

**TOWN OF CHESTER**  
**PLANNING COMMISSION**  
**April 20, 2020 Minutes**

**Commission Members Present:** Naomi Johnson, Tim Roper, Cheryl Joy Lipton, Peter Hudkins and Barre Pinske via video conference.

**Staff Present:** Michael Normyle, Zoning Administrator, at the Town Hall Cathy Hasbrouck, Recording Secretary via video conference.

**Citizens Present:** none.

**Call to Order**

Chair Naomi Johnson called the meeting to order at 6:30 PM.

**Agenda Item 1 Review minutes from March 30, 2020 meeting**

Cheryl Joy Lipton moved to accept the minutes from the March 30, 2020 meeting. Tim Roper seconded the motion. Naomi Johnson noted that the word, “parcel” on page 3 had a 4 in it. A vote was taken and the minutes were accepted as amended.

**Agenda Item 2, Citizen Comments**

No citizen had any comments to make.

**Agenda Item 3 Reorganization**

The Planning Commission is obliged by statute to re-organize annually, electing a Chair and a Clerk. Cheryl Joy Lipton nominated Peter Hudkins for the office of Chair. Tim Roper seconded the motion. Naomi Johnson said she will ask for a vote on Peter Hudkin’s nomination and then open the floor for more nominations. The vote to accept the nomination of Peter Hudkins as Chair passed unanimously.

Peter Hudkins said he was willing to be the Chair as long as he could skip a meeting when his farm chores required it. Those times are likely to be the month of April for lambing season and during haying times. Naomi Johnson said she occasionally substituted for Tom Bock when he was the Chair. Tim Roper asked how the substituting would work, as there was work unique to the Chair position that had to be done. How would the Chair pass information to whoever would run the meeting in his or her place?

Peter Hudkins noted that, in the past, the Planning Commission’s work included hearings for sub-divisions. Those hearings could not be lightly pushed off. He felt that the current Planning Commission duties could tolerate an occasional cancelled meeting. Naomi Johnson suggested that a meeting where a lot of citizens will be attending, or when work on the Town Plan which is done in conjunction with the Select Board and can be time critical, are reasons not to cancel a meeting, but to have someone else chair the meeting.

Peter Hudkins asked about the second position on the Commission which could be seen as backup to the chair. Naomi Johnson said the statutes allow a clerk position, but not a vice-chair position. Tim Roper asked Peter Hudkins if lambing was predictable enough to be able to predict when he couldn’t make a meeting. Peter said usually he can count on being busy in April and occasionally into May, depending on when the ewes were exposed to the rams. He said he sometimes has someone to fill in and it is likely this won’t be a problem. Naomi Johnson said

lambling, and to some extent, haying are predictable seasons and the Planning Commission could avoid scheduling critical business during those periods. Tim Roper said if there was a clerk, could that person consult with the chair before the meeting to sort out what needed to be discussed? Barre Pinske suggested Naomi Johnson could handle the clerk position without needing any coaching. Tim Roper said that would work for this year. He was referring to Naomi's statement that she will not likely take another term on the Planning Commission after this year.

In a facetious aside, Peter Hudkins said he had planned on nominating Recording Secretary Cathy Hasbrouck as chair. He wanted to know if the chair had to be a member of the board or if they just needed to be well organized. Cathy Hasbrouck said she would certainly support anyone as chair and she hoped that the Commission members didn't mind talking to each other to share information. Tim Roper pointed out that Cathy was the only person who had said anything about missing the commission members in an e-mail. Cathy said she grew up with nine siblings and had a choice of liking people or going crazy. She decided to like people, including Planning Commission members.

Returning to the business at hand, reorganization, Tim Roper asked Naomi Johnson if she would accept a nomination of clerk for one year. She said she would. There were no other nominations for chair. Peter Hudkins extracted a promise from Cathy Hasbrouck to help him organize the work and accepted the position of chair. Tim Roper moved to open nominations for the clerk position. Cheryl Joy Lipton seconded the motion. Tim Roper nominated Naomi Johnson as clerk. Peter Hudkins seconded the nomination. A vote was taken and Naomi was elected clerk.

