

Ludlow Planning Commission
Meeting Minutes: Special Hearing
April 16th, 2024
6:00 p.m.

Public Hearing

I. Call to Order:

The Planning Commission Special Meeting for Reorganization Public Hearing of the Ludlow Planning Commission was called to order on Tuesday, April 16th, 2024 at 6:00 p.m. at the Ludlow Town Hall in Heald Auditorium by Rosemary Goings.

II. Roll Call by Secretary:

Board:

Theresa Gurdak-Carter,
Ryan Silvestri,
Ted Stryhas,
Judith Pullinen,
Jean Strong

Recording Secretary:

Abigail Childs

Public:

Eric Alden,
Jarrod Jowdy,
Noah Schmidt,
Alan Couch,
Cara Philbin

Board Absent:

N/A

III. Opening Statement by Chair

1. N/A

IV. Considerations of any Changes, Additions or Removal to the Agenda

1. N/A

V. Annual Board Recognition

a. Nominate and Elect a Chair: Judith Pullinen nominates Terry Gurdak-Carter, and Ryan Silvestri seconds. All in favor. Approved. Terry Gurdak-Carter is now the Chair.

b. Nominate and Elect a Vice Chair: Terry nominates Ryan Silvestri and Judy seconds. All in favor. Approved. Ryan Silvestri is now the Vice Chair.

c. Nominate and Elect a Recording Secretary: Terry nominates Abby Childs and Judy seconds. All in favor. Approved. Abby Childs is the Recording Secretary.

d. Nominate and Elect a Clerk: Jean Strong nominates Judy Pullinen, and Terry seconds. All in favor. Approved. Judy Pullinen is now the Clerk.

e. Adopt Robert's Rules of Order: Terry sent to the board. Terry motions to adopt Robert's rules of order. Judy seconds. All in favor. Approved.

f. Choose a Paper of Record: We currently use the VT Journal. Rose notes it is not free and all advertisements cost money including warnings. We follow what the Selectboard and Trustees do, and they use the VT Journal. Terry says we also nominated the Rutland Herald because it's quicker. It's hard to warn a meeting for 15 days under the VT Journal deadlines. The Rutland Herald is usually a backup to the DRB and other boards for the same situation. Terry nominates the VT Journal and the Rutland Herald as backup and Judy seconds. All in favor. Approved.

g. Adopt our Rules of Procedure: Terry took out the part about the alternate because we are not allowed to have an alternate. Eric Alden advised us not to put the word citizen, and it needs to say "resident" and the state confirmed this. Noah Schmidt asked if the majority of the board had to be. One member can be from an adjoining town, but they also have to be a resident of that town, and the majority have to be Ludlow residents.

- Eric Alden believes Section 2.1 under membership is in direct violation of state statute because we have changed the language to coincide with the discussion the board has had. State statute says the majority has to be residents and if residents are not found, the majority of the Selectboard can appoint anyone they please.
- Eric says state statute is very clear, and secondly, the Planning Commission doesn't have the authority who is appointed to this board, it is the Selectboard's. They get their policy and legislature from the state. The majority aside, it seems shortsighted that this board would discuss ways to prevent people from participating in building the future of the town. The PC doesn't dictate who gets put on the board or how. Based on state statute the Selectboard has this option for a reason and the current board shows that in time right now there is a seat filled because there weren't enough local residents who wanted to step up and be on the board. He contends that 2.1 is a direct violation and not something the board should do. He gets that people on this board may not like this, but history shows that there are many times when these seats are hard to fill, so why limit it.
- Terry sent this exact verbiage to the state and they had no problem with it aside from the citizen vs. resident and alternate piece.
- Judy says a PC shall not have less than 3 and no more than 9 voting members. At least a majority of the members shall be residents of the municipality (meaning 3). The legislative body in a rural town or no more than 2 elected officials chosen by the urban municipality shall be non-voting members of the PC. This is already in our language.
- Ryan Silvestri has an issue with what the statute means. In this case, if we are reading verbatim from the statute, it doesn't read to the other two in the statute. He thinks it is a big assumption. He agrees with Eric about getting opinions and help we can get if board spaces open. He doesn't see the point in being restrictive. He suggests changing the language of at least 4 should be "majority" or "3" and removing the line about the 4th and 5th about "should be a resident". Our membership isn't decided by us, so he thinks 2.1 shouldn't be in our purview. If we are appointed by the SB, why in our rules of regulation are we regulating our membership?
- Terry says she thinks the people making the proposed zoning ought to be from this town. She says that state statute exists, but the Selectboard can make changes too.
- Ryan says a resident from an abutting town is not in the statute. Terry says it is.

