

**Ad Hoc Government Study Committee** (Westborough, MA)  
**Minutes of December 13, 2006**  
with Planning Board and Town Planner

Present: Sue Abladian, Kris Allen, John E. Arnold, Christopher Senie (arrived at 7:30pm), Thomas Shea, Manohar Vichare  
Absent: Brigitte Casemyr

Chairman Shea called the meeting to order @ 7:00 pm.

The invited guests for this meeting include representatives of the Planning Board, the Design Review Board (DRB), and the Town Planner: Edward Newton (chairman of the Planning Board and member of DRB), Dennis Callahan (chairman of the DRB), Judith Nicholson (vice-chair DRB), Jim Robbins (Town Planner)

Mr. Shea opened by asking if the guests had any comments with regard to open town meeting (OTM) and representative town meeting (RTM).

Mr. Newton prefers OTM. There could be some concern that RTM can lead to neighborhoods vs. neighborhoods.

Mr. Robbins has worked with city government (the City Council in Boston) which, like RTM, limits who can vote on issues. In the more restrictive form, advocates for a specific topic can focus on point people and main players. In OTM, every voter's questions and concerns may need to be addressed. This can make OTM more difficult. However, OTM is more representative. Though RTM can be viewed as more efficient, OTM works better in Westborough than most places and the difficulties with OTM (e.g., needing to re-answer questions on town meeting floor that have been addressed in previous meetings and hearings) have not been overwhelming.

Mr. Callahan is in favor of OTM though he realizes that it can be problematic for more than one parent of young children to attend. Also, RTM can make it harder to change your mind (e.g., due to answers to questions, amendments proposed, etc.) due to pre-meeting lobbying, etc.

Ms. Nicholson agrees that OTM works well. It would be harder to get involved with RTM. OTM really makes you feel like you're part of the community and involved.

Mr. Robbins mentioned that RTM and City Council forms of government can lead to a focus this is based more on personalities and less on issues.

Mr. Shea thanked the guests for their views on OTM and RTM and moved on to discuss the topics involving town planning that the Government Study Committee is reviewing. In the committee's work so far, a few things have come up about the structure of the town's planning functions and related work. The committee is trying to get a better

understanding of the current structure, roles, and responsibilities. Some specific examples include the following:

1. Why does the Planning Board have 5-year terms?
2. Who appoints the Design Review Board and what is its role?
3. Who does Site Plan Review?
4. Is the Planning Board seat on Capital Expenditures Planning Committee necessary?
5. Could hearings related to zoning by-law warrant articles be completed before the town meeting warrant closes?

Mr. Newton talked about the length of term for Planning Board members. Previously, there had been some thought to change the term of office to 3 years. The premise was that a shorter term might lead to more people running for office. However, he now sees that there's a long learning curve and there is a need to minimize impact of possible turnover on the Board. For example, 3-year terms could result in Board member changes of 2 members out of 5 in some election years. This could have an impact on workflow and staff compared to the current terms which would have one Board position up for election each year.

Mr. Newton acknowledged that the 5-year term can make it hard to get people to run. The 5-year commitment can be pretty difficult. However, most major projects that come before the board are long-lived and the stability of the Board leads him to believe that it is better for the town to keep the Planning Board a 5-year term.

Mr. Robbins mentions the Town's Master Plan (approved in 2003) as just one of those long-lived projects. Now (Dec. 2006), the Plan has finally led the Town to make 2 – 3 major changes to regulations, etc. Members need some institutional memory to see affects of their decision on how it turns out. This allows members (and the Town) to learn what works and why and what doesn't work and why not.

Mr. Robbins then talked about the Planning Board and its ability to create a vision for the community and its "built environment." The ability to do this arises due to the Planning Board's authority over proposing zoning, then acting as a permitting authority, and all other zoning-related work that doesn't come under the Zoning Board of Appeals (ZBA). The State Zoning Act (Chap. 40 (A), Chap. 40, Sect 81L – Subdivision Control) authorizes what the Planning Board does and its responsibilities.

With regard to the Design Review Board, Mr. Robbins mentioned that Town Meeting created the Design Review Board (DRB) for the area of town known as Downtown Historic District. The DRB acts as the 'eyes and ears' of the Planning Board and architectural issues related to that area. They get multiple applicants for each position on DRB even though there are strict rules about membership mix.

Ms. Abladian clarified that 'downtown', in this sense, is defined as 2500 feet from center of town.

Mr. Newton mentioned that, since its creation, the DRB has seen its role expanded to include the transit-oriented village and the 'Bay State project' (the development at the site of the old Bay State Abrasives plant).

Mr. Callahan mentioned that the DRB does a lot of work. The DRB meets almost weekly. The DRB offloads the Planning Board from the need to be involved in all of the discussions with people about the wide range of different designs for a given project. However, the DRB is not a decision-making body about these discussions. They are an advisory board to the Planning Board and the Building Inspector. The Planning Board makes the decisions.

Mr. Newton clarified this point by mentioning that some things the DRB considers are related to Building Permit issues and not necessarily Planning Board policy decisions. Therefore, some of the interactions with and advice from the DRB is directed to the Zoning Enforcement Officer and Building Inspector.

