

## CAMDEN PLANNING BOARD

### Minutes of Meeting

October 6, 2011

**PRESENT:** Chair Chris MacLean; Members Richard Householder, Kerry Sabanty and Lowrie Sargent; Alternate Members Sid Lindsley and Nancy McConnel; Select Board Liaison Don White; and CEO Steve Wilson

**ABSENT:** Member Jan MacKinnon

The meeting was called to order at 5:00 pm

#### 1. PUBLIC COMMENT on NON-AGENDA ITEMS:

The Chair introduced the new Town Manager, Pat Finnigan, who was attending this evening's meeting to observe.

Ms. McConnel asked Mr. Wilson if he had any response from the MDOT regarding the procedure to request a reduced speed limit in the area of the Bog Bridge Boat Launch; Mr. Wilson had not and will follow up on his inquiry.

#### 2. MINUTES:

September 1, 2011:

Page 1: Line 48: The Chair had described the Public Hearing Procedure instead of reading it.

Page 2:

Line 22: Route 52 was changed to Route 105

Line 33: The correct date of Mr. Kelly's letter was August 13, 2011

**MOTION by Mr. Sabanty seconded by Mr. MacLean to approve the Minutes of September 1, 2011 as corrected.**

**VOTE: 6-0-0**

September 15, 2011:

The DVD of the meeting was blank and the audio tapes not legible, and no minutes could be produced. A new DVD has been provided.

#### 3. MUBEC & Legislated amendments required

Mr. Wilson had prepared a Draft package of amendments required to bring the Town's Zoning Ordinance into compliance with the Maine Uniform Building and Energy Code (MUBEC). Several changes are required throughout the Zoning Ordinance, and the Town's Attorney has said that the all of these changes can be presented to voters as one item on the Warrant. Mr. MacLean asked if the Property Maintenance Code remained part of the final version of MUBEC. Mr. Wilson said that it was not included, nor were several other provisions that were part of the original draft; the Building Life and Safety Codes were the major components of the version finally approved.

Many of the proposed changes are not substantive in nature: this draft makes changes through-out the Ordinance to change the term Code Enforcement Officer to Building Official, for example, because that is the term used in MUBEC. It is still not clear what requires a permit under MUBEC; some repairs do not, but there is not a complete listing and Mr. Wilson hopes to compile a list of the work that will *not* require a permit. Mr. Wilson is concerned that there will be a major increase in the amount of time spent on a single project because of all the inspections and permits that are required: 23 inspections will be required for a normal residence. It is still

not clear who will be required to pay for these inspections: will the costs be included in the permit, or will 3<sup>rd</sup> party inspectors have to be hired at the expense of the applicant? One problem is surfacing with regard to third party inspectors, and that is the inability of these inspectors to obtain sufficient liability insurance at an affordable cost. Once the cost of inspections is known for different permits, setting new fees will be under the purview of the Select Board. Mr. Sargent is not a fan of the current basis for assessing fees – a permit fee based on the cost of the job. He believes it makes no sense that one person should pay more for the same work simply because the materials for that job are more expensive; if jobs require the same number of inspections, the fees for each should be the same no matter the cost of the project, and it would be fair to charge on a square foot basis instead. Mr. Sargent believes that Camden is one of the only towns around that still uses the cost basis; he does know that Rockport is already requiring a fee for all field inspections, but he did not know what that fee was or how it was determined.

→ Mr. Sargent asked Mr. Wilson to check with surrounding towns to see how they determine their fees.

→ Members agreed that they should develop a proposal to send to the Select Board regarding fees once they have more information.

→ Mr. Householder suggested that MUBEC be made a priority on the list of amendments proposed for next June.

→ The Board asked Mr. Wilson to check the MUBEC draft for errors in spelling and punctuation.

#### **4. DISCUSSION:**

##### **8. Conservation Commission (Role & Recommendation):**

This Discussion item was taken out of turn to accommodate Bob Gassett and Doug Johnson, two members of the Conservation Commission who were attending to discuss how the Commission and the Planning Board might collaborate during the review of certain applications. Mr. Wilson had compiled excerpts from the Zoning Ordinance and from the Comprehensive Plan that addressed the Commission and various roles and assignments as they relate to the Planning Board.

