

**TOWN OF CHESTER  
PLANNING COMMISSION**

**August 20, 2018 Minutes**

**Commission Members Present:** Naomi Johnson, Claudio Veliz, Tim Roper, Barre Pinske, Cheryl Joy Lipton.

**Staff Present:** Michael Normyle, Zoning Administrator, Cathy Hasbrouck, Recording Secretary.

**Citizens Present:** Jason Rasmussen.

**Call to Order**

The meeting was called to order at 7:00 PM.

**Agenda Item 1 Review the minutes from the June 21 and August 6, 2018 meetings**

Barre Pinske moved to accept the June 21, 2018 minutes. Cheryl Joy Lipton seconded the motion. The minutes were being reviewed because there was a question about the wording for j) at the top of page 5. Recording Secretary Cathy Hasbrouck checked the recording and agreed that the words “forest fragmentation” had been left out of the quote. Tim Roper had small corrections to page 2 and 5. Michael Normyle expressed concern that a citizen reading the minutes on page 2 where it says, “Chester supports residential scale wind turbines, which are generally up to 30 meters (or 98 feet) tall” would think that he or she could erect a wind turbine over 35 feet tall without seeking permission from the Public Service Board. Naomi Johnson said the Commission could take up the issue of tower height later in the meeting. The issue was whether the minutes reflected what took place at the June 21, 2018 meeting. A vote was taken and the June 21, 2018 minutes were accepted as amended.

Tim Roper then moved to accept the August 8, 2018 minutes. Claudio Veliz seconded the motion. A couple of typographical errors were corrected. Tim Roper opened a discussion about bulk storage of fuel and whether this amendment would change how bulk fuel storage is currently regulated by the Town of Chester. It was established that there was no intention to change any rules associated with bulk storage and the second full paragraph on page 2 was corrected to make that clearer. Naomi Johnson asked to change the first paragraph of Agenda Item 3, the proposed bylaw change. She wanted to change “needs to be in place by the winter” to something that indicates a desire to have the change in place by winter. Recording Secretary Cathy Hasbrouck said she understood the request and would re-work the sentence to reflect that. In the fifth paragraph under that agenda item, Naomi asked to have the statement “The change will allow” changed to “The change may allow”. In the seventh paragraph Naomi asked to have the words “the Commission had discussed letting the club set up a fuel station” to “the Commission had discussed the possibility of the club setting up a fuel station”. A vote was taken and the minutes for August 6, 2018 were accepted as amended.

**Agenda Item 2, Citizen Comments**

No citizens had any comments.

**Agenda Item 3 Review Town Plan Chapter 6 – Energy with Jason Rasmussen of the  
Regional Planning Commission**

Jason's first question to the Commission was whether they felt he had captured the changes to the energy chapter they had requested in previous hearing. He pointed to two text boxes he added to Section 4.4.5 Statements of Policy to Accompany Maps, (pages 13 and 14 of the revised chapter) to explain wind turbine categories and discuss the definition of undue adverse effect, or impact. He said he had looked into finding a list of native plants. He had found a reference for tree selections, a source for native plant materials, but had not found a list as yet.

Naomi Johnson asked whether a list was needed, noting a list would need to be updated on a continual basis, or if asking the applicant to prove that the species being planted on the property were native would be sufficient. Cheryl Joy Lipton said she wanted to prevent plantings that would require trimming and maintenance in order to function as a screen. She wanted plantings to create a native plant community that would thrive on its own without extensive maintenance. She offered to write a paragraph explaining this.

Barry Pinske asked whether it was appropriate for the Commission to go into such detail. He compared the level of detail to the rules on the Old King's Highway on Cape Cod which dictated the colors buildings could be painted. He wasn't sure what the Commission was trying to accomplish with the rules about plants.

Tim Roper said it was his intent to limit the chance of an invasive non-native species escaping into Vermont and changing the environment. He cited wild parsnip and Japanese knotweed as examples of the type of plant he wanted to keep out. Barre suggested making a list of the plants that should be kept out. Tim said he didn't think anyone recognized the invasive potential of a plant until it had begun to invade, when it was very difficult to control.

Naomi Johnson said she thought a list of native plants would be most appropriate for the Town Plan. The list would not limit what could be planted. The Development Review Board, when evaluating an energy installation, could ask an applicant who chooses a plant not on the list of native species to prove their choice is a native species. Cheryl Joy Lipton agreed to put a list together which will be added to the energy chapter.

Tim Roper had objections to the box describing undue adverse effect. He felt the language, particularly in item 2 ("Offends the sensibilities of the average person . . .") was hopelessly vague and would cause many problems. He said wind turbines and solar panels are lightning rod issues, and many people would say their sensibilities were offended by a proposed installation. This would defeat every proposed energy installation. Claudio Veliz explained that the language in the box had been vetted in the Vermont courts, including the Supreme Court, and was not likely to result in a court challenge. In his experience going through an appeal to the Supreme Court on this issue, statutory language had to be used in all documents addressing the issue, including the Town Plan. Slight variations in language could give litigators an opening for a lawsuit. Putting statutory language in the Town Plan would increase its impact, even if the language composed by the Commission was better crafted.