Mr. Shea asked about the reaction of Business Community to the DRB.

Mr. Newton said that the business community was skeptical at first. Most people go into the process thinking that working the Boards is tough but, when they're project is done, most realize that their building has more value and typically leads to more business. The most noticeable problem was with the 'Gateway 2' where an owner hired contractors to put up siding without a building permit. This led to problems that would have been noticed and reviewed before any work had been done if a building permit had been obtained.

Mr. Callahan noted that one way to view the guidance of the DRB is that making an improvement to a particular structure or area of town really means making a 'real improvement that will amortize over time.'

Mr. Robbins put the discussion in the following context: A specific business might not be on a site forever (e.g., Dunkin Donuts on East Main Street just past the railroad bridge, McIntyre Insurance on the rotary) but the building to some extent will be there forever. A goal is to balance the longer-term view with the shorter-term.

Mr. Callahan mentioned that people who have played by the rules have benefited even with tight budgets.

Mr. Shea asked about any opinions with regard to the appointing of the DRB.

Mr. Callahan said that appointment by the Planning Board makes sense since the DRB advises the Planning Board.

(Joe Inman (the Town's Zoning Enforcement Officer) arrives @ 7:45 pm)

Mr. Senie asked who sets the Design Standards that guide the DRB.

Ms. Nicholson noted that the DRB promulgates their own regulations. However, the Planning Board can overturn any recommendation since the Planning Board is the permit granting authority and any restrictions are made with respect to a permit.

Mr. Callahan and Mr. Senie noted that there is not a single set of design standards since different sites can and do need different regulations (ex. Gateway 2 vs. Transit-oriented Village).

Ms. Allen asked how and when Site Plan Review comes into play.

Mr. Inman noted that the Planning Board wrote original regulations regarding Site Plan Review. Any project requiring 6 parking places or more triggers site plan review except for projects downtown. Any change of use in Downtown District triggers Site Plan Review. (This is so because provision of parking spaces isn't required for downtown business). Site Plan Review has no authority; just a double check that rules are being followed. Everything is based on Zoning.

Mr. Senie commented about the case when a property owner wants to change the building but not change the use of the building. This case doesn't force a Planning Board action but the sharing of plans gives opportunity for interaction and comments.

At this point, Mr. Inman provided a quick review of the Site Plan Review (SPR) process.

During a Site Plan Review, every board/agency puts concerns in writing. The property owner responds to concerns. This process results in a paper trail and leads to recognition of legal interpretation questions and other questions about the current zoning. This overall process is how zoning gets changed – by trial and error and working through concerns and questions, lessons are learned and, when necessary, changes are made to try to make things better.

Mr. Senie asked if there are any cases where something wasn't done well because Planning Board isn't the Site Plan Review body?

Mr. Inman stated that only once have the Selectmen been overturned.

Ms. Allen feels that Site Plan Review belongs with the Planning Board since all issues and project details are known to the Planning Board. It is hard for the Selectmen to be fully engaged since they don't have the deep knowledge of the projects.

Mr. Newton indicated that having SPR under the Planning Board would streamline the process a lot.

Ms. Abladian mentioned that the Selectmen were asked to sign off early in process for permits for Bay State Village before it was really done. The Selectmen were told that

they could justify doing this early since they would get more chance to review as part of SPR.

Mr. Inman explained that the process has been that he writes letter to Selectmen indicating what the Planning Board has agreed to and then Selectmen deal more with legal matters than design issues. (e.g., liquor licenses, road closings, etc.)

Ms. Abladian mentioned that, in many cases, Selectmen only have 24 hours to object to a Special Permit.

Mr. Robbins said that his understanding is that an appeal can occur at any time within 21 days but that only points of law can be appealed.

When asked about the duration of an open hearing for items that come before the Planning Board, Mr. Robbins indicated that an open hearing can last as long as there are questions or information being gathered. However, the Planning Board has 90 days to make a decision once the open hearing is concluded.

Mr. Senie asked if it would be good to try to collapse Site Plan Review and Special Permitting whenever possible.

Mr. Inman indicated that that's pretty much the way it works now. More people learn about what's going on because of the way the process works. If it were only the Planning Board, people would probably just delegate to Planning Board and projects wouldn't get as much exposure (and, therefore, discussion).

Mr. Robbins mentioned that Industrial Subdivisions is the one case where people can get permits and then rely only on the Site Plan.

Mr. Robbins said that if the Government Study wants to propose changes to streamline the process, he'd suggest that the Committee ask the Zoning Officer, Town Counsel, etc. to review and look into any ideas or suggestions for any complications that may arise.

Mr. Inman described the special permit process compared to the site plan review process. A developer has to submit definitive site plans to Planning Board to get a special permit. Site Plan Review is a less restrictive, quicker process than the Special Permit process. However, in some cases you have to do both.

Mr. Shea asked about the Planning Board seat on the Capital Expenditures Review Committee.