Peter Hudkins asked Naomi if she would continue running the meeting that evening and Naomi agreed. Cathy Hasbrouck suggested that Naomi Johnson could share her list of tasks to be accomplished with Peter Hudkins. Cheryl Joy Lipton suggested that Peter and Naomi could use Zoom to consult with each other. Naomi Johnson said she could also visit Peter and the lambs and stay six feet away.

#### **Agenda Item 4, River Corridor Discussion: decide how we will evaluate the impact of adopting the model bylaws and how we would move forward**

Naomi Johnson noted that the last time the topic was discussed was February 17, 2020. The minutes for that meeting summarized the discussion with John Broker Campbell. One of the points discussed then was that the state of Vermont would do a more detailed study of the river corridor areas in Chester, if there was a strong commitment on the town's part to adopt the River Corridor model bylaws. Naomi said Vermont's River Corridor bylaw was different from FEMA's standards and she felt there were valid reasons for the difference. She said she was in favor of adopting the River Corridor bylaw, but felt it should be addressed separately from the proposed bylaw package and done after the proposed bylaw project was finished.

Naomi went over the history of the proposed bylaw project. The project began in August, 2018. The schedule Brandy Saxton planned had a projected end date of May 2019. There were many Saturday meetings over the winter and the workshops introducing the proposed bylaws to the citizens of Chester were held in June 2019. At the end of the workshops there was a list of issues put forward by citizens that needed to be addressed. The key list was a June 22, 2019 document of feedback gathered by Brandy Saxton at the public meetings. This list was addressed over the

summer and fall. The district boundaries were carefully reviewed as part of resolving citizen concerns. The Planning Commission also met with Vermont's Fish and Wildlife staff, and Flood Plain Manager John Broker Campbell. The Commission toured several areas of town. In September a new list of issues was formulated. Some of the issues had come up at regular meetings over the course of the summer and in the course of reviewing the district boundaries.

Naomi Johnson mentioned Peter Hudkin's research on the impact these changes will have on the Grand List and the distribution of the tax burden across all land owners. She hoped those results could be presented in the summer of 2020.

Tim Roper verified that the reason the Planning Commission would consider the River Corridor regulations was the 5% additional reimbursement the town would receive in the event of a flood. Michael Normyle confirmed that the figure was 5%. Tim asked if the Selectboard should be consulted about doing the project. Will the 5% reimbursement justify the effort and potential impact on the Grand List? Naomi Johnson said the question has been posed in the Commission meetings but she doesn't know if it has been posed to the Selectboard and there has been no input from the Selectboard. Tim Roper said he was asking that the Commission get input from the Selectboard before going further and he believed the Selectboard would need some kind of synopsis of the expected impact before it could offer an opinion.

Cheryl Joy Lipton agreed that it was important to know whether the Selectboard would be willing to support the project. She said she thought the 5% reimbursement which could be received from the state was a substantial amount of money and the likelihood that flood events would occur is increasing. She said she thought the big problem with the town adopting the River Corridor regulations was not being allowed to rebuild after a flood. The materials about riparian buffers she shared with the Commission earlier showed ways to reduce the impact of flooding. She would like to address reducing the impact of flooding as part of the River Corridor discussion and include restoration of the natural river corridor.

Barre Pinske said he has been kayaking on the rivers this spring. He noticed that the railroad bridges in the area are close to the water level and thinks they can act like a dyke or dam when they catch debris during a flood. He wanted the minutes of the meeting to state that he believed the railroad should look at putting in a spillway for the low bridges to mitigate the impact of the bridge acting as a dam and causing flooding behind it. He thought spending money to reduce the level of flooding should be considered when discussing reimbursement for flood damages. Barre also noted that natural disasters contribute to the economy when resources are spent repairing flood damage. The repairs create jobs.

Peter Hudkins said he felt the River Corridor model bylaws represent a taking of property because the properties in the designated River Corridor will not be allowed to be maintained and will fall into disrepair. The properties may only be used for forestry and agriculture and their value will be removed from the Grand List. He felt the loss of tax revenue in one year would exceed the loss from a \$1,000,000 storm. He wanted to table the discussion until after the proposed bylaws have been acted on.

