

**Town of Hinesburg
Planning Commission
January 8, 2020
Approved January 22, 2020**

Joint Meeting with Select Board

Planning Commission Members Present: Maggie Gordon, John Kiedaisch, Barbara Forauer, Marie Gardner, Dan Myhre, James Donegan; Rolf Kielman arrived a few minutes late

Members Absent: Dennis Place

Select Board Members Present: Merrily Lovell, Tom Ayer, Jeff French, Phil Pouech, Aaron Kimball

Public Present: Johanna White, John Kiedaisch, Scooter MacMillan, Bill Marks, Andrea Morgante, Mary Beth Bowman, Peter Erb, Catherine Goldsmith, Bob Theifels

Also Present: Renae Marshall (Town Administrator), Joy Dubin-Grossman (Assistant Town Administrator), Val Spadaccini (Recording Secretary), Alex Weinhausen (Director of Planning & Zoning) & Kate Kelly (Recording Secretary)

Phil P. chaired the meeting, which was called to order at 6:30 PM.

There were no additions/changes to agenda. Phil P added they will give an update on the wastewater bond vote at end, and a possible executive session.

Andrea M. acknowledged that town website was down recently, and things weren't posted, people weren't getting email; she hopes getting agenda and meeting packet up there can happen on a timely basis. Aaron K. confirmed it was a town-wide gmail issue, and emails during the period of this past Sat-Mon. were lost.

1) Review of Conflict of Interest policy with Planning Commission

Phil P. said the conflict of interest policy and appointments policy are in the packets. He views this is an educational opportunity. Maggie G. sent the Select Board a memo, and CC'ed the Planning Commission (PC). Tom A. mentioned that this was a funny meeting, based on appointments they were going to make. It is a broader correlation between members of PC having ties to Responsible Growth Hinesburg (RGH) at time of official map changes recommended to the Select Board. He was questioned how they could make those recommendations while also being associated with RGH.

Bill Marks watched the VCAM from last meeting; he asked if Tom A. had a problem with someone on the PC having been associated with RGH. Tom A. said with certain decisions (regarding lot 15) they should have recused themselves. Bill M. asked if Aaron K. shared that concern. Aaron K. said he was making sure that a board member's concern was recognized and moved forward. He felt that if you have a specific connection to a certain discussion, it would be appropriate to step back from that conversation. Was there any issue with Barb and John being involved with that discussion?

Rolf K. entered the meeting.

Phil P. tried to steer the discussion back to the policy. Renae M. said there you will always be, in a small community, making a decision on a neighbor, church you attend, etc. As committee members, we need to keep this in your minds as well as open meeting law. Let's discuss this as an educational opportunity.

Phil P. said he doesn't agree directly with Tom A. He read this as you have to have a personal benefit (monetary or something similar); he doesn't make that connection here. He has recused himself in the past from discussions when he thinks it would appear that he had a conflict because of the business he works for or the church.

Maggie G. gave a two-part answer. She had a great phone call with VLCT. They described the process, that the person discloses, then the group as a whole discusses if the conflict exists, then the Board member decides whether to recuse themselves.

Alex W. said in 2018 there was a discussion by the PC on recusal. He continued that Tom A.'s comment was about official map recommendations. The PC didn't have a discussion regarding that, but while the Hannaford project was actively being reviewed by the DRB, the PC did have this discussion (May 2018) and in regards to John K. The conversation in the minutes was about a real vs. perceived conflict of interest. Alex W. added that the official map decision is unrelated to the Hannaford project, because the official map is regarding future development, not about past decisions.

Jeff F. said he raised the issue at the last Select Board meeting because he wanted to talk about it; the designation of lot 15 was before Hannaford showed up. He doesn't know what benefit would have been had. His concern is can you not serve on a board because you're part of another group? He understands the perception, but would rather get it out there for discussion.

Tom A. said his goal in the conversation is for everyone to realize that whether it is a perceived or real conflict of interest, it needs to be brought up before the discussion happens. Tom A. said he heard through the community that they wanted lot 15 as commercial space; he felt either the people in the community weren't heard or there was a conflict.

Peter E. said there are very different committees and boards. The PC is not a decision-making board, it is a recommendation-making board. Renae M. agreed that only the Select Board and DRB and quasi-judicial, but these policies shouldn't be ignored by other boards.

