

Town of Cromwell Planning and Zoning Commission

REGULAR MEETING
7:00 P.M. TUESDAY, JANUARY 17, 2012
ROOM 224 CROMWELL TOWN HALL, 41 WEST STREET

Minutes

Present: Joseph Garafalo, Michael Cannata, Alice Kelly, Thomas Madden, Richard Waters, Nicholas Demetriades, Brian Dufresne, Peter Keithan, Chris Cambareri

Also Present: Town Planner Craig Minor, and Board of Selectman Liaison Enzo Faienza

1. Call to Order

The meeting was called to order at 7:00pm by Chairman Alice Kelly.

2. Roll Call

The presence of the above members was noted.

3. Seating of Alternates - none

4. Approval of Agenda

A **motion** was made by Tom Madden and **seconded** by Peter Keithan to amend the agenda to allow citizens comments on item 7d) Final Report of the Farmland Preservation Committee to the Board of Selectmen and to table any decision until the next meeting since the package was just received. *All were in favor; the motion was passed.*

5. Public Comments

Attorney Salvatore Petrella of 630 Main Street came forward to say that he had questions about 7b 1 and 2 and 7c 1 and 2. He wasn't sure if he should ask them now or wait until those items were called. Chairwoman Kelly said he could do it when those items were presented on the agenda.

6. Development Compliance Officer Report:

a. Activity Report

Fred Curtin came forward and went over his report dated January 11, 2012. He also said that 257 Main Street was referred to the Blight Committee. Mrs. Kelly asked Mr. Curtin about Willowbrook Road, Lot 1. She said she has pictures and she said the lot has gone into disrepair.

She said there is going to be a new tenant coming across the street and they have to look at this. She said that nothing in Cromwell should like this. She said that Chapter 236 of the zoning regulations says that we can start fining people for these things.

Chairwoman Alice Kelly asked Mr. Curtin if he could start separating his report of permits that have been approved by staff and ones approved by this Commission. She thought this would keep it cleaner.

Peter Keithan said that Main Street is still a mess. He said every other business around there looks good. He asked Mr. Curtin what they can do. Joseph Garafalo agreed with Mr. Keithan and asked if this Commission could threaten to pull their permit, similar to what they did to Airsoft. He also said that he can't believe that Inland Wetland is allowing this. Mrs. Kelly asked Mr. Curtin to look at chapter 236 of the regulations to see what they can do.

7. Town Planner Report:

- a. Public Hearings to be Scheduled: none
- b. Performance Bond Action:
 - 1. Bond Reduction at "Newbury Estates" subdivision (Newbury Lane)

Town Planner Craig Minor said he is recommending no action on this since he has not received a positive recommendation from the Town Engineer.

Attorney Salvatore Petrella, 630 Main Street came forward and said that his remarks will be specific to this but some will also be generic to the bond process. He said that it is very difficult for him to give advice to developers with respect to the amount of bond and how to get it returned. He said that the process is not uniformly applied in many cases. He said he realizes that Planning and Zoning doesn't like to do partial releases. He said that when he is looking for a bond to be released that the current process is to email Town Planner Craig Minor with a request. Mr. Minor then sends out an email to various departments and eventually they reply to him. He said this is where the process breaks down. He said Mr. Minor is out of the loop and the developer eventually tries to work with whatever department has issues for the bond release.

Attorney Petrella said he made a written request on November, 15, 2011 asking everyone to review the bond release for Newbury so they can make the corrections before the December meeting. He said that they still did not have a resolution. He said he feels the developers play a part in this but they have to know what to do before they can fix it. He said if there is no reason to hold onto this money than give it back to them. He said the progress of other projects is affected by this. Attorney Petrella said that there has be a more streamlined process with more timely follow-up.

