

## **BOARD OF SELECTMEN SPECIAL MEETING**

### **April 20, 2011**

A Special meeting of the Board of Selectmen with the Land Use Commissions was held on Wednesday, April 20, 2011 in the Selectmen's Conference Room.

Members present: First Selectman Frank Chiaramonte, Selectman Christina Emery, and Selectman Michael Criss.

Attendees: Michael Orefice, Planning Commission; Bruce Burnett, IWWC; Ronald Sherlock, Zoning Commission; Tom Rotondo, Zoning Board of Appeals; Tom Schoenemann, Economic Development Commission; Town Attorney Michael Rybak, and Bud Wilkinson, Republican American Newspaper.

#### **Call to Order**

Mr. Chiaramonte called the meeting to order at 6:04 p.m.

#### **Goal of Land Use Group**

Mr. Chiaramonte said his goal for the Land Use Group is for everyone to know where each commission is coming from and to discuss issues they're dealing with and to update each other on activities.

#### **Establishment of Regular Meeting Schedule**

Mr. Chiaramonte informed the commission chairmen that he would like to hold these meetings with the land use chairmen on a quarterly basis if possible. Mr. Chiaramonte asked the commission members if meeting prior to a Board of Selectmen meeting is convenient for everyone. It was decided to hold future meetings on Wednesdays at 6:00 p.m. with prior notice.

#### **Town Attorney, Michael Rybak: Legal Opinion on Commissioners speaking before other Commissions**

Attorney Rybak stated that if commission members will be meeting to discuss common problems or issues, he requests that commission members avoid discussing any pending applications so as not to pre-judge any application. Attorney Rybak gave Commission Chairmen and the Board of Selectmen copies of Land Use Law and Practice, Volume 9B, third edition, by Robert A. Fuller, which says that a member of a land use commission should not sit on a matter in which he is interested in a personal or financial sense (which is the conflict of interest half of the statute). The other half of the statute is that a land use commissioner or alternate should not appear on behalf of another person or entity before another land use commission. In other words, you cannot represent a group or individual before another commission but you can represent yourself if you have an application pending providing you disqualify yourself from your board. You can speak in front of a board on matters in which you have a common interest. Regarding the representation side of this issue, Attorney Rybak stated that he has read as many cases as he could find and other than one (1) case with unique circumstances, he did not find a decision where the commissioner cannot appear before another board to testify as a private citizen and as long as the commissioner makes it clear that he is speaking as a private citizen and not as a land use commissioner from another board there is nothing preventing that individual from doing so. This was in Judge Flynn's decision in the Massimo case. Mr. Orefice said the rules should be conveyed to all members of the land use commissions. Attorney Rybak

said he could do that. Attorney Rybak spoke about alternates on a commission. He stated that when an alternate sits on a commission, it is made clear in the record who is seated for whom. When it's time to vote on an application, you must make sure that the people voting have heard the application. If you have an alternate who is not seated for the vote, they do not participate in the debate or discussion. Mr. Chiaramonte said if an alternate is seated and heard the case then every attempt to seat them for the vote should be made. Attorney Rybak replied by saying if the member says they have listened to the tapes and reviewed the material, then the member has the right to vote.

### **Town Plan of Conservation and Development- next steps for implementation**

Mr. Orefice requested the Board of Selectmen to look at the plan and make changes or updates if needed. Planning is currently looking at their regulations to make sure they're in sync. Mr. Chiaramonte said part of the plan of conservation and development pertains to affordable housing. He said there is always the threat that if the town does not meet the ten (10) percent requirement, a developer can build affordable housing units that do not meet the town's regulations. Attorney Rybak stated there are two (2) instances where affordable housing does not trump local regulations. One is regarding sewers (cannot extend lines beyond designated areas) and the other is wetlands. He said one way to solve the problem is to increase affordable housing. He suggested speaking with Bob Petricone of the Litchfield Housing Trust. Numerous housing units have been developed through this private, non-profit, volunteer organization. Mr. Chiaramonte would like to invite Mr. Petricone to the next meeting of the BOS and Land Use Commissions. Attorney Rybak suggested inviting all members of the commissions and the public and to hold the meeting in the Assembly Hall to let people know there is a form of affordable housing other than section 8. Ms. Emery mentioned inviting David Fink to a future meeting to discuss affordable housing.

Mr. Chiaramonte stated a study was recently done on the Pennsylvania and Connecticut Highlands. He received a synopsis of the study from Yale which he gave to Mr. Orefice for his review.

Ms. Emery spoke about the plan's recommendation to form a committee to identify improvements to the town's infrastructure including transportation, schools, emergency services, community center, etc. Mr. Chiaramonte said they will be soliciting members from the commissions to form a committee.

### **Discussion of pending issues from each committee**

Mr. Sherlock stated that at their last meeting several commission members brought up the need for some sort of uniformity regarding policies and procedures and suggested they be put in writing so that everyone will know what they are. Mr. Chiaramonte said he agrees and feels they need to beef up enforcement. Attorney Rybak suggested complaints be put in writing and should be signed. The enforcement officer also needs guidelines and procedures. Mr. Criss, Mr. Orefice and Mr. Sherlock said that the WPCA, Planning Commission and Zoning Commission have policies requiring that complaints be signed. Mr. Chiaramonte verified with Attorney Rybak that complaints should be received by the Zoning Commission and then the Zoning Commission should direct the enforcement officer on action to take.

Ms. Emery reported she is currently working on a blight ordinance and has collected samples from other towns. Mr. Sherlock said this issue has come before the Zoning Commission many times.

Mr. Criss, chairman of the Sewer Authority, reported that the WPCA has been working hard on establishing gallon usage and have done studies on the lines. The lines are from the early 80's and will need replacing. They are also looking into illegal connections and upgrading meters. They have revamped some rules and regulations to be in compliance with today's codes and will hold a public meeting next month. A copy will be forwarded to commission members so that they will be aware of the new regulations and suggested they attend the public hearing on the subject. Mr. Criss noted that he received a lot of cooperation from the tax office with regard to sewer hook-ups. Wright Pierce came in at almost \$8,000 under budget, which will enable the Authority to use those funds for more enforcement. Mr. Sherlock commented that the workshop Mr. Criss held last year was very helpful.

### **Review of Low Impact Development**

Mr. Orefice said the Planning Commission has language in their regulations for LID but they haven't had an application yet. He asked if a developer gets their plan approved with IWWC using LID methods and then goes to the Planning Commission with a different map (which sometimes happens); does Planning have to accept the exact map as IWWC? Attorney Rybak said if IWWC has approved the plan with LID methods, the developer has to keep it in the plans for the Planning Commission.

Mr. Chiaramonte said they will have another meeting with the land use boards in approximately three (3) months and if any chairmen would like to invite members of their commissions to attend the next meeting, feel free to do so.

Ms. Emery confirmed that the board will invite Mr. Bob Petricone to the next meeting.

### **Adjournment**

Mr. Criss moved to adjourn at 7:03 p.m. Ms. Emery seconded. All were in favor.

Minutes Submitted by:

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Melissa Santoro

Approved by:

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Francis J. Chiaramonte, First Selectman

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Christina Emery, Selectman

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Michael Criss, Selectman