- Alan Couch understands and has been involved in this discussion of board members and yes it is an appointed position with rules and regulations and there are places where towns can make more restrictive rules than the state. He doesn't know if that is the case here. He suggests tabling this until more information is found. The VT League of Cities and Towns can suggest, but the state overrules it.
- Terry will take the email she sent and give it to the board to check it.
- Judy motions to table this discussion on membership until we talk to a lawyer and talk about this next meeting. Ryan seconds. All in favor. Approved.

VI. Approval of Minutes

1. February 22, 2024 Meeting Minutes: Will be moved to May's Meeting on May 19, 2024
 - a. We had to amend the agenda so we will move to May
2. March 19, 2024 Meeting Minutes
 - a. Judy motions to approve the minutes. Ryan seconds. All in favor. Approved.

VII. Comments from Citizens

1. Noah Schmidt notes that Jason did a housing study, but wasn't sure if Ludlow was part of that. It noted where are prime locations for housing development. He wonders if this has come up and if there has been any conversation.
 - a. Jason Rasmussen did a housing study and tried to identify better spots in the region for new housing and it does include Ludlow. He believes he hasn't come to Ludlow to show her the results of it.
 - b. Terry is adding this to her notes to cover in a future meeting.

VIII. Flood Hazard Regulation:

1. Within the Village and Town Zoning. Jason Rasmussen from MARC will be at our meeting to help us update this section.
2. Our regulations are from 2014.
3. Rose asks if we are going to adopt the fluvial erosion in the river corridor, and we do not have that now. The models from the state include this, and to complicate matters, Senate Bill 213 has a proposal if passed, the state would take jurisdiction on this statewide. There may not be a need for a local regulation. We could only adopt the river components.
4. Rose said the last map she had shows the river corridor as high as Julie Nicoll's and make sure the maps are adjusted.
5. Terry says that even the Catholic Church is included in the river corridor and it is very high up.
6. Jason said we are welcome to exclude the river corridor piece. Judy thinks it would be wise because if we do it and it might change, it is a waste of time.
7. Jason suggests noting changes we make revisions on numbers too. Jason thought they would not work for Ludlow as far as fuel tanks go, etc. He says that we could explore changes, but any change to the flood regulations, and make sure Ludlow maintains their NFIP and meets the requirements. He doesn't think we need to raise the tanks. Anchoring instead of raising tanks should be checked. Rose says she thinks we did check on this and they did say that anchoring or burying them was OK. Jason thinks Rose is right and we should get a copy to the floodplain manager.
8. Alan Couch went through the flood of Irene and their oil tank was anchored into the poured basement floor and while it filled up with water, it did not spill oil. They got a new tank after Irene

and the state said it had to “be on certain feet” but did not say anything about being bolted to the floor. After the flood, it spilled. The deal with propane tanks being above base flood is not feasible for propane companies to fill them. Jerry Sheehan at the Black River mobile home court presented about bolting down tanks and he said he got the information from Irving, he thinks, about a certain size slab with chains. He doesn’t know if this is an industry-standard or not. When we adopted the flood regs in 2014, everything sounded great, and in practical use, they aren’t so great. He apologizes for bringing this up at the 11th hour. In the floodway and floodplain, we need to strap down propane tanks and bolt down tanks.

