

The Planning Board for the Town of Derry held a public meeting on Wednesday, February 17, 2021, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with some members of the Board present.

Members present: John O'Connor, Chairman; Lori Davison, Vice Chair; Jim MacEachern, Doug Danzey\*, Members; Dave Granese\*, Alternate

Absent: Richard Tripp, Randy Chase, Mark Grabowski, Mark Connors

\*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Elizabeth Robidoux\*, Planning and Economic Development Assistant; Beverly Donovan, Economic Development Director\*; Mary Till\*, Craig Lazinsky\*, Net Zero Committee

Mr. O'Connor opened the meeting at 7:03 p.m. The meeting began with a salute to the flag. Mr. O'Connor advised that although the Stay at Home order has expired, Emergency Order #12 as issued by Governor Sununu waives the requirement that all members be physically present. Members can attend the meeting electronically. He provided the appropriate links for members of the public to join the meeting virtually via a MAC, PC, or by phone. He then introduced the staff and Board members.

Mr. Granese was seated for Ms. Carrier.

### **Escrow**

None.

### **Minutes**

The Board reviewed the minutes of the February 03, 2021, meeting.

Motion by MacEachern, seconded by Davison to approve the minutes of the February 03, 2021, meeting as written.

MacEachern, Danzey, Davison, and O'Connor voted in favor; Granese abstained, and the motion passed.

### **Correspondence**

Mr. O'Connor advised Jennifer Carrier has submitted her resignation from the Board due to conflicts with her schedule. The Board now has three open positions and he encouraged members of the public to apply.

**Other Business**Presentation of the 6 Year Capital Improvement Plan – FY 2022 to FY 2027

Mr. Sioras advised the Town Administrator and Chief Financial Officer are in attendance this evening to provide the annual presentation of the CIP to the Board.

David Caron, Town Administrator and Mark Fleischer, Chief Financial Officer presented.

Mr. Caron advised this is the annual presentation of the CIP to the Planning Board as required by the Derry Town Charter Section 9.8 and RSA 674:5. The process is similar to last year. Mr. Fleischer works with the Department heads on their requests and six year vision for their capital needs. The requests are reviewed in relation to existing services and available revenues. The presentation to the Planning Board is the fourth phase of the budget process. The Town Council will receive the plan along with the annual budget and will adopt it with or without revisions prior to June 01, 2021.

The funding structures for the Fiscal 2022 to Fiscal 2027 plan remain the same as previous years. Water and Wastewater projects are ultimately funded by customers, with the exception of the addition of funds received for the Southern New Hampshire Water Connection Project. The town received between 9 and 10 million dollars in state grants, paid 100% by NH DES. This extends water south down Route 28 and included the upgrade of a pump station. Cable projects are funded through franchise fees paid by cable customers. The majority of capital projects are funded through various capital reserve funds or trusts which are replenished through a transfer from the Unallocated Fund Balance (General Fund Surplus – UFB). The Town Council had adopted a policy to fund the Capital Reserve Fund up to \$1.5 million annually from the UFB. The current plan presumes an annual funding of \$1 million. Over the long term, this level of support may be insufficient to meet the needs of the community. The FY 22 budget includes a \$250,000 appropriation to the Capital Reserve Fund to reduce the reliance upon the Unallocated Fund Balance.

COVID-19 had an impact on revenue this year, and future impacts due to the pandemic remain unclear. The economy has been in recession since last February. There is a concern about the effect on the revenue stream which affects the ability to fund the Capital Reserve Fund. The CIP will be presented as if there were no impact from the pandemic, but it will be managed differently. The town would look at the current balance in the fund, and lease payments for which they were obligated for the year, and then they would look at what was remaining. Staff will implement the program as if it were funded only by the \$250,000 per year over the next five to six years. This reduces the money available to complete purchases. As a result, of the 29 projects presented for FY 21, only 15 were completed. The Department heads have been made aware of what is available for funding and strategize accordingly. Mr. Caron expected the same strategy will be followed this year. When COVID-19 hit, the Town established a COVID-19 Trust Fund. \$496,000 was allocated per year over the biennium funded by a State grant. The funds were put into a COVID-19 trust to assist with economic recovery. The budget has not

been finalized; of the approximately \$1.6 million transferred into the Trust it is anticipated the town will utilize \$700,000 in FY 22; \$500,000 in FY 23 and \$100,000 in FY 24 to balance the budget. That strategy will be continued until the town can go back to the \$1 million per year being placed in the CIP.

