

**Town of Farmington  
Planning Board Meeting Minutes  
Tuesday, February 5, 2019**

**Board Members Present:**

David Kestner, Chairman  
TJ Place, Selectmen's Rep.  
Stephen Henry  
Charlie King  
Bill Fisher  
Rick Pelkey  
Bruce Bridges, Alternate

**Others Present:**

Arthur Capello, Town Administrator  
Stuart Arnett, ADG Group

**BUSINESS BEFORE THE BOARD:**

**Call to Order:**

Chairman Kestner called the meeting to order at 6 p.m.

**Pledge of Allegiance:**

All present stood for the Pledge of Allegiance.

**Review of Minutes:**

January 15, 2019 – No errors or omissions

**Motion:** (Fisher, second King) to accept the minutes as written passed 7-0.

**Seating of Alternate:**

Chairman Kestner asked Mr. Bridges to take the seat vacated due to Mr. Laferte's resignation. He advised Mr. Bridges to reapply to the Selectmen if he is interested in becoming a full member of the board.

**Master Plan Update:**

The board received draft 1 of the potential chapters and the sections in each chapter for the updated Master Plan in their meeting packets. Chairman Kestner asked if the board wished to begin review of the draft or to revisit it at the March workshop meeting.

Mr. King said that without the contracted staff present he did not know what could be accomplished without a discussion of why they wrote what they wrote if they wanted to make any changes.

Mr. Capello requested that the board take this up at the next February meeting because there is warrant article seeking \$20,000 for the second half of the Master Plan update for March

Town Meeting and he would like the board to be prepared in case any questions arise regarding the status of the update.

Stuart Arnett arrived and gave the board draft 2 of the proposed revisions which included an outline of the proposed contents. He said that in December they decided to bring the proposed revision in 3 major sections- 1) the objectives/goals, 2) policies and 3) action steps with the key points for each section one at a time.

He said they picked the points from the existing Master Plan to start and made a few language changes in an attempt to de-bureaucratize the plan so it has less "Planner-speak". He said the outline they just received contains the 9 proposed chapters with the sections to be included in each chapter and next month he would return with the recommended policies and then with the actions steps the following month. He asked Chairman Kestner to have the board provide some feedback about what they like and don't like about the proposal so far.

Mr. Pelkey said he would like to be able compare and contrast what is in the existing plan and what is being changed. He asked for the location of the existing Master Plan and if it can be viewed on the Town website.

Mr. Capello asked what has been changed from what we have now.

Mr. Arnett said he didn't break it down to show the before and after and that some of it is just some re-wording and some of it is more "best practices". He said they tried to make it have less restrictive language and be more qualitative by saying we need to need to do both things- protect the resources and allow people to have reasonable use of their property as a goal. He said they weren't planning on any radical changes but almost everything will have some small wording change and if anything new is added he would send the information to Mr. Capello. Chairman Kestner noted that in the outline for Chapter 3, Natural Resources and Conservation, there is a statement regarding anticipating climate change impact on the natural environment and encourages the reduction of carbon emissions that was not included in the current Master Plan.

Mr. Arnett said there was something "loosely" the same in the existing plan where it called for mitigation of climate change so they changed it to "proactively anticipates" that shows as a planner you are thinking about it.

Mr. King said he saw this as a politically charged statement and asked what the community has been doing about this as he must have missed it.

Chairman Kestner said the community has done "diddly" about it with the exception of the new solar farms coming in.

Mr. Pelkey said that encouraging the development of solar power is proactively addressing the issue.

Mr. Arnett said they cobbled together things they saw in the plan and brought it before the board so they could determine which things they want to keep or remove from the plan. He said they would then come back to the board and say based on their goals here are the

recommendations for how to pursue them and the third step would be the action steps.

Mr. Henry said he didn't like it and that between the second (proactively anticipates climate change...) and the third goals (proactively undertakes measures for energy conservation) he saw it as the "camel's nose under the tent" in that it would create a lot of regulations with a lot of cost to property owners so they can't afford to build and to owners of existing buildings that would fall apart because they can't afford to bring them up to the current requirements.

Mr. King said the community is proactive to conserve resources and some of the other goals listed but that the second and third objectives are the current "buzz words" and don't fit with Farmington.

