

1 TOWN OF ESSEX  
2 PLANNING COMMISSION  
3 DRAFT MINUTES  
4 JANUARY 27, 2022  
5

6 **Note: This meeting was in-person and virtual on Teams.**  
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8 **PLANNING COMMISSION (PC) PRESENT:**

9 **IN PERSON:** Dustin Brusco; PC Chair; and Ned Daly.

10 **VIRTUAL:** Josh Knox, Vice-Chair; David Raphael; Jonathan Schumacher; and Tom Furland.  
11

12 **OTHERS PRESENT:**

13 **IN PERSON:** Owiso Makuku, Community Development Director; Sharon Kelley, Zoning  
14 Administrator; Darren Schibler, Planner;  
15

16 **VIRTUAL:** Regina Mahoney; Tracy Delphia; Dawn Hill-Fleury; Jeff Benjamin; Essex Retorter;  
17 Betsy Dunn; Gina Barrett; Lorraine Zaloom; Al Senecal; Brian Bertsch; Patty Davis; and  
18 Community TV.  
19

20 Chairman Brusco called the meeting to order at 6:31 p.m. and called out the Commissioners  
21 who were in attendance virtually and in person. Instructions on how to operate Zoom were  
22 provided to the audience.  
23

24 (The Chair changed the order of Agenda Items 1 & 2)  
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26 **AGENDA ITEM 2: DISCUSSION ON TOWN CAPITAL PLAN: DENNIS LUTZ:**  
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29 Dennis Lutz reported that this will be his last presentation for the FY23-FY27 Capital Plan as he  
30 will be retiring this coming summer. He reported that Aaron Martin will be next in line for the  
31 position and asked that the PC be patient with Martin. Lutz stated that the Capital Plan was  
32 formatted in a different program, Qwestica, however it is not workable for him to provide it on the  
33 overhead, therefore the Finance Department created a pdf spreadsheet that was shareable. He  
34 reported that water and sewer is in the capital plan; is not shown in the pdf plan; and will be  
35 separate from longer term projects. Lutz stated that there are 5 elements in the FY23 Capital Plan  
36 spreadsheet, as follows:  
37

- 38 1. Funding schedule of income from the “2-cents” Capital charge.
- 39 2. Capital Fund financials as of June 30, 2021.
- 40 3. Status of Current Capital Projects as of November 19, 2021.
- 41 4. Capital Projects Definitions; and
- 42 5. Project Summary Sheets.  
43

44 Lutz walked through the spread sheet and spoke upon the following four maintenance projects that  
45 are planned to be funded out of the FY23 undesignated Capital Plan:  
46

- 47 1. The Fort Water Tower (roof, trim and upper windows).
- 48 2. The Library Deferred Maintenance (deteriorating brickwork on the building).
- 49 3. Public Works equipment replacement; and

4. Brigham Hill Road cell tower radio infrastructure communications.

Lutz reported that there will be two major costs that need to be addresses: 1) Stormwater; and 2) the building and relocation for the Public Works employees currently located at the Town Green across from the library. The goal is to centralize the employees in the building where his office is currently located at the Highway Garage, with other staff members.

Lutz reported that the website currently has the materials and narrative up on the Capital Plan.

Lutz concluded by stating, not as a criticism, that it was important that as the PC deliberates projects, they understand that Town Staff has established standards that are legally defensible, such as curb-cuts, etc., and when it comes down to issues, Public Work's staff knows what the issues are and what they are talking about regarding same. Lutz stated that the standards need to be enforced and can't be waived. Lutz understands that applicant and/or applicant's engineers make good waiver arguments, he sincerely hopes the PC recognizes the standards and that they will support the staff recommendations. Lutz stated that they want to work well with developers, but there are times when they do not agree. He wants the PC to understand that Public Works protects the Town's interests.

Chairman Brusco thanked Lutz. Brusco informed the audience that they will take brief comments but there will not be a debate. He opened the floor to the public.

Patty Davis stated that she admires Lutz and will miss him coming to the meetings. She told the PC that they need to listen to what he said about the developer's goals and the Town goals. She noted that the past consultant, Mark from SE Consultants, told the PC that they were in the drivers seat; that people want green space; and stated, "Please don't settle."

The PC thanked Lutz for the presentation.

**AGENDA ITEM 1: PUBLIC COMMENTS:** None.

**AGENDA ITEM 3: DISCUSSION/WORK SESSION: ZONING REGULATIONS:**

- **Letter from Brian Bertsch, P.E. re: RPD-I uses.**

Senecal wanted to make the point that not all developers are the same. Al Senecal and Brian Bertsch reported that they understood the PC was going to start discussions on draft zoning regulations. Senecal stated that he wanted to explain his case regarding the letter that they submitted regarding uses in the Resource Preservation District-Industrial (RPD-I) zone. Senecal asked for confirmation that they received and reviewed the letter. Chairman Brusco said yes, and asked for a brief overview, but no detailed discussion for this meeting.