Over the next six year period, \$43.7 million is being placed across all levels of funding. The Town has combined community assets of \$210 million with a rate of 3.5% of assets being replaced each year.

Major projects in Fiscal 22 include Police cruiser body cameras, and Self Contained Breathing Apparatus for the Fire Department. Although applied for, a grant was not awarded to the Fire Department last year to assist with this purchase. A new application is being submitted and if granted, it would fund 90% of the cost to replace the SCBA; the replacement cost is approximately \$750,000. Also in FY 22, medical infusion pumps will be replaced, along with patient movement devices (aka stretchers), and personal escape harnesses. The 2009 ambulance will be replaced along with the 2005 Chevy which is the backup Battalion Chief vehicle. The engines are replaced about every 10 years; last year a Quint was ordered and that should be delivered sometime during the summer of 2021.

In Public Works, a 6 wheeled dump truck will be replaced as well as an F350 plow truck. During any given snowstorm, the town has 40 pieces of equipment out on the road. 20 town vehicles are run by town employees, the other 20 are contractors. The dump trucks are rotated every ten to twelve years. Two culverts on Sunset Avenue will be replaced in 2022. The town is in year two of the traffic signal upgrade program. The rehabilitation of Cemetery Road is ongoing.

Other projects include the stage refurbishment at the Adams Memorial Building which is in part funded by the Greater Derry Arts Council. The Municipal Center flooring upgrade is ongoing, and the overhead door replacement has already been completed.

The Town Council approved a recreation bond and then solicited the assistance of UNH Department of Recreation Management to conduct a Recreational Needs Assessment. The study identified the different needs in the community and the town is moving forward on those. One of the projects is the creation of a multipurpose field at West Running Brook School on land owned by the School District and the Town of Derry. This will be a lighted, three season field that can accommodate baseball, softball, lacrosse, and soccer. Also in the Recreation Plan is the lighting for the soccer field at Ryder Field and improvements to Alexander Carr Park. Those improvements do not include the lodge, but focus on other, exterior projects.

Mr. MacEachern asked if there is a plan to connect Don Ball Park to the West Running Brook field by walking trails. It would afford connectivity and the ability for people to park at West Running Brook and walk to Don Ball Park. Mr. Caron acknowledged that was a good idea and said he would discuss it with the Director of Public Works. The long term vision includes additional parking at Don Ball Park so that the fields could be better utilized.

Other projects included in Phase I of the recreation improvements include items at Hood Park. The Hood Park Steering Committee made a presentation to Town Council last evening identifying short, mid, and long term goals for improvements at the Park. Those improvements are expected to be funded through the Recreation Bond and the Commerce Corridor TIF funds. The funding sources have been noted in the CIP. For Hood Park, if all the recommended improvements are completed, it would cost \$500,000; a second funding source will be utilized. The Hood Park projects have been identified, and the next step is to get them on a schematic to see how they will best be incorporated and fit into the Park. DPW is ready to go to work on these projects once the locations have been identified.

Water system upgrades and expansions are included in the CIP. The Department is in the middle of the Water Master Plan update; they held off on that for a year to see what the State was going to do with regard to the southern water expansion project. Projects include water main upgrades, and wastewater standby generators. Cable is still working on the digital conversion project, camera replacements, and meeting room enhancements.

Mr. O'Connor asked if the Londonderry contract was included in the CIP or was that a separate item. Mr. Caron explained it is separate. The Town of Londonderry contracted with the Town of Derry to expand Londonderry's capacity. The Town of Derry treats Londonderry's wastewater. There are no capital costs incurred. The contract is with the Town of Londonderry for capacity; Londonderry will determine how they use it.

