

Town of Farmington
Planning Board Meeting Minutes
Wednesday, April 6, 2022
356 Main Street-Farmington, NH

Board Members Present:

Rick Pelkey, Vice Chairman
Bill Fisher, Secretary
Charlie King, Selectmen's Rep.
Jeremy Squires
Michael Day
Roger Mains, alternate
Stephen Henry

Board Members Absent:

Bruce Bridges, excused

Others Present:

Kyle Pimental, Planning Dept. Director
Kelly Heon, Assessing Clerk

BUSINESS BEFORE THE BOARD:

Call to Order:

Mr. Pelkey called the meeting to order at 6 p.m.

Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

Review of Minutes:

March 15, 2022- Public Session Minutes- No errors or omissions

Motion: (King, second Henry) to approve the minutes as written;

Mr. Pelkey tabled the vote temporarily and seated Mr. Mains in Mr. Bridges' absence.

He then introduced Mike Day as a new full member of the board.

Vote: The motion passed 6-0-1 (Pelkey abstained).

Public Comment: None

PUBLIC HEARINGS

NEW CASES

Public Hearing to Conduct a Design Review for Shawn Hillsgrove, Tax Map R-14, Lot 5: The applicant is proposing to redevelop an existing commercial building on Route 11 from a single use to a mixed use development. The proposed project is located at 257 NH Rt. 11 and is within the Commercial Business (CB) Zoning District.

Shawn Hillsgrove told the board he purchased the vacant building and would like to split it into 4 rental spaces for contractors and each space would have its own garage door with a bathroom. He said he wasn't planning on having any retail space and is looking for of a storage area for contractors for example a plumber who could put his supplies in there and store stuff. Mr. Pelkey asked if he had any drawings to show the board.

Mr. Hillsgrove said he has a site plan that his surveyor did and he surveyed all the lot lines and the existing stuff there now.

Mr. Fisher recalled that a few years ago the board approved a plan to put in a paint shop and do sand blasting at this site. He said he was working there for a while but is now gone and when he drove by today he saw that his sign was gone.

Mr. Henry asked why this proposal has to come before the board.

Mr. Pimental said there are a few things on this site that he would like to get the board's thoughts on how to handle this. He said it's going from a single use to potentially having 3 contractors and there are some interesting things with parking and there was no storm water management that was part of this and asked if the board wanted to include that.

He said the building is not expanding but the site is somewhat constrained because of the driveway that comes down and there is an access or pull-off from Rte. 11 that's paved all the way down. He said Mr. Hillsgrove will need a driveway permit from the state and asked how they wanted to handle the parking situation with this change from single use to potentially 3 separate contractors using the same building.

Mr. King asked why he would need a NH DOT access permit for the area that is paved in front of the lot.

Mr. Pimental said he was not referring to the paved area but to his existing driveway and if the DOT is going to want to take a look at it because of the change of use and there is likely to be more activity coming to that building than previously and he may need an amended driveway permit. He may not, that's up to the state he said.

Mr. Hillsgrove said he talked to the guy in charge of DOT's District 6 and gave him a copy of the site plan and filed for a permit and he said he would like to take a look at it to make sure it had one existing. I would hope it does because it's been there for 40 years he said.

Mr. Fisher said it would be going back to what it was before and that it was split up into individual shops before. He said he still didn't see why this is coming before the board.

Mr. Pelkey said he could understand it because it's somewhat of a change of use.

Mr. Pimental said he didn't know what was there prior to the sandblasting but it's going from that single use to 4 separate contractors and asked how the board would like to handle the parking for that.

Mr. Pelkey said he didn't see anything on the drawing that delineates any parking.

Mr. Pimental said there really isn't any right now. He said the front area that's paved could be used as parking but there's not a lot of room once you go down that slope.

Mr. King asked for the lot size.

Mr. Hillsgrove said it is .85 acres.

Mr. Pimental said the lot is essentially completely built out so it is already a non-conforming use because the building is into the rear setback but they weren't going to do anything with that.

He said it is somewhat constrained and he wanted the board to weigh in on whether they feel this site is suitable for 4 contractor spaces and how they want to handle it.

He said the surveyor shows that old Rte. 11 that the Town owns may or may not have been abandoned or have been properly taken care of and asked if any of the board members know anything about that or can give him some guidance on how to handle that.

Mr. King said he was surprised that the surveyor doesn't know that and that it encroaches on a little bit of the parking area on the front corner.

Mr. Pelkey said he has lived here for 30 years and that building has been there the whole time.

Mr. Hillsgrove said it was built in 1985.

Mr. Pelkey asked if that building has been in that position for all that time if the Town has a claim to that space now.

Mr. King said even if the Town did have a claim he is encroaching maybe 10 ft. from the state right-of-way and if he did a parking plan there he might not encroach into that. He said you wouldn't park right off the r-o-w you'd park farther back in here (pointing to the site plan).

Mr. Hillsgrove said he would park along the front of the building.

Mr. King asked if the upland area behind Dana's Collision Repair is at the same elevation.

Mr. Hillsgrove said yes.

Mr. King said that could potentially be used for additional parking. He said the Town has parking regulations so he either has to meet that or request a waiver and depending on the use there might be different parking requirements and in function he may simply need more parking.

Mr. Pelkey asked if there would be any retail uses at the site.

Mr. Hillsgrove said there would be no retail because there isn't any store frontage it's just a block building with doors and he was going for somebody that needed more space.

Mr. Henry asked if this was a single contractor with 6 trucks if this would have come before the board.

Mr. Pimental said no because they would calculate the parking as one and his biggest question was if they would look at this as parking for 4 separate contractors.

Mr. King said that if he wants to get an occupancy permit for 4 units and to have 4 tenants there may be requirements that have to meet the building codes such as bathrooms, dividers, etc. and he may have to pull a permit.

Mr. Hillsgrove said there would be a bathroom in each unit and there is one bathroom there now and has already noted where the dividing walls would be.

Mr. Squires asked if he plans to add a bay to the building because it looks like there are only 3

bays in the photo he supplied.

Mr. Hillsgrove said on the back side there is a door.

Mr. King said there will be some building code requirements based on the intended use and that would include the Americans with Disabilities Act requirements at a minimum per unit and he may need a waiver on that because it would require 4 ADA parking spaces in the parking lot. He said that might need to be addressed by providing 2 ADA spaces for the building and everyone uses those and that may need a request for a waiver from the parking requirements. He suggested that Mr. Hillsgrove work with Mr. Pimental on the intended uses, what the requirements are and where he can situate on this site.

Mr. Pelkey asked if this was a single business that was in the business of renting space if they would consider it one business. He asked if they have multiple businesses going in there if they would need a business plan for each of the businesses going in there and if they all have to come before the board. He said he wondered if in this case if this is one building that would be used as contractor space and does it need to break down what everybody is going to be doing inside the walls.

Mr. King said he was not concerned with inside the walls as far as for this board but he may have requirements based on the units as far as the building codes that he has to meet. He said as far as the site plan what goes in the building with multiple units it is not their purview whether it's a plumber or an electrician. It's meeting the site plan requirements which would be parking, access off the state highway and its unlikely that the DOT would impose additional requirements based on the time it's been there he said.

Mr. Pelkey asked if Mr. Pimental had the existing site plan for this site. He said the board saw this just a few years ago and it was laid out with parking and everything else.

Mr. Pimental said the board had approved a waiver for hand drawn plans for the sandblasting use and there was a listing for parking for his business.

Mr. Pelkey said if they looked at a site plan that Mr. Hillsgrove could take and do a nice job with as he has done here and they already have an approved layout for parking they could constrain him to that parking. He could have the 4 businesses there but this is his parking plan he said.

Mr. Pimental said they could set a maximum number of spaces.

Mr. King said where Mr. Hillsgrove has a denser use than the previous plan he may want to add to that but at the minimum it was one tenant's parking plan that was approved and he didn't think he (the previous applicant) needed a waiver but here if he is going to have 4 units he will have to work through the Table of Permitted Uses for the various scenarios.

Mr. Pimental said the previous owner didn't stripe any lines and the area he showed was potential parking and he never actually did anything with it.