Mr. Gassett informed the Board that he had completed the Survey sent to Boards and Committees “after-the-fact”, and that he had proposed a goal of making sure that the Town and its various committees have a better understanding of the Conservation Commission and the work it does. Mr. MacLean informed the Board that the two are here this evening because the Select Board wants the Planning Board to meet with the Conservation Commission to see how the two might collaborate. Mr. Sargent explained that there is more to the request from the Select Board: the Select Board is under the impression that the Conservation Commission is to report to the Planning Board, yet there is no mechanism in place for that interaction, and the Select Board wants a discussion on how these interactions might be formalized. Mr. Sargent spoke with Select Board Chairman Cates and suggested that the Planning Board could prepare a memo on how they view the relationship between the Planning Board and the Conservation Commission instead; that suits Mr. Cates.

Mr. MacLean agrees that only good can come from tapping into the special skills of the Conservation Commission, and Mr. Gassett agreed, saying that if the Commission were to serve in an advisory capacity, that would acknowledge their role as defined in the Comprehensive Plan to act as advisors and advocates; the tree survey done at the Ragged Mountain site is a perfect example. Mr. Johnson believes that the more interaction between the two the better. He

wondered if they had come into the Ragged Mountain project earlier on, if it would have made a difference in the final design; even coming in at the last minute made a huge difference. They had great cooperation with Jeff Kuller and the engineers and foresters on the project, and were able to save several very large trees. They worked with the team there on some erosion controls and retaining wall issues as well. Mr. MacLean asked what scope of expertise the members of the Commission might offer the Board in addition to the expertise on trees and erosion: Mr. Gassett and Mr. Johnson suggested that members had experience in general in environmental and natural resource issues; controlling sources of pollution, lighting issues, wetlands, vernal pools and wildlife habitat among them.

Mr. Sargent believes that the Planning Board needs to be careful involving the Commission when a project takes place on private property. Commission members could come to site walks and offer comments as citizens, but not in an official capacity. Certain Site Plan activities require the Board to involve Town agencies like the Fire Department and Police Department, but there is no requirement to involve the Conservation Commission (except in applications for piers and wharves, etc.), and he thinks the Board needs to be careful not to invite other committees in when they are not officially part of the review process. Mr. MacLean isn't sure that the Commission cannot be involved even if their role isn't specified, and he is interested in learning the degree to which the Commission has standing.

The Board reviewed the Conservation Commission's assignments in the Plan excerpts and found they were responsible for overseeing town-owned natural resources. Mr. MacLean finds that inconsistent with their role in reviewing piers and wharves, etc. described in the Zoning Ordinance (Articles X and XII) – these are not Town-owned properties. Mr. Sargent agreed that their involvement was called for during this review; his point is that the Board may be in trouble if they ask for the Commission's involvement – or any other committee's involvement – when it is not specified. Mr. Wilson suggested that the normal role Conservation Commissions play is advisory; they can make suggestions but these suggestions should be recommendations only, and probably not required, as in a condition of approval. Mr. Sargent believes that if it were the desire of the Ordinance to have them involved, other than with piers and wharves, it would say so; but their involvement is, actually, very restricted and very limited.

Mr. Johnson noted that their role in the past has been with public projects – public access at Marine Avenue and the shore stabilization project; the Curtis Island light project; and Ragged Mountain – all were public projects. However, if there were a subdivision proposal where the project could cause issues to the Town like affecting wetlands or watersheds, then it might fall within their purview to comment. Mr. MacLean noted that if this did happen, the Board would have to weigh all the evidence – that provided by the Applicant as well as that provided by the Commission - in making a decision.

Mr. Sargent noticed that the only Comp Plan assignment not yet completed by the Planning Board and the Commission was from Chapter 17 where it requires a meeting with the Assessor's Agent to identify incentives to maintain open spaces; neither the Commission nor the Board has met with the Assessor. Mr. Wilson thinks the Commission should be playing a role with the Pathways Committee who is making decisions on where to locate pathways on public lands, some of which are very sensitive. It is too bad to have these projects get to the stage where the Board might be involved and then find that the Commission has concerns. Mr. Johnson informed the Board that the Commission has a representative on the Megunticook River Project that is involved with the River Walk part of the pathway. Mr. Wilson added that the Planning

Board actually needs to be careful not to be involved prior to review, but the Commission can and should be taking part from the beginning. Mr. Wilson believes the Select Board is looking at ways the Commission can be involved with other committees in addition to the Planning Board. Mr. Gassett believes the problem is just remembering to bring them in. For example, the Town is submitting a Tree Grant and the Commission has not been involved – and in fact, was not even aware of the project until it came before the Select Board last evening.

