

APPROVED

**TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
September 26, 2022**

Chairman Tim Doherty called the meeting to order at approximately 7:14 PM.

Ms. Masse-Quinn called the roll:

PRESENT ROLL CALL:

Tim Doherty – present
Jim Bergeron - present
Roger Montbleau – present
Danielle Masse-Quinn – present
Paddy Culbert – present
Kevin Cote – present
Samuel Thomas - present
John Spottiswood – present
Bruce Bilapka - present
Joe Passamonte – present
Jenn Beauregard - present
Jen Castles – present

ABSENT/

NOT PARTICIPATING:

Scott Sawtelle
Jaie Bergeron

PLEDGE OF ALLEGIANCE

MEETING MINUTES

Ms. Masse-Quinn had a change to the meeting minutes dated September 12, 2022. Line 248 - to remove the word 'in'.

MOTION: (Mr. Cote/Mr. Passamonte) To approve the minutes as amended.

VOTE: (7-0-0) The motion carried.

Ms. Beauregard said we are missing a 'second' in one of the votes on Line 547.

MOTION: (Mr. Jim Bergeron/Mr. Bilapka) To revisit the minutes.

VOTE: (7-0-0) The motion carried.

Ms. Beauregard said on Line 547, there needs to be a 'second'. Mr. Passamonte said that was him.

Mr. Doherty said to insert Mr. Passamonte's name.

Mr. Lynde had the following changes:

Line 144 – change the word expect to except.

Line 196 – change the word 'that' to 'then'.

Line 222 – add an 's' to the word 'side'.

Line 308 – change the word 'they' to 'then'.

MOTION: (Mr. Passamonte/Mr. Montbleau) To accept the minutes as amended.

VOTE: (7-0-0) The motion carried.

PRESENTATIONS

Mr. Sam Thomas had updates for the board. On the CIP, they presented this to the budget committee on 9/22/22 and it was well received. They proposed the idea of capital reserve for purchases. There are currently two capital reserve projects now, one is the library and the other is the ambulance. He said they were proposing things like the fire engine and some major items to go with a capital reserve as opposed to taking a loan out. They did not get a response or any comments on this. He said as a follow-up, he is going to send the presentation to the Chair and will ask about the capital reserve. He said during the meeting, they came up with a cash flow model for the purchase of town vehicles with their life expectancy. He said it showed the life expectancy over a period of 10 years and then they can start to build their cash flow model to be able to project new purchases. He said the budget committee turned that down, as they said that wasn't their role. He said Mr. Croteau asked them to bring this to the next Selectmen's meeting. He said they believe the capital reserve is the right thing. He said they would like to get with the budget committee to see if they are accepting of this and to get in front of the Selectmen to see their thoughts.

Mr. Thomas said for the Master plan, they are marching along. He said they had a table at Old Home Day and got a good response from that. He said Ms. Abare has asked him to take the sticky notes and put together an article for the Evergreen paper. He said the August edition had the Master Plan outline in it. He said there is a meeting this Thursday night with Resilience. He contacted Mr. McGee and they have been invited on October 5 to attend a meeting with students (Sophomores, Juniors, and Seniors) and have discussions about the Master Plan. He said they also set up a meeting at the middle school regarding a STEM interest on October 6 for the 7th and 8th graders. He said they will be sending out a monkey survey in January and that will show us the needs and wants of the town. He said they received the existing conditions report and the committee will review this. He said this is a public meeting if anyone wants to attend.

Mr. Doherty asked if the existing conditions were broken out into chapters? Ms. Beauregard said it is and she will forward it to the board. She said they have a grading system to ask for input.

Mr. Jim Bergeron talked about the capital reserve fund for the CIP and asked Ms. Beauregard if anything would prevent us from moving that forward? Ms. Beauregard said yes and the information they got back from Jay Minkarah from NRPC was that they can do that, not for maintenance, but for acquisition.

Mr. Jim Bergeron said they discussed this in the CIP and the money that is in reserve, is in a bond and the voters need to know if the money is used, then interest needs to be paid. He asked Mr. Cote to help support getting this going soon.