Mr. Hillsgrove said that's why his surveyor didn't mark any lines and just did what is there now.

Mr. Mains asked if he was saying he could go back further or go out to the side further to the tree line there.

Mr. Hillsgrove said pretty much everything that he owns is cleared. He said the retaining wall is on his property a little bit so he could gain a little bit if he ripped out the retaining wall and sloped it and pointed to the area on the plan.

Mr. Pelkey asked if the swing radius there is to get to the door in the back as he recalled the door is right near there.

Mr. Hillsgrove said it's towards the back corner.

Mr. Pelkey said their concern would be the swing radius in the back and if there would be enough room to get vehicles around in there and to park everybody's car at the business.

Mr. Mains asked if he has a little more room to push out there.

Mr. Hillsgrove said he might be able to come around the other side of the building but there is propane tanks going there and there is a leach field over there.

Mr. King said the site is pretty much paved and he may be maxed out with the impervious surface requirement already.

Mr. Pelkey asked if they have waived that previously if they need to do that again.

Mr. King said they should probably confirm the coverage. He said the parking is the biggest issue with the density of the number of businesses and how he would accomplish that and what waivers he would need to request from the board. He said he didn't see the need for an ADA spot for each business but they need to be in close proximity to access those businesses.

Mr. Hillsgrove said the previous owner had 13 parking spots and pointed out where he had his ADA spots on his plan. He said they could put one in the back corner because it is all flat.

Mr. King said he would have to work through the regulations with the types of tenants he is going to have and what the density would be and he would have to make the case for why it is reasonable for the board to consider a waiver based on the site conditions or whatever.

Mr. Henry asked if he was building any office space in there.

Mr. Hillsgrove said no and he was going to do a bathroom, the dividing wall and it's a blank canvas. He said if someone comes in and builds an office they can bring it to the board but he is not doing any offices.

Mr. Pelkey asked if they would be signing a blank check if they don't know what the uses are before they go in and how he is going to do that.

Mr. Pimental said there are a couple of different options and the board could set a parking max.

Mr. Pelkey said he was thinking about the uses and he could have 4 individual spaces possibly with 4 different uses and we don't know what they are before they go in. He doesn't have tenants set up now to come in he said.

Mr. Hillsgrove said there are some people that are interested including the granite person who used to rent there, his friend that does welding and his other friend that is a contractor so there are 3 potential tenants out of the four. I can't get anything signed until it is approved he said.

Mr. Pelkey said he understood he has potential tenants but he is more concerned with who ends up going in there and what the use will be.

Mr. Henry asked Mr. Hillsgrove if he is not one of the 4 tenants that would be in his building. Mr. Hillsgrove said he would not be using one of the units but if one of them isn't rented he might store his boats there for the winter. He said he built his own garage so he doesn't plan on being one of the four tenants.

Mr. King said that a reasonable minimal amount of space may need to be kept open for customers coming to the business and if for example if he has 17 spaces he can't have them all full because then the customers can't get in. He said he may need to reserve a certain number of spaces for tenant/employee vehicles and these are reserved for customers whatever he feels that mix would be. He suggested that he have a plan laid out for how many spaces would be open for customers and where they're going to park and where the employees and contractors will park and there may be a requirement that it is striped especially for the handicapped spaces so when people come in they know where they're supposed to go.

Mr. Pimental said he wanted the board's feedback on going from one use to potentially having 4 different businesses there and to reassure that they feel this site can meet that demand.

Mr. King asked for the square footage of the building.

Mr. Hillsgrove said it is 8800 sq. ft.

Mr. King said so each tenant would have 2200 sq. ft.

Mr. Hillsgrove said the front unit would be 3200 sq. ft., the middle one would be 1700 sq. ft. and the back two would be about 1400 sq. ft. each.

Mr. Mains said another way to solve it is to ask the tenants if they have enough room inside they could park their vehicles inside at night and take them out during the day and go.

Mr. Hillsgrove said there would one truck from each of his contractor friends left there when they leave but he doesn't know what the granite guy has for vehicles if he rents there.

Mr. Pelkey said the last time the granite guy was before the board he said he was more looking to get his granite out of the weather and wanted a place for storage.

Mr. Hillsgrove said that he said he wants a place for storage inside and more room to cut because the building he is now is just killing him because he has no space.

Mr. Pelkey said one of his concerns would be how they would regulate the use, what they would say and that it would be something along the lines that it would be permitted uses.

Mr. Pimental said when they get to the final approval they could make it a condition that the types of uses fall within the parameters of some type of contractor/storage use and it's not going to be retail or a use where they would see a big change in traffic or turnover. He said if they wanted to keep it within that kind of framework they could make that work and there is a storage category in the parking regulations which is one space per employee, one space per company vehicle and one space per 10,000 sq. ft. of gross floor area. He said depending on how many employees for each business, how many company vehicles there are and one space for the building size they would probably need around 10-13 spaces using that example and he may be able to fit them all in the front but if not he would have to show potentially extending

the parking lot. He advised he would not add much parking down in that area except for maybe the handicapped space because of the trucks turning around and it's pretty narrow.

Mr. Henry said in the Table of Permitted Uses on page 43 it says the permitted uses in this zone includes contractors-specialized and that somewhere there is a definition for that which he thinks fits Mr. Hillsgrove's targeted market for renters. He said that gives him the tool to describe in the site plan that is the kind of clientele the site plan is approved for.

Mr. Pelkey said that sounds consistent to the zone to him.

Mr. King said the definition is on page 36 and it says "specialized contractors" is an industry that comprises of establishments primarily engaged in specialized trades.

Mr. Pimental said if he fit it under that umbrella he thinks it works.

Mr. Henry said if it's established for contractors-specialized then they don't have to worry about retail stores or a car dealership or something else going in there that's permitted in the zone. He said the site plan references that term which is what he is asking for and should alleviate some concerns.

Mr. Pimental said the only little bit of disconnect between the zoning and the site plan regulations is specialized contractors or contractors in general is not listed in any parking category. He said the closest they can get is the storage piece and if the board is comfortable that is what he would use.

Mr. King asked if there is an industrial or manufacturing category.

Mr. Pimental said there is a manufacturing category.

Mr. Squires said that would probably require more spaces.

Mr. Henry said it is not necessarily storage if they can build offices in there and now they are meeting clients.

Mr. Pimental said the storage category requires one space per employee, one space per company vehicle and one space per 10,000 sq. ft. of gross floor area and manufacturing is one space per employee, one space per 1,000 sq. ft. of the first 20,000 sq. ft. of gross floor area and one space per additional 5,000 sq. ft. on top of that and one space per company vehicle that's operating on the premises.

Mr. King said that would be one space per unit, plus one per every 1,000 sq. ft. which would be 9 spaces and he could get to that number and he could show that it meets both the storage and manufacturing parking requirements.

Mr. Pelkey said if they constrained him to the construction use and there was some change down the road that would be considered of use he could come back to the board.

Mr. King said if he could meet the higher standard for manufacturing that gives him a little more flexibility to meeting those requirements for tenants. He asked Mr. Hillsgrove is he planned to turn it into a retail store.

Mr. Hillsgrove said he didn't want to because he would have to do a huge facelift to the building to do something like that. He said he would also have to buy more land around it

because if he is maxed out where he is now how would he do anything above that.

Mr. Pimental said they would want to see the DOT's comments on the driveway or that pull off because there is a paved area all the way to Dana's Collision Repair and he didn't know how they would feel about having that much parking right on Rt. 11.

Mr. King asked what happens if they don't get back to him for 6 months.

Mr. Pimental said they could still move it forward and make having a driveway permit from the state a condition for getting a building permit.

Mr. King said he has an existing permit and if they were to come in with an additional requirement they would need to tie his approval to that.

Mr. Pimental said this would be Mr. Hillsgrove's call on if he wanted to do this, but if they wanted to move forward and DOT is being slow the board could approve the plan he put together and if DOT comes back with amendments he feels are substantial he could require him to come back to the board to present that and if there are minor changes they'll just accept it.

Mr. King said he doesn't have much land area outside of that to do anything on the opposing property from Pike and it is pretty wide right there so they may not come back with anything but they may not respond in a timely manner especially at this time of year.

