

**TOWN OF Chester**  
**PLANNING COMMISSION**  
**February 1, 2021 Minutes**

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

**Staff Present:** Cathy Hasbrouck, Recording Secretary, Jill Barger Zoning Administrator.

**Citizens Present:** None.

**Call to Order**

Peter Hudkins called the meeting to order shortly after 6:30 PM.

**Agenda Item 1 Review minutes from December 21, 2020 and January 18, 2021.**

Naomi Johnson moved to review the minutes from December 21, 2020. Tim Roper seconded the motion. Peter Hudkins asked about lines 6 and 7 on page 3, which said, "Peter Hudkins and Naomi Johnson said actively using the land was not a requirement of current use." Peter said it is required to actively use land for current use. Naomi Johnson asked to have the word tower in line 8 on page 3 changed to tank. She also pointed out a typo on page 6 line 4 where the t was missing from the word the. On the same page line 39 had a dollar sign instead of a 4 in the section number. Tim Roper noticed that item as well. A vote was taken and the minutes were accepted as amended.

Tim Roper moved to accept the minutes from January 18, 2021. Naomi Johnson seconded the motion. Cheryl Joy Lipton pointed out a missing word on page 1, line 34. Tim Roper asked about lines 12 – 15 on page 4. The type of vote was being discussed at that point and a super majority, meaning 4 out of 5 votes was mentioned. The minutes said a majority vote was 4 out of 5. After some discussion, the minutes were changed to remove the word majority and substitute "a vote of" in its place. The Commission also agreed to remove the word could from line 15. A vote was taken and the minutes were accepted as amended.

**Agenda Item 2, Citizen Comments**

As there were no citizens present, beyond the Commission members, there were no comments.

**Agenda Item 3, Discuss and adopt proposed rules of procedure**

Peter Hudkins had one comment. He wanted to allow the meeting to continue as long as the board has a quorum. If someone needed to leave while a productive discussion was taking place, then the meeting could continue. Cheryl Joy Lipton asked if the super majority rule, which requires 4 of 5 votes to amend the rules of procedure, would prevent a meeting from continuing. Peter Hudkins said requiring a super majority to vote on a procedure was like introducing a filibuster. Tim Roper said that was not the intent. Cathy Hasbrouck said only some actions, such as a rules change, required a super majority.

The Commission discussed Peter's request for a rule to allow a meeting to continue after one or two Commissioners left it. Tim Roper cited Rule C3 which allowed a meeting to continue as

long as there was a quorum and the Commission decided that a further rule was not needed to meet Peter's request.

Cheryl Joy Lipton suggested that rule C9 should have the word super added to describe the majority required to make a rule change. Naomi Johnson suggested that the explanation 4 of 5 be added for clarity. Both these suggestions were accepted by the other members.

Barre Pinske asked what would happen if the Commission decreased to four members. How could a vote be taken if 5 members were not available to vote? It was established that requiring a vote of 4 of 5 members to pass a rule change did not mean that 5 members had to be present at the meeting, it only required that 4 members vote in favor of the motion. The Commission discussed what would happen if the membership was reduced to three members for the five seats. They agreed no rules changes could be made until at least one more member was appointed by the Selectboard.

Tim Roper asked whether a separate rule should be made to allow the chair to be changed outside of the annual reorganization required in rule C1. The Commission discussed adding a rule to that effect. Cheryl Joy Lipton favored the rule as long as it was a 4 of 5 vote. Naomi Johnson suggested that the word annual be removed from rule C1. She also read a portion of Section 4323.B of the Vermont Statute:

A planning commission shall elect a chair and a clerk and, at its organization meeting, shall adopt by majority vote of those members present and voting such other rules as it deems necessary and appropriate for the performance of its functions.

She noted that the statute did not say annually, so removing annually from the rule would not go against the statute. Barre Pinske was not in favor of changing the annual reorganization process. Tim Roper noted that traditionally, the Commission was reorganized after the Town Meeting and board appointments. He favored continuing the tradition and did not want to remove the word annually. Peter Hudkins recapped the discussion, saying the chair could be elected by a simple majority but could only be removed by a super-majority (4 of 5) vote. He asked who would replace the chair. Cheryl Joy Lipton suggested the vice chair could replace the chair. Peter Hudkins pointed out that under state statute the Commission has a chair and a clerk. The proposed rules would give the Commission a chair and a vice-chair.