Mr. Cote said if someone can understand the warrant articles and bonds and how they work it is helpful, but for others that don't, it's hard to understand. He said for conserving land, we don't have that money and if it's voted to buy that land, we have to borrow that money and that comes with a cost. When they talked about this in CIP, why do we borrow money when there are funds set up to purchase these things.

Mr. Jim Bergeron said in this market the interest rates are much higher now. He would like to propose a number or determine how to start that process, is it through a warrant?

Mr. Cote said the Selectmen can create a warrant article to start a capital reserve. He said they need to know how much it's for, what is it for, how much are they adding every year and the extent of time and then how it gets expended.

Mr. Thomas said you have to make sure once it gets set up, it must be used for that item. Mr. Cote said if it goes through the Selectmen, it would make the process faster. He said having that money available is a good thing.

Mr. Thomas said it's not just for land, it is also for the library, the ambulance and fire engine. Mr. Cote agreed.

Ms. Beauregard asked if right now we do a warrant article for acquisition of land conservation all in one lump sum? Mr. Cote said we borrow that money, and it is giving the town permission to purchase land. Ms. Beauregard asked if we are looking at taking a certain amount for year after year to accumulate? Mr. Cote said yes and when it reaches a certain amount it's then available.

Mr. Thomas said in his presentation to the CIP, they highlighted other things that were major items. He asked if we should go back to the Selectmen and bring that up?

Mr. Cote said he can reach out to Attorney Rattigan and then present it to the board.

Mr. Thomas said he also has to present the vehicle cost return on investment.

Mr. Cote said there are also other avenues to approach for a capital reserve.

Mr. Thomas asked if there were other towns in NH that use capital reserve for expenditures we are talking about? Mr. Cote said our town is in a very good financial state compared to other towns as far as spending.

Mr. Lynde said we have a lot of areas of land we can use now without buying it. He said we can put solar panels on roofs, such as fire/police/schools. He said we own a lot of land that can be used, and we should be looking at this instead of spending millions of dollars to buy more pieces. He said we have enough resources we can put solar energy anywhere in town. He said the question is what the number would be to cover the costs of electrical in town? He said the goal would be to make sure we have enough solar to satisfy that need.

Mr. Bilapka said if the number was on the warrant article for \$100,000.00 and the property is \$250,000.00, he asked, would that other \$150,000.00 be a bond or could it be taken out of the capital reserve?

Mr. Cote said multiple ways, it could be on a warrant article to ask to take the \$150,000.00 out of the general fund. He said so we don't have to have a bond with high interest.

Mr. Doherty said with the capital reserve fund and money started accumulating then we'd have the money to tie up a large parcel of land. He said we may have to put out a warrant article for the remainder of the cost.

Mr. Cote said for example, if we had 6 million dollars in our general fund, he asked if they'd be open to taking 1.6 million out of that to buy a parcel of land? He said that would be a big chunk and if there was a savings built up, now they've reduced that hit to the savings account and it might be a better option to take the capital reserve and the general fund, depending on what the taxes are doing. He thought it was a good idea.

Mr. Bilapka said instead of taking out a bond at a high interest rate. Mr. Doherty said they are raising rates on the federal level and the rates are going up for cities and towns. Mr. Cote said our town is only allowed to borrow so much money and it is a percentage. Mr. Cote said it's like a portfolio, and having a balance is good. Mr. Doherty said it's like if there's not that ability to borrow it then that's when the best deals with come along and we can't buy it. Mr. Jim Bergeron said he thought the capital reserve for a goal or target would be a selling point as a taxpayer. Mr. Jim Bergeron said this will happen it will cost less in the long run. He said the less we borrow the better and we would pay it more than that in a bond. He wants to ask the Selectmen what a reasonable amount would be to ask the voters for?

Mr. Cote said we are in a good financial state and there's no reason why we shouldn't be doing this.

Ms. Beauregard said she got a notice today that warrant articles are due October 14 and this board isn't meeting again before that date.

Mr. Cote asked if that was from the Selectmen or the Planning Board? Ms. Beauregard said she got a notice from Joe Roark that warrant articles are due October 14 to allow time. She said this is not for zoning articles, only for warrant proposals. Mr. Cote said he would check on that for this board.