John K. said, in regards to the decision to re-send a letter they had sent earlier to the DRB regarding Hannaford, Marie G. had a concern about his participation; both Dennis P. and John K. recused themselves. Marie G. said Jim Dumont was in the audience at the time and thought John K. should recuse himself, so he did. Marie G. continued that she felt this should be brought up with Boards once a year. Renae M. agreed that discussion of Open Meeting Law and Conflict of Interest should be discussed once a year. They should give new board members a packet that includes these policies.

Merrily L. said the reason it's so important is for trust. If someone has a question, it should be brought out in the open and discussed. It's important that everyone in the town feels that way and can trust the members of the boards.

Catherine G. asked if anyone is willing to speak to idea of personal gain, as it is quite fuzzy. Everyone in town has visions of projects they'd like to see completed in town; she doesn't see this as personal gain. She used the example of a swimming pool, that she might like to see in town because she is a swimmer. If she can enjoy it is that personal gain? Merrily L. replied that if the swimming pool was in your front yard that would be personal gain. If at CVU, you and others (all swimmers) have personal gain. The differentiation is if it's only you who has personal gain. Phil P. said it is a little fuzzy, but it also talks about perceived gain.

Bob Theifels said what Peter E. and Catherine G. said is important. To have a vision for the town is different from a conflict of interest. A conflict of interest may be a disparity of vision. To tell someone they can't be on a commission because their vision differs from your vision is a slippery slope. If someone will benefit monetarily and is involved in a lawsuit, they would need to recuse themselves. Vision is not so obvious; this is politics. They should be able to forward their vision through persuasion. He hoped we don't disallow people who are serving on the boards to not serve on the boards. There is an assumption that those who oppose RGH and lot 15 are in the majority; he ventured that they are not in the majority.

Phil P. redirected to the conflict of interest policy. John K. said he's personally dealing with this, and wondered what to do when someone you're married to is involved in a citizen group outside the government? What should he do to not be accused of a conflict of interest? Phil P. suggested bringing it out in the open during a deliberation, and ask others on the Board. John K. agreed. Jeff F. said there's a perception that there's a conflict of interest, however there was no gain to be had. Where do you draw the line?

Bill M. said he went through the ringer with this on the Select Board. He did his homework. In addition to the policy, the guidelines make it very clear that it has to be personal/special to the individual. He

said at this level there isn't much difference between appearance and actual conflict of interest. There has to be an appearance of personal benefit either privately or in public esteem.

Mary Beth Bowman asked how many people it takes to "perceive" something (2? 20?). What gain would she get from stating an opinion on a committee? Renae M. said the job of the boards and committees is to listen and think about what's in best interest of the town.

Phil P. said there's an attempt by the Select Board to appoint balanced views on committees. He tries to be open-minded; if town was run only by him it would look different than it does today.

Alex W. clarified the record with regard to John K. There was no discussion around conflict of interest regarding the official map. There was a discussion in 2018; on May 9, 2018 the PC had a discussion about it. Marie G. brought it up. On June 13, 2018, the Commission voted on sending the letter to the DRB, and John K. and Dennis P. left the room at that meeting (recused themselves). Marie G. said things worked the way they were supposed to. She felt the process worked perfectly. Phil P. added that the decision to the DRB had more weight than it would have otherwise.

Dan M. said he is new to the PC and this is a new discussion to him. There's a lot of information he's not aware of. He said it seems like it's one thing to be a part of a group and have that group have opinions. With the perceived personal conflict of interest with this group, he's assuming that involves money, and wondered if the money also ties back to the town. He felt that if there was money involved, there may be conflict of interest. He asked for clarification on the money issue, connection to RGH, and back to the town.

Phil P. did not want to discuss in depth, but said that RGH was raising funds and spending their own funds for the lawsuit, and it could be argued that by changing policies in the town that may help their lawsuit, maybe they wouldn't have to spend as many funds; he wasn't arguing this, just mentioning it, and he encouraged Dan M. to discuss with other PC members to get the history.

Peter E. asked what policy is on recusal (leaving the room vs. going to audience). He felt there should be a clear separation from the board.

Tom A. said he'd be happy to end the conversation and make a motion, and was satisfied it has been hashed out. Phil P. said their action will be to put together a packet for new board members and ask each board to at least have that discussion. John K. said the state actually provides documents on all this. Maybe specific examples for our town would be helpful.