Mr. Hillsgrove said he talked to the DOT rep and he said the quickest way is to get all the deeds back to 1971 which he did, he got the site plan, the pole number and dropped everything off at their office.

Mr. Pelkey said they've had 2 different site plans go through that use that parking and nobody has heard from DOT on that yet.

Mr. Pimental said the site went from single use to single use so he didn't have to get an amended driveway permit.

Mr. King asked if he submitted a proposal to them for contractor storage.

Mr. Hillsgrove said he told them is trying to split it into 4 storage/contractor rental units and he talked to the guy extensively on the phone so he got the gist of what he is doing but he wanted to see the deeds because they wanted to make sure there was a driveway permit. He said they found one on one of the old road maps on the other side on the property line but they couldn't find anything on this side.

Mr. Henry said looking at this line the driveway is not on his lot.

Mr. King said yes it is and pointed to its location on the edge of the lot.

Mr. Henry asked if the DOT has a problem with this long paved section on Rt. 11 then all those potential places to stop and turn are full out if you were to pull into the existing driveway would he be able to connect to that paved area and have that be a parking lot that you have to access through the curb cut that is the driveway.

Mr. Hillsgrove said he would have to move the sign and the sign would be where the connecting part would be as that is all flat and he would have to put the sign on the other side of the building. He said if they make it so he can't use that other paved area coming in he would

have to block it off and put the sign there because he would need where the sign is now to connect the two.

Mr. King asked if he broached the subject of that front parking with DOT.

Mr. Hillsgrove said they just wanted to see the pole number and everything and then they would get out there and look at it and go from there.

Mr. King said if he asked them they would say they don't like it so he might not want to ask.

Mr. Henry said he wouldn't ask them or point it out and he was thinking ahead for him if they say you get a curb cut not 100 ft. of curb cut. He asked if he has to access that parking from one entry point if he would need a waiver to pave that.

Mr. Pelkey said it looks like he is already way over the maximum (impervious surface).

Mr. Pimental said they don't know that but it could be.

Mr. Fisher said if he has to do that to change the parking lot on the other end he could break up the ground.

Mr. Hillsgrove said he could rip it up and do grass if he had to.

Mr. Henry said he could put in a median strip and that would provide a barrier from Rt. 11.

Mr. King said if DOT puts a requirement on him for the access then he has a reasonable case to ask for the waiver for the impervious surface because it's a slight change required by DOT and not like he is developing additional areas.

Mr. Pimental said he can see that as being a real possibility because of them wanting to have that one curb cut and then moving over that parking and not having one 100 ft. long.

Mr. Hillsgrove asked if they found out he had one on either side if that would change things. He said he found one on the opposite side towards Dana's where the plan said driveway but that was before the building was built.

Mr. Pimental said that is a conversation he will have to have with them and if they do make him do that he could create a barrier to reduce the impervious surface and he thought the board would be willing to waive the impervious coverage at that point but they may require something where he is disconnecting the impervious surface from Rt. 11 to that parking area.

Mr. King said they would have to come in at one access point and then pull over or they may say to put an access on the left side, you have access on the right and break that front section so people aren't pulling in at multiple points. It's their call and we could impose that he said.

Mr. Pimental asked if the board thought it would be a better proposed plan to do it that way.

Mr. Squires said an in and an out would be more ideal for him.

Mr. King said it could be on the left and the right with the left for the upper access provided that he can do the turn radius. He asked if you put in an island there how they would be able to pull in and then turn in and if he has to restrict that frontage he may want to look at if he has enough paved area to pull in and pull into a parking space.

Mr. Pimental asked if the board wanted to advise the applicant to go in that direction or if they were going to punt this to DOT.

Mr. King said when he comes to the board he may need to limit this access down to a minimum of 2 points and to plan for if DOT gives him one how they would access this from one. He said they would follow access management and Mr. Hillsgrove needs to figure out what works and then propose it to the board.

Mr. Fisher said he could think of a lot of businesses in Rochester that have a parking lot that comes right out to a major road and there are no frontage criteria. He said it has been like this and there has been no change and DOT hasn't said anything for about 19 years and they may not say anything and may not care.

Mr. Squires said that may be because nobody has asked about it.

Mr. Hillsgrove said he may have opened up a can of worms by asking about it.

Mr. Day said it was a transmission shop before it was the sandblasting facility and he must have been able to have multiple cars there because he did transmissions.

Mr. King said he was very small scale and it was an owner operated one-person business.

Mr. Henry asked Mr. Hillsgrove if that is what he envisions with 4 owner-operators.

Mr. Hillsgrove said if somebody has a ton of employees they're not going to be renting a space and would have their own space somewhere. He said he was targeting people like his friend that does welding that need more space.

Mr. Squires asked if the well shown is in use.

Mr. Hillsgrove said yes. He said it shows a water line going across the front and they found it on a different plan so he didn't know if there actually is a water line that goes through there.

Mr. King said there is Town water line there and he may have a well and was not required to hitch up. The water goes to the last hydrant at Energy Resources he said.

Mr. Pelkey asked Mr. Pimental if he had any other concerns.

Mr. Pimental said Mr. King raised a good point about the Town having its own access management specifically for Rt. 11. He said the reason this hasn't come up was because when this was transferred over the use wasn't changing and the use is now changing to something more than it was before so we're trying to fix some of the things that were done before.

Mr. King said the whole theory behind access management is to control the entry points so that people entering and exiting are clear where they're coming and going and eliminate some of the confusion and accidents. He said if you have 1,000 ft. of frontage and people are just coming off that frontage it's not common entry points.

Mr. Pimental said that's why he could see that he may run into challenges with DOT with that long strip there.

Mr. King said he may want to define the access points as Enter only and Exit only.

Mr. Pelkey said there have been some issues with some of the newer businesses in that area even though they were well marked and clear.

Mr. King said the state put in a center turning lane coming from Rochester but it stops at the Town line but maybe before 10 years have passed the center lane will come up to the other

one which is at the intersection of Rt. 11 and Meetinghouse Hill Road. Sooner or later DOT is going to have to make that center turning lane because of safety issues and that will give a little more cushion to getting in and out of your property. The last thing you want is somebody coming into the site not going where they are and all of a sudden they stop on the road and then there's an accident he said.

Mr. Pimental said with the way that it is now he could potentially have people backing up onto Rt. 11 and if he got rid of the way it is set up now he could change that. He said he wanted to get the board's feedback on that front piece and there will probably be more cars there than past uses and how they want to handle that.

He recommended that Mr. Hillsgrove connect him with whomever he is working with at DOT District 6 and he can show them what the Town has for access management and how they can make that section work better.

Mr. King said his engineering professional is a surveyor and he could ask him if he has to fit parking spaces in here and wanted to redefine the access point limited to 1 or 2 what it would look like. He asked if the Town defines a parking space size as 9 ft. x 18 ft. or 10 ft. x 20 ft.

Mr. Pimental read that a parking space must be 10 ft. x 20 ft.

Mr. King said if there are contractor vehicles there they may be 22 or 24 ft. and may not be able to go there and have to go down back. He said the surveyor could address what could work in a layout and suggested that he go out there with a tape measure and try to drive it before going to the engineering professional so he can say this is what makes sense to him.

Mr. Hillsgrove said he better wait until DOT comes back to him because he may have to redesign everything depending on what they say.

Mr. Henry said he was not inclined to impose any regulations that DOT doesn't impose looking at how the site exists now and he could use it as it exists.

Mr. Squires said on any given day you drive by there, there is at least 12 cars parked in that lot. He said Dana uses it as his overflow parking everyday and all of his employees park there. There's plenty of room and no one is backing onto the street to get out of the spots he said.

Mr. Hillsgrove asked what the next step is.

Mr. King advised him to work with Mr. Pimental and his engineer to come up with some suggestions on his site plan and the best way to proceed with addressing their concerns about the parking and the contingencies depending on what DOT may say. He said if the board says there are no requirements but DOT says they want him to go to one he would want to have a plan in place with a solution then he doesn't need to come back here. If we give you carte blanche and they go to one access then you're going to have to come back he said.