9. Terry wants to make sure as we go through the regs that we do make sure they are bolted. We did make sure the Trustees got it as anchored from us.
10. Terry asks if it is FEMA-approved and Jason says that it’s like a “yes with an asterisk” he says FEMA did review it and they seem ok with it. Generally speaking, yes, but you never know. DCE is always revealing these things.
11. Terry shows the VT Model Stand Alone Flood Hazard Bylaw document
 - a. Section B2: Jason says that if we don’t include the river corridors, we could remove this.
 - b. Mapped river corridors can be found online and non-mapped include most of the tributaries with a 50-ft. Buffer.
 - c. Section D3: also about river corridors and can be skipped
 - d. Section 5D2C: Jason says there is such little impact, so the state has decided that \$500 is the threshold, so you don’t need a permit for anything less than that. The board is OK with this.
 - e. Section 5E3: Fuel tanks don’t want to be elevated, but just check with the DCE folks to make sure they are OK, per Jason. At some point, he suggests making sure DCE reviews any flood regulations you want to adopt. Judy says this doesn’t address the part about being securely anchored. The DFE is 2 ft above the 2 ft requirement, which would be 4 ft, and the board agrees to take that out and get it verified. Jason says the definition for DFE is Design Flood Elevation is defined as 2 ft above the base flood, and suggests we change it to 1 ft. He says to delete the part in #3 above removing the DFE portion. Terry removed it and it reads: fuel storage tanks and vents must be securely anchored.
 - i. Rose asks Jason if he knows if they plan on changing the flood hazard maps. FEMA is working on those changes, Jason says. It is going slow and doesn’t have a timeline, but hope to see a draft for Ludlow in a year or two. He thinks it will be more accurate and we have better topography mapping, in terms of elevation.
 - ii. Judy notes the part under #3; she asks if being placed underground includes a cellar or basement. She thought we couldn’t have underground tanks.
 - f. Section VE4 - Page 9: Jason says the language is weird and it means there are different flood zone determinations. The AE zone where we know the flood elevation and zone A, is where we don’t know the flood elevation. In zone A’s in town, this would apply, and there are a few. You have to have an engineer to make sure you reach the standard and you can’t raise the flood elevation no more than 1 ft in the community. Judy says it is as clear as mud. Ryan says when it’s not clear, you need an engineer. Jason says there Zone AE is where the flood elevation is known so it’s easy to say let’s build it up to 340 to 341ft. But in Zone A the flood elevation is unknown so the standard treats it like a floodway and you as the homeowner have to hire an engineer to prove you are not going to raise the flood elevation. Terry asks if this is a variance, and Jason says no, you just need the engineer to tell you that you are good.
 - g. Alan Couch says he appreciates the development of raising the flood elevation of food in town. He says we need to raise our house up because the base flood elevation is 6

inches above the bottom of the front door. In theory, he says his 1200 sq. ft. by 8ft. The basement is going to have to go somewhere, so he is potentially elevating his house but increasing the flood down the road. The reservoir that he has that fills up, will go somewhere else. He notes this as a reference point. He suggests engineers will help and what we create here will restrict what people can do down the road, which is fine because we want people to be safe. Terry says that after Irene, they raised the trailer park up a foot, and they then raised it up 2 feet. He thinks we would have to dig out the river by 100 feet because there is no way to make up that volume of water by digging.

- h. Chart: Terry noticed that the chart had changed and wanted to look at what had changed and why.
 - i. Rose noticed that state permits were added and they are not on the original. Also, River Corridor is on this one, but we had the chart for the Streams and the Flood Hazard. Jason says we should remove the Flood Corridor portion. He wants to make sure there are no significant departures from the Flood Hazard Areas.
 - ii. Ryan noticed under #2 Storage had differentiations. Jason says storage and junkyards are two very different things. He doesn't know why you would prohibit storage, but it's hard to elevate them. Storage is currently Conditional. Jason says you see it practically, it's hard to drive up to a 4ft high storage unit.
 - iii. The Small Accessory structures are permitted in the old one but are permitted Conditional in the new one, and Ted says that it just saved time. Jason says the model does that and shows both P & C. It's not as explicitly clear before, now we are being more specific. Rose understands and notes we have been dealing with that a lot with the substantial improvement and damage and has had to weigh it out on each property.
 - iv. Jason says if we go with this model, we should be more specific in this table. Ex. Improvements to existing structures: P & C, instead have 3a. And 3b. So that it is explicitly clear to separate them.
 - v. Ryan notes the new document is more specific with more lines and thinks the new proposal is thorough. Ryan asks if we should use our existing table, and Jason thinks it might be easier.
 - vi. Jason notes: Substantial improvement = C. Nonsubstantial = P.
 - vii. Rose thinks we should beef up the new chart. It's clear but it should also have the state permits added to it. Adding a definition above the chart with a key and why.
 - viii. Terry and Jason will work on this outside of a meeting. Ryan says he wouldn't mind. They will combine the two charts.
- i. Terry asks if Section 660 information was still there and Jason confirms it is still there. She notes the issue with the Mill's electricity and taxes. Eric Alden says they did put the electricity in a place where it won't be flooded.
- j. Jarrod Jowdy says he was confused about Section 5D3B (page 8) about administrative review and primitive development re: improvements and repairs that do not span the existing footprint... etc. He says in the special flood hazard area you are not allowed to expand the footprint, but then it says you can in a floodway horizontally less than 500 ft. He thinks it should be the other way around.
 - i. Jason says in the floodway you are generally in the no-rise type standard. He says he wants to follow up with some of the state folks regarding the 500 ft. thing and he isn't sure.

