

01-22-20: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, January 22, 2020
Municipal Complex
Approved Minutes**

Members Present:

Brian Sullivan, Chairman
Evan Sederquest, Vice Chairman
Michael Weider, Member
Elizabeth Richter, Member
Selectman Chuck Myette, Liaison

Members Absent:

Aaron Hume, Alternate Member
Richard Snyder, Member
Dana Theokas, Alternate Member

Others Present at Various Times:

Andrew Hadik, Planning Coordinator
Penny Williams, Tri-Town Times Reporter

7:00 PM - General Business

- 1) Review & sign invoices & time sheet.
- 2) Review & approve minutes for the 1/8/20 PB meeting.
- 3) Review & approve the draft of the PB's Annual Report.
- 4) Review Impact Fee account balances.
- 5) Review research on requirement for full plans for lot-line adjustments.
- 6) Discuss security requirement for certain types of temporary driveway permits.
- 7) Discuss "No-Cut" buffers vs. "No-Clearing" buffers.

7:15 PM – Appointments

Josh Naughton – re: Bonding for Pipit Estates

7:15 PM - Public Hearings

None scheduled

Future Meeting Dates

- February 5
- February 12
- February 26

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(**Codes:** PH – public hearing, PHC – public hearing continuance, CD – conceptual discussion, HB – Home Business, LLA – Lot-Line Adjustment, SPR – Site Plan Review, SUB – Subdivision, CUP Conditional Use Permit)

Chairman Sullivan opened the meeting at 7:01 PM.

1. Review & sign invoices & time sheet

The Board signed the invoices and time sheet.

2. Review & Approve minutes for the 1/8/20 PB meeting

Mr. Weider motioned to accept the minutes for the January 8, 2020 meeting. Vice-Chair Sederquest seconded the motion. A vote was taken, Selectman Myette abstained, approved 4-0-1.

3. Review & approve the draft of the PB's Annual Report

Mr. Hadik provided the Board with a draft of the proposed Annual Report for review.

Mr. Weider noted he was content with the report and recommended adding italicizing the proposed zoning amendments. The Board agreed.

4. Review Impact Fee account balances

Mr. Hadik distributed a spreadsheet with the details of the collections, expenditures and balances for the Town's seven impact fees. The spreadsheet is up to date through the end of December 2019. There are seven accounts, one for each department's impact fees. The spreadsheet also lists the dates when the requests for impact fee releases were received, and when they were removed and transferred from their respective accounts into the General Fund. There is also a line which shows the remaining undesignated balances available for each department.

Mr. Hadik discussed the reason why one department has a significantly lower undesignated balance than its current bank account balance. This is because a significant amount of requests were made for releases back in 2017, however, these funds have not been deducted yet from the department's account balance. A lot of the funds requested are still unspent. Mr. Hadik stated he has discussed this issue with the Finance Director who advised there are invoices totaling about half of the total funding requested. It was agreed these invoices would be submitted shortly to reimburse what is owed to the Town's General Fund.

Mr. Hadik noted some expenditures are marked as pending (pavilion, picnic tables, etc.). This is because these expenditures have been approved, however, the funds have not yet been transferred to the General Fund.

Mr. Weider noted a total of ~\$400,000 in impact fees has been collected so far, and this amount will continue to grow. The ability to collect impact fees is one of the benefits of having a CIP. He noted the current total undesignated balance for the departments is almost \$220,000. The Highway Department still has approximately \$73,000 left unspent. Because of the fees, several School projects won't require funding by taxation as well.

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Mr. Hadik asked about the various School building improvement accounts. Mr. Weider clarified the new account being created by warrant article is to prepare to replace the School's boilers. There are also other School building improvement accounts for other projects (roof replacement etc.). The intent and benefit of saving for these improvements is so the full tax impact does not occur in a specific year when the improvement is done. Mr. Hadik noted some of the accounts are funded annually by a set "capped" amount (*set by the specific warrant articles*) drawn from School budget surpluses.

5. Discuss "No-Cut" buffers vs. "No-Clearing" buffers.

Mr. Hadik noted Selectman Myette had requested to include a discussion about "No-Cut" buffers on the Board's agenda. The Board had raised some questions about the Town's "No-Clearing" and "No-Cut" buffers.

Mr. Hadik noted the following points from his chronological review the ordinances:

1. Only Buffers and No Clearing Buffer Zone are currently defined or referenced in our ordinances and regulations.

2. No-Cut Buffers are not defined or referenced in the current Zoning Ordinance (ZO) or the Subdivision & Site Plan regulations, except for a holdover scrivener's error within the body of 7.2.11 of Site Plan Review.

3. The term No-Cut does not appear to have ever been defined in the ZO, and was only referenced in the title of Table 2. Incidentally, Table 2 was added in 2004 with the title Table 2 – Setbacks, No-Cut and No-Clearing Zones, however, no definitions for Buffers, No-Cut and No-Clearing were added.