Tim Roper asked whether the request to the Selectboard for their opinion on implementing the River Corridor should include a recommendation from the Planning Commission for or against the River Corridor bylaws.

Barre Pinske asked whether the job of the Planning Commission is to analyze the impact of the River Corridor bylaws and make a recommendation to the Selectboard based on their analysis, or if it is only to ask the Selectboard for their opinion. Naomi Johnson pointed out that Tim's original question had included giving a summary of the situation to the Selectboard. Naomi said she thought it would be very helpful to give the Selectboard summarized information for the Selectboard to consider or not. Naomi said she was willing to research how many other towns in Vermont have adopted the River Corridor bylaws.

Cheryl Joy Lipton said the Commission should look into any other existing incentives for adopting the River Corridor bylaws, particularly for residents in the River Corridor. Barre Pinske recalled that Ludlow and Wilmington decided not to adopt River Corridor bylaws. Tim Roper said Springfield did not adopt them. Michael Normyle said Cavendish did adopt them.

Peter Hudkins said it depends on where the rivers are in town. He said there are 13 houses behind the high school which would lose their value because they are in the River Corridor and could no longer be maintained. Naomi Johnson said she thought gathering information about the parcels affected by the River Corridor bylaws would be important. Cathy Hasbrouck volunteered to dig out that information.

Cheryl Joy Lipton said even if the River Corridor bylaws were not adopted, the town could still do things to reduce or prevent so much damage from flooding. Naomi Johnson repeated Brandy Saxton's comments about riparian buffers from quite a while ago. Brandy had said the proposed bylaws had some language about riparian buffers, but if the River Corridor bylaws were adopted, the riparian buffer language would be revised. Naomi Johnson said the Commission had not reviewed the riparian buffer language included in the proposed bylaws yet. Naomi said she had not looked up that language in her preparations for the meeting.

Tim Roper said philosophically he was in favor of restoring the natural ecology of the rivers. He was concerned about the impact on the homes Peter Hudkins mentioned that could not be rebuilt if they were damaged by floods.

Peter Hudkins said Chester has many small valleys along the three branches of the Williams River and the properties in those small valleys will be greatly devalued by the River Corridor regulations.

Barre Pinske said he would like to address the problem created by human activity, such as the low railroad bridge, as a way to prevent floods. He would like to reduce the ways human activity aggravate the problem. Naomi Johnson pointed out the highways and road also aggravate the flooding problem, but they are not included in the River Corridors.

Cheryl Joy Lipton said humans remove the debris along rivers. That debris helps slow flood waters down. She recommended leaving the debris and letting wetlands form along the river banks to slow the speed of the water in a flood.

Naomi Johnson said she was volunteering to do some research on the questions raised at the meeting, such as how many other towns have adopted the River Corridor bylaw and how many properties in Chester would be affected by the regulations. She would also investigate whether there was any incentive or relief for individual property owners under the River Corridor bylaw.

Peter Hudkins recommended counting the number of houses that would be affected by the River Corridor bylaw. Cheryl Joy Lipton asked if businesses were involved as well. Peter Hudkins said there were many houses on Grafton Street which will be affected. Peter said he looked at

the River Corridor bylaws as an unfunded taking of land because buildings in the river corridor would no longer be allowed to be maintained.

Michael Normyle explained that the bylaw requires a permit to work on a building in the river corridor. He read part of the list of exempted activities from the model bylaws. Exempted activity is activity that does not require a permit. Exempted activity includes maintenance and improvements that do not alter the existing footprint of the building or change the use of the building. Repairs and maintenance could go on as they do now. Michael Normyle thought that there was some room to negotiate with the state on some of the specifics of the bylaw. He felt the Planning Commission would need to present the pros and cons of adopting the River Corridor bylaws to the Selectboard.

Cheryl Joy Lipton said it appears that normal maintenance and normal upkeep is allowed under the River Corridor model bylaws. Michael Normyle said he thought improvements would not be allowed. The foot print could not be altered. Peter Hudkins asked about the \$500 limit to maintenance he heard about. He didn't understand what that limit meant. It was agreed that a better understanding of the bylaw was needed. Michael Normyle expressed the hope that some of these issues could be negotiated with the state. Naomi Johnson noted that the draft bylaws have areas highlighted in yellow which John Broker Campbell indicated were choices the town needs to make. Naomi said she would do research and bring back the results of the research. She would not make a recommendation. Barre Pinske said he was in favor of anything that made the Commissioners appear as smart as Naomi.