Naomi Johnson suggested that a reorganizational meeting defined in the rules include both deciding to remove the chair and voting on a new chair. Tim Roper did not think the Commission would necessarily be ready to elect a new chair when it removes a chair. Tim Roper moved to add an additional rule in part C that the chair may be removed at any time by a super majority (4 votes of 5) vote. Peter Hudkins suggested leaving out the 4 votes of 5 words to accommodate any change to the number of seated commissioners. The Commission settled on this wording: the chair may be removed at any time by a super majority vote of the seated commissioners. Cheryl Joy Lipton and Peter Hudkins seconded the motion. A vote was taken and the motion passed unanimously.

Cheryl Joy Lipton said she believed Naomi Johnson, (who had been elected to the role of clerk in 2020), was functioning as a vice chair. Naomi agreed that she was. Peter Hudkins said he didn't think it was necessary to reorganize the Commission at this time since the Commission will be reorganized right after Town Meeting in about a month.

Continuing to discuss the proposed rules of procedure Naomi Johnson pointed out that rule D3 used the word majority to describe a vote for changing the order of business on an agenda. She wondered whether that vote should be a super-majority vote as well. She suggested that it did not and the Commission agreed. She also noted that the spelling of the town's website, chestervt.gov was incorrect in two places.

Tim Roper asked whether the document needed to be signed in order to adopt the minutes. Peter Hudkins thought the Commission could vote to adopt the rules in a meeting and he thought the document needed to be signed. He suggested that the document be printed and left at the town hall for signatures. He thought signatures were helpful for posterity. The Commission also agreed that the rules would take effect as soon as they were voted on. A vote on accepting the rules was taken and passed unanimously.

**Agenda Item 5 Address request from the Selectboard for “a summary of changes that are being proposed by the Planning commission” as part of the new bylaws for their 2/17/2021 meeting**

Peter Hudkins proposed that Jill Barger the Zoning Administrator and Cathy Hasbrouck, the Recording Secretary undertake this task given the time frame. Barre Pinske said he didn't watch the Selectboard meeting and he didn't see anything about this in the Telegraph. Cathy Hasbrouck said Arne Jonynas brought this request up at the end of the meeting when future business for the next meeting were being discussed. Barre Pinske asked if the Selectboard received updates from the Commission when Brandy was making presentations. He asked if they have access to Planning Commission minutes. Cathy Hasbrouck said they do have access to PC minutes. Cheryl Joy Lipton said the changes were enormous. She thought it would be a daunting task. Peter Hudkins reminded the Commission that he has thought communication with the Selectboard needed to be improved. Tim Roper pointed out that a meeting to establish communication had been attempted in 2019, but it did not take place and there was no follow-up. Barre Pinske felt the Selectboard should be reading the Planning Commission minutes.

Naomi Johnson said there was only one Planning Commission meeting before the February 17<sup>th</sup> Selectboard meeting. She said eventually a Reporting Form will have to be written when the bylaws are submitted for approval to the Regional Planning Commission, as was done with the Town Plan update. She felt the Commission could write a draft Reporting Form and submit that to the Selectboard. Cathy Hasbrouck said the Reporting Form could offer structure to organize the huge number of changes to be discussed. Tim Roper thought it was a good idea since it has to be done anyway. Naomi Johnson said the major points to be covered are that this is a re-write of the adopted bylaws, and the reasons why it was re-written, which would include the new zoning districts and the new uses in those districts. She acknowledged that it would not be the final version of the Reporting Form.

Tim Roper and Peter Hudkins recalled the attempt in 2019 to discuss the new bylaws with the Selectboard. Tim said he had written a report and submitted it to them. Peter said the report had been read and he was then asked to give them a list of all the differences between the two sets of bylaws. He said he has not been able to do that.