Brian Bertsch stated that the letter spells out their specific request. Bertsch thought that most of the current PC was involved in the Settlement Agreement with the Court, and at that time limited uses were put in place for the RPD-I zone. He noted that there is good access to the trails, and owns the recreation portion of lands, and asked that they now adopt the uses that are allowed in the Industrial (I1) Zone. He noted that the second page of the letter spells out those uses. In addition to those uses, they would like the PC to consider a restaurant, car wash, medical clinic and cannabis growing facilities.

98 Chairma Brusco asked if there was anyone from the public who wanted to provide comments.

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100 Betsy Dunn asked if a cannabis shop would be too close to the schools. Chairman Brusco stated  
101 that they will not get into specifics at this meeting. Sharon Kelley reported that the State has not  
102 yet ruled on the allowance of cannabis.

103

104 Lorraine Zaloom, stated that Betsy Dunn was her sister. Zaloom asked for berms to protect noise  
105 and light pollution. She reported that the 25' buffer requirement is being waived with most  
106 projects and felt that was a consistent problem.

107

108 Patty Davis asked if the PC was looking at the outskirts of the ETC-NEXT area and if that would  
109 be a template to use.

110

111 Chairman Brusco stated that the process will evolve as the PC goes forward. He noted that the PC  
112 needs to first come up with its work plan.

113

114 Regina Mahoney, Planner for Chittenden County Regional Planning Commission (CCRPC)  
115 provided a refresher presentation to the PC regarding Implementing a Municipal Plan. She  
116 provided an overhead presentation on the following:

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- 118 • Regulatory Implementation- Zoning & Subdivision Bylaws; Flood Hazard  
119 Bylaws; and Local Ordinances.
- 120 • Non-Regulatory Implementation – Improving public facilities;  
121 Informing/engaging citizens and Supplemental Plans.
- 122 • Why Have Local Land Use Regulations – to promote compact walkable  
123 development; Protect Natural Resources; Minimize fragmentation of farmland;  
124 Incentivize affordable housing; Encourage efficient use of infrastructure; Ensure  
125 compatibility with historic character; Establish safe vehicular and pedestrian  
126 circulation; and Make communities more flood resilient.
- 127 • Limits of Local Regulation – Land use regulations tell people what they can and  
128 cannot do with their land, but they cannot deprive landowners of all reasonable  
129 use of their property (5<sup>th</sup> & 14<sup>th</sup> Amendments); Land use regulations can only  
130 regulate what is enabled in Vermont Statute; Vermont Limitations and  
131 Prohibited Effects.
- 132 • Players and processes potentially involved in local regulation.
- 133 • Local Regulation: Types of Review – Zoning, Permitted Use; Conditional Use;  
134 Site Plan Review; Variances; Waivers; Planned Unit Developments;  
135 Subdivision.
- 136 • Regulatory Decisions.
- 137 • Appeals.
- 138 • Interested Persons May Appeal; and
- 139 • Non-Regulatory Implementation.

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141 Mahoney provided a Memo regarding a suggested workplan for the PC for the upcoming year. A  
142 discussion ensued on what should be eliminated and/or added to the proposed suggestions for a  
143 workplan. Mahoney stated that she will update her Memo with the suggestions provided.

144

145 Mahoney stated that the Town Plan needs to re-adopted next year as the current Plan was approved  
146 8 years ago. Mahoney believes it is still a relevant plan and may not need much work.

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148 Owiso Makuku suggested the PC re-read the Town Plan document as a refresher.

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150 **AGENDA ITEM 4: MINUTES 1/13/2022:**

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152 **Commissioner Raphael MOVED and Commissioner Schumacher SECONDED a**  
153 **MOTION to approve the 1/13/2022 minutes with the grammatical changes as reported.**  
154 **The MOTION passed 6-0.**

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156 **ITEM 5: OTHER BUSINESS:** Chairman Brusco announced that the Select Board is going to  
157 full virtual meetings for a few months and asked the PC if they wanted to do the same. The PC  
158 decided to keep the meetings going as is, both virtually and in-person and, this decision can be  
159 revisited as the PC goes forward.

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161 The meeting adjourned at 8:20 p.m.

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PLANNING COMMISSION

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By: \_\_\_\_\_  
Dustin R. Brusco, Chair

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