Mr. Newton (who currently represents that Planning Board on that Committee) thinks the capital expenditure review process has been great and is very useful for the town. The intent of the Capital Expenditures committee is to map where town is heading with capital expenses. As a result, the committee looks for spikes in projected capital expenses

and reports that back to the town so the various departments can work to even out the spending. The goal is to try to spread out capital expenses over available revenues.

Continuing, Mr. Newton said that whether the Planning Board needs a seat is not really something on which there's an official position. However, the Planning Board probably wouldn't feel left out if the composition of the Committee changed.

Mr. Shea asked about whether the necessary zoning by-law hearings could be completed before the town meeting warrant is closed.

Mr. Newton believes this would be a good idea though it would take some work to make it happen. For example, it would require proper advertising of hearings, etc. in time.

Ms. Abladian mentioned that a potentially bigger issue is the printing of the Finance Committee booklet.

Mr. Newton says the question of completing the hearings before the closing of the warrant is really to understand how that could improve the process and, if the improvements justify it, then the Planning Board would need to look at how to implement it. The Planning Board has legal timing requirements that would need to be met and the Planning Board would need to look at the implications of trying to meet those requirements while still presenting the best articles at Town Meeting.

Mr. Arnold mentioned that, in terms of the booklet printing, an overall streamlining of the process could include a look at how technology improvements (such as making the Finance Committee booklet available to voters via a PDF file with some on-site printing capabilities) could improve the process and minimize the duration of specific steps in the process.

Mr. Newton agreed that the best approach would be to look at the overall process and look for improvements.

Mr. Arnold asked if anyone knew whether the town, legally, could have a By-law that requires all the public hearings (related to a warrant article) be complete before the town meeting warrant is closed.

Mr. Robbins mentioned one restriction is that State law says Town Meeting action has to be within 6 months of public hearing (for zoning issues). However, this would limit how early the hearings could be concluded before the next Town meeting. The group felt this could result in a need for a regular fall town meeting. The premise is that this would result in there being a Town Meeting approx. every 6 months.

Mr. Newton indicated that he believes the Town Moderator (Joe Harrington) is looking for hearings earlier in the process such that there is a better process for the adoption of zoning bylaws, etc.

Ms. Allen mentioned that some others who have spoken to the Government Study Committee have talked about a more central appointing authority. This central authority would be responsible for the appointment of almost all of the town's managers. She asked about the rationale for having the Planning Board appoint the Town Planner.

Mr. Newton indicated that the Town Planner is very responsive to the Planning Board because the Planning Board is the appointing authority.

Mr. Robbins asked how one person can know all of the criteria for properly evaluating all the various types of managers. This includes the various laws that guide the work, the best practices in the many areas of expertise, etc.

Mr. Arnold mentioned that the analogy that managing the town is very similar to managing a big business can become strained. In a business, one can manage to a single number – the 'bottom line' – and even disparate departments can be judged and measured according to their impact on this single number. However, a town doesn't have a single measure against which it is judged and/or measured. The town has a bigger set of goals and objectives and an important part of the citizen's participation in its government is handling the balancing of the different departments, goals, objectives, etc.

Mr. Arnold asked about opinions about an elected Planning Board vs. an appointed Planning Board.

Mr. Newton related this to the previous discussion about a more central appointing authority. He mentioned that if it becomes the case where one person appoints all the people, that person becomes like a mayor since they have overriding control.

Mr. Robbins mentioned that, in his profession, it's an on-going question. Overwhelmingly, planners prefer an elected Board. This can help stabilize what can be a constantly changing set of plans, goals, etc.

Mr. Shea thanked the guests for attending the meeting and sharing their thoughts and expertise with the committee.

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The meeting continued with a review of comments that had been received via notes in the Government Study mailbox at Town Hall or via the Government Study Committee's email account.

Ms. Abladian read an email letter from a resident about the difficulty parents of small children have attending and participating in Town Meeting. The note explained the problems and brought up the need for trying to address these problems. One possible solution is babysitting at Town Meeting.



Another letter asked whether there could be any process improvement over the current system where the property tax and water/sewer bills are mailed 6 weeks apart. In addition to possible cost savings of mailing multiple bills in a single envelope (mailing costs), there is the question of making it easier for taxpayers to pay multiple bills with a single check.

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The Committee concluded by reviewing the upcoming meeting schedule.

For January 3, 2007, the meeting has been arranged so the Committee can hear from the 3 major department heads that are appointed by the Selectmen: Police Chief, Fire Chief, and DPW Manager.

Other meetings are currently scheduled and posted for:

Wednesday, January 10, 2007 @ 7pm

Wednesday, January 24, 2007 @ 7pm

Ms. Allen distributed a draft document summarizing possible 'housekeeping' changes that have been mentioned in previous meetings. Prior to the January 10 meeting, the committee members agreed to review this document and mark up possible questions or corrections for discussion and possible agreement.

A motion was made to adjourn the meeting by Mr. Vichare and seconded by Ms. Abladian. The vote was unanimous and the meeting was adjourned at 9:10 pm.

Respectfully submitted,

John E. Arnold  
Acting Secretary