Town Planner Craig Minor said that the as-built plan for Newbury does not comply with approved site plans. Attorney Petrella admitted that the contours are different. He said the developer remediated the entire site before he put in the subdivision. He said that there is an estimated 16,000 cubic yards of contaminated soil buried there. He said then at least 4 feet of covering soil had to be placed on top of that. He said that more soil was buried in the hole than was planned so that is why it is 6-12 inches higher than the plan. There is no problem with drainage or sight lines so what harm is the extra 6-12 inches? He said this was an estimate not rocket science. Attorney Petrella said they are only asking the town to inspect this and then return the money. There was a discussion between Attorney Petrella and Commissioner Rich Waters as to whether or not any contaminated soil was taken off site.

Tom Madden said the contours do seem acceptable and he agrees with what the Attorney is saying, but Mr. Mazurek isn't here to explain any impact this may have. Attorney Petrella said that we have to work together so we don't go thru this every month. Chairwoman Kelly said that the Director of Public Works knows that she expect certain things in order to move forward. She said a procedure will be in place within a month.

A **motion** was made by Joseph Garafalo and **seconded** by Michael Cannata to table the bond reduction request at "Newbury Estates" subdivision until the next meeting on February 7, 2012. *All were in favor; the motion was passed.*

2. Bond Reduction at "Cobblestone Plaza"

Patrick Snow of Cobblestone, LLC came forward. Chairwoman Kelly told Mr. Snow that the Commission has not had time to review this package of documents since they just received it minutes before the meeting started. Mr. Snow said the work is done and we have had assurances from this Commission that the bond would be released when the work is complete. He said the contractors are looking to get paid and the backup is in front of you. He said that these matters have been discussed many times before. He said that this isn't going to do the contractors any justice if we don't resolve this now. Chairman Kelly read an email to Mr. Minor from Mr. Snow dated December 12, 2011 that says Mr. Snow has all of the invoices. She asked Mr. Snow if that was the case, why didn't we have them prior to today? Mr. Snow said all of the invoices came by December 15, 2011 with the exception of one from Superior which came to him after January. He said that she asked him to make this as clear as possible and he did. He said yes, it is late but it is a good package. Chairman Kelly asked about the letter from the town attorney saying the Commission could pay the contractors directly. Mr. Snow said that he does not believe the attorney has replied yet. Michael Cannata said that until we get the letter from the town attorney that there will not be a release of the bond. Mr. Snow said that if we are just looking for a letter saying it is ok to pay the contractors directly than just forget it and pay Cobblestone directly.

Chairman Kelly said that she has taken pictures of the site since the grading doesn't look right. She said that some of the rip rap has come down and she thinks we need to have these items

looked at. Mr. Snow said he is not qualified to answer these questions but perhaps Dr. Welti can. Chairman Kelly said the town engineer is saying it "appears acceptable" and she does not like that wording. Mr. Snow said let me know what he wants me to do. He said we need to follow some type of procedure. Chairman Kelly said that the town engineer needs to make a statement with specific items addressed. She asked Mr. Snow if he has sent in any inspection reports to the Town Engineer. Mr. Snow said that was never a requirement, he didn't keep track of specific times they were there.

Mel Eisen, partner of Cobblestone Associates came forward and said that he thought that Attorney Petrella's earlier comments rang true. He said that the town engineer has looked at this and said OK but his language may or may not be acceptable to you. He said it is your duty to dictate what that language needs to be. We have had an open door to all Commissioners and town staff. Mr. Mazurek has come out and told us and you that it's an acceptable outcome but you don't know if it's true. Now we have to wait for politics. He went on to say that this Commission told us it's important to pay our bills, but now we can't because you won't release the bond. He said that he took exception to this Commission saying we are not ready. He told Mrs. Kelly that she is bringing up issues that have nothing to do with the underground detention system. We can address those issues in proper time sequence. He said there is a disconnect here and we need clear direction. He said this is not your money, it is my money and it's mine to pay people who did this work. I am begging you to consider this.

Pat Snow suggested that the Commission release the bond with the condition that the Town Attorney approve this.

Chairman Kelly said she has emails between Town Planner Craig Minor and Town Engineer Joe Mazurek dated December 20, 2011. She stated that Mr. Mazurek did not answer Mr. Minor's question asking if the advised improvements have been installed as shown on the approved plan. Chairman Kelly said she also wants the reports of site visits, with dates and times. Mr. Snow said he understood but wanted to make it clear that she is waiting for information from third parties and Chairman Kelly said yes, that is correct.