Merrily L. said, in regards to recusal, "a public officer who has recused himself shall not sit with that public body, deliberate, ... though may still participate as a member of the public."

Tom A. made a motion to appoint James Donegan, Barbara Forauer, and John Kiedaisch to their respective positions on the Planning Commission for the terms noted in the previous meeting's packet. Aaron K. seconded the motion. The Board voted 5-0.

The Planning Commission left the joint meeting to proceed with their own meeting upstairs.

Planning Commission Meeting

Maggie G. chaired the meeting, which was called to order at 7:26 PM.

Members Present: Maggie Gordon, John Kiedaisch, Barbara Forauer, Marie Gardner, Rolf Kielman, Dan Myhre, James Donegan

Members Absent: Dennis Place

Public Present: none

Also Present: Alex Weinhagen (Director of Planning & Zoning) & Kate Kelly (Recording Secretary)

Maggie G. said they just had a meeting with Select Board regarding conflict of interest policy. She felt it is important to disclose if there is a real or perceived conflict of interest. John K. acknowledged his wife is involved with RGH and that will continue. If anyone has concerns that he is prejudiced or has a conflict of interest, please tell him. Barbara F. and Rolf K. said the same thing.

Agenda Changes: None.

Public Comments for Non-Agenda Items: None.

Official Map – Select Board Change:

Alex W. refreshed their memory that the Select Board, at their Dec. 4 public hearing, made several small changes and a substantive change, which was to remove community facility 34 (the park on lot 15 on Commerce St.). They will hold a public hearing. The Planning Commission is to revise the report they drafted. Alex W. provided a new draft report, which says these changes are still in keeping with the town plan. He also drafted a memo specific to conversation about two issues (should Official Map change be tied to changing the maximum square footage in the commercial district, and should the road that crosses Patrick Brook be changed).

James D. asked if, in regards to the 20,000 sq. ft. cap, can we include that in the Design Standards? Alex W. said the memo states they will discuss this along with the Architectural and Streetscape Design

Standards. James D. asked if the Select Board is asking for this to be included now? Alex W. said no, just that they will discuss later.

John K. asked if a recommendation regarding this would be a change to the zoning. Alex W. said it would be. His vision is that the design standards will be a zoning regulation revision proposal; you could put a cap in with this proposal, as the Commission will be touching several sections/standards as part of the design standards revision.

Marie G. asked how long it would take to see a draft of these – Alex W. said he had hoped to have them tonight, but likely will be working on them through the first half of the year. Nothing for public viewing until the fall.

James D. asked if we can have the cap discussion stand alone and not tied to everything else? Alex W. said yes, it could be discussed separately, and could then be tied in with the Select Board proposal regarding design standards, or could go separately to Select Board. He felt it is a natural fit with design standards.

Rolf K. asked a question about the memo to Select Board. Barbara F. asked for clarification on one issue. Rolf K. asked if there is any part of town where you can build a building larger than 20,000 sq. ft. Alex W. clarified that this cap is only for retail uses. For industrial use, you could build as big or larger than NRG (70,000 sq. ft.). The commercial district (Commerce Park and Ballard's) is the only place you could build retail larger than 20,000 sq. ft. So, it has to be on lot 15 or redevelopment of an existing lot.

Maggie G. said there is a conversation to be had regarding districts (should there be separate districts, where building standards should apply).

Marie G. asked for clarification on if the cap is for the portion of the building that is retail or for the total building.

Dan M. asked, and Alex W. clarified that at the Dec. 4 public hearing, the cap issue was brought up by Jeff French. His concern was with size of the building on that lot. He felt a lot of the public's issues with Hannaford had to do with the size of the building. Dan M. said he is hesitant at setting a cap because it is an inflexible number. Rolf K. asked if it is conditional use; Alex W. said it is conditional up to 20,000 sq. ft. and not allowable above that. There was recognition that you may want a grocery store that is larger than 20,000 sq. ft. – there is an action item in the town plan to review this. Maggie G. said at one point they were going to have a discussion with grocery store folks. They should pull up those numbers when they review.

Alex W. said the regulations read "retail shops, and stores, and service establishments up to a maximum of 20,000 sq. ft." If the use happens on multiple floors, it includes all this (not just the footprint). He

reads this to mean that it is just the shop portion. Alex W. added that we have a list of sizes from various communities and businesses they can review.