Mr. Lynde said warrant articles can come in up to a date in January and he understands they want to get things in order. He said there is an end date in January to get things in.

Mr. Cote said that is in the departments, but he thought it was in December and that is statutory.

Mr. Lynde said Joe Roark is trying to manage things to get the budget together.

Mr. Doherty said with the discussions going back and forth with having the money on hand or borrowing or both, he said if you look at Salem or Nashua, he asked what they have left to purchase to keep for open

space? He said the window that Pelham has is slowly closing down and we are not where we should be for an open space rural community. He said that window will go away in a few years. He said we should try and get this on a ballot and put money on this every year, he suggested to call Bob Lamoureux. He said that Bob was trying to get the town to purchase land years ago. He thinks we need his input, and he will give Bob a call.

Mr. Cote said for reference, if it was \$100,000.00 per year into a capital reserve, it would cost each household just under \$25.00 per year.

Mr. Doherty asked Mr. Thomas to give a water commission update and he stated the water commission is its own entity and not part of the Planning Board and it was authorized by the Selectmen by vote.

Mr. Thomas introduced himself as the water commission and he said his address is 37 Litchfield Circle. He said he is a member of this commission and has been since 2019-2022. He has a presentation that he discussed with Kimberly, who is the chair of the commission. He said this is the water commission for Pelham and the first one was 2019-2021 and that was in the vote to address the MTBE and 1,4-Dioxane contamination issues. He said we submitted proposals to repair those wells and take care of those issues. Those were chemical contaminants in the water. That was the effort in the first commission, as well as bringing water to the Route 38 business district.

There are new commissions and the commission will be addressing water issues in the town whether it may be: quality, quantity or protection of the water aquifers in the town. He will talk about PFAS (polyfluoroalkyl substances), these chemicals don't go away. He said the mission is to address the water problems in Pelham. He said the commission says there is not a source problem, there is a distribution problem. There are five members, Nate Boutwell, Bill Scanzani, Scott Winn, Kimberly Abare and himself. There are four advisors, Doug Hirsch, Paul Leonard, Chief Midgley and Don Smith. He said in the first commission, there were disagreements as far as whether the resources would go to the businesses on Route 38 or to people with quality or quantity water issues. He said under the new program they are looking at where the issues in the town are. They are looking at where the sources of water are. He said they meet once per month. He said at the last meeting, they determined that Route 38 would be important for the buildout to support businesses, but meanwhile we have residents that have either no water or ¼ gallon per minute. He said they identified the Sherburne Road area is a hardship area. He said they have a water quantity issue. He said they are trying to identify the areas where there are quality or quantity problem and where do we not have problems. He said they've decided to put an engineering study together and they've sent out a RFP to three engineering companies. We are asking for them to give us an understanding of what the water situation is. The return of their proposals is October 5, and they will tell us what they will do for us. He said they've met with two of the companies and they've told us that we have the rights to be able to buy the water rights back from Pennichuck. He said they are looking into that and looking to see what the liabilities are and what the advantages are. He said we would have to take the 9.6 miles of pipeline infrastructure and we would have to maintain that and establish a network for supplying water to those areas in need. He said they will review those proposals and there is a grant up to \$50,000.00 to allow them to do this study. He said if it goes over that, they will have to ask for funds and they will work with the Selectmen. He said Ms. Masse-Quinn has been talking to citizens on Sherburne Road. He said all of the water pipes and hydrants are under the fire department. He said by bringing the fire chief in as an advisor is important. Once they receive proposals, they will decide on which one they will choose. He said whichever company they choose, that company will help them write the proposal for the grant and there is also a grant for some resources for building an infrastructure. He said DES is doing a study on the Southern NH water infrastructure system and they are trying to get access to that report. Once they have the report and they've done the study, the next step is, are they going to do a buildout analysis for an infrastructure and that will be as they move down the line. He said Ms. Masse-Quinn will continue her collection of information. He said the real focus is what is Pelham's current water situation. He said they will do a monkey survey with 12 questions to assess what their water situation is.