Tim Roper liked the idea of creating a draft of the Reporting Form. Peter Hudkins said an executive summary would be useful to the Selectboard. He reminded the Commission that

Michael Normyle had shown the Windham Reporting Form to them two and a half years ago. Barre Pinske asked whether the Reporting Form was a detailed document with specific changes or if it was more of a statement of the philosophy of the new bylaws, giving reasons for the changes being made. Naomi Johnson read parts of the Reporting Form requirements from the state: *a brief explanation of the proposed bylaw, amendment, or repeal and a statement of purpose.*

*Include findings regarding how the proposal:*

*Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*

*Is compatible with the proposed future land uses and densities of the municipal plan:*

Tim Roper suggested that it was a high-level overview that stated things such as, “We redrew the districts because of this . . . and we changed the densities because it’s in alignment with the town plan.” Naomi agreed. Tim Roper asked Cathy if she thought this could be done. Cathy said she thought it was a task that had to be done and this seemed to be an appropriate time to do it.

On the topic of affordable housing, Naomi Johnson said she had seen a show on PBS that discussed a town in Connecticut and its struggle with affordable housing. One of the problems the town had to contend with was that accessory dwellings were not a use that was mandated by the state of Connecticut. The lack of in-law apartments contributed to the lack of affordable housing in the showcased town.

As for the Reporting Form, Naomi said she felt pretty strongly that the Planning Commission should draft the form and not rely on the recording secretary. It was decided that it was OK for Cathy and Jill to rough the document out and the Commission would have it as the only item on the next agenda. Links to the 2018 audit and the.pdf that discusses the requirements for filing the Reporting Form and changes to the Bylaw were shared with the Commission members.

Peter Hudkins asked to have page 16, which described the Reporting Form read aloud. The Commission discussed the last requirement, *Carries out, as applicable, any specific proposals for any planned community facilities.* Cathy Hasbrouck assumed the requirement was referring to infrastructure plans the town had already made, but it was determined that the document was referring to planned community facilities called for by the amendment to the bylaws.

Peter Hudkins said some of the zoning changes in the village would require some additions to the municipal water and sewer systems, such as the area behind Erskine’s that was changed to smaller lots. Naomi asked Cathy if she was able to draft the document and she said she was. Cathy suggested the Commissioners could help by looking at the 2018 audit document Brandy Saxton wrote that examined how the bylaws supported the town plan and then consider how well those shortcomings were met by the new bylaws. Tim suggested that Brandy’s audit be included in the report to the Selectboard.

**Agenda Item 5 Review the list of tasks remaining to be completed and target timeframes before public hearing on proposed bylaws can be held**

The Commission decided to press on with the agenda. Peter Hudkins said he had approached Jason Rasmussen about help with the bylaws in May 2020. At that time Jason told Peter the Regional Planning Commission had advised Brandy Saxton not to completely re-vamp the bylaws. Jason said the Regional Planning Commission could help Chester finish the Town Plan

changes that were in progress, but they didn't have resources to help with the bylaw changes. Naomi Johnson suggested Peter get that response from Jason in writing. Barre Pinske said he had called Jason right after Christmas 2020 and talked with him about the goal of the bylaw re-write. Jason told Barre the Regional Planning Commission would be glad to offer guidance about the goal.

Peter Hudkins said he was trying to put together a list of tasks to be completed before the bylaws can go to public hearings. He was having some difficulty reading due to a cataract that is scheduled for treatment in April. He knows more help is needed and he was hopeful Jason Rasmussen could offer that help. He said Jason had offered help with some tasks associated with changing the bylaws, but those were not the tasks Peter wanted help with.

Cheryl Joy Lipton asked what type of help Peter was looking for from Jason. Peter said he was concerned about terms introduced in the new bylaws, such as building envelope and he was concerned about how those new terms might change the dynamics of regulating development in unexpected or unforeseeable ways. He cited the waiver of development rights as an example. Waiver of development rights is a term used when land is subdivided but the subdivider does not present proof in the form of a wastewater system and potable water supply permit that the subdivided land may be developed. Creating parcels of undevelopable land can undermine a town's tax base. Peter said the proposed bylaws allowed a waiver of the building envelope on a parcel, which had the same effect as waiving development rights. By introducing new nomenclature, the task of understanding the proposed bylaws and verifying that they will work as expected is more difficult. Someone would have to read and fully understand the entire package in order to verify the bylaws regulate as required.