Naomi Johnson brought up the Planning Commission meeting schedule. She said she anticipated that the Commission could meet a couple of times in May, but she did not think she would have research results until the end of May. Peter Hudkins said he was concerned about the impact of the bylaws for the R18 and R6 districts. He said it was possible to build a town road through an area of R6 and once the road met the R18 district, 3-acre lots could be created in the R-18. Naomi Johnson said the 3-acre lots could be created in the R18 district but the remaining acres in the parcel would remain undeveloped in perpetuity. Peter Hudkins said he thought it was odd to have 3-acre lots possible in the R-18 district next to the R6 district.

Cheryl Joy Lipton said she was against having R6 along all rural roads because it breaks up forest connectivity blocks. Peter Hudkins said Smokeshire is proposed to be all R18. It is currently in the Conservation – Residential District with a minimum lot size of 5 acres. The dimensional standards for the proposed R-18 district would allow smaller lots to be created than are currently permitted. Naomi Johnson asked if the problem was that the R18 implied 18-acre zoning, but in practice smaller lots could be created.

Cheryl Joy Lipton said the forest connectivity blocks should be consulted before zoning is decided. Peter Hudkins said a map had been provided by the Fish and Wildlife Department. He said the map could be brought into the zoning district discussion. He described the forest blocks as running along the Hawk Mountain ridge, through Smokeshire and south along the western edge of town to Popple Dungeon Road.

Tim Roper recalled the discussion the Commission had with Brandy Saxton about this. The Commission was concerned that the 18-acre zoning would be unacceptable to the property owners. Brandy Saxton said smaller lots could be created as long as there was other land in the parcel to make up the rest of the 18-acre requirement. Tim said the smaller lot provision in the R18 was designed to make the 18-acre zoning more palatable.

Peter Hudkins said he thought it would be odd to have a 6-acre lot in front of a 3-acre lot at the boundary between the R6 and R18 districts. Naomi Johnson said she thought the R6 district had a similar 3-acre lot provision. Cheryl Joy Lipton asked Peter Hudkins if he wanted to make a change. Peter Hudkins said he didn't necessarily want to change it, he found it difficult to understand the bylaw. He didn't come to the same conclusions as others had when he read it.

Barre Pinske said people would build a house on their land in any case. The proposed regulations would minimize the disturbance on the large parcel and regulate where the house is placed.

Tim Roper said if he had 36 acres, he would have to sub-divide the 36 acres into two 18-acre lots and then sub-divide each of those lots into a 3-acre home site and 15 acres that would not be developed. (Editor's note: Actually, two 3-acre lots would be sub-divided and the remaining 30 acres would be a single lot that would not be developed.)

Peter Hudkins said he didn't like changing the 5-acre minimum to a 3-acre minimum. An animated discussion about the provisions of the R18 took place. There was considerable confusion about how the proposed district would work.

Cheryl Joy Lipton said the provisions of the law would favor cluster development. She did not think cluster development was particularly helpful if the minimum lot size is 3 acres. She believed it should be smaller.

Naomi Johnson pointed out that it will be difficult to get the proposed bylaws adopted if the Commissioners do not understand them well enough to promote them. Barre Pinske said he thought it was the Commissioner's job to achieve that level of understanding. Barre said he felt the diversity of thought in the Commission was a good thing because the Commission will have to come to some sort of agreement that unites all these factors. He said he believed the Commission's job was to come to a good understanding of the law. He didn't think the Commission had to make sure every citizen fully understood the bylaws before they could be adopted.

Naomi Johnson said it will be hard to sell the bylaws to the town if the Commissioners don't understand them and buy into them. It is difficult to remember all the details when the Commission only looks at the bylaws once or twice a month. She said the bylaws are a large, complex document with lots of changes. She said the Commission was OK with the bylaws during the summer of 2019.