Nick Demetriades asked Chairman Kelly what the bottom line was. He asked if what she was asking was reasonable. Did the people have time and resources to do these things for her. Mr. Demetriades asked her if we are going make all contractors follow the same requirement, and will it be published in writing. He wanted to know where the disconnect was and how to fix it.

Michael Cannata said there is a total disconnect with the Engineering Department and this Commission. He said some details may be over the top but we aren't getting any details. He also said he had no problems with paying contractors directly tonight provided the Town Attorney gives us positive feedback. He said hopefully by then we will have gotten feedback from the Town Engineer as well. Nick Demetriades said he does not have issues but doesn't understand the issue with the Town Attorney. He also said that he feels we are asking the town staff to do

things they may or may not be willing to do. We need to clarify what they want from us. There has to be a middle ground, let them know what the minimum is that we need to perform our duties on this Commission. Michael Cannata replied that no response from the Town Engineer is not acceptable when Alice Kelly has asked 5 questions. Tom Madden said that if the jobs are done, can't we approve with the condition that Mr. Mazurek give us a letter saying the project is complete to his satisfaction? He said that the word "appears" bothers him. He said he would also like a letter from the Town Attorney. Mr. Eisen said that whatever is acceptable to the Commission is fine with them. Michael Cannata asked the Commissioners to express their recommendations one by one.

Tom Madden said to release the bond with the condition of better verbiage from Mr. Mazurek and a letter from the Town Attorney that it's okay to pay contractors; if not then to Cobblestone directly.

Joseph Garafalo said he agreed with Mr. Madden.

Nick Demetriades said to wait for the Engineer's report and release to Cobblestone.

Brian Dufresne said he thought that if Mr. Mazurek had a problem he would have stated it in his response. He thinks they should release the bond.

Rich Water agrees with Michael Cannata, that Mr. Mazurek should get on the ball and do his job.

Chris Cambareri said that Mr. Mazurek should respond to all specific questions and then we can decide. He said no action tonight.

Peter Keithan said a partial release should be done tonight.

Chairman Kelly said if we receive a statement from the Town Engineer that we can then release the full amount to either Cobblestone or to the each contractor with recommendation from the Town Attorney.

A **motion** was made by Michael Cannata and **seconded** by Rich Waters to release \$174,806.65 directly to the contractors and Cobblestone as outlined in Cobblestone's letter dated January 12, 2012: \$48,331.25 to FD Construction, \$30,103.34 to Superior Products, and \$72,094.76 to Cobblestone Associates LLC and 24,277.30 and to A. Aiudi & Sons. This is conditional on a more definitive and favorable response from the Town Engineer and a decision from the town attorney stating that it is allowable to pay the contractors directly. If that is not her recommendation, then the entire amount will be released directly to Cobblestone Associates, LLC. *All were in favor; the motion was passed.*

3. Bond Reduction at "Cromwell Chase" subdivision (Deming Lane and Robbie Road)

Town Planner Craig Minor recommends no action since he has not received recommendations from all town staff. Rich Waters said that he does not believe the paving is finished correctly. Chairman Kelly said she is taking pictures and sending them to Town Planner Craig Minor to forward to appropriate people. Chris Cambareri said that the patch on Willowbrook Road related to this project needs to be looked at since it does not appear to be safe.

A **motion** was made by Joseph Garafalo and **seconded** by Brian Dufresne to table the bond reduction request at "Cromwell Chase" subdivision until the next meeting on February 7, 2012. *All were in favor; the motion was passed.*

4. Bond Reduction at Mountainview Estates" subdivision (Jennifer Lane)

Town Planner Craig Minor recommends no action now since he has not received all comments from town staff at this time.

A **motion** was made by Joseph Garafalo and **seconded** by Thomas Madden to table the bond reduction request at "Mountainview Estates" subdivision until the next meeting on February 7, 2012. *All were in favor; the motion was passed.*

c. Sec. 8-24 Referrals from the Board of Selectmen:

1. Road Acceptance of Jennifer Lane at "Mountainview Estates"

Town Planner Craig Minor said he has received the OK from the Tax Collector and the Chief of Police but not from the Town Engineer, as requested by Chairman Kelly. He asked the Commissioners to remember that road acceptance is different from performance bond releases.