Naomi Johnson said she understood that a list of items to complete was needed. Naomi said she had sent out a list of action items about a week ago, and Peter and Cathy had lists. She thought it would be helpful to identify all the items on all the lists and decide whether help from Jason Rasmussen would be useful for any of them. Naomi said some of the items on the list required discussion as a group. Other items required research by a single person before they could be resolved. Peter said he had taken the list of action items (which was usually addressed at each meeting as old business) and added to it. He had added some items to that. He thought a list could be assembled before the next meeting. Naomi confirmed that the list would be mainly the action item list.

Barre Pinske said it appeared Peter Hudkin's opinions about zoning differed from Brandy Saxton's opinions. Barre wondered whether Peter's opinions matched those of the rest of the Commission. He asked if Peter had an agenda and is making decisions on zoning without input from the Commission. Peter said there were issues where he did not agree with the Commission. He was most concerned about how embarrassing it would be to hand the bylaws over to the Development Review Board for use in their hearings and find that the bylaws are unworkable. It is important to Peter that other towns had already used a version of the proposed bylaws written by Brandy Saxton so he was sure that they would work when adopted. He said he did find evidence of Brandy's work in Bristol, Vermont, but only in the zoning district uses and dimensional standards found in Article 2 of the bylaws. He remained concerned about Chapters 3, 4 and 5.

Barre Pinske said during the discussion of bylaws with Brandy Saxton she presented information from the adopted bylaws, the proposed bylaws and reasons for the proposed changes. Barre

wanted Peter to present his ideas in a similar format. Peter said he didn't personally have time to create that, which is why he had asked Jason for help. He felt it was important to have a fully updated copy of the proposed bylaws to work with. The copy distributed to the Commission in May 2019 was missing all the changes agreed to since June 2019. It took quite a while to get the most current copy possible from Brandy and to find someone who was able to make the changes requested.

Without any assurances that the proposed bylaws were workable, Peter said his only alternative was to review the bylaws carefully line by line, comparing the proposed bylaws to the adopted bylaws. This is the way such things had been done in the past. After each meeting the changes were made to the text, to be reviewed and accepted at the next meeting.

Cheryl Joy Lipton asked Naomi Johnson where the list of changes needed that she published for each meeting came from. Naomi said she would look at the issues that had been talked about in the meetings, which remained unresolved, and she listed them. She made a table of them and distributed it to the Commissioners, noting how many issues had been resolved and how many were left.

Cheryl Joy suggested that the Commission go ahead and address discrepancies between the old and new bylaws, and then address the issues that have not been resolved yet, before addressing the issues Peter is concerned with.

Peter suggested that perhaps a different chair would be helpful. Naomi said she thought a list of issues would be most helpful here. She said the agenda doesn't give the members enough information to be prepared for the meetings. If a more detailed document listing the issues to be addressed were prepared and delivered before the meetings, it would be easier for the members to participate. Barre Pinske suggested that some part of the work be handed off to specific Commission members. He thought he could be more helpful if he knew what was to be considered before the meeting. He said the Commission is a group, not a single individual, and as a group, each member needed to understand the process.

The group established that there is now an up-to-date version of the bylaw document in Word and that Cathy has learned how to make changes to the Word document. Naomi Johnson suggested that working together, a task list could be developed in a week or so. She said she would provide a list of tasks that she felt needed to be assigned to the individual members of the Commission. Peter Hudkins agreed that there were tasks, such as riparian buffers that could be worked out.

Barre Pinske was hopeful that Jason Rasmussen could help with the process. Cathy Hasbrouck said she was startled by the lack of clarity in the proposed bylaws when it came to the basic work of the Zoning Administrator, which is a building permit. She suggested that the members look at how the proposed bylaws handle a single-family house to be built on an existing lot and see if they find the regulations satisfactory.

Suggestions for the next meeting's agenda were taken. After review of the minutes and citizen's comments, Peter Hudkins suggested that Item 4 on the current agenda, Address request from the Selectboard . . . be next. Cathy Hasbrouck said she would send an e-mail with the URL's for the audit document and the Reporting Form outline. Peter Hudkins promised to have a list of issues to be addressed ready and to get in touch with Jason Rasmussen. Jill Barger suggested that Peter contact Jason in writing. The Commission agreed on the proposed agenda as outlined. Tim

Roper moved to adjourn the meeting. Naomi Johnson and one other person seconded the motion and the meeting was adjourned.