November (of 2018) when she spoke with Mr. Hadik, neither she or Mr. Hadik knew that the CIP ran from adoption date to adoption date. She said that there was a window during which they could have legally requested the Fitness Trail funding from the impact fees, and that those impact fees were collected during the time the Fitness Trail project had been listed on the CIP.

Ms. Reishus said that she understands that most of the Recreation Commission’s projects are “Wants” not “Needs”, but that there is no tax impact with the project. She explained that they were planning on using the Recreation Commission’s impact fees to complete a project that had been on the Recreation Commission CIP project list for three years before it was removed by the Planning Board for this year’s CIP.

Ms. Reishus reiterated that the verbal request to the Planning Board for the impact fees to fund the Fitness Trail was at the time the project was listed on the CIP.

Ms. Reishus said that she interprets Attorney Bennett’s letter as saying the Planning Board the right to approve to the Recreation Commission’s request for the impact fees.

Ms. Richter reviewed Attorney Bennett’s letter aloud. (See attached letter.)

Ms. Richter stated that Attorney Bennett doesn’t answer the Recreation Commission’s question.

The Board and the Recreation Commission representatives discussed the history of the project on the CIP and the two meetings in 2018 at which the Recreation Commission discussed the 2019 – 2020 CIP projects.

Mr. Hadik reviewed the impact fees available to the Recreation Commission and the projects listed and the funding associated with those projects.

There was discussion about the French Nichols ball fields reconstruction. Ms. Trask said that she didn't realize that the Planning Board had put that into the CIP. Ms. Reishus noted that she didn't have that as a project for which she was planning impact fees.

Mr. Hadik explained the procedure for the CIP funding. He said that CIP funding and expenditures are approved by the legislative body at Town meeting. He said when requests come in to expend money that was approved at Town meeting, the Planning Board is asked if that request qualifies, they vote yes or no and then pass it on to the BOS.

Mr. Hadik said that impact fees are governed under a different process; the approving and releasing of impact fees for CIP projects is solely the responsibility of the Planning Board. Mr. Hadik said that the Planning Board then vets the request, and if approved, then the request is forwarded to the BOS.

Ms. Reishus said that she understood that the project must be listed on the CIP to request the impact fees; this is why the confusion about the CIP running fiscal year to fiscal year creates a problem.

Mr. Hadik pointed out that impact fees for the Recreation Commission are not collected based on projects listed on the CIP; they are calculated based on a formula based on the values of Recreation Commission athletic fields and nets, etc.

The Planning Board and the representatives from the Recreation Department agreed that they needed more clarification from Attorney Bennett before making any decisions.

Ms. Reishus added that she wants a caveat added that she did request the funds while the project was on the CIP.

Ms. Richter asked why they wanted this project.

Ms. Reishus explained that the Fitness Trail was planned because the community wants it.

Ms. Trask described the trails that are behind Chester Academy, saying they are about a mile loop. She noted that they asked the Chester Academy Athletic Director Mr. Johnson (not present) about a Fitness Trail and that he had expressed positive interest in it. Ms. Trask said that the Recreation Commission is focusing on adding recreation for more of the community of Chester than just the younger children, and the Fitness Trail would appeal to adults while their children are practicing at the school or recreation activities.

Ms. Reishus pointed out that this still must go through the Chester Conservation Commission and the BOS.



Mr. Hadik said that between the two meetings when this project was being discussed for the new CIP, it was obvious that there was a disconnect between Ms. Reishus and Ms. Trask's priorities. He said that there were discrepancies about the pavilion, dog park, and other projects.

Ms. Reishus explained that when she and Mr. Hadik talked back in November, she asked Mr. Hadik if she could use impact fees for the project and if she had until June 30 to request those funds for the project. Ms. Reishus said that Mr. Hadik told her that she had until June 30 to use the funds.

Mr. Hadik said that he was in error, at that time, about the availability of those funds until June 30<sup>th</sup>, because (as discussed earlier) the CIP doesn't coincide with the fiscal calendar year.

Mr. Hadik asked for the exact wording for the question which he will ask Attorney Bennett.

Mr. Snyder said, "Can the Planning Board legally authorize the expenditure of impact fees already collected on a project, this one in particular, that is not listed on the current CIP?"

Ms. Richter added, "These monies were available at the time the Fitness Trail was on the CIP, i.e. the prior CIP."

Mr. Snyder continued, "Furthermore, if there is no clear answer to this question, what is the potential of the risk to the Planning Board's authority to fund future CIP projects?"

The Board and the representatives from the Recreation Department discussed the CIP and rec. projects and the best way to present projects.

Mr. Hadik noted Mr. Buckley (not present) had requested his letter be read into the record.

Mr. Hadik read Mr. Buckley's letter. (See attached letter.)

Ms. Reishus and Ms. Trask departed the meeting at 8:45 pm.

**FYI: DuBois and King letter re: Buxton Estates/ Ruth Ray Road pre-wear course paving requirements.**

Mr. Hadik reviewed the letter by DuBois and King regarding the Buxton Estates/ Ruth Ray Road pre-wear course paving requirements.

### **Adjournment**

Ms. Richter made a motion to adjourn the meeting; Mr. Snyder seconded the motion. Motion approved, 5-0-0.

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379 The meeting was adjourned at 8:55 pm.

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381 Respectfully submitted,

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383 C. Molly Qualters

384 Recording Secretary