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TOWN OF ESSEX
PLANNING COMMISSION
MINUTES
JANUARY 27, 2022

Note: This meeting was in-person and virtual on Teams.

PLANNING COMMISSION (PC) PRESENT:

IN PERSON: Dustin Bruso; PC Chair; and Ned Daly.

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

OTHERS PRESENT:

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

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

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

(The Chair changed the order of Agenda Items 1 & 2)

AGENDA ITEM 2: DISCUSSION ON TOWN CAPITAL PLAN: DENNIS LUTZ:

Dennis Lutz reported that this will be his last presentation for the FY23-FY27 Capital Plan as he will be retiring this coming summer. He reported that Aaron Martin will be next in line for the position and asked that the PC be patient with Martin. Lutz stated that the Capital Plan was formatted in a different program, Questica, however it is not workable for him to provide it on the overhead, therefore the Finance Department created a pdf spreadsheet that was shareable. He reported that water and sewer is in the capital plan; is not shown in the pdf plan; and will be separate from longer term projects. Lutz stated that there are 5 elements in the FY23 Capital Plan spreadsheet, as follows:

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

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

1. The Fort Water Tower (roof, trim and upper windows).
2. The Library Deferred Maintenance (deteriorating brickwork on the building).
3. Public Works equipment replacement; and
4. Brigham Hill Road cell tower radio infrastructure communications.

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

54
55 Lutz reported that the website currently has the materials and narrative up on the Capital Plan.

56
57 Lutz concluded by stating, not as a criticism, that it was important that as the PC deliberates
58 projects, they understand that Town Staff has established standards that are legally defensible, such
59 as curb-cuts, etc., and when it comes down to issues, Public Work's staff knows what the issues
60 are and what they are talking about regarding same. Lutz stated that the standards need to be
61 enforced and can't be waived. Lutz understands that applicant and/or applicant's engineers make
62 good waiver arguments, he sincerely hopes the PC recognizes the standards and that they will
63 support the staff recommendations. Lutz stated that they want to work well with developers, but
64 there are times when they do not agree. He wants the PC to understand that Public Works protects
65 the Town's interests.

66
67 Chairman Brusio thanked Lutz. Brusio informed the audience that they will take brief comments
68 but there will not be a debate. He opened the floor to the public.

69
70 Patty Davis stated that she admires Lutz and will miss him coming to the meetings. She told the
71 PC that they need to listen to what he said about the developer's goals and the Town goals. She
72 noted that the past consultant, Mark from SE Consultants, told the PC that they were in the drivers
73 seat; that people want green space; and stated, "Please don't settle."

74
75 The PC thanked Lutz for the presentation.

76
77 **AGENDA ITEM 1: PUBLIC COMMENTS:** None.

78
79 **AGENDA ITEM 3: DISCUSSION/WORK SESSION: ZONING REGULATIONS:**

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

81
82 Senecal wanted to make the point that not all developers are the same. Al Senecal and Brian
83 Bertsch reported that they understood the PC was going to start discussions on draft zoning
84 regulations. Senecal stated that he wanted to explain his case regarding the letter that they
85 submitted regarding uses in the Resource Preservation District-Industrial (RPD-I) zone. Senecal
86 asked for confirmation that they received and reviewed the letter. Chairman Brusio said yes, and
87 asked for a brief overview, but no detailed discussion for this meeting.

88
89 Brian Bertsch stated that the letter spells out their specific request. Bertsch thought that most of
90 the current PC was involved in the Settlement Agreement with the Court, and at that time limited
91 uses were put in place for the RPD-I zone. He noted that there is good access to the trails, and
92 owns the recreation portion of lands, and asked that they now adopt the uses that are allowed in the
93 Industrial (I1) Zone. He noted that the second page of the letter spells out those uses. In addition
94 to those uses, they would like the PC to consider a restaurant, car wash, medical clinic and
95 cannabis growing facilities.

96 Chairman Brusio asked if there was anyone from the public who wanted to provide comments.

97

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

101
102 Lorraine Zaloom, stated that Betsy Dunn was her sister. Zaloom asked for berms to protect noise
103 and light pollution. She reported that the 25' buffer requirement is being waived with most
104 projects and felt that was a consistent problem.

105
106 Patty Davis asked if the PC was looking at the outskirts of the ETC-NEXT area and if that would
107 be a template to use.

108
109 Chairman Brusco stated that the process will evolve as the PC goes forward. He noted that the PC
110 needs to first come up with its work plan.