Mr. Caron provided a net tax impact analysis. In Fiscal 21, the municipal tax is \$7.15, of that, \$1.28 is allocated for the Capital Improvement projects, debt service and lease agreements. The Town continues to lease all of its equipment. If the equipment costs under \$50,000, the town tries to pay for it from the Capital fund; \$50,000 – 100,000 are generally leased for five years. The impact reduces every year, and the town tries to keep the impact at \$1.25 per year.

Mr. O'Connor asked if there is any thought to forwarding Net Zero's suggestion to create an Energy Reserve Fund. Mr. Caron said there has not yet been a chance to consider the suggestion as it was just made last evening. They will look at it. He noted the Public Works Director, Mike Fowler, does a phenomenal job with the electrical costs for the town and they have been able to level fund that line.

Mr. O'Connor asked if the funds received for COVID-19 under GOPHER and FEMA would be utilized for HVAC system upgrades. Mr. Caron said the town has not yet seen those funds; \$700,000 was allocated to Derry and will be used to fund improvements or revenue. The Municipal Center and Derry Library HVAC systems have been upgraded.

Mr. O'Connor discussed the recent fire alarm panel upgrade at the Marion Gerrish Center which was necessitated by a lightning strike. They were required to install a Wi-Fi compatible system. He notes in the CIP, the Fire Department will fund upgrades to their alert system to fiber optic – are they going to utilize Wi-Fi as well? Mr. Caron said the Fire Department prefers their notification system to be hard wired. He believed the fire alarm system at Marion Gerrish was paid in part by an insurance claim; he will verify that. Mr. O'Connor noted funds have been allocated to the fire facilities study. What about the police station? The police station may need

to be relocated with the construction of Exit 4A. Has there been any thought to constructing a safety complex that supports both the Fire and Police Departments? Mr. Caron said the town is working with NH DOT to ensure adequate access to the police station lot. The value of the land decreases if there is not adequate access. There will be a traffic light installed at Pinkerton Street and one on Folsom. The lights will be synchronized. The town is requesting a third light to access the Police lot and the other vacant lots (there will be land takings) on the north side of Folsom Road. All of that land is in the Gateway TIF District. On the Fire Department side, a study was conducted two years ago which identified optimal locations for fire stations. One option is to move Central Fire Station north on By-Pass 28 and close the Scobie Pond Road station. One station could be put near Birch Street to better serve residents to the south. The town will look at a combination station and has received some good information from Scarborough, Maine which constructed a 25,000 square foot public safety building. That is one option. He is not sure if that type of public safety building will work for Derry. That type of project is very difficult to achieve under a tax cap. There needs to be a way to fund it.

Mr. MacEachern asked what is the current bonded indebtedness for the town and is the town rolling bonds over annually. Mr. Caron said they try to keep the indebtedness level with 2018. The goal is to take savings and allocate it to capital or capital reserve. They do not want to eat up the debt service budget with the operating budget. He does not have the exact numbers with him this evening but will forward the information. He believes the General Fund, without water/wastewater is approximately \$4 million. Mr. MacEachern commented the policy was implemented years ago to try to keep the bonds level so that one is only brought in when another retires. Mr. Caron explained some larger bonds retired, which is why the town was able to secure the Recreation Bond.

Ms. Davison asked if there has been any consideration with the traffic signal upgrades to incorporate smart lights? Mr. Caron believed the upgrades included replacement of the electronics but would have to check with the Director of Public Works.

Mr. Caron advised there will be an add on to the Capital Improvement Plan as the town is working on the Rail Trail adjacent to Hood Park. The last section of trail between Derry and Londonderry will be included. Mr. Sioras has been working on funding source options and it is hoped the remainder of the trail in Derry can be funded with grants, TIF fund, and fundraising. That will be added to Fiscal 23 along with an explanation.

There were no further questions. Mr. O'Connor thanked Mr. Caron and Mr. Fleischer for the presentation which was very detailed and complete. It helps the citizens to see where the money goes.