Mr. Arnett pointed out that objective #5 now states "Allows reasonable private access to and utilization of privately owned natural resources areas..." and was changed from the strong ambiguous statement "to restrict access to protect natural resources" which made it sound like they intended to prohibit people from going on their private property.

Mr. King suggested that the word "allows" be changed to "encourage" or "promote" because they can't tell private landowners they need to allow access to their property.

Mr. Henry said if he understood properly this was added to say the property owner can access his own property.

Mr. Arnett said when someone comes in looking to do something with their property it will allow them to look at both the protection of natural resources as well as what would be a reasonable use of privately owned natural resources. Before, it was that we don't care what the owner wants to do we just want to protect the natural resources he said.

Mr. Henry said he just assumed a private property owner could use his private property.

Mr. Arnett said these are goal statements.

Chairman Kestner said goals end up becoming actions, actions become land use issues and then zoning changes so that is why we operate a little more on the "red neck side" here and believe in property rights and not just because someone wants to put in a subdivision that the back portion of his property doesn't end up becoming a Town park.

He said many of the members have a tendency to want to tread lightly on many issues and there is always a rebounding effect that may not be to the advantage of the property owners.

Mr. Arnett said that is why now 2 of the 5 objectives mention private property owner where before they were not mentioned at all. A Master Plan that is seen as a divisive document is not a Master Plan and it has to be a plan that reflects the consensus of the majority of the population he said.

Mr. Pelkey said he supported objectives #2 and #3 and that he did not understand why they took issue with "undertakes measures to ensure energy conservation" as that is a goal that is worthy of the town. He said that they didn't have to take draconian measures and that reasonable standards could be set to do it and that the same could apply to reducing carbon emissions. He said he was not sure how the town anticipates climate change and that

information would have to come from outside the board.

Mr. Capello said there is a warrant article on the ballot for Town Meeting to give a 100% exemption for solar energy systems to residents, there are 6 solar arrays going in and the town will not have to worry about having a zero footprint energy code as that is the goal of the building code by 2020.

Mr. Henry said having this in the Master Plan would encourage people to start putting the draconian regulations in and not putting it in the Master Plan does not prohibit people from doing it as the cost of energy itself discourages consumption. He said he was not worried about this board but the board in 5 or 10 years and where they will go with that.

He said that objective #5 needs to be reworded as currently it could be interpreted to say it allows public access to private property for recreation such as snow mobile trails coming across a private property whether the owner likes it or not.

Mr. Arnett proposed the objective be amended to state "encourages reasonable private utilization of..." He said they were trying to say that you don't want to set regulations that do not allow a private property owner to have reasonable utilization of his property so the objective will be restated to reflect that.

Mr. King suggested that objectives #2 and #3 be combined and rewritten. He added that there is a bill before the state legislature regarding a carbon emissions tax so the Town doesn't need to do it.

Mr. Fisher said the phrase "appropriate recreation" should be removed from objective #5 as the property owner may want to use his land for something else such as for a storage shed, and that as long as the natural resources are preserved he would have no issue with it.

Mr. Henry said he saw mention of cluster developments in the draft and asked if the Town has regulations regarding that type of development.

Chairman Kestner said the Town does have cluster development regulations in the zoning ordinance. He said that objective #2 under Section II Land Use of the draft states "encourages cluster residential development that incorporates open space preservation and access opportunities" and asked if "access opportunities" means the Town gets a park or a trail on a portion of the owner's property.

Mr. King said this is already included in the cluster development regulations.

Mr. Arnett asked if the Town currently requires a certain set aside of open land for major subdivisions.

Chairman Kestner said there are certain percentages included in the cluster development regulations for a density bonus.

Mr. Arnett said that is why they used the word "encourage" as a density bonus is offered but is not required.

Chairman Kestner said that nowhere in the regulations does the property owner lose the ultimate decision as to what will be done with the open space. He said there is a potential for

draconian changes depending on the framework of a future board.

Mr. Capello asked about objective #3 (encourage mixed-use commercial, residential, institutional and recreational land uses in the Village Center-VC) and said that he thought the objective was to encourage more shops downtown.

Mr. Arnett said it was his understanding they were happy with concept of commercial uses on the first floor and residential uses on the second floor downtown.

Mr. Henry said there are buildings that are completely residential units and some single family houses that fall within the borders of the VC.