111
112 Regina Mahoney, Planner for Chittenden County Regional Planning Commission (CCRPC)
113 provided a refresher presentation to the PC regarding Implementing a Municipal Plan. She
114 provided an overhead presentation on the following:

- 115
- 116 • Regulatory Implementation- Zoning & Subdivision Bylaws; Flood Hazard
 - 117 Bylaws; and Local Ordinances.
 - 118 • Non-Regulatory Implementation – Improving public facilities;
 - 119 Informing/engaging citizens and Supplemental Plans.
 - 120 • Why Have Local Land Use Regulations – to promote compact walkable
 - 121 development; Protect Natural Resources; Minimize fragmentation of farmland;
 - 122 Incentivize affordable housing; Encourage efficient use of infrastructure; Ensure
 - 123 compatibility with historic character; Establish safe vehicular and pedestrian
 - 124 circulation; and Make communities more flood resilient.
 - 125 • Limits of Local Regulation – Land use regulations tell people what they can and
 - 126 cannot do with their land, but they cannot deprive landowners of all reasonable
 - 127 use of their property (5th & 14th Amendments); Land use regulations can only
 - 128 regulate what is enabled in Vermont Statute; Vermont Limitations and
 - 129 Prohibited Effects.
 - 130 • Players and processes potentially involved in local regulation.
 - 131 • Local Regulation: Types of Review – Zoning, Permitted Use; Conditional Use;
 - 132 Site Plan Review; Variances; Waivers; Planned Unit Developments;
 - 133 Subdivision.
 - 134 • Regulatory Decisions.
 - 135 • Appeals.
 - 136 • Interested Persons May Appeal; and
 - 137 • Non-Regulatory Implementation.

138
139 Mahoney provided a Memo regarding a suggested workplan for the PC for the upcoming year. A
140 discussion ensued on what should be eliminated and/or added to the proposed suggestions for a
141 workplan. Mahoney stated that she will update her Memo with the suggestions provided.

142
143 Chairman Brusco asked the Commissioners what they wanted to put on the list for the upcoming
144 year, recognizes that some items may take more than one year. Brusco suggested the ETC|NEXT

145 project should be at the top of the list, as well as strengthening the PUD regulations. He
146 acknowledged that the Town Plan needs to be readopted for 2024.

147
148 Commissioner Daly seconded the ETC|NEXT & PUD topics. He noted that the Housing
149 Committee is working on inclusionary zoning and suggested this may tie into the incentives for
150 mixed types of affordable housing within the ETC|NEXT, as well as the whole town; energy
151 efficiency and how to incentivize same; and noted that the can “hash out the little stuff as they go.”

152
153 Commissioner Raphael said “Ditto” to PUDs; he suggested that the Phasing Policy is not serving
154 the PC well as the numbers never bump up against the maximum allowed; affordable housing and
155 how can density bonuses be more effective.

156
157 Vice-Chair Knox said “Ditto” to PUD & ETC|NEXT. He likes the idea of a walkable community
158 at Fort Ethan Allen and the Historic Center, which was once walkable; and state designations if
159 separation is approved.

160
161 Commissioner Furland suggested to prepare for the future with regards to solar and electric
162 charging facilities. He questioned if affordable housing could be increased in existing developed
163 areas.

164
165 Commissioner Schumacher stated that PUDs are his highest priority and currently feels like
166 “nobody wins”; Ditto to density bonuses & ETC|NEXT.

167
168 Mahoney stated that the Town Plan needs to re-adopted in FY2024 as the current Plan was
169 approved 8 years ago. Mahoney believes it is still a relevant plan and may not need much work.

170
171 Owiso Makuku suggested the PC re-read the Town Plan document as a refresher.

172
173 **AGENDA ITEM 4: MINUTES 1/13/2022:**

174
175 **Commissioner Raphael MOVED and Commissioner Schumacher SECONDED a**
176 **MOTION to approve the 1/13/2022 minutes with the grammatical changes as reported.**
177 **The MOTION passed 6-0.**

178
179 **ITEM 5: OTHER BUSINESS:** Chairman Brusco announced that the Select Board is going to
180 full virtual meetings for a few months and asked the PC if they wanted to do the same. The PC
181 decided to keep the meetings going as is, both virtually and in-person and, this decision can be
182 revisited as the PC goes forward.

183
184 The meeting adjourned at 8:20 p.m.

185 PLANNING COMMISSION

186
187 By: _____
188 Dustin R. Brusco, Chair

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