- ii. Rose says that in the floodway they probably lost sq. ft. on the bottom so they are trying to make up for sq. ft. on the top vertically... like for electric boxes etc. Jarrod responds and says it is horizontally, not vertically.
- iii. Why is this allowed in the floodway to expand horizontally and not in the flood hazard area?

IX. Junkyard Ordinance Bylaws:

1. Terry spoke to Brendan McNamara about this because he asked if we want to make this part of zoning, as he asked us to put it on the agenda. He said he just wanted us to take a look at the ordinance and start the conversation.
2. Ryan skimmed it and saw verbiage he assumed to exist. He thinks we need to ask why no action has been taken on these ordinances and he thinks it's for the Trustees. Judy agrees that the Trustees should be in charge of this.
3. Rose says the ordinances are written because they don't fit in zoning but in the other one she mentioned was the noise ordinance. They usually are done by a ticket, like issuing it right then and there. Zoning is different; you have to send a letter and they have to act on it and have a certain amount of time to appeal it. Ordinances-wise, they receive a ticket. Terry asks who the ticket is from. Rose says it's not from her, it is from the person who is in charge or the manager. Rose says that can't be changed to the police or someone else. Section 2.03: any police officer appointed by the trustees.
4. Jean asks if this is an ordinance we already have and if there is also a Town ordinance. She asks if they are the same and Rose says yes, they are.
5. Brendan says the reason he brought it up as a jumping-off point was within the last month in a half he has received many calls about the trailer on Pond St. and there is nothing in the ordinance that allows us to do anything. Even if that was in the town's right of way is a question. He says because of that situation and the amount of concern that it caused in the town, it was enough for him to say we need to look at this. He can't pass this on and pretend it's not happening.
6. Ryan says in the context of that example, is it specific to the trailer and not anything else? Brendan thinks the commercial equipment is exempt. Brendan says there is a portion about cars, but those are not classified as cars. Ryan says off the bat, would they be willing to look at Manchester's ordinances? Terry says yes. He says they probably have updated theirs to contend with their issues. Ryan asks Brendan if we want to draft something to bring to the Trustees. He says yes, that is what has been asked of him and it's not an easy process. It is not something that we are not going to necessarily try to pick on someone, but we have to enforce it town-wide which can be a daunting process. Gauging the phone calls he has gotten, it is something that we have to entertain as a town and look at it from all angles.
7. Judy says in 3.07 it says all junkyards, etc. shall be effectively screened from public view at least 8 feet in height with a height.
8. Ted says he thinks there is not enough in this ordinance for anyone to grip onto and be able to do anything with, so he thinks we would have to pick it apart and start to think about the calls he has gotten with the issues and concerns and overhaul this. He says there are obviously things in here that can't attach to stopping it.
9. Ryan says the biggest point of contention with junk ordinances is the difference between removal or screening; shrubs/fence vs. removal.
10. Terry asks Rose if she has other towns that we want to look at. Rose says yes, but she thinks we should look at Manchester. She thinks that we should combine the one for the Town and the Village and go by the state statute and add for our own town what we want for the junkyards,

especially in flood areas. She says there are several properties with the same problem and it would help to have better enforcement.

11. Terry thinks we need to do research and get information together for the next meeting.
12. Eric is curious about what the difficulty is that the town is having because it seems like there are provisions in here for \$500/day fines or a 30-day notice to comply. He thinks it is a serious repercussion. Ryan says he thinks our definition of junk isn't inclusive enough, and he reads out the current items noted as junk.

X. Energy Chapter.

1. Terry says that that Noah Schmidt brought up the energy Chapter that Cavendish has and she contracted Stapleton and that there isn't anything new but they are working on something and think we should hold up on this for the next meeting.

XI. Noise Chapter:

1. Tabled until next meeting.

XII. Next Month's Agenda Planning:

XIII. Other Business:

1. Congratulations to Jean Strong for joining the Planning Commission!

XIV: Adjourn the Public Hearing

1. Terry motions to adjourn. Ryan seconds. All in favor.
2. The Planning Commission Special Meeting was adjourned at 7:20 p.m. on Tuesday, April 16th, 2024 by Terry Gurdak-Carter.

Minutes submitted by: Abigail Childs

Minutes approved by: