

**JOINT MEETING WITH THE
CONWAY PLANNING BOARD
AND THE CONWAY BOARD OF SELECTMEN**

MINUTES

AUGUST 31, 2000

A meeting of the Conway Planning Board and the Conway Board of Selectmen was held on Thursday, August 31, 2000 beginning at 7:05 p.m. Those present from the Planning Board were: Chair, Sheila Duane; Vice Chair, Stacy Sand; Robert deFeyter; Conrad Briggs; and Alternate, Martin Frank. Those present from the Board of Selectmen were: Chair, Jac Cuddy; Gary Webster; Dick O'Brien; and Theresa Kennett. Also attending were: Town Manager, Earl Sires; Planning Director, Thomas Irving; Building Inspector, David Pandora; Zoning Officer, Sandy Stowell; Planning Intern, John Cook; and Recording Secretary, Holly Meserve.

MASTER PLAN UPDATE

Mr. Cook gave a presentation on the land use inventory. Mr. Irving reviewed the master plan process. Mr. Cuddy stated that he would be in favor of hiring someone for Mr. Irving so he can do what he was hired to do and have the other person running the meetings. Mr. O'Brien agreed and stated that he would like to see someone else doing site plan reviews and have the planning board to do the planning. Ms. Kennett stated that the master plan could be managed with the right amount of help as well as the day-to-day tasks. Ms. Kennett stated that consultants are beneficial to help manage effectively.

Ms. Sand stated that there are internships year round and it shouldn't be limited to summer interns. Ms. Sand stated that the Planning Board is ultimately responsible for the Master Plan and the Board is going to have to be at the consulted directed meetings. Mr. deFeyter stated another option would be to have a moratorium to allow town staff to work on the master plan full-time. Mr. deFeyter stated that we are fighting fires all the time. Mr. deFeyter stated that the Planning Board is going to have to continue to do two things at the same time. Mr. deFeyter stated that this is an alternative. Mr. deFeyter stated in terms of cost this is the less costly. Mr. deFeyter stated that he doesn't particularly like the idea, but it should be an option.

Ms. Kennett stated that we should listen to the people that are here that we pay to help us. Ms. Kennett stated given the response last year it is not worth our time discussing a moratorium. Ms. Kennett stated that this type of discussion slows us down. Mr. Irving stated that there is an extremely steep learning curve for doing site plan reviews. Mr. Irving stated that we might lose several months training someone. Mr. Irving stated that things are changing in the interpretation. Mr. Irving stated that we have to be careful out sourcing items, but they will have a more expansive pool of information.

Ms. Sand stated that we have to be there and this is a volunteer board. Ms. Sand stated that she is willing to dedicate time, but we all have our limitations. Mr. Sires stated that we have to get the message out to the community that this is important and that it doesn't come for free or without a lot of hard work. Mr. Sires stated that moratoriums work well on specific items and for a short time. Mr. deFeyter stated that the State allows a moratorium for up to a year. Mr. Sires stated that you couldn't go through the master plan process in a year. Mr. deFeyter stated that you could get a lot of it done. Mr. deFeyter stated that this is not his first choice either.

Mr. Sires stated he can understand being cautious about bringing in outside consultants, but they can work. Mr. Sires stated that the selection process is important and there are ways of negotiating a contract. Mr. Sires stated that he would recommend an outside professional. Mr. Cuddy stated that we should demonstrate to the community that the Planning Board and the Board of Selectmen are working together and, hopefully tonight, we can come together as a group and select an alternative and get behind it. Mr. Cuddy stated that we need to work together in order to sell it to the community that this is an important task and we need the funds to do it. Mr. Cuddy stated that a moratorium is a negative thing and will not fly in the face of the public. Mr. Cuddy stated that it is better to work together and get the master plan done.

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Mr. deFeyter made a motion, seconded by Mr. Cuddy, to suggest that the Board of Selectmen and the Planning Board endorse option #2 and move forward with that option. Ms. Duane appointed Mr. Frank as a voting member. Ms. Duane asked for public comment; Luigi Bartolomeo stated that Mr. Irving expressed not to do it alone, but to bring in some help. Mr. Bartolomeo stated that a good consultant is worth their weight in gold. Mr. Barriault stated that he thinks a moratorium is too drastic. Mr. Barriault stated that other towns have gone to a controlled development, which would still allow development, but could in effect relieve for the Board and the staff.

Mr. O'Brien stated he doesn't think he can vote for this because the town has hired an expert. Mr. O'Brien stated a consultant should be doing the work with staff to lighten up the load to do the planning. Ms. Sand stated that she would go with Mr. Irving's professional opinion. **Mr. Cuddy, Mr. Webster, Ms. Kennett, Ms. Duane, Ms. Sand, Mr. deFeyter, Mr. Briggs, and Mr. Frank voted in the affirmative and Mr. O'Brien voted in the negative.** Mr. Cook left at this time.

ENFORCEMENT

Ms. Sand stated that the Board spends a lot of time doing their job reviewing the plans and when the project is inspected things are not what they was depicted on the plans. Mr. Sand asked what could we do in the future regarding enforcement. Mr. Cuddy stated that the Board of Selectmen has had conversations on this subject and he doesn't think the Board of Selectmen has reviewed any of the issues yet that the Planning Board is concerned with. Mr. Cuddy stated that we have a responsibility to the business community so they feel they are being treated equally.

Mr. Cuddy stated that we are dealing with a lot of issues that are not clear-cut. Mr. Cuddy stated that the laws on the books that are clear-cut need to be enforced and the message needs to be that everyone is treated equally. Ms. Kennett stated that she believes her job, because the Board of Selectmen is charged with enforcement, is to uphold what is on the books. Ms. Kennett stated that there are shades of gray when what is on the books is unclear. Ms. Kennett stated that we need to make sure that the ordinances are clear so they know what they have to do right up front.

Ms. Sand stated that she agrees there are gray areas and progress is being made. Ms. Sand stated that the present sitting Planning Board has been consistent. Ms. Sand stated that there are a lot less waivers being granted from previous boards. Ms. Sand stated that the Planning Board has been fair and consistent and staff has been clear with the applicant. Ms. Sand stated that she is more concerned with those who do not follow their plans. Ms. Sand stated that there has not been a fine levied. Ms. Sand stated that there are still items on the compliance list that have been on the list since the beginning. Ms. Sand stated that this spring the town put together a whole new fine process. Ms. Sand asked if fines would begin to be levied.

Ms. Duane stated that there is a six-month time span between the first notice and the second notice. Mr. Sires stated that most individuals do comply and quickly. Mr. Sires stated that there is a group that have a good case or don't want to comply. Mr. Sires stated that there was too much time in the process. Ms. Kennett stated that that time frame has been shortened. Ms. Kennett stated that they also want the public to be educated. Ms. Sand stated that some of the violators have been so blatant about it. Ms. Sand stated that she is glad that the town has come up with a plan. Ms. Sand stated that it is frustrating when the Planning Board has spent hours going over plans. Mr. Cuddy stated that they just put this together because the ordinance wasn't written correctly to impose the fines.

Ms. Sand stated that when the two Boards met a year ago the Board of Selectmen said the same thing. Ms. Sand asked when she could believe this is going to happen. Mr. Cuddy stated that it has been updated. Ms. Duane stated that they have to wait and see if this method of enforcement is going to work. Ms. Duane stated that all things take time. Ms. Sand stated that she knows it is trial and error before you get to where you want to be. Mr. Webster stated that they had to start from ground zero and the three top contenders have been scheduled to meet with the Board of Selectmen.

Mr. deFeyter stated that the Planning Board is suppose to approve a site plan, the applicant builds it while being monitored by the town and then a certificate of occupancy is suppose to be issued. Mr. deFeyter read Article 123-47 in regard to certificate of occupancies. Mr. deFeyter stated that we have a number of establishments that are operating without occupancy permits. Mr. deFeyter stated there are no provisions for temporary certificate of occupancies.

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Mr. Sires stated that there is a combination of things going on here. Mr. Sires stated to do this right we would need five times the staff. Mr. Sires stated that every one of these cases is unknown. Mr. Sires stated that we are going to do it at the staff level to make it a more efficient process. Mr. deFeyter stated that the business community needs to take responsibility. Mr. deFeyter stated if we couldn't enforce an ordinance we should get rid of it completely.

Mr. Sires asked how do you prioritize these items. Mr. Sires stated, for example, outdoor seating, there is no harm, there not providing wait service, so were not going to deal with them. Ms. Duane stated that we need to go forward from here and see when we can expect to see enforcement. Mr. Cuddy stated that there are three or four coming in now. Ms. Stowell stated that it takes time to get things back into control. Mr. Frank stated that he thinks because of all the short falls over the past couple of years part of what we need to do is to have all of us work together. Mr. Frank stated that we need to work to get the business community on the side of what we want. Ms. Stowell suggested educational seminars for the business community.

Mr. O'Brien stated if we are going to enforce ordinances we should enforce all of them. Mr. Cuddy stated that people do not want to go for site plan review. Mr. Cuddy stated that they are doing what they can without going to site plan review. Mr. Cuddy stated that there needs to be a better relationship so the Board of Selectmen can enforce what the Planning Board is doing. Mr. Cuddy stated that there has been a change in the current board and the direction is positive. Ms. Duane stated that it takes a while for wounds to heal. Mr. Cuddy stated that we need to enforce what your doing. Ms. Sand stated that participation has changed over the year. Ms. Sand urged the Board of Selectmen to follow what they have put in place. Ms. Sand stated that she doesn't see sitting here in the next six months if nothing is done.

Ms. Kennett stated that she does realize how hard the Planning Board works. Ms. Kennett stated the process of the Planning Board is to be customer friendly and it is the same for enforcement. Ms. Kennett stated that she is going to do her job and what is expected of her. Ms. Kennett stated that she believes 85 percent of the violators comply. Mr. deFeyter stated that he doesn't want to lose perspective and Ms. Sand has adequately demonstrated the frustration of the Planning Board. Mr. deFeyter stated that a lot of people do good work. Mr. deFeyter stated that we are talking about a few problem cases.