Mr. Householder asked Mr. Wilson if there were plans to update the Comprehensive Plan because there needs to be some work done to make sure that the Plan reflects the current state of affairs. Members who participated in the work on the last Plan agreed that they need about three years of lead time to get the work done on schedule, and that they should put the Plan on their priority list of projects and begin work soon.

Mr. Sargent asked if the Commission is part of an on-going discussion with Parks and Recreation about the redevelopment project that will be taking place at Ragged Mountain; the Multi-use Trail was just the first of many projects to come. Mr. Johnson outlined their plans for continued involvement in the trails project and Mr. Sargent suggested that developing a relationship with Parks and Rec seemed much more productive for the Commission because they would be involved in the development of a project from the beginning, and Mr. Gassett agreed that this was specifically called for in the Comp Plan. Mr. Sargent asked Mr. Wilson if he would speak with Mr. Kuller about whether or not it made sense to involve the Commission in this project, and Mr. Wilson replied that the conversation has already begun; Mr. Kuller is planning to ask the Commission to be involved in the long-range plans.

Mr. Sargent informed the Board that the Select Board has set a Thanksgiving deadline for receiving comments on the Board's relationship with the Commission. They would like to hear how the Board sees the relationship with regard to: review obligations; how the Commission and the Board could work together; suggestions for involvement with other committees in Town; etc. Mr. Johnson informed the Board how the Commission, working with the Tree Warden, is involved in monitoring and recommending work that needs to be done. They do an annual inspection of the five harbor rights-of-way; and monitor erosion control problems like the ones at Laite Beach. Individual trees are the Tree Warden's jurisdiction; the reason the Commission got involved with the trees at the Snow Bowl had more to do with the project's impact on water quality and preserving tree canopy than on saving individual trees, although that was addressed as well.

Mr. Householder asked how the Commission thought the Multi-use Trail project was going. Mr. Gassett said he met the contractor and was very impressed with his attitude. Mr. Johnson has been more involved during the actual work and feels that things are going very well. He understands that the work on the first portion involved more cutting on the uphill side than originally thought, and although there are no erosion problems resulting, it is quite harsh looking and it may take awhile for this area to recover aesthetically. He was especially impressed with the work done at the stream crossings; even though these are temporary crossings, great care is being taken to avoid damage to the stream bed and to avoid erosion of the banks. He announced to the television audience that the Commission would love to have a member well-versed in erosion controls.

Mr. Sabanty would like to incorporate the Commission more officially into the Planning Board's review process. He found the information they provided during the review of the trails very valuable and hopes the Select Board will find a way to give them more authority.

1. *Minor Field Adjustments:* There were none

2. *Sign Article:*

Mr. Wilson is waiting to hear back from the members of the Downtown Business Group who were interested in participating in a review of the Sign Ordinance. Their busy time is just winding down, and he hopes for a response to his emails once that happens. Mr. Sargent had heard that there is one member of the group who has volunteered to come to Planning Board meetings. They have a lot of ideas for the downtown, and some of them may require ordinance amendments to put in place.

There is also the group that will be working on a Downtown Plan, and they have talked about waiting to do the signs and make them part of that plan. The Chair wants to go ahead with the Board's sign project, and hopes that the Downtown Business Group will participate at this point in time instead of waiting. Many signs are not in compliance and many parts of the Ordinance need work to wait any longer. It was noted that the group working on the Downtown Plan will need to ensure that the Comprehensive Plan reflects their goals – or they will need to work with the Planning Board to make appropriate changes.

Sue Michaud, who came to the Board about signs earlier, has five or six other business owners who want to work on the sign project. Mr. Wilson will see if they are ready to get underway. Mr. Householder asked Mr. Wilson to inform the group that when they come to the Planning Board they need to have a proposal to discuss, not just general concepts. Mr. MacLean believes the Planning Board can provide leadership in this project, and should ask the group to just come talk at the first meeting without discussing a specific proposal.

Mr. MacLean summarized his understanding of sign issues the Board has agreed to address:

- Town Directional Signs
- Finding how to bring individual business signs into compliance: identify the non – compliant signs and find a solution.
- Permitting signposts that display a number of businesses in a single location
- DOT Official Business Signs

The Sign Group should be asked what they think of the existing Ordinance and if they have any recommendations for changes. Mr. Wilson offered to attend any meeting the Sign Group may hold prior to meeting with the Planning Board if that would be helpful to the process.

*Next Meeting Date:*

The Board discussed whether to move their meeting of October 20<sup>th</sup> to the Police Station or reschedule for the 27<sup>th</sup> when the Conference Room is available. Mr. Lindsley thinks it is important to broadcast the discussion with this sign group. The Chair is not available on the 27<sup>th</sup>, so the meeting date will be Wednesday the 26<sup>th</sup> instead. The sign group should be asked to come with their thoughts about suggestions for changes to the Ordinance.

Mr. Wilson informed the Board that the Site Walk previously scheduled for the 27<sup>th</sup> will be held on November 3<sup>rd</sup> if he can confirm that date with the Applicants.

#### 4. *Definition: Driveways and Private Ways*

Mr. Wilson discovered, and confirmed with Attorney Kelly, that there is a need to revise the definitions of Driveways and of Private Ways so the former can be reviewed by the Planning Board when they are longer than 500' in length, and are not rights-of-way. This may also require an amendment to Site Plan Review.

#### 3. *Priority List of Amendments*

The Board worked from a list dated 9/15/2011:  
They agreed to remove the following items from the list for consideration at this time:

- #2: Reduce the minimum lot size for non-sewered lots in the VE
- #4: Impact fees
- #5: X-rated shops

They agreed to combine the housekeeping items (#9 – #12) into one Warrant item.

Items #14 and #16 regarding inns (functions and sleeping rooms) are not a high priority at this time but will stay in active status on the list.

Items concerning parking (#6 and #8) will wait for the Downtown Plan to see if these particular parking situations are addressed there.

The Board will continue to work on:

- #1: Bringing the section on non-conforming lots into conformity with the State's requirements;
- #3: Home Occupations: There is now a system for finding owners of Home Occupations by looking at the business assessment tax base. These owners will be contacted to see if there is any interest in discussing shortcomings with the current Ordinance;
- #7: Outdoor menus for snack bars, etc. will be assigned to the Sign Committee;
- #13: MUBEC;
- #15: Private Ways;

They will continue consideration of the balance of this list at a later meeting.

In addition to this list:

Mr. Wilson mentioned that Mobile Food Vendors may become an issue if the Town does not develop an Ordinance to control locations. Portland has tackled the issue and he will get a copy of their draft ordinance. Right now these vendors have to come before the Select Board for approval, and they must have permission for a private property owner in the districts where this use is allowed. It is not an allowed use in the B3 and perhaps it should be; there really should be an ordinance to control, not just policy. The Board agreed to look at a proposal, but did not agree to work on the issue beyond that.

The Board will set up a committee to work on the Comprehensive Plan so they can begin work within the next six months or so. Mr. Sargent noted that he has learned from CEDAC that the Planning Board (or any other Board) cannot create an Ad hoc Committee without permission from the Select Board. The Select Board wants to know what the function of the sub-committee will be, who the group will report to, who the suggested members are, how long the group will be in service and what they will be doing. The way things have been done is not permitted by the Charter, and the process is being corrected.

Don White, Select Board Liaison to the Planning Board, reported on the Committee Project: Roberta Smith, former Town Manager, has said that from now on every Committee will be required to report to a staff member, and to submit minutes in a timely fashion; the Energy Committee has been put into inactive status; and the Parking, Traffic and Transportation Committee, which has become less functional, is under discussion. It used to be that the Police Chief was a member of this Committee, and their work was geared to enforcement issues and not planning. The Board suggested that either the CEO or the Economic Development Director be assigned to this Committee so the focus of the group can be changed.

There being no further business before the Board they adjourned at 7:00 pm

Respectfully submitted,  
Jeanne Hollingsworth, Recording Secretary