Chairman Kelly said all of these roads/developments have site plans. We don't know if there are deeds to be filed or if taxes are due. We can't make 8-24 referrals unless we know there are no outstanding issues.

Tom Madden said he does not agree. He said he doesn't think it is the job of this Commission to worry about the standard of construction when asked for an 8-24 recommendation. He said it is our job to determine if this street is per the guidelines of the PODC and the guidelines of the town. He said there are people who get paid to worry about the construction. He said the Board of Selectmen will worry about if those people did their job right.

Rich Waters said that he complained about the Northbrook Estates road and he said the Board of Selectmen approved it to appease the people up there. He said now we have to take care of fixing

it. Attorney Petrella interrupted from the audience and said that Mr. Waters was wrong, and should not be allowed on record since a \$50,000 bond was called back to repair this road.

Michael Cannata said the 8-24 referral is for the concept that a road should fit into the guidelines. He said he recommends 8-24 approval for both. He said that you don't hold up this approval the way you would for a bond release. He said that maybe the Town Attorney should tell us how to go about this. Nick Demetriades asked what the Public Works director had to say about this. Town Planner Craig Minor said he has not received a response to his email. Chairman Kelly said she is looking to find out if this road meets our site plan approval. Mr. Demetriades asked Mr. Minor what his take is. Mr. Minor said that the statute does not give us any guidance. He said in his professional opinion Sec. 8-24 is to make sure the right hand of the Town knows what the left hand is doing and to make sure there are no conflicts. If it's for a new school or a municipal industrial park, it makes sense for P&Z to issue a detailed recommendation. But when it's for acceptance of a road that P&Z has already seen and approved back during the subdivision approval process, it's just a formality.

A **motion** was made by Thomas Madden and **seconded** by Michael Cannata to issue a favorable report on acceptance of Jennifer Lane at "Mountainview Estates". Joseph Garafalo, Michael Cannata, Thomas Madden, Richard Waters, Nicholas Demetriades, Brian Dufresne, Peter Keithan, Chris Cambareri were in favor; Alice Kelly opposed. *The motion was passed.*

2. Road Acceptance of Newbury Lane at "Newbury Estates"

A **motion** was made by Thomas Madden and **seconded** by Michael Cannata to issue a favorable report of acceptance of Newbury Lane at "Newbury Estates". Joseph Garafalo, Michael Cannata, Thomas Madden, Richard Waters, Nicholas Demetriades, Brian Dufresne, Peter Keithan, Chris Cambareri were in favor; Alice Kelly opposed. *The motion was passed.*

d. Final Report of the Farmland Preservation Committee to the Board of Selectmen

Town Planner Craig Minor reported that the Farmland Preservation Committee recommends using some of P&Z's "fee in lieu of open space" funds to purchase farmland development rights. He said P&Z has acquired approximately \$406,000 since the late 1980's and the Farmland Preservation Committee is recommending using half of it to buy farmland development rights.

First Selectman Mertie Terry of 589 Main Street came forward and said she was appalled that this came to the Commission tonight without her seeing it first. She said the Farmland Preservation Committee should not have put an amount on the table without discussing it with her first. She said this money can be used for open space or recreation. She said this is putting money in an account on the off-chance that someone might want to sell their development rights to the Town.

BOS liaison Enzo Faienza of 183 Coles Road came forward and said that he backed the First Selectwoman's comments and that we need to use these funds for recreation. He said we have enough farms and we are not really a farming town anymore.

Chairwoman Kelly said it is our goal to have walking trails that connect between the Mattabesett and the Connecticut River. She also said that open space is not free, that someone needs to maintain it. She said we as a Commission have done nothing with planning and we should be more than just zoning. She would like to set up a meeting with other Commissions and find out what their goals are. She said we need someone to take the lead on this and create a vision for the town. She said we need to take this information home and look at it but she agrees with the First Selectwoman and Mr. Faienza.