4. It appears the term No-Cut was dropped from the title Table 2 – Setbacks and No-Clearing Buffer Zones sometime between 2007 and 2008. Also, at the time, the Board, with the help of the Conservation Commission, extensively rewrote Article 5.7 Wetlands Conservation District. This is when the definitions for Buffers and No Clearing Buffer Zone were added to the ZO. Prior to this time neither of these were defined by our ZO, nor were No-Cut Buffers.

Chair Sullivan noted in Maine they limit the tree canopy size and exposure. Selectman Myette added with a steep slope a larger buffer width should be required, sometimes we want a no-cut buffer. It comes down to definition of intent. Mr. Hadik agreed the no- cut buffer could be slope dependent, perhaps to be based on D & E slope definitions.

The Board made no final decisions relative to these two subjects at this time.

6. Full Plans for Lot Line Adjustments

Mr. Hadik noted the Board had asked him to research why full plans are required for a lot-line adjustment. He provided them with a copy of NH RSA 478:1-a Recording of Plats. He asked the Board to note the highlighted sections, and remarked there are specific requirements which must be met for the county registries to record plans. The Board had no further questions.

7. Driveway Permits

Mr. Hadik provided the Board with excerpts (Articles 2.1.1, 6.1 & 10) from the Driveway Regulations related to sureties for temporary driveway permits. He explained it had been requested to place this

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issue on the Board's agenda for review and discussion because an individual was upset by the surety requirement, and the amount required for his specific temporary permit. Mr. Hadik said the \$10,000 amount was due to an anomalous situation because the temporary access was off East Derry Road. The access was required to log a parcel, and heavy equipment would be accessing the road. However, this road had been recently reconstructed, and the wearing course has not yet been paved. The surety amount had been determined by Road Agent. The Board asked why this was determined by the Road Agent, and Mr. Hadik reviewed the Board's past discussions about how the regulations were amended.

The Board had much discussion. Selectman Myette stated there needed to be a fair and repeatable methodology in the regulations for determining the surety amount. Chairman Sullivan indicated it would be easier to ensure surety with just proof of insurance coverage for damages.

Mr. Hadik said this was an anomalous situation. In the past, the Board's discussions only considered sureties, depending on the location, in the amount of \$2,000 to \$3,000. He reminded that the requirement of a surety had only been envisioned in cases where heavy equipment was being used which might damage the pavement at the access point. He recommended rewording the ordinance so that, in lieu of a surety, the landowners sign a document certifying they are liable to reimburse Town for repair costs in the event of damage.

Mr. Weider argued that a temporary access point is not a driveway. Mr. Weider noted a temporary driveway permit could be at the discretion of the Road Agent for construction activities. Selectman Myette proposed proof of insurance or a bond and having the Road Agent and Building Inspector create the formula. Mr. Weider added to have the Road Agent explain the methodology for understanding of how the numbers are derived.

Appointments

Josh Naughton – re: Bonding for Pipit Estates

Mr. Naughton came before the Board to discuss his issue with the conditions of approval (CoA) for his subdivision. Mr. Hadik provided copies of the CoA and Article 3.9 – Performance & Maintenance Guarantee - of the Subdivision regulations.

Mr. Hadik explained the following: According to Mr. Naughton, he can't get a surety for the construction from a bank because the mylar for the subdivision has not been recorded yet. According to the CoA, he must have a surety in place before the subdivision mylar is recorded. Historically, Mr. Naughton's CoA are structured the same way as any other of the PB's CoA for subdivisions (*where roads, drainage and other infrastructure is required to be built*).

The CoA are written to give builders the option to submit a surety up front the cover the entire cost, or do a lot of the construction work and then bond the remainder. Historically, most builders have opted to build most of the infrastructure up front. Then new bond amounts are calculated, and these are the amounts of the sureties provided to the Town. Then the mylars and CoA are recorded. The surety amounts are then reduced periodically as more phases of work are completed.

Mr. Naughton noted he always got the plan recorded, then bond came into play. But in this situation he can't do anything without coming up with cash for the bond. He can't obtain any financing to do the

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157 work before recording the plan. Mr. Naughton noted it is about valuation. Approved lots are worth
158 more for lending purposes.

159 Mr. Hadik asked, if the Board were to agree to amend the surety conditions (3.a. & 3.b.) of the CoA, had
160 Mr. Naughton fulfilled all the other requirements for having the mylar recorded. Mr. Naughton said he
161 will check with Eric Mitchell.

162 Chair Sullivan questioned whether the CoA could be amended without a public hearing, and Ms. Richter
163 noted she believed there would need to be a public hearing. The Board requested Mr. Hadik to inquire
164 with counsel regarding the following questions:

- 165 • Is the sequencing of the requirements in the CoA critical?
- 166 • What is the risk to the Town by amending the sequence of deliverables in the CoA?
- 167 • What suggestions might there be for amending the sequence of requirements?
- 168 • Does the Board have to hold another fully noticed public hearing to amend the conditions of
169 approval?

170

171 **Adjournment**

172 ***Ms. Richter motioned to adjourn the meeting at 8:50 PM. Vice-Chair Sederquest seconded the motion,***
173 ***with all in favor, the motion passed unanimously.***

174 Respectfully submitted,

175 Daniel Hoijer

176 Recording Secretary