James D. said he'd prefer to see this as a stand-alone thing. That way when one recommendation is ready to go, we can send that to Select Board. Marie G. said the 20,000 sq. ft. could be a big issue or they could not pay attention. John K. said a separate thing highlights it. Maggie G. said it needs to be in a building standards discussion, but we could break it out as an action item (vote on it separately, send to Select Board separately). Rolf K. felt the aberration of this cap only applying to this lot should be dealt with. Rolf K. agreed with James D. to deal with the two issues separately. They discussed that it wasn't just lot 15: it also applied to the entire commercial district (Ballard's and Commerce Park). Rolf K. changed his mind and felt the two should be addressed together. Alex W. clarified that stand-alone retail is not allowed except in Village NW and Commercial districts. Alex W. felt that the aberration Rolf K. referred to was not that lot 15 was the only one that didn't have the cap, rather that the commercial district exists without this cap, but he felt that there was a conscious decision to allow these larger stores.

Alex W. asked if the memo accurately captured what they want to tell the Select Board. John K. felt this was adequate. James D. said it didn't sound like others want to separate out one (20,000 sq. ft. cap) from the other. Maggie G. felt it should be submitted separately. The Commission discussed if they'd like to discuss the cap before the other design standards, or if they should be discussed together. Rolf K. said it's worth commenting that the late 1800s was when we started to zone our communities. Now, most of the stuff that goes on isn't so incompatible, and it's becoming an amalgam. It isn't just a size issue, but he feels it is complicated. Alex W. mentioned he has heard concerns that bringing residential into commerce park may eventually push out commerce. He said he'd like to hear the community's opinion. Marie G. said around Giroux's there wasn't much going on there when Commerce Park was created, so it was fine for it to be light industrial; now it is the center of village. The Commission discussed Ballard's corner and possibilities for larger buildings there.

Alex W. asked about the memo. Maggie G. agreed that it reflected their opinion. John K. agreed.

John K. **made a motion to forward the memo and report to the Select Board.** Marie G. **seconded the motion.** The Board **voted 7-0.**

Maggie G. chose to move the next agenda item, Architectural & Streetscape Design Standards, to the next meeting, and move on to minutes.

Minutes of December 11 Meeting:

James D. **made a motion to approve the minutes of December 11, 2019 as written,** and John K. **seconded the motion.** The Commission **voted 6-0;** Rolf K. abstained.

Other Business & Correspondence:

Alex W. mentioned the Conservation Commission's letter to the DRB regarding Haystack Crossing, which they asked to be copied to the Planning Commission. Alex W. will email this to the PC tomorrow morning. He thanked the CC and Trails Committee who made comments already. The developer is now revising their proposal and they hope to get revised plans in this week. They hope to review on the DRB's Feb. 4 meeting.

Contractor yard regulation update: Alex W. and Maggie G. will reconvene the subcommittee at the end of this month to make some revisions. The full commission will likely be seeing this in February or March.

Allocation Scoring hearing: Alex W. apologized he didn't get the notice to the Citizen on time, so this will be an item for their Feb. 12 meeting. Public outreach on that will start beginning of next week via Front Porch Forum. Dan M. asked, and Alex W. answered, that they are required to warn this in the newspaper, to appear at least 15 days before hearing. They have to post notice of hearing around town, and put the agenda on website. They also have to notify surrounding municipalities and state. They go above and beyond by posting to FPF, and to municipal committees. In the past, they've sometimes done a town-wide mailing. Dan M. asked about Facebook – Alex W. said he could do it this way through Aaron Kimball, webmaster. Maggie G. liked the idea of doing an article in the paper. Dan M. said he'd be happy to help with using social media for this and other committees to help promote information about the town, agenda items, etc. Alex W. said he'd connect Dan M. with Aaron K. The Commission felt this would be great for outreach and providing knowledge to the residents of Hinesburg.

Two notices, in Dropbox, on a hearing in Richmond and Shelburne.

Joe I. sent a card, that Alex W. passed around.

Barbara F. mentioned a planning-related book she got for Christmas that she'd share with others. Alex W. has other planning books from Aaron Kimball that are available and he will bring to the next meeting.

The meeting adjourned at 8:37 PM.

Respectfully submitted,
Kate Kelly, Recording Secretary