Naomi reminded the Commission that the document being worked on is the Town Plan, not bylaws. It is intended to paint a big picture of the town's wishes and is not going to act as regulation. Naomi asked Jason to explain who would be reading the Town Plan and acting on the words. Jason said that the Public Utilities Commission is the body which would issue a permit for an energy installation. The words in the Energy Chapter of the Town Plan should be directed at them. He said the PUC would read the Town Plan, see that the town does not want a negative

impact on wildlife habitat and ask the Agency of Natural Resources (ANR) to evaluate the impact. The PUC would act according to the ANR report.

Naomi Johnson polled the board to ask if they felt “undue adverse effect” should be left in j) and if the explanatory box should be left as is. Claudio Veliz wanted to keep the language as written. Tim Roper wanted to remove the box, and change the language in j) to say “clearly defined negative impact”. Cheryl Joy Lipton and Barre Pinske wanted to keep the language as is. “Undue adverse effect” was left in j) and the text box was left as well.

Naomi Johnson asked Jason Rasmussen if there were any other changes. Jason said he changed item i) in light of feedback from the state of Vermont at the Regional Planning Commission energy chapter hearing which he recently attended. Item i) discusses restoring a site to its original condition after an energy project is decommissioned. He added the words “in accordance with PUC Rule 5.900” at the end of the first sentence. This is a recently adopted regulation. Claudio Veliz proposed that the words, “In accordance with PUC rule 5.900 the applicant is required” be added at the beginning of the sentence. Jason Rasmussen agreed that wording would convey the correct message.

Cheryl Joy Lipton suggested that the requirements of PUC 5.900 may not be sufficient and Chester would want to require more. Jason Rasmussen looked PUC 5.900 up and read it out loud. It said the site should be restored to its condition prior to the installation to the extent that it was practical. He noted that the regulation did not address invasive species. The Commission was satisfied with the content of PUC 5.900 and the change made to i).

Claudio Veliz asked who would determine that the site had been properly restored. Jason said the Public Service Board would verify the site was restored. Jason Rasmussen said it is generally the neighbors or the town who complain that the site was not decommissioned properly. The PUC may or may not act on the complaint. Michael Normyle reminded the Commission that the sites to be used were often abandoned gravel pits, and other areas that were not particularly desirable to begin with.

Naomi Johnson summarized the discussion of Chapter 6, saying that there was one change to be made to the text and a list of native plants to be added. This would conclude the changes to Chapter 6. The next step in the process is to complete the Recording Form which explains what was changed and why it was changed. The change is then sent to the Selectboard and surrounding towns. Jason Rasmussen strongly suggested that the Commission go over the very detailed checklist from the Public Utilities Commission to verify that the proposed chapter has all the elements required by the PUC for an enhanced energy certification. He said there are also requirements to be met in the land use chapter for enhanced energy certification and the Commission needed to look at those.

Naomi Johnson asked if the maps Jason had provided for potential wind and solar energy sites should be included in the chapter. Since the chapter was being presented alone and not as a part of a fully revised Town Plan, it was decided to include the map as an appendix to the chapter. This concluded Jason’s work on Chapter 6. The Commission thanked him for his efforts.

#### **Agenda Item 4 Review Town Plan Chapter 3 (Utilities & Facilities) and Chapter 5 (Education)**

The Commission next took up the changes made to Chapter 3, Utilities and Facilities. Two members, Claudio Veliz and Tim Roper shared the edits they wanted for Chapter 3. Edits from

Cheryl Joy Lipton, Barre Pinske and Naomi Johnson will be discussed at the regular meeting on September 17, 2018. Naomi Johnson and Barre Pinske suggested that the proposed edits could be handed in to Cathy Hasbrouck, the Recording Secretary, by September 11, 2018. She could then copy and distribute the pages to the Commission members. This would give the members time to study the proposed edits and possibly expedite the discussion.

Finally, the Commission discussed the solid waste and recycling section submitted by Cheryl Joy Lipton and Claudio Veliz. A few minor corrections were suggested. Naomi Johnson referred to the state Municipal Planning Guide for guidance on writing goals. The section labeled Step 3 gives examples of good and bad goals. Naomi suggested that the goals for the Solid Waste section be revised using those principles.

#### **Agenda Item 5 Set date for next meeting.**

The first Monday in September is Labor Day and the Commission decided not to meet that evening. The next meeting will take place on Thursday September 13 at 7:00 PM. Brandy Saxton will be discussing the proposed zoning map and districts at that meeting. The next regularly scheduled meeting is four days later on Monday September 17, 2018. Chapters 3 and 5 of the Town Plan will be discussed at that meeting.

On Wednesday September 5, 2018 the Selectboard will hold a hearing about the proposed bylaw change to allow a fuel station for snow mobiles as an accessory use. Naomi Johnson will be presenting the proposal to the Selectboard.

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