Barre Pinske said it was easy to have confidence in the process when Brandy was in charge. He said the Commission had made many changes since then, for good reasons, but it was hard to remember the reasons after all this time. Tim Roper said Brandy was very clear and confident when she was presenting the bylaws to the public and she was an important ally and resource for the Commission.

Naomi Johnson said the zoning regulations themselves are challenging. She had a list of issues that needed to be decided before there could be another hearing. The Commission needed to have at least one more hearing before presenting the proposal to the Selectboard.

Naomi Johnson said she thought the Commission had decided to move on with the bylaws without including the River Corridor model bylaws. Cheryl Joy asked if that had actually been decided. Naomi said it hadn't been formally concluded.

Peter Hudkins said he believed some of Cheryl Joy's concerns about riparian buffers were better addressed in the bylaws than in the River Corridor model.

Naomi said the Commission needed to complete the final edits to the zoning district outlines. There were fragments of parcels that needed to be moved to the logical district. Gabe Ladd was working on those.

The Commission had to have one more meeting with the Stone Village citizens to finalize the setbacks and the boundaries of the district. This needs to wait until a face-to-face meeting is possible.

When Peter Hudkins has information to present on the impact of the changes to the Grand List, that needs to be discussed.

Peter Hudkins said the proposed noise ordinance needs to be reconciled with the wishes expressed by the Development Review Board. Naomi Johnson said she thought that had been accomplished but it could be investigated.

Peter Hudkins asked if it was possible to get a copy of the bylaws with all the Commission's changes in it. Naomi Johnson said that was the last item on her list and it involves Brandy Saxton. Naomi said Brandy still owed the town some edits to the bylaws. Brandy also had a list of unresolved issues that need to be addressed. Naomi said the town has reached out to Brandy to discuss this and not yet received a response. There were some items that Naomi had requested that were outside of the original contract with Brandy, such as help for the final public meetings. They will need to be assigned a cost and the town will need to decide if it can afford it. Naomi felt that the list of unresolved issues is part of the original contract and should be provided. Naomi noted that there are also cross references in the bylaw document that need to be resolved and Brandy has the skill and means to do so. Naomi said she wondered if the process of a town working with Brandy on new bylaws, working for a period on its own and then going back to Brandy to finalize the package is a common pattern for a bylaw project.

### **Agenda Item 7 Discuss date and agenda for next meeting.**

Barre Pinske asked about the difference between the designated Village Center which carries tax benefits for properties within those boundaries, and the zoning districts. He knew his business was eligible for certain incentives because it was located in the designated Village Center and wondered if those benefits could be extended to his friend Rich, who lives past the Town Hall on Depot Street. Naomi Johnson explained that the designated Village Center was not a zoning district, it was an area defined by and with the state Agency of Commerce and Community Development. The tax benefits come from the ACCD, not the Town of Chester.

Cheryl Joy Lipton brought up the Neighborhood Development Area designation, another ACCD program that had been discussed several months ago by the Planning Commission. She thought that might in some way be helpful to Barre's friend. Naomi Johnson said the Neighborhood Development Area would be something a developer or the town of Chester would request from the ACCD, not the Planning Commission. She agreed with Cheryl Joy Lipton that the Town Plan should support such an application if it were to be made.

Barre Pinske said he felt that COVID 19 may bring some interest in people moving to Chester now that telecommuting is more common. Several people agreed with him.

Naomi Johnson suggested that the minutes of the meeting where the noise ordinance was discussed be located so that issue can be resolved.

Tim Roper noted that the meeting went very efficiently using Zoom.

The next scheduled meeting for the Planning Commission is May 4, 2020 at 6:30 PM.

Tim Roper moved to adjourn the meeting. Cheryl Joy Lipton seconded the motion. A vote was taken and the meeting was adjourned.

**Action Items (added 5/4/2020)**

- ❖ Cathy Hasbrouck will send Naomi Johnson a list of items to be addressed in the bylaw project assembled by Cathy and Peter Hudkins.
- ❖ The Planning Commission will formally vote on delaying action on the River Corridor model bylaws until the proposed bylaws from Brandy Saxton are adopted