Mr. King said that as a board they do not "twist their arm" to get a developer to construct a cluster development but it is offered and incentivized in town. He said he had an issue with the word "encourages" in #2 as he did not think that the Town actually encourages it as a development tool and leaves it up to the developer.

Mr. Henry said this plan is not for what is being done now but for what they want to do. The proposal asks if we want to encourage more cluster developments rather than lot sized based development he said.

Chairman Kestner said not one proposed cluster development has come before the board since he has been on the board.

Mr. Henry said cluster development lends itself more to a large parcel.

Chairman Kestner said there large parcels in the Rural Residential (RR) District.

Mr. Arnett said there are some advantages to the developer of a cluster development such as the density bonus, use of a combined septic system and well. He said this is meant to say do we want more cluster developments or more traditional subdivisions.

Chairman Kestner said when an applicant has presented a conceptual design plan to the board he has never heard anyone say the Town would prefer they take a particular route because of the Master Plan.

Mr. Arnett said there are some good reasons that the Town may want to encourage cluster development such snow plowing and Police response times and that a traditional subdivision is a more expensive subdivision to maintain for streets and roads. He asked as the demand for housing grows in the region, if they wanted to see more cluster developments 4 or 5 years from now.

Mr. King suggested they use the word "support" in place of "encourage" in the objectives.

Mr. Fisher recommended they table this discussion and give the members some time to review draft 2 which they just received, formulate their arguments and recommendations and to discuss it at the next board meeting.

Mr. Arnett invited the members to plan to discuss the draft next month or to call or e-mail him with any questions or concerns.

Mr. Capello asked the members to send their questions/feedback for Mr. Arnett to him and he would compile them and forward them to Mr. Arnett.

Chairman Kestner explained that the board planned to discuss it at the Feb. 19 meeting instead of waiting until next month because of the Master Plan warrant article to be voted on in March.

**Motion:** (Henry, second Fisher) to table the discussion until February 19 passed unanimously.

Chairman Kestner said the agenda also includes the 2<sup>nd</sup> Public Hearing on proposed language changes Section 2.05 Table of Permitted Uses. He informed Mr. Arnett that the article did not meet the submission deadline and will not be on the warrant at Town Meeting this year.

Mr. Capello said he already spoke with Mr. Arnett about this and asked him and the board to keep moving forward with the proposed changes so it will be ready for submission for next year's Town Meeting warrant.

Chairman Kestner explained that the board submitted the changes at the last meeting (Jan. 15) so the article did not meet the requirement for 2 Public Hearings prior to the (Feb. 4) deadline for submittal. The proposed additional definitions will be on the Town Meeting warrant he said.

Mr. Arnett said he hoped the board would still finalize the changes to the Table of Permitted Uses so that he can inform the grant source that the board has acted upon them.

**Motion:** (Kestner, second Pelkey) to take a 5 minute recess passed unanimously at 6:55 p.m.

The meeting reconvened at 7:05 p.m.

#### **PUBLIC HEARING:**

##### Proposed Changes to the Table of Permitted Uses, Section 2.05, Village Center District (VC)

Mr. Henry stepped down from the board and recused himself from the discussion as he has a business interest in the VC and was seated in the audience.

Chairman Kestner asked Mr. Arnett to come forward to review the proposed changes with the board. He said the board received a copy of the Table with the changes as submitted at the previous meeting and that all of the changes were noted appropriately.

Chairman Kestner opened the public comment portion of the hearing at 7:08 p.m.

Mr. King said no matter what the board does at this meeting that in order for it to be included on next year's warrant the board will have to hold 2 public hearings next year as well.

Chairman Kestner agreed and said it will need to be revisited at the end of this year to allow time to hold 2 public hearings for next year's warrant.

Mr. Pelkey asked if they needed to table the hearing or if the staff would recommend when the public hearings should be held.

Chairman Kestner recommended that the board first approve the changes made and then table the matter until around the Nov. timeframe when the Planner would notify the board to hold the public hearings.

Mr. Arnett said there would be an advantage to marketing the downtown sites in having the board send a message out that they are in favor of this and because of the deadline it is not in place yet. He recommended that the board approve the changes and then table the hearing instead of just tabling the matter.