Mr. Doherty asked if the water commission has addressed where the source of water comes from in the Pennichuck line in the center of the town? Mr. Cote said that one comes from Lane Road. Mr. Cote said

there's an aquifer there and that's the same line they want to tap to finish off Bridge Street. Mr. Doherty asked who owns that land? Mr. Lynde said the town owns it. Mr. Thomas said he didn't think they owned the land, only the aquifer. Mr. Cote said he thinks it's the water rights. Mr. Doherty asked if the town owns the land? Mr. Cote said he will find out.

Mr. Doherty asked how did Pennichuck get to where it's at now as far as funding the lengths of their lines? Mr. Cote said a developer would pay that bill to install the lines and Pennichuck takes over the maintenance.

Mr. Lynde thinks that the people who will benefit from the water will pay. He said those who benefit will pay for it and they have to agree to it. He said they've assessed Sherburne Road area before and they tried to get them to support it and they could not get sufficient support. He said the town could pay for it, but not everyone would pass that through.

Mr. Jim Bergeron said that can't be accurate because when Pennichuck first came to town, there was a well issue and water quality issue. He said it must've come from an outside source because Lane Road didn't exist. He said there must be more to this pipe than just Lane Road.

Mr. Doherty asked if Pennichuck can refuse to extend a line if funding is available through development?

Mr. Thomas said that would be in the agreement. Mr. Cote said if that involved the amount of water or the area it would serve. He said they are always consulted first.

Mr. Doherty said when they did the Spaulding Hill developments he said the 8-inch lines were pushed through that development for the hydrants and there's a pumping station there, the lines were stubbed out in the back into the town property to get more water in that system. He said Elanor Burton's property is going to come in front of us this year. He said that is the potential way to get water into Sherburne Road. He is asking if water is available on town property on the back side of Gumpas Pond, he wants to know what kind of pressure the town can put on Pennichuck?

Mr. Cote said they had this discussion about access of water from Hudson and they mentioned tapping into a line on the Hudson side. Ms. Masse-Quinn said she asked if there was a line that was capped off there. She said the residents she's been talking to are from the Sherburne Road, Nicholas Lane, Spaulding Hill area and she wasn't sure if there was a capped-off line in a development in Hudson.

Mr. Cote asked if Elanor Burton's property abutted Hudson? Mr. Doherty said she abuts the Spaulding Hill Development. Mr. Lynde said she is not close and she is at the middle part of Sherburne Road.

Mr. Thomas asked if there was a stub at the new development up there where there was a pipeline?

Mr. Montbleau said that is Skyview and the state has only approved so many outlets for that based on the testing. Mr. Doherty said that development has an 8-inch line and stub that comes down to Elanor Burton's property. He said there is a stub that comes out on the other side of Skyview that goes into the town property to the north of Skyview. Mr. Doherty said his request a long time ago was to push the stub down to the southerly bottom of that property. He said they also stubbed out at the top of it to get more water into that development. He said they could potentially use Pennichuck's piping to get into there and straight down to Sherburne Road.

Mr. Montbleau asked where would they get the additional water from? Mr. Doherty said from the town land on the north westerly corner side past Skyview. Mr. Montbleau said he thought that stub was for having an area up there where they could have a collective garden. Mr. Doherty said that was off to the east. Mr. Montbleau said he wasn't aware there was a stub there. Mr. Doherty said the developer said they would and they did set up a driveway for a trail head there. Mr. Montbleau said that goes down into a beaver dam with the pond and beyond that is Gumpas Pond, but it's a good distance away.

Mr. Thomas asked if the pipe that is stubbed is a Pennichuck pipe? Mr. Doherty said that would be the town of Pelham's property. It was a pipe laid there from Skyview's pumping house and stopped right at the town land so the town could potentially pick it up and bring it to where we could put a well.

Mr. Thomas asked if the source would be from Pennichuck's wells that are supplying Skyview?

Mr. Doherty said the source would be the town of Pelham's land and that water would have to be pumped into Skyview's pumping. Mr. Thomas asked where is the source originating? Mr. Doherty said from the north side of Skyview, where town land is and the water would pump from town land into Skyview and

then to create enough water in Skyview to come down through the land to Sherburne Road. Mr. Thomas said we should go take a look at it. Mr. Doherty said Ms. Beauregard could show the plans for