Mr. Webster stated he does not believe since the establishment of the compliance log anything has been dropped from the list just because the Board of Selectmen didn't want to deal with them. Mr. Webster stated that they could only bring in a couple at a time. Ms. Duane stated that the Board of Selectmen is trying and working on it, but it does take time. Ms. Duane stated that we need to give them more time. Ms. Duane stated that we should meet again in approximately three months. Mr. Cuddy stated that we should have a quarterly meeting.

Tom Holmes, Tax Assessor, stated that contractors are consistently violating codes during residential renovations. Mr. deFeyter agreed and stated that the Town does have a registration form for contractors, but there are no teeth involved. Mr. Webster stated that the people who are building from the approved site plan should be held responsible as well.

FIELD CHANGE LETTER

Mr. deFeyter submitted the attached information. Mr. deFeyter read the packet. In regard to page D, Amendment #7, Mr. deFeyter stated that earlier this year the Planning Board authorized staff to go ahead with these reviews. Mr. deFeyter stated that staff has stated that they do not have the time to do the reviews and they would have to come to the Planning Board. Mr. deFeyter read the memo dated May 18, 2000. Mr. deFeyter stated that the only authority for making site plan approval is the Planning Board and the only other option is a staff review process and there is not a staff reviews process.

Mr. deFeyter stated that town staff couldn't change that approval which is what is happening. Mr. deFeyter stated that it should be handled in another, expedite manner. Ms. Sand stated that she disagrees that that is what is happening. Ms. Sand stated that this is after the plans are signed. Ms. Kennett stated that this is during construction. Mr. Pandora stated that the intent of the approval is met. Mr. Pandora stated that this came about with the Comfort Inn when they changed a few windows and the pitch of the roof. Mr. deFeyter stated that that is not what the memo says.

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Mr. Cuddy stated that Mr. deFeyter needs to provide us with a solution and not challenge everything. Mr. Cuddy stated that Mr. deFeyter should present his solution. Mr. Cuddy stated that Mr. deFeyter has a lot to offer and he shouldn't be antagonistic. Mr. deFeyter stated that he did present a solution and that was to have staff reviews. Mr. Webster stated that we have discussed this before and staff still needs to follow the same procedures as the Planning Board. Mr. Webster stated that it is not as clear as it is being presented.

Mr. Irving stated that the RSA does allow technically qualified administrators for staff reviews. Mr. Irving stated that there is nothing that frees staff from doing what the Planning Board has to do. Mr. Irving stated that the applicant has to pay all the fees for review plus the public notification fees. Mr. Irving asked if there is efficiency to be gained by adding staff reviews. Mr. Irving stated that staff is already attending the public hearings. Mr. Irving stated that he would propose items that are qualified for a staff review is exempted if they meet the ordinance. Mr. Irving stated if they are requesting a waiver then they would have to go before the Board.

Mr. Cuddy stated that staff would have to go through the same process as the Planning Board. Mr. Irving stated that the memo pertains to minor changes to the elevation drawings or for the overall character of the site, but remains in compliance with the ordinance. Mr. deFeyter stated that he raised the issue with Mr. Irving and he originally spoke to the Office of State Planning at length. Mr. deFeyter stated that they could have that this committee meets on a certain day at a certain time. Ms. Sand stated that this is what the memo is saying and the Board is getting back the items that take a project out of compliance. Mr. deFeyter stated that you couldn't make these changes under this authority.

Mr. Irving stated if it is the desire of the Board to implement staff reviews that is what we will do. Ms. Duane asked at what cost. Mr. Irving stated that it would cost the Board and the applicant. Mr. deFeyter stated that we should be able to do staff reviews that take the stress of the staff. Ms. Duane stated that this memo was discussed. Mr. deFeyter referred to the adopted Minutes of May 25, 2000 and stated that the memo was read and there was no discussion allowed.

Mr. deFeyter stated that we should make it necessary so we can do staff reviews to take strain off the Planning Board and then staff. Mr. Webster stated that he would support town staff as they are doing a good job and Mr. deFeyter is making it appear that they are not. Mr. Webster stated that he thinks staff is doing a hell of a job and he thinks Mr. deFeyter is not happy with staff because he is always picking on them. Mr. Webster stated that he wishes Mr. deFeyter would change his attitude and have a more positive approach.

Mr. Bartolomeo stated that he is concerned with the construction change issue. Mr. Bartolomeo stated before a developer buys a piece of land it is contingent upon approvals. Mr. Bartolomeo stated to expect the entire building to be exactly what they build is unrealistic. Mr. Bartolomeo stated what they are getting is a conceptual design and during the process there is refinement. Mr. deFeyter stated that there is a process for a conceptual review the applicant can take advantage of. Mr. Bartolomeo stated that we have "guidelines" and it is never nail downed that early in the process. Mr. deFeyter stated that he didn't write them nor would he defend them. Mr. O'Brien stated he was on the Board at that time and he asked if they were etched in stone and he was told they were guidelines.

Meeting adjourned at 10:20 p.m.

Respectfully Submitted,

Holly L. Meserve
Recording Secretary