#### Schedule a public hearing – proposed changes to the General Commercial District

Mr. Sioras noted the Board has discussed this at workshops. The purpose of the amendment is to add permitted uses to the General Commercial zone. The zone is on Route 111 from the Atkinson town line to North Salem. It is also from Lenox Road to Hood Plaza. The Board agreed to the proposed changes at the last meeting and staff recommends scheduling the public hearing for March 17.

Motion by MacEachern, seconded by Davison to schedule a public hearing for March 17, 2021, regarding proposed changes to the following section of the Town of Derry Zoning Ordinance, Article VI, District Provisions, Section 165-32.1.A, General Commercial District, Permitted Uses.

MacEachern, Davison, Granese, Danzey and O'Connor voted in favor and the motion passed.

### Public Hearing

**To discuss proposed changes to the following sections of the Town of Derry Zoning Ordinance: Article II, Word Use and Definitions, Section 165-5, Definitions to add definitions for Aeroponic, Aquaponic, Hydroponic Agriculture, Indoor Farming, and Printer. To also discuss proposed changes to Article VI, District Provisions, Section 165-42, Industrial IV District, to repeal subsections A, B 7 C and replace it with a new subsection A, B & C. This change would amend the list of permitted uses in the zone and renumber Section 165-42 accordingly.**

Mr. Sioras stated the Board agreed at previous workshops to add definitions and revise the uses in the Industrial IV zone. The Industrial zone runs from Fireye on Tsienneto Road, up Manchester Road, A and B Streets, Ashleigh and Linlew, and heads left on Franklin Street Ext to the Londonderry town line.

This change amends the permitted uses and creates new definitions. Staff recommends the Board accept the changes and forward them to Town Council.

Mrs. Donovan joined the meeting.

Motion by MacEachern, seconded by Davison to open the public hearing. The motion passed with all in favor and the floor was open to the public.

There was no public comment.

Motion by MacEachern, seconded by Davison to close the public hearing. The motion passed with all in favor and review of the amendment returned to the Board.

Mr. MacEachern thought the changes were straightforward and have been discussed by the Board several times.

Motion by MacEachern, seconded by Davison to accept the following proposed amendments and forward same to Town Council for review and recommended approval: Article II, Word Use and Definitions, Section 165-5, Definitions, to ADD definitions for Aeroponic, Aquaponics, Hydroponic Agriculture, Indoor Farming, and Printer; and Article VI, District Provisions, Section 165-42, Industrial IV District, to repeal subsections A, B & C and replace them with new

subsections A, B & C. This change amends the list of permitted uses in the zone and renumbers Section 165-42 accordingly.

MacEachern, Davison, Danzey, and O'Connor voted in favor; Granese abstained as he was unable to review the materials due to computer issues, and the motion passed.

## Workshop

### **Workshop #6 – Planning Board discussion of potential changes to Article XII, Signs, specifically relating to the regulations concerning Electronic Message Center Signs and sign requirements for the West Running Brook District.**

Mr. Sioras advised the changes are highlighted in the document before the Board this evening. Definitions have been added for Banner Signs, and On Premise Signs. For signs in the Traditional Business Overlay District, provisions have been added to ensure signs compliment the architecture of the building and surroundings, and all signs will need to be reviewed administratively by the Planning Board prior to the issuance of a sign permit. This will help to ensure consistency with signs in the downtown. In the Off Premise Sign section, the Sign Subcommittee revised the wording such that “Off Premise directional signs are permitted, provided the owner of the lot on which the sign is to be placed, has granted a recorded easement for the sign location.” Additionally, “The use of signs for the advertisement of off premise businesses and activities is not permitted.” This addresses the question raised by Council a few months ago. Sign regulations for the West Running Brook District have also been added and those signs are also subject to review by the Planning Board. Staff is hopeful the Board will accept these changes and the amendments can move forward to public hearing.

Mr. MacEachern noted the Sign Subcommittee did a lot of work on the amendments and he was sorry to miss the meetings but was unable to attend as they were held during the day. He had a question for clarification purposes. In the West Running Brook District, the sign setback is 15 feet for all signs. But then under item 6, Sandwich Board Signs are allowed per the provisions of Section 165-101.A.20. When looking at that section, it states, “Sandwich Board Signs, as defined in Section 165-5, are not to be placed on sidewalks in such a way that they restrict pedestrian traffic in any manner. The addition of a sandwich board shall not exceed the permitted total number of square feet of sign allowed under the ordinance.” He is concerned that this might pose a conflict between the two regulations. Sandwich Board Signs might be needed to act as a directional sign during special events and might need to be in the fifteen foot setback.

Ms. Davison suggested adding wording to clarify the fifteen foot setback was for permanent signage. Mr. MacEachern suggested adding terminology to clarify. It was suggested the following terminology be added as a new item 7. “Directional signs for events or Sandwich Board signs for events are not subject to the fifteen (15) foot setback, provided they do not impede the line of sight.” It was also suggested these signs should be approved by the Planning or Code staff review. The Board agreed to the changes.

Mr. O'Connor believed the changes to be minor enough that an additional workshop was not required, and this amendment could move forward to public hearing. Mr. Sioras said staff will look at the agendas and place this under other business at the next meeting to schedule a public hearing.

**Workshop #5 – Planning Board discussion of potential changes to the Traditional Business Overlay District, specifically relating to housing, density, and parking. Zoning Ordinance, Article VI, District Provisions, Section 165-49, Traditional Business Overlay District; Land Development Control Regulations, Article XI, Design and Construction Standards, Section 170-63, Parking Requirements**

Mr. Sioras advised the changes from the last workshop had been incorporated. Under multifamily residential requirements in the TBOD, residential units shall be a minimum of 750 square feet, with studios at 400 square feet in size. The number of studio apartments cannot exceed 5% of the total allowable number of units for a single project. The lot area is now 20,000 square feet and density shall not exceed 40 units per acre. The 40 units per acre came from a Manchester requirement. It is important that there not be overdevelopment. 40 dwelling units per acre seemed reasonable. There are many lots in the TBOD that are less than 20,000 and it is anticipated developers would purchase multiple lots and combine them. Any multifamily residential project in the TBOD would need to meet first with the Planning Board conceptually, similar to what the Board does for the West Running Brook District.

Other district requirements include lots shall be at least 7500 square feet. The requirements for lots without sewer have been removed as all the lots in the TBOD are on town sewer.

Mr. MacEachern asked for the size of the lots and number of apartments in the buildings owned by Red Oak adjacent to the rail trail. Mr. O'Connor stated they are 22,000 square feet, 18 apartments and 28,000 square feet, 24 units. Mr. MacEachern commented those buildings are on a footprint similar to what the Board would require for 40 units, which doubles the size. He has a hard time supporting that.

Mr. Sioras advised other proposed amendments include a change to the parking calculation. The requirement is one space per bedroom with a minimum of 1.5 per dwelling unit, which is a decrease from 3 spaces per dwelling unit. The Board had felt that 3 spaces was excessive. The LDCR has also been updated to reflect the change in the parking requirement.

Mr. O'Connor noted there is a height restriction in the TBOD. No building can be taller than the Adams Memorial Building. In the bowl of Abbott Court, it was possible to get a few extra stories. He has done considerable research on Dover and Manchester's parking regulations. Manchester has extensive documentation on how they handle parking. He would like to amend LDCR Section 170-63 to include General Parking Requirements with a section requiring a parking analysis for off street, on site, and public parking requirements. "A parking plan shall be developed for each property and shall be submitted as part of the conceptual site plan to the Planning Board. The expected demand on parking spaces may be modified based on the unique characteristics of the individual structure or use and the characteristics of mixed uses which



operate at different hours of the day. The plan shall identify how the expected parking demand can be met utilizing on site surface parking, parking to be made available within the building, public parking available in on street spaces or in parking garages or lots. The parking analysis may also consider the availability of public or private satellite parking structures.” He recommended a requirement be added that any multifamily site plan in the TBOD be required to submit a parking plan at the conceptual discussion. Each development would be reviewed on its own merits and it would help to make sure the developer is not spending a lot of money up front on something the Board might not feel meets the needs of the citizens, and the Board can make sure the plan works well in the downtown. Mr. O’Connor inquired if the LDCR defines what Derry considers the height of a story? It does not. He believed that should be part of the ordinance. He also believed the town should allow permitted parking in the municipal lots. He felt there should be another workshop to discuss these proposed changes.