Chairman Kestner agreed and said he expected to vote on the matter by the end of hearing

tonight. He said if a proposal for a re-use of the old fire station came up that falls within the permitted uses in the current guidelines the developer could request waivers from the board as need be.

Mr. Arnett said their vote would clearly show what their intent is.

There were no questions/comments from the public.

Chairman Kestner closed the public comment portion of the hearing at 7:12 p.m.

**Motion:** (King, second Pelkey) to approve the changes as presented passed 6-0.

Chairman Kestner suggested they table the matter until the year end and then revisit it so it will make the 2020 Town Meeting Warrant. He asked the Recording Secretary to request that Mr. Capello as the Interim Planner to make note that this issue needs to be revisited around the Nov. timeframe.

Mr. Henry returned to his seat on the board.

Chairman Kestner thanked Mr. Arnett for his assistance and attending the meeting.

**Any Other Business before the Board:**

Mr. Fisher said there is a proposal on the Town Meeting Warrant to accept Richard's Way, currently a private road as a Town road to be maintained by the Town. He said the property owner came before the board several months ago requesting that the funds previously escrowed be released to her so she could continue the development of the area. Contingent upon release of those funds were that the cisterns had to be full and operational and conditions of the road had to satisfactorily meet all of the requirements of a Town road and be inspected by the Town's designee.

Mr. Fisher said since the board had no paperwork regarding this issue they asked the Town Planner if those conditions been met and he answered that all of the conditions had been met. He said subsequently to that it was learned that the cisterns' tanks were inspected and found to be inoperable and empty. It was reported that the property owner felt that since there is only 1 house in the subdivision that it was not necessary to fill the cisterns he said.

Mr. Fisher said as far as it is known, the road has not been inspected and it is not known if the road meets 100% of the Town's road requirements. He said the board previously said the road was "good to go" based on what they were told by the Town Planner and he has not seen the paperwork that says they are (up to Town road standards).

Chairman Kestner said the road inspection was done by the Town's contracted engineering firm, FST and there should be some paperwork available to reflect this.

Mr. Capello said they have not been able to find any paperwork regarding the inspection of Richard's Way.

Mr. King said that he hoped that the staff is going to be prepared to answer what the status of this issue is when it comes up before the taxpayers. He said someone may have to contact FST to find out where they left off.

Mr. Capello said they just got the warrant article submitted and approved and have yet to

figure out what happened with the road inspection. He said information will be available for Town Meeting.

Mr. King said he was on the board when this application started and he believed there was engineering oversight of the project to an adequate level and they need to obtain the paperwork in order for the taxpayers to make an informed decision.

Mr. Pelkey asked if this is a petitioned warrant article similar to the 2 petitioned warrant articles to accept roads as Town roads that did not pass last year.

Mr. Capello said this is a petitioned warrant article and that the 2 articles to accept private roads as Town roads did not pass at Town Meeting last year.

Mr. King said this one is a little different in that this road was recently constructed with oversight based upon the regulations currently in force which were the same regulations they had to comply with so it is not an old existing road but a new road built to current standards.

Mr. Henry asked what the cisterns have to do with accepting the road or if it is a separate issue.

Mr. Capello said if the Town owns the road it owns the cisterns.

Chairman Kestner said the cisterns were a requirement for approval of the subdivision and they are required to be operational. He said he was not sure who was responsible for the acceptance of the cisterns without looking at the site plans.

Mr. King asked if the cisterns are located in the Town's right-of-way making them the responsibility of the Town or if they are responsibility of homeowners' association.

Mr. Capello said he has the policy which states the Town owns the cisterns as well if we take over the road.

Chairman Kestner said at a minimum the developer should be responsible for providing the cisterns in operational condition as part of any hope of it being accepted as a Town road.

Mr. Capello said the developer has been sent a letter from the Fire Chief giving them a certain period of time to develop a plan to be approved by the Chief for how the cisterns will be filled and made operational.

Chairman Kestner said there should be plenty of paperwork on the FST reports for that subdivision.

Mr. Capello said that after Thursday's public hearing on the Town budget he will review the file on the subdivision and this information will be available for Town Meeting.

**Adjournment:**

**Motion:** (Bridges, second Fisher) to adjourn the meeting passed unanimously at 7:25 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary





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David Kestner, Chairman