Michael Cannata read Section 321.b.7 of the subdivision regulations. He interpreted the passage to mean that no money can be used to build recreation, only to acquire land. He thought the town attorney should look into this. Alice Kelly said that only Planning and Zoning can transfer money from the fee in lieu of open space account.

A **motion** was made by Thomas Madden and **seconded** by Brian Dufresne to table this until the February 7, 2012 meeting. *All were in favor; the motion was passed.*

8. Public Hearing and Possible Action: none.

9. Old Business: none.

10. New Business:

a. Application #12-01: Site Plan Approval (Park Maintenance Building) at Watrous Park. Public Works Department, applicant; Town of Cromwell, owner.

Mike Thomas, Building Superintendent of the Town of Cromwell came forward to say that Eric Hood would like approval to order this pre-fab building. It will be a 1500 square foot cold storage building at Watrous Park to be used for storing equipment that is currently being kept outside. He said CNR funds were approved for this 3 years ago so we have to use it within the next 6 months or the CNR approval will expire. Town Planner Craig Minor said that the site plan is missing some information, such as that the plan needs to be signed by a licensed surveyor. He said that under the new zoning regs the ZEO can waive some of this but Chairman Kelly prefers that all the required info be on the site plan. He said this happened right before he left for vacation and he is not sure if Mr. Hood has instructed his staff to add this info yet. Chairwoman Kelly said either we have regulations or we don't.

Rich Waters asked if equipment was going to be worked on in there and Mr. Thomas replied just routine things.

Nick Demetriades said we are not doing our due diligence, this is not how we should be doing things. He said we are approving this because we want to get his moving.

A **motion** was made by Michael Cannata and **seconded** by Chris Cambareri to approve application #12-01. Joseph Garafalo, Michael Cannata, Chris Cambareri, Peter Keithan, Thomas Madden approve; Rich Waters, Brian Dufresne, Alice Kelly oppose, Nick Demetriades abstained. *The motion was passed.*

11. Communications: none

12. Commissioners' Comments

Tom Madden said he is starting the POCD Implementation Committee and is using a list of people that Town Planner Craig Minor gave him to get started.

Michael Cannata asked Mr. Minor if Fred has the ability to waive requirements on all site plans. Mr. Minor replied that yes he does but he would only invoke it when it makes sense on a case-by-case basis. If he does and you don't agree with it, then you can let him know for the future.

Al Diaz of 15 Thistle Down handed out a summary of a 55 page Transportation Improvement Plan (TIP) document from Midstate Planning Region. He said that they do this every 4 years so they can review transportation improvement programs. He asked for his Recap is to be included in the recorded minutes.

A discussion took place among the Commissioners about Classic Car Wash being sold. There was question as to whether they would have to come before P & Z if they added a quick lube. Mr. Minor said it's possible they won't have to get P&Z permission since this is a permitted use, but he couldn't say for sure since he doesn't know the details.

13. Approval of Minutes:

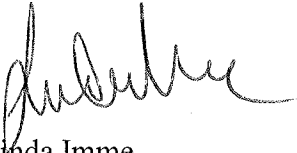
a. December 6, 2011

A **motion** was made by Michael Cannata and **seconded** by Brian Dufresne to table the approval of the December 6, 2011 minutes until February 7, 2012. *All were in favor; the motion was passed.*

14. Adjourn

A **motion** was made by Michael Cannata and **seconded** by Brian Dufresne to adjourn at 10:21pm. *All were in favor; the motion was passed.*

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Linda Imme".

Linda Imme
Recording Clerk

MIDSTATE PLANNING REGION
TRANSPORTATION IMPROVEMENT PROGRAMS
FEDERAL FISCAL YEARS 2012-2015

BACKGROUND INFORMATION:

Midstate Planning Organization is required to complete a TIP(Transportation Improvement Program) each year on a rotating basis of 4 years. MPO also must certify that the TIP is from an “endorsed” regional transportation plan and is in compliance with the Federal Clean Air Act meaning that emissions will not increase because of the project.