Mr. Pimental said they can figure out how many parking spaces based on the board's feedback using that higher standard, look at both options and lay it out to see what that looks like and work with his engineer to see what the 2 different designs might look like.

Mr. Fisher said not to forget about snow removal and where the dumpster would be located.

Mr. Hillsgrove said the driveway drops off a hill and he can push the snow there and the dumpster can be over in a corner.

Mr. Fisher said as long as it doesn't get into the river back there.

Mr. Hillsgrove said they looked and it is pretty far back there.

Mr. Pelkey asked for any last comments from the board and hearing none he thanked Mr. Hillsgrove for meeting with the board.

Board Organization:

Mr. Pelkey said the board needs to select a Chairman, Vice Chairman and a Secretary and called for a motion to nominate a Chairman.

Motion: (King, second Henry) to nominate Rick Pelkey for Chairman;

Mr. Pelkey asked if there were any other nominations for Chairman and hearing none accepted the nomination.

Vote: The motion passed 6-0-1 (Pelkey abstained).

Motion: (Henry, second King) to nominate Bill Fisher for Vice Chairman;

Mr. Pelkey asked if there were any other nominations for Vice Chairman.

There were no other nominations and Mr. Fisher accepted the nomination.

Vote: The motion passed 6-0-1 (Mr. Fisher abstained).

Motion: (King, second Squires) to nominate Stephen Henry for Secretary;

Mr. Pelkey asked if there were any other nominations for Secretary and hearing none called for the vote.

Vote: The motion passed 6-0-1 (Henry abstained).

Mr. Pelkey said they have other boards they have representatives to and a question was asked about Capital Improvement Plan Committee because the Planning Board bylaws say they will appoint a person and asked if anyone was interested in doing it. He said he is the current Planning Board rep to the CIP and he is willing to continue to do it.

Motion: (King, second Henry) to nominate Rick Pelkey for the CIP representative passed 7-0.

Mr. Pelkey said he hasn't seen the bylaws for the Economic Development Committee or the Conservation Commission and asked if that is an appointment.

Mr. Fisher said he is the current rep to the Con Com and he didn't think it was an appointment. He said there can only be one Con Com member on the Planning Board and he has been filling in both positions since he got on the Planning Board.

Motion: (Henry, second Mains) to nominate Bill Fisher as the representative for the Conservation Commission passed 6-0-1 (Fisher abstained).

Mr. Pelkey said Mr. Henry is current rep to the EDC and asked if anyone was interested in being on the EDC.

Mr. Henry said he was willing to remain as the rep to the EDC.

Motion: (King, second Squires) to nominate Stephen Henry for the EDC representative passed 7-0.

Mr. Pelkey said Mr. Fisher is the current rep to the Strafford Regional Planning Commission. **Motion:** (King, second Henry) to nominate Bill Fisher for SRPC representative passed 6-0-1 (Fisher abstained).

Discussion on Excavation Procedures:

Mr. Pelkey said the board viewed a training session online concerning RSA 155-E and received a packet on the Town's Earth Removal Regulations and this discussion concerns all of the above. Assessing Clerk Kelly Heon came forward and told the board that all of the active excavation operations in town have to file an "Intent to Excavate" form every year for tax purposes and it is not a permit and is to let the Town know that they intend to excavate. She said they file the form with her and she has to file it with the state and the Selectmen have 30 days to sign it. Mr. Pelkey asked what the signature of the Selectmen means on that and if it means they understand they are going to excavate, not giving them permission to do so.

Mrs. Heon said that is correct. She said the Planning Board are the regulators and she believes from reading the law, listening to the webinar and talking to people at Dept. of Revenue Administration over the years that the procedure would be for the Planning Board or the Planning Dept. to look at the intent to excavate and say the Selectmen can go ahead and sign it because they are in compliance for the permit that they currently hold.

She said over the years they have had issues where their permit might be expired, they're out of compliance or the area they are excavating does not match what is on the permit but the Assessing Dept. does not have the authority to not send it to the Selectmen and if the board doesn't want to sign it they have to give them a remedy and that has to be within 30 days.

Mrs. Heon said she worked with the Town's last fulltime Planner in 2016 but he had no expertise in excavation and didn't show much interest in it and nothing really happened at that point so it has been since 2011 when all of the excavation operations were brought into compliance and those that needed a permit at that time were granted a permit. She said as the Assessing Clerk it is not her job but keeping all of the files organized has fallen to her by default. She said bringing them into compliance and understanding their role as regulators going forward is important because we haven't had any new applications in a long time but there is one coming.

Mr. Pelkey said they still have pits that are operating.

Mr. King said some of those pits are grandfathered.

Mrs. Heon said they would be grandfathered if they were here before 1979 but that doesn't mean they don't have to meet certain standards. She said she believes there a couple of them that have expired so they need to prove they are in the reclamation process.

Mr. Pelkey said he read the law and if they were grandfathered at one time and they let their permit expire they are no longer grandfathered.

Mr. Fisher said that is what they faced with the Paulson Road excavation site when they let their permit expire and they hadn't finished their reclamation yet or proved that they had done

it and the Town still held a bond against them.

Mr. Pelkey said the reason why they hold a bond is if they don't do the reclamation the Town can affect it themselves but they are required within 12 months of when they stop taking any commercial amount of material out of there to have that done.

Mrs. Heon said there's at least one that the permit had expired and they applied to renew their permit and then they withdrew their application. She said that was one of Pike's permits and she doesn't know where that stands.

Mr. Fisher said that is the Pike area where the boundary was questionable between them and a private landowner and Pike had encroached on to their land and then that all got pulled because he thought they reached an agreement with the landowner.

Mrs. Heon said she was not sure. She asked if it would make sense to form a subcommittee of the Planning Board that could come into the office and if it has to be after hours that's fine and she would like to be a part of the subcommittee and look at what they have now, figure out where they're at and what they need to get them into compliance and it might be a good exercise as they move into the future where they know there are some coming.

She said Mr. Pimental also wanted to look at the excavation regulations and see if they need to be amended.

Mr. King said they have had opinions in the past stating the Town has to grant that permit and that renewal. He said when they submit the intent to excavate the Selectmen have to sign it and they have been told they don't have the authority to not sign it if they're not in compliance.

Mrs. Heon said they have the authority to not sign it but the law is very clear that if they choose not to sign it they have to explain why and provide a remedy.

Mr. King said if they have the ability to do that they need to amend the excavation regulations to state that before the issuance of or signing by the Selectmen it is to be reviewed by staff or the Planning Board to say that it is or is not in compliance because if it's not going to be signed those reasons would need to be addressed beforehand.

Mrs. Heon said the intent to excavate is not a permit it's just for taxation purposes.

Mr. Pelkey said he agreed with Mr. King and that was one of the things he noted as well when he reviewed the regulations. There is no sign-off for Planning saying this is okay he said.

Mrs. Heon said they come to her office and she presents them to the Selectmen and she has nothing to give them from the regulatory body that says it's okay and she would like to feel comfortable that they would be comfortable signing it.

Mr. Pelkey asked if the intent to excavate is a document from her dept., the Planning Dept. or is a state document.

Mrs. Heon said it is a state document.

Mr. Pelkey said there is nothing they can do with a state document unless they put a cover sheet on it as part of their process.

Mr. King asked if the Selectmen don't sign it if they do/don't have authority to excavate.

Mrs. Heon said she would have to go back and read exactly what the law says but they would have to provide all of the reasons why they're not signing it (the things that are not in compliance) and provide a remedy (what they need to do to get into compliance).

Mr. King said the review would be from the staff or Planning Board stating the reasons it's not in compliance and with the remedy to get back into compliance based upon their approval because you can't subsequently add restrictions past their approval. He said the ordinance is lacking in that it allows too much time or is too lenient on reclamation and auditing.

Mrs. Heon said part of the challenge over the last several years has been not having the Planning staff to address this. She said although the Planning Board is the regulatory body if they had Planning staff that was keeping track of all this stuff they would know that every 3 months or every year this has to happen but we haven't had that.

She said they are at that time again because when the tax year begins they file intents to excavate and the practice has been without any feedback from the Planning Board or Planning Dept. to always include language on the intent that the Selectmen reserve the right to rescind their signatures based on non-compliance with RSA 155-E etc. She said she will do that again because at this point there wouldn't be time (to make any changes) because they have 30 days to sign it.

