

1 MINUTES OF THE MEETING
2 OF THE
3 CANTERBURY PLANNING BOARD
4

5 APRIL 11, 2017
6

7 BOARD MEMBERS PRESENT: Art Rose, Chairman, Jim Snyder, Co-Chairman, Kent
8 Ruesswick, Tyson Miller, Hillary Nelson, Joshua Gordon, George Glines, BOS
9 representative.
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11 BOARD MEMBERS ABSENT: Alternate, Alice Veenstra
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13 OTHER PARTIES PRESENT: Ken Folsom, Cheryl Gordon, Ken Stern, Judith Elliott,
14 Karyn Forbes, Michael Seymour, Teresa Wyman
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16 **Draft Minutes of March 28, 2017:** Jim made a motion to approve the minutes as
17 presented. Kent seconded. Discussion: None. Vote: Unanimous. 3/28/17 minutes
18 were approved.
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20 **Discussion of NH Motor Speedway County Music Festival:**
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22 Art described the purpose of the meeting and gave a history of the developments. The
23 NH Motor Speedway previously announced they will not have the second NASCAR
24 race in the Fall of 2018, and in lieu are looking to have a 3 day concert. They went to
25 the Loudon Planning Board for a Preapplication Conceptual Consultation with their idea.
26 The project was discussed in brief. We submitted a letter to Town of Loudon Planning
27 Board with copies to the Loudon Selectmen and the racetrack, letting them know we
28 feel this has regional impact, and we would like them to recognize that so we have a
29 place at the table. They recently held a special meeting and voted it would be regional
30 impact.
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32 Art's thought would be to focus on some of the predetermined issues. There were
33 conditions placed on the site plan, and restrictions were placed on the deed as a result
34 of a civil suit brought by Canterbury and Loudon residents. He feels the track has a little
35 bit of a hill to climb on this current issue. From a zoning standpoint, the three day
36 concert is not an allowed use, so they need a variance.
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38 Art went on to say that some members of this Board want legal representation now
39 instead of waiting for a decision. At best an attorney would do research on the
40 conditions on the approval and the deed restrictions. Other than that, there's no reason
41 to get a lawyer involved to do battle until action has been taken. If the vote doesn't go
42 in the direction we hope for, there's an appeal period and we can get involved then.
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Hillary spoke to say the track's attorney is making novel arguments in order to get around deed restrictions. He is saying the deed does not apply because they're holding the festival on property that they did not own at the time the settlement agreement was signed. They are also saying the small piece of land the concert would be held on is in the rural residential zone and it is an allowed use. If arguments are not presented at the hearing that object to those issues, we can appeal, but not on those specific issues. They must be included in the discussion at the hearing to be able to appeal.

Ken said he spoke with Bart Meyer who said, at this time, it is his opinion that: When Loudon declares regional impact they should send notification about it. Hillary interjected to point out that they voted regional impact but it wasn't according to the RSA. Lori advised the Board she had email communication with Danielle Bosco, administrative assistant to the Loudon Planning Board, who said the deadline for application is April 26, 2017. It will be on the May agenda for completeness and to legally vote on regional impact, and won't be heard until June so they can send out notices.

Ken continued to say that once it's legally declared regional impact, Bart said he will have to recuse himself from representing both Canterbury and Loudon. He also felt once it's regional impact, we're invited to the hearing and at that point we have a seat at the table. Bart didn't feel legal representation was needed at that time, unless there's an appeal process. He has three or four other attorneys he would recommend if we felt we needed legal representation.

Pros and cons of hiring an attorney were discussed, as well as the Planning Board's current budget. Art felt it wouldn't hurt to have someone look at the deed restrictions and site plan conditions and establish an argument based on those.

Jim felt there were two important things to do tonight: 1.) Presume that there will be an application and it will be regional impact, at which point, we'll be invited to the hearing. Any of us can go and speak as individuals, but it's important that 1-2 people speak on behalf of the Board. He thinks we should agree on a position and vote on that, and to have people speak for us. It's important to be clear whether each person who goes to the meeting is speaking for the Board, or individually. Jim feels when we make a decision on our position, it shouldn't be based on our opinion, it should be about what we would do as a Board if the application was before us. Would we enforce the restrictions, send them to the ZBA etc., and we'd do a good job of it. 2.) Decide how we will relate to our Select Board to keep them updated and to get a feeling of what their position is.

Cheryl Gordon and George Glines didn't really know how they felt. She did say that anyone involved in the prior civil suit should sit out of the actual vote of how to move forward. She understands they're going as private citizens, but people involved in the suit should not be the people to speak on the Board's behalf. Jim said he is not planning on speaking for the Board.

Hillary said after she was involved in prior litigation in 1999 when the racetrack was expanding, she was elected by the Board of Selectmen to speak on their behalf. She said she would have to have a pecuniary interest to remove herself from this, and she doesn't have that. Cheryl thinks Jim or Hillary should not be the one to represent the Board. Jim confirmed he would not be. Hillary disagreed.

The Plan for Tomorrow and Warrant Article 14 were discussed. Hillary stated we need to think about the rights of people in this community. She doesn't think it's about her or Jim. She is talking about just government for this town, and for our town government protecting residents' property rights. We should also be concerned about the commercial property on Route 106 and how that could affect anyone wanting to develop that area.

Tyson added that it could be up to seven concerts or more, it's going to be 3 days, 20,000 people per day, plus camping. Hillary added it was also going to go until 10:30 or 11:00 pm. Tyson also pointed out that Loudon residents were upset about drinking issues.

Ken Stern spoke to say Jim mentioned having a voice speak for us; Cheryl expressed concern about who the voice should be, and Art expressed concern about being prepared. Collectively he's hearing it's time for an attorney to represent us. It seems obvious.

Art agreed with Jim that 1) We as a board should look at it as if it came before us, and 2) After listening to the conversation tonight, he believes it would be a good idea to have a spokesperson, and it should probably be a lawyer. An emotional argument isn't going to get us anywhere. A lawyer can bring the facts without emotion. He hates to spend the money, but after hearing everyone's comments tonight, he believes it's time. Tyson agreed it would be good to have that weight there. Art pointed out that he agreed with Hillary's comments that if you don't argue something when you have the opportunity, it will be difficult to argue it later.

Tyson suggested we have a meeting like this once the lawyer sees all the pieces of the application and other documents. He also felt we meet in a non-public session to get a grounding of the lawyer's opinion.

Kent wanted to be sure we would be included in any Loudon Zoning Board action as well. It was discussed that the Zoning Board also has to vote it regional impact as well, and we'd be notified.

The Board discussed the budget with Ken Folsom who confirmed that we have a professional services budget but since we're going outside of our regular town council, it may be a good idea for the Board of Selectmen to agree in the event we go over our budget.

Art confirmed that we have a proposal from an attorney. He will look at that and perhaps we will solicit a couple of others. In the next week we should have a lawyer agreed on, and he will see that the Board of Selectmen will receive the proposal.

Jim thought this Board should have a vote that we are making a determination that we want to do everything we can to see that the deed restrictions and site plan restrictions are enforced so we go on record as voting as a board.

Art brought up the idea of a motion again. He asked if everyone was in agreement with obtaining an attorney now. All agreed.

Ken Stern said there's a Warrant Article that was passed by the town and there has been no subsequent article to change direction. Unless there's some kind of special town meeting called to change the direction, the Boards are still under the assumption that the Article holds true. The residents have directed the Board of Selectmen, Planning Board and Zoning Board that this is the direction the residents want to go. Jim said he doesn't want to beat a dead horse, but, let's say some people on the Board were country music fans and they weren't on board with our approach. Taking a vote would show whether we are in agreement with each other, and there's no harm in that. Jim also thinks there should be one member of this Board speaking along with the attorney we hire, but it won't be him.

Motion by Hillary: Given the directions that are in our Master Plan regarding the speedway and the warrant article passed in 1998, that this Board continue to work to uphold the settlement agreement and noise restrictions that were imposed upon the track in 1989 and to that end, hire an attorney to represent us in the application that will come before the Loudon Planning Board. Kent seconded.

Discussion: Tyson asked if we should remove the reference to the settlement agreement. Art said if we stick to the verbiage of the Warrant Article we should be fine. Joshua pointed out that some people bought land in this town with the understanding that they had protections against the racetrack. Joshua believed the motion has to include the settlement agreement.

Judy Elliott spoke to say if there's a motion it seems safer that it also include the independent wish of the town to minimize any damage.

Jim wanted to acknowledge that Judy Elliott is a signatory of the settlement agreement, just for the Board's knowledge.

No further discussion.

Vote: Unanimous.

Joshua spoke in regards to Bart Mayer. Bart saying we don't need a lawyer right now is a legal opinion and Joshua feels we should not be talking with him about any of this.

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182 Teresa Wyman spoke saying she was at a Conservation Commission meeting last night
183 and thought it was possible the Commission might have to get involved. She asked if
184 we could elaborate on that. Jim said Kelly Short asked if there was any role for the
185 Conservation Commission on this issue. Jim mentioned he talked to someone that
186 thought there may be case law that treated deed restrictions as conservation
187 restrictions. Hillary thought it was premature to have that discussion.

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189 There was discussion about deadlines once the application is submitted to Loudon.

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191 **Other Business:**

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193 Tyson said there's a question about the gas station at exit 18. The gas station is gone,
194 but the tank is still there, and someone told him it may be leaking. Ken is looking into it.
195 There was discussion about what happens to that property. Art said the owner is
196 responsible.

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198 Jim moved to adjourn. Kent seconded. Vote: Unanimous.

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200 Meeting adjourned at 8:15 p.m.

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202 Lori Gabriella, Secretary