Mrs. Donovan liked the idea of adding the parking plan requirement language. That would help to address the concerns about parking in the downtown. With regard to the 40 unit density on 20,000 square feet of land, there has been a lot of discussion in Derry and elsewhere about the height of the Adams Memorial Building. When TF Moran prepared the feasibility report for Abbott Court which is at a lower topography, the study stated a building could be as tall as 6 or 7 stories and not exceed the maximum height requirement. The number of stories would depend on what the height of the story is; it is different depending on the construction of the building. The key here is flexibility, and the developer needs to pass the concept phase of review.

Mr. O’Connor will forward the draft wording of the proposed parking plan requirement to Mrs. Robidoux and it will be incorporated for the next draft for review.

### **Workshop #2 – Planning Board discussion of addition of Article XI, Renewable Energy**

{Note: draft ordinance was revised to be included as an amendment to Article III, creating a new Section 165-28.2, Solar Energy Systems}

Mr. Lazinsky and Ms. Till joined the meeting. Ms. Davison advised the Solar Ordinance Subcommittee looked at the ordinance to govern solar units on residential housing rather than commercial solar farms or solar clusters. They felt there was a need to balance the needs of the resident to supply solar power, but to also make sure it did not adversely affect neighbors, at the same time providing guidance for installers and contractors. The biggest work was in crafting definitions and they spent a good amount of time on that. Mr. O’Connor noted staff input was provided by Bob Mackey, Bob Wentworth, Lt. Stanhope, Director Eastman, and Mark L’Heureux. Mr. MacEachern confirmed other ordinances were used as an example and that the proposed document was in conformance with industry standards and would not place an undue burden on homeowners by requiring they purchase anything unique. Mr. O’Connor believed that to be the case, based on the State study. Ms. Davison said the ordinance is based on generally accepted sizes for equipment. The hope is that at the public hearing, industry professionals will provide input. They did not request input at the drafting stage because they did not want it to appear there had been undue conflicts of interest. Mr. MacEachern said he wanted to make sure an unnecessary burden was not being placed on the homeowner.

Mr. Lazinsky said for the kW, they used the upper limits for residential requirements. They wanted to protect the homeowner and the abutters. Most of the language was provided by model ordinances prepared by the Office of Strategic Initiatives and Clean Energy New Hampshire, along with Derry staff input. The language is not arbitrary. Mr. MacEachern wanted citizens to be able to select their own vendors. There is a lot of diverse housing stock in Derry, with differing size homes and lots. He wanted to make sure all of those types are covered and there are no negative impacts to abutters.

Mr. Lazinsky explained that is why the regulation only allows one panel in the front yard; they did not want undue impact on an abutter. Mr. MacEachern said the larger landowners have the ability to offer more flexibility – does this regulation work for them as well? Mr. Lazinsky said they placed a 15 kW limit to be allowed as a right; if any installation is over 15 kW, it has to conform to certain requirements. He referenced Section 165-28.2.D.6.

Ms. Davison commented a cluster of solar panels or a solar farm would fall under different requirements. Mr. MacEachern felt this was a well written document. Mr. O'Connor stated originally, the drafts had included wind energy. The Subcommittee opted to remove the wind component. Due to Derry's location, there is likely not a market for that type of energy. If the town ever wants to incorporate it, there are model ordinances available. Ms. Davison said that would also include Geothermal Energy.

Mr. MacEachern felt this draft could move forward to public hearing; the other Board members agreed. Mrs. Robidoux advised the draft will need to be reviewed by legal counsel prior to scheduling the public hearing. Mr. Sioras commended Ms. Till, Mr. Lazinsky, staff members and the Subcommittee for their work on the draft ordinance.

There was no further business before the Board.

Motion by MacEachern, seconded by Davison to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:28 p.m.
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Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

Approval date: \_\_\_\_\_