Mr. Pelkey said he was curious to know how the Selectmen would feel about going forward with excavations when they know the pits are not in compliance. He said if they looked at those pits whose permits have expired they are obviously out of compliance.

Mr. King said hopefully when it's brought to the Selectmen they could say this is an intent to excavate but their permit has expired.

Mrs. Heon said if the permit has expired that one is easy. She said she didn't think there any permits that have expired but she would have to go back and look. She said it depends on the time frame that was placed on them and there are at least 2 were grandfathered so they don't require a permit.

Mr. Pelkey said as long as they have been continually been excavating since that time and haven't stopped.

Mrs. Heon said something else the board would want to pay attention to is they file the intent to excavate and a year later they file a report on what they have excavated and asked when they file a report several years in a row that says they have not excavated anything have they stopped or if this is now considered to be abandoned.

Mr. Pelkey said they probably would have to ask legal counsel at some point. He said if they don't excavate for 2 years and take no commercial amount of material from the site for 2 years then according to the regulations they should be recovered and they have 12 months to finish recovering that area.

Mr. Henry said they sell materials from gravel pits so they're telling a company that if they don't have a customer for 2 years from their massive investment and as we know building comes and

goes they lose their gravel pit.

Mr. Pelkey asked if he read the regulations and RSA 155-E because the language isn't something he made up it's out of the state law which they don't have authorization to change.

Mr. Henry started to list the steps they must go through and Mr. Pelkey interjected that it is not about paperwork and intent it's about what they can do on the site.

Mr. Pimental said how the state defines abandoned is a little more nuanced and read aloud that the state says "a non-reclaimed area shall be deemed abandoned if no material of sufficient weight or volume to be commercially useful has been removed during any 2 year period; the site is still active but has not complied with the requirements for incremental reclamation; the owner has not posted a bond or the owner has neither received a permit or filed a report with the Planning Board". He said it can be any one of those 4 and doesn't have to be all 4 to be deemed abandoned.

Mr. Henry said they could file a report with the Planning Board that says I have my gravel pit and I wanted to sell gravel but nobody was building and I did my intent to excavate and offered product for sale but had no customers.

Mrs. Heon said she has had previous conversations with Mary Pinkham Langer at the Dept. of Revenue Administration (who has retired) and she said that filing a report with zero doesn't necessarily mean its abandoned it could be a cyclical economic issue and you need to look at the bigger picture. Those are some questions we could get answers from the state on if we're continuing to get these reports of zero she said.

She said maybe they would want that to trigger some oversight and to talk to them or send them a letter. She suggested getting a tighter control on this and to have a plan or a policy in place so she knows when she gets an intent to excavate it's immediately going to Mr. Pimental or to someone on the Planning Board and the same thing when she gets the reports.

Mr. Pimental said the guidance provided in the handbook is that not in every situation is it going to be reasonable or practical to enforce that so the board always has the option to waive the requirement for that reclamation so long as there's a good case shown. He said an example of that is when materials were still present on the site but there had been no demand for them or when the site contains more than one type of material and needs to have more than one active area.

He said it goes on to say that in this event the Planning Board has the authority to require the owner to go through with the reclamation timetable or post a bond but there are situations whether it's a slow economy and the owner has not been able to move any of the material for several years its good for the Planning Board and the applicant to reach an understanding. He said it can be deemed abandoned if the Town wants to take a hard stance on it but if it's an operation where they have done everything they are supposed to do and have not been able to remove materials for 2 years because of a downturn economy the board can provide relief through that waiver. But you're right if they don't, the board could say you're going to reclaim

all this because it's a back and forth he said.

Mr. Fisher said COVID popped up and for 2 years a lot of the companies have been stagnant and they didn't have the workers to move materials and there's no requirement for them provide the materials right now but they wanted to keep their permits and pits active and the board could agree with them and grant them a waiver for "x" amount of time.

He said if somebody has a permit and a gravel pit and they haven't done anything for 2 years, the economy is booming and somebody is moving a machine shop in and they need gravel but this company won't dig it up and sell it to them we could come back and say it's been 2 years you haven't done anything reclaim it or forfeit your bond. We need to form a subcommittee to review this stuff he said.

He said he read the regulations and did not like that it just says "the board" and asked if that means the Planning Board or Board of Selectmen.

Mr. Pelkey said by the definitions "board" is the Planning Board.

Mr. King said one problem is that they said common sense should be reasonable and gave the example of the Paulson Road site that was done by Pike. He said they followed the rules they set forth and it was reclaimed but it took some arm twisting because of the cost to reclaim the pit. Typically what happens is they leave it open because they have some un-mined materials and it extends into perpetuity because they don't want to bear the cost to reclaim it.

Eventually they'll be done there and somebody will forget about the requirement and they won't have to spend the money to reclaim it and they leave it open because they might want to go back and get those remaining shovelfuls of materials he said.

Mr. Pelkey said the number they put in the training concerning the cost of recovery per sq. ft. was pretty steep and he didn't know if the bonds the Town has been getting are along those guidelines or not.

Mr. King said some people try to require incremental reclamation but then this whole face is being worked on so the whole thing is still open.

Mr. Pelkey said unless it really isn't and they're just trying to avoid the reclamation.

Mr. King asked how they would audit or enforce that. He said they could take a shovelful from each section for the next 20 years and if it was a 5 year permit with 12 months to reclaim the site they would come back in year 5 and say they couldn't sell it, couldn't find the help and ask for an extension. In the end we'd just keep talking about and every 5 years we'd hear the same things and there's no reclamation because there's still open faces because they don't want to pay for reclamation and leaving it at 90% (mined) accomplishes that he said.

Mr. Pelkey said part of the remedy for that could be a timeline. He said when they come in for an application and say they're going to excavate so many cu yd of material over 5 years and then they come back in 5 years and they only took the first 50 CY but they don't know when they will be done with the next 50 the next time they give us a time line it will have to be tighter and we might not be as willing to give them as much leeway.

Mr. King said he was willing to make some changes and with maybe with Mr. Pimental's help they could find a community that's more successful and follow what they are doing.

Mr. Pimental said the Town's regulations are good but the place where they could be strengthened is potentially having the process of reviewing the reports and when it goes to Assessing have it to go to the Planning Dept. for review and then signed off by the Planning Board to recommend that the Selectmen sign or deny. He said that process is not clearly laid out in the regulations as they stand.

He said the other piece that has been problematic is the regulations say the permit is for 1 year but some of the Notices of Decision say the Planning Board extended it to 5 and in some cases 10 years. He said he didn't know why that happened and if that's legal. He said in the regulations they can make it whatever they want but he didn't know why the board changed the permit time frame.

Mr. Fisher asked if he was talking about the permit or the excavation application.

Mr. Pimental said he was talking about the permit.

Mr. King said the regulations say the permit is for 1 year and asked what happens after the 1 year is up and if the permit has expired and they have to redo the whole process.

Mr. Pimental said one of the failures of RSA 155-E is there is no specific process to renew. He said there are ways that the application process can be streamlined at the local level but at the state level RSA 155-E says when the permit has expired they should start all over again. He said they could put something into the regulations that allows for a streamlined process so they don't have to go through the entire thing every year but the Town is getting something.

He said the problem has been with a gap of between 5 years and 10 years in some cases the maintenance gets deferred in terms of the reviewing and reporting and then all of sudden they get to 10 years and they have no idea whether or not it's in compliance because they haven't stayed on top of it every year. He said in other communities that he has worked with no matter where the excavation process is they still have to re-submit something but it doesn't have to be the whole thing again because they already have their plan sets just give us an update of where things are every year so it's easier to track.

He said those are the areas where the regulations could be strengthened but otherwise Town's regulations follow the state's model (created in 1999) verbatim so it's pretty strong.

Mrs. Heon said the regulations were last updated in 2011.

Mr. Pimental said it's the process piece and not having the board approve a permit for longer than 2 years. I think 2 years is good and 5 and 10 years is too long he said.

He said it could be a simple renewal application showing that the existing conditions might have changed and to show what that looks like.

Mr. King said that's great that they have all this information but his biggest concern is the proper reclamation of the site not whether it's open for 2 years or 5 years. He said if you rode a bike from the Pike property to Rochester you could see every un-reclaimed site there is and

surveyors have claimed that it's all grown up again so it has reclaimed itself. None of the slopes are stabilized and no loam has been put in it just grown back. He asked if in the end they would just have more paperwork in the files but the end result is no different.

Mr. Pimental said he hasn't been involved with any of the reclamations in town other than the Paulson Road site which was done correctly.

Mr. King recalled that's the only one he's been involved in that was reclaimed.

Mr. Pelkey said that was a struggle because they didn't have the inspections to go back on and say they've done the required inspections during the course of the excavations.

Mr. Pimental said they did the best they could with the information they had.

Mr. Pelkey said they need to make sure that they put into whatever they're doing that they have that oversight.

Mr. Pimental said there is nothing he can do about the ones that closed and were never reclaimed.

Mr. Pelkey asked if they could look at the permits and find out who was the responsible party.

Mr. Pimental said they could try but if nothing was done it may take legal action at this point.

He said if they're not mining it anymore and the Town released the performance bond and let them off the hook he didn't know if there is anything they can do about that. He said they would have to go back and look and if the Town still holds the bond they could tell the owner that the Town is going to use the bond to do it ourselves or they are going to do this.

Mr. King said typically when they require a bond the bond is an insurance bond and somebody is not putting up \$100,000 but are buying bonds based on their credit rating and it could cost them \$500 to get the bond that satisfies the Town's requirement. He said then they call that due and a legal battle ensues because there is not \$100,000 sitting in an escrow account it's an insurance bond. Now you're fighting with an insurance company to get the money to do the reclamation he said.

Mr. Pimental said the regulations say the bonds are supposed to guarantee the reclamation of the area and they can be in the form of a performance bond, a property escrow or some other irrevocable letter of credit that is approved by the board.

Mr. King said those are 3 different things and they're not all equal. He said the escrow is money sitting in an account and the other two are a guarantee against the fund and are not sitting in an account and if that business was to go bankrupt he didn't know if that would be recoverable.

Mr. Pimental said the amount is determined by the Planning Board to cover that. He said the board has those 3 options and he didn't know what the board has chosen in the past.

Mr. King said typically they chose the path of least resistance which is to require a bond assuming that would protect the interests of the Town and make sure this gets reclaimed.

Mr. Day asked why they couldn't set a requirement that 1 year before the permit expires (i.e. after 1 year on a 2 year permit, after 4 years on a 5 year permit) they need to come in and talk to us about where they're going with the pit and if they need to extend the contact or if they

are going to reclaim the pit.

Mr. King said they would be back to the same thing where they give them another year or two because they don't want to stop them from a permitted use.

Mr. Pelkey said some of the questions could be how much they removed last year, what are their future plans and what their new time line is.

Mr. Fisher asked if they don't do anything and keep coming back and giving us excuses if they could rescind their application.

Mr. King said or to not renew their permit.

Mr. Fisher said there is a section that says they can rescind applications and if they continue to work in there they can take them to court.

Mr. Pimental said the biggest problem has been the follow up and 5 to 10 years is too long.

Mrs. Heon said it would be very illustrative if they get the subcommittee and have them look at this because if you look at the **Notices of Decision** there were things in place where they were going to provide a report annually, the **Code Enforcement Officer** was going to do an annual inspection and multiple other things. She said it fell apart where the Town had no mechanism to make sure those things were happening so the NOD was given and they went on their way.

Mr. Pelkey said they need to create a process that puts planning feedback in this which would be triggered at some point by the next year's excavation.

Mrs. Heon said she didn't think it should be triggered necessarily by Assessing it should be if a NOD is issued in May 2011 and it says annual inspection then somebody needs to put it on their calendar for May 2012 and that report needs to be given to the Planning Board.

Mr. Pelkey said when they are getting ready to pass that on to the Selectmen and it has to come through the Planning Board they can look at all of the attributes and say if they got all those things and who's responsible for us not getting them and if it was an issue with the person doing the excavation because they didn't comply with the request for information or if we did not ask.

Mrs. Heon said sometimes in the past the CEO didn't feel he had the expertise to inspect the sites and there are some towns that use a third party to do those inspections and that is passed on to the property owner.

Mr. Pelkey said Farmington's regulations say we are allowed to do that and the Planning Board can pick the person but they don't have a budget so they would have to recommend it to the Selectmen.

Mrs. Heon said that cost could be passed on to the applicant.

Mr. Pimental said his other suggested change was to require that yearly report of what was done is reviewed by a third party to ensure everything in the NOD has been met, they take that to the Planning Board, they sign off on it and then goes to the Selectmen every year.

Mr. Pelkey said they could note on the application that failure to do so could result in the revocation of their permit.

Mr. Mains asked if the DOT gets involved in this stuff.

Mr. King said no.

Mr. Mains said at his last place the guy didn't get his permits from the DOT because he went ahead and did something wrong. He asked why the board can't call them and say this individual is doing this type of stuff, it's not right, you guys have to come in and enforce the state part of what's going on. That's what we did for 3 or 4 of them even one on the lake he said.

Mr. Pelkey said the state expert Mary Pinkham Langer came to the board about 3 years ago and told them they needed to get a handle on this.

Mr. Mains suggested they talk to the DOT and our state Senators and say we need someone from the state to come out here and tell the property owner they are going to fix that and this is how much it will cost them. When the state jumps on something people start moving he said.

Mr. King said he didn't think the DOT would be the agency to handle this area and asked Mr. Pimental which state agency should be contacted regarding this area.

Mr. Pimental said there are only 2 other state permits they would need one would be an Alteration Of Terrain permit that would be through the Dept. of Environmental Services if it's over 100,000 sq. ft. and the other one would be through the DRA if it's more than 1,000 cu. yds.

Mrs. Heon said Mary Pinkham Langer has gone to pits and put cease and desist notices right on the excavator but that is because they didn't file an intent to excavate and that was about taxation.

Mr. Mains said as a member of another Planning Board they got paperwork back saying they're going to charge them this much money if they don't get it done within this amount of time and now you have the state taking care of it.

Mrs. Heon said the law is very clear that it's the local level that's the regulatory body. She said she has many resources from Ms. Langer and it's about taking those resources and putting together an actual procedure and a policy for how they are going to put it into action.

Mr. Mains asked if the little group they are putting together is going to be the enforcers.

Mrs. Heon said she was suggesting that a subcommittee be formed so instead of taking up Planning Board meeting time to dig into this they would have 2-3 people with some staff support go through the existing ones right now and report to the Planning Board what they found and Mr. Pimental would have some suggestions about some procedures and policies they could have going forward. We have two different things going on-how are we going to go forward with any new ones and what they are going to do about the existing ones she said.

Motion: (Pelkey, second King) to create a subcommittee to study the earth removal regulations for the Town of Farmington;

Discussion: Mr. Henry asked if they wanted to set the number of people on the subcommittee in the motion.

Friendly Amendment: by Mr. King: to have 3 members on the subcommittee and add "and make recommendations to the board"

Mr. Pelkey accepted the amendment to his motion.

Vote: The motion passed 7-0.

Mr. Mains asked if they have the 3 people.

Mr. Pelkey said no and that he would have to see who would volunteer.

Mr. Fisher, Mr. Mains and Mr. Pelkey volunteered to be subcommittee members.

Motion: (King, second Squires) to nominate Roger Mains, Bill Fisher and Rick Pelkey as members of the subcommittee;

Discussion: Mr. Pelkey asked if the board had any issue with Mr. Mains being a subcommittee member as he is an alternate member of the Planning Board.

Consensus of the board was they had no issues with Mr. Mains being a subcommittee member as an alternate member of the board.

Vote: The motion passed 7-0.

Mr. King said one of their biggest issues is the annual inspections don't happen and they don't have control as a board over Town staff or the Town's resources, the staff may not be available or may not have the expertise and those reports don't get done and don't get forwarded to the Planning Board.

He said especially on a big excavation the board should require outside inspections on an annual basis to be paid for by the applicant and that is probably the only way it will get done.

He said they need to have a person that's qualified and has time available and that would mean paying somebody because if they were to task Mr. Pimental to do it they would have to send him to training to get that expertise and then he has to have the time to do it.

Mr. Mains said basically they want a Clerk of the Works.

Mr. King said that needs to be done at a certain time, prior to the application timeline so that when the application comes in it can be done and they can advise the Planning Board to make a recommendation to the Selectmen or advise the Selectmen that it's not in compliance. He said if the NOD tasks an outside company to do it and to pass that information on compliance or non-compliance on to the Selectmen then the Selectmen have all the information that they need to say yes or no.

Mrs. Heon said it also allows the Planning Board to keep track more regularly rather than its 5 years later and they really don't know what has happened.

Mr. King said when it gets down to the final step for building a house it's a little easier because everything has to be checked off before a Certificate of Occupancy can be issued. He said in this case they never go to reclamation and nothing is getting checked off or reviewed.

Mr. Mains said if they get that guy who is walking in the pit and doing his job for us then...

Mr. King said that is one thing they haven't tried and they have tried to have everything tight on the NOD's with all these requirements. He said if the owner has to pay for an outside person sooner or later they will get tired of paying for somebody to come out to audit this pit that they're not doing anything on and maybe they will get it reclaimed and get it done.

Mr. Pelkey said they could say if they come out and find out that they are not in compliance they would have to pay for them to come there again to make sure that they are in compliance which will cost more money so they might want to think about getting it right the first time.

Mr. Henry asked who specifies the firm that does the compliance check.

Mr. Pelkey said the board can.

Mr. King said the trouble is at one time they had a licensed engineering firm acting as the Town engineer for compliance on roads, etc. and they have not had anybody active for a while. He said FST was put forth by this board maybe 10 years ago when it was busier and the board has not taken it up since then. The board could appoint somebody or they could designate that it be done and it would be a Town staff person's responsibility to pick that person.

Mr. Pimental said 3 things he wants to look at with the subcommittee are getting an inventory of the existing excavations, any past reclamation issues and getting a grip on what's in the past and the regulations to look at would be the performance bond piece for legal review to get a better understanding of how that works and what they need to require to ensure that is enough money to cover the reclamation, adding the language about the third party review and how that will be decided and the procedure and policy for what exactly is going to happen every year when they get the third party review.

Mr. Henry asked if lack of reclamation would be justification to lien a property.

Mr. Pelkey said the law says if they have to they can put a lien on the property for reclamation.

Mr. King asked what they had to do before they could install a lien.

Mr. Pimental read "that should the reclamation not be completed the board may request the Town to authorize reclamation at the Town's expense. The Town's cost shall constitute an assessment against the owner and shall create a lien against the property. Such assessment and lien may be enforced and collected in the same manner as provided for real estate taxes".

Mr. King asked if the Town has to do the reclamation and then put a lien on the property.

Mr. Pimental said yes.

Mrs. Heon said it sounded like it is an assessment not a lien and then they would get a tax bill.

Mr. King asked if the lien could be assessed if it is not reclaimed just estimated the reclamation. He said if they say this is going to be the final compliance thing we do and we can't get him to comply it sounds like the Town is paying for it and we're putting an assessment on it. He said if the property is worth \$50,000 but the reclamation is \$250,000 we wouldn't do it. He asked if the assessment could be attached as a lien without doing it (the reclamation).

He said if they can't it's really not a viable option unless the value of the property is so high that the Town would consider doing the reclamation and put the lien on it. If they didn't feel the money would be recovered that wouldn't be a wise expenditure of taxpayer money he said.

Mr. Pimental asked if they thought the value of a large scale gravel pit the size of those lots would ever be less than \$50,000.

Mr. King said it would on the reclamation cost and these are costs they can't estimate.

Mr. Pimental asked Mrs. Heon if she has seen any of the performance bonds and if she knew what their cost is.

Mrs. Heon said she would start digging them out and that someone from Pike said that they think that some of their properties are double bonded and they wanted some of them released.

Mr. Pelkey said the release of the bond is done by recommendation as well once they have reviewed it.

Mr. Pimental said the pit that was closed during his time here was reclaimed and the Town did a pretty good job with that it's the ones prior but he didn't know how much they can go back.

Mr. Henry said that firm was still operating in town which may have helped to motivate the reclamation.

Mr. King said there was some effort required by the Town to get them into compliance. He said now they are not in operation in town and asked if they submitted an application for excavation at their large site.

Mrs. Heon said she would know by this week if they are going to file an intent to excavate as they file it every year but maybe not on the big one.

Mr. King asked what land they were going to come in for a permit for.

Mrs. Heon said that is the land that they lease from Tom and Michelle Huckins which abuts Pike's property.

Mr. King said that is just one piece of land in that permit and there are multiple parcels.

Mrs. Heon said that one had to have a separate permit because the land is not owned by them.

Mr. Pimental said they are in the midst of working on all their reclamation plans for that one because the Town won't sign off on a closure letter. He said the person that did the Paulson Road one is the same person that's doing the Huckins' site.

Mr. King asked about the reclamation requirements for the slopes.

Mr. Pimental said he didn't know.

Mrs. Heon said they should have plans.

Mr. King asked if the site was mined straight down in ledge what the required slopes were that they have to reclaim to.

Mr. Pimental said there are some reclamation standards that are set in the regulations but he didn't know what they are off the top of his head.

Mr. King said there is a thru-road that abuts that parcel and you can see that site from the road. He said it was mostly blast and crush and that it's going to take some work to reclaim it.

Mr. Henry asked if it would make sense for them to go out to bid for an hourly rate from the engineering firms that would do the review so they know ahead of time what the cost will be on an annual basis.

Mr. King said the staff would have to do some research to figure who does that service.

Mr. Pelkey said they would also want to know what it takes for a time commitment to do it.

Mr. King said they should do a Request For Proposals but they would have to find firms that

provide auditing of gravel pits.

Mr. Henry said they should go out to bid every year for all of the things they require outside engineers for so they can tell the applicants the Town's designated firm as chosen by that process annually and give them this year's rates based on the bids.

Mr. King said they could say they are looking to find a firm that can provide excavation auditing and the outside engineering services so if the board tasks that in a site or subdivision plan the firm selected annually can provide the services we need.

Mr. Pelkey said maybe they can give us a ballpark rate per acre.

Mr. Henry said it may not be the same firm for everything and they may get one that only has the expertise to make sure the roads are done correctly.

Mr. King said then they would have to get another one for the excavation service annually.

Mr. Pimental said he would support that with his experience with trying to find a third party review for an on-going application right now. He said if the Town went through a process and said this is who we are using this year for these types of projects-drainage, roads, excavations, etc. that would be easier than trying to meet the needs of an applicant.

Mr. Henry said that would show the applicants that say the Town is just picking the most expensive guy that they went through a bid process when choosing the firm(s).

Mr. King said that is how the Town chose FST in the past.

Mr. Pimental said it may be in the Town's best interest to do that again.

Mr. King said they would have to initiate that as a board and made the following motion:

Motion: (King, second Henry) to have Town staff reach out for RFP's for engineering services for the Planning Board;

Discussion: Mr. King said they are asking Mr. Pimental to put together an RFP seeking the engineering services from one or multiple agencies to serve as outside engineers for subdivision, site plan, gravel excavation and any other needs.

Mr. Fisher asked if before they could vote on this if they would have to go through the Selectmen because they will have to foot the bill.

Mr. King said the applicants will have to foot the bill for all those costs.

Mr. Henry said they are looking for them to give us a rate.

Mr. Fisher asked if they can charge an applicant money because the Selectmen sets fees and schedules.

Mr. King said this board can set conditions that cause the applicant to incur fees for outside engineering.

Mr. Pelkey said just like they did with the driveway third party engineering review.

Mr. Pimental said eventually this will have to go to the Selectmen because this board is starting the process by asking for 3 or 4 engineering firms to send us an RFP with their qualifications and their rates and then they will make a recommendation for the Selectmen to sign off on that.

Mr. Fisher said before they hire somebody to represent the Town the Selectmen need to weigh

in on it.

Mr. Henry said they want a contract in place that holds the contractor to the rates quoted in the contract and that needs to be signed by the Selectmen.

Mr. Fisher said they could ask a few of the surrounding towns if they have somebody they are using.

Vote: The motion passed 7-0.

Mr. Pelkey asked Mrs. Heon to coordinate with him on when the subcommittee could get together.

Motion: (Fisher, second King) to take a 5 minute recess passed 7-0 at 8:15 p.m.

The meeting reconvened at 8:20 p.m.

Any Other Business Before the Board:

Update on Potential USDA Rural Community Funding- Mr. Pimental said a rural designation is based on population and median income and Farmington meets those thresholds. He said there are different funding sources through this program that include guaranteed loans, direct lending and grant programs. Within the grant programs there is technical assistance funding, business programs, rural housing for first time home buyers, repair programs, help with community services, purchasing vehicles and equipment, improvements to municipal buildings, a rural utility program to provide loans for water and sewer upgrades and the NH Bond Bank which has fixed interest rates of 2.17% over 30 years.

He said within their service area there is a census designated place which is the downtown area which for a maximum of \$50,000 there would be cost share of 75% and a \$50,000 max/35% cost share for the rest of Farmington.

He said their fiscal budget year runs from Oct. 1 to Sept. 31 and typically they have \$10 million available for community loans and \$100,000 to \$500,000 for community grants if the Town wants to pursue that.

He said the other source that is probably more related to this board was in the legislative bulletin released by the NH Municipal Assoc. in Feb. where the Governor announced his housing initiative which is part of the \$100 million in **American Rescue Plan Act** funds to help fund housing initiatives. He said there is \$60 million to match investments for multi-housing projects that are ready to go, \$30 million for municipalities for approving permits, \$5 million for demolition and \$5 million for municipal planning and zoning grants to help local officials review and update zoning ordinances.

Mr. Pimental said it hasn't been released yet about how they would apply but he would recommend that the Town pursue the \$5 million in NH for planning and zoning grants. He said if they could secure a \$50,000 grant that would go a long way towards taking a serious look at the subdivision, site plan and zoning as a whole. He said they have done a good job with the pieces they have addressed but there are a lot of places where things point to sections that don't exist and challenges from years of small incremental changes that weren't done looking

at the entire zoning.

He asked the board for their support and some direction on whether they thought this was a good idea to pursue. He said this round of ARPA funds is not going to be there all the time and the Town would be missing an opportunity if they didn't at least try to go for some of the \$5 million in zoning grants.

Mr. King asked Mr. Pimental to send him the information on the USDA funding.

Mr. Pimental said he would send the board the online link to their rural designation site.

Mr. Pelkey asked what he needs from the board to move forward on the planning piece.

Motion: (King, second Pelkey) to have Kyle pursue the planning and zoning grant from the ARPA funds passed 7-0.

Mr. Fisher asked if there is anything in there that would help the town if we have to rebuild our levee or to do a study of the levee to make sure it meets FEMA's requirements.

Mr. Pimental said he thought there would be as they have an entire water environmental program.

Mr. Henry questioned bringing in a third federal agency on this.

Mr. King said it may be a way to get the USDA to fight with FEMA. He said they have been able to get right with the Army Corps of Engineers on the levee most of the time but FEMA is the new curveball.

Discussion with the Interim Town Administrator-Mr. Pimental said the Town has hired Mike Farrell from Municipal Resources Inc. as the new Interim Town Administrator and the Planning Dept. met with him on Wednesday to discuss what work is on-going and give him the "lay of the land" and where they would like things to go. He said it was a good conversation and he stressed to Mr. Farrell the amount of money that is currently available and in some cases we might not see this again for generations.

He said there are grants coming down the line with no match requirements and there is more coming with the infrastructure bill. He said this board and the Selectmen and the town in general should try their best to take advantage of some of these opportunities. I don't think the town is ready for some of the construction but we could use some of this money for planning, design and preliminary engineering for some work that needs to be done he said.

Mr. Pelkey asked if they have enough people to be looking out for the town to make sure we are in line for all of this stuff.

Mr. Pimental said no. He said there are a lot of opportunities out there and more coming down the line and he will do his best to choose the ones that he can handle.

Meeting Schedule- Mr. Pimental said he was initially going to recommend to the board that they cancel the May 4 meeting but he would not make that recommendation now because there is something that needs to get done. He said the board will meet on April 20 to discuss the acceptance of an excavation permit application and then set the public hearing for May 4. He said he would not be attending the meeting but he will provide them with a planning memo

and they will have a chance to review the entire application on April 20. This is not a giant excavation and its short term he said.

Mr. King asked if this is on Rt. 11 where the red house was torn down.

Mr. Pimental said yes and they wanted to prep the site and tried for an incidental to construction "to be determined" and the board said no and they would hear about everything on April 20.

NHDOT Request –Mr. Pimental said NH DOT has asked Strafford Regional Planning to identify sites in the municipalities that might be suitable for electric vehicle charging infrastructure and he would like to spend more time discussing this at the April 20 meeting.

Mr. King asked if they are looking for public or private locations.

Mr. Pelkey said there is a whole list of the attributes they are looking for.

Mr. Fisher said he didn't like the idea of spending taxpayer money to fund charging stations for a private company that is going to charge people to charge their vehicles and put money in their pockets. He said we don't pay for gas stations to come into the area with tax dollars and asked why we should spend \$17 million to have a company put in a charging station when this money could be spent on hospitals, schools, public transportation or bridges and infrastructure. Mr. Henry said they have done their part in that private firms can put in a charging station anywhere in town.

Mr. Pelkey asked if this would be taxable property that would be put in town and if it would be added to the tax base. He said every town around us could put one in their town and charge taxes to the company and we can no, we don't like it and not take one.

Mr. Pimental said the \$17 million in the infrastructure bill is already set to go towards electric vehicle infrastructure so whether or not the Town wants to take advantage of that is up to the Town. The \$17 million is going to be spent on this whether you agree with it or not he said.

Mr. Henry said this isn't going to be for the people with electric vehicles that live in town as they have charging stations at home. He said this will be for the people driving through on Rt. 11 heading up to the Lakes Region.

Mr. Fisher suggested putting charging stations downtown to bring people downtown and put a sign out on Rt. 11 directing them downtown to charge their vehicle.

Mr. Pimental said they want drivers passing through to stop and if there are charging stations at locations where there are other businesses/amenities they might spend some money in town while waiting for their batteries to charge.

Mr. Henry said they aren't practical at gas stations because gas stations are high volume in and out quick and electric charging is sit a spell.

Mr. Fisher said he would favor putting some electric chargers at a few of the parking spots on Main Street in front of the businesses there like they used to do with parking meters.

Mr. Pelkey said he could hear some businesses hollering that there isn't enough parking now and these vehicles would just be sitting there.

Mr. Pimental said there is a map view showing some economic opportunity zones and information on what they're looking for and he could ask if their Transportation Planner is available on April 20 to talk more about this. He said the continued case for the Fox Trot Drive subdivision will be quick and if the board wants to have a more in-depth discussion about identifying these sites he can ask them to do that.

He asked the board to think about some potential locations in town specifically on Rt. 11 and Rt. 153 that may be applicable to this.

Mr. King asked if they are looking for Town owned properties.

Mr. Pimental said he wasn't sure exactly what they were looking for.

Mr. Henry asked if this is spending government money to build these on private property and if so who owns them and who gets paid when they are used.

Mr. Pimental said he didn't know and showed the board the one document he received which was supposed to go to the Selectmen. He said it could go to both boards and that the transportation people are looking for feedback from the Town.

Mr. Pelkey said the Selectmen would probably discuss this before the Planning Board does and asked for feedback from the Selectmen as to if they're interested in having the Planning Board look at it. He said if they deem that it's viable and that this board should look at it then put it on the agenda for their next meeting.

Adjournment:

Motion: (King, second Fisher) to adjourn the meeting passed 7-0 at 8:35 p.m.

Respectively submitted

Kathleen Magoon, Recording Secretary

A handwritten signature in cursive script, appearing to read 'R. Pelkey', is written over a horizontal line.

Rick Pelkey, Chairman