Definition of a TIP:

Federally funded transportation projects to maintain and enhance regional road networks. Projects are scheduled to receive funding within the next 4 fiscal years. In this case 2012-2015.

The genesis for the funding is in the Transportation Act approved by Congress. : FEDERAL AID HIGHWAY PROGRAM.

Projects are selected in consultation with CT. Department of Transportation before they are adopted into the TIP. The TIPs are updated and endorsed annually by MidState. Submissions from localities are evaluated on a "point system" criteria covering such items as Regional Significance, Structural Improvements, Environmental Justice", etc.

FEDERAL PROGRAMS:

NHS.....National Highway System.

STP.....Surface Transportation Programs.

These programs are 80% funded with Federal dollars and 20% with State monies.

IM.....Interstate Maintenance.

This program is funded 90-10.

STP(urban).....This is the program that normally would affect Cromwell. This program provides flexible funding by the State and localities. Roadways eligible for Federal Aid are those roads classified HIGHER than a RURAL minor COLLECTOR Road by the FHWA(Federal Highway Authority). The program is the largest by far of the general STP programs. It is very flexible. It covers roadway reconstruction, transit, ridesharing etc. Examples in Cromwell would be the GEER STREET repaving project, the Phase I project on COLES Road to RT.372, the approved repaving of WILLOWBROOK to COLES ROAD , the proposed reconstruction of NEW STREET , Phase II of COLES ROAD to Rt.99 (SHUNPIKE), the replacement of CULVERTS etc. The split is 80-20.

NOTE:

CROMWELL and other smaller towns receive funding under a sub program STP RECOVERY AND REINVESTMENT PROGRAM. These are usually NOT "SHOVEL READY" projects and are therefore used for pavement preservation projects as described in the preceding paragraph but that do not require RECONSTRUCTION (New Street). Federal Funds pay 100% but are capped at a pre-determined level with any COST OVER RUNS for the account of the municipality.

CROMWELL AND MIDSTATE.....2012-2015

. The 4 year plan is estimated to require \$29 million in Federal Funds, \$14 million from State and \$7 million from localities. Total \$50 million.

. The revenues are provided from public resources such as Bond sales, Motor fuel taxes, Motor vehicles receipt etc.

. Current projects for Cromwell:

Project 0033-0128.....Pavement Preservation.....CT.Rt.9\$1,340,000.....2012

Project 0033-0127.....Rehab of 2 culverts on Ct. Rt.9 Exit 18.....\$800,000.....2013

The Willowbrook - Coles Road project is on track with all preliminary engineering drawings submitted by Cromwell. Some ROW construction should start this year. The DOT is looking to reduce the estimated costs involved and this will take time. I believe total Federal/State funding of \$2.55M has been set. Eric Hood is in charge of the project. While we do not expect any surprises ... then again..... Final reconstruction probably won't occur until 2014. PZ may wish to follow this project with interest although its involvement is nil at this time.

With regards to MAIN Street, the latest 2012 VIP resurfacing schedule DOES NOT list Rt.99 (Main St) from the Rocky Hill line to the connection to Rt.9. My understanding is that the final review is scheduled for late February. In this case a letter from the FS to DOT is entirely in order with a copy to State Rep Carpino and State Senator Doyle requesting their assistance with DOT. The TIP that was approved in 2010 showed Cromwell following RH in the schedule BUT it is not on the most current schedule.

Personal observations for opportunities: RECAP:

- Under the ADA program the purchase of accessible vans and buses is possible. The Cromwell Senior Center has taken advantage of this program in the past. The Mid State portion has \$9.6 million allocated. Most of it will go to Middletown.
- Recreational Trails Program:.....Budget \$2.8 million over the next TWO years. Middletown has pushed for a Bike Path for a 3.6 mile trail from LONG HILL ROAD through Wesleyan University near Washington Street to Broad and Main. If approved, the city would receive \$800K in funding while providing \$200K from city coffers and \$20K for planning.

I am not sure if Cromwell could replicate this type of project unless the River Front could be qualified outside of a STEAP grant.

Respectfully submitted

Al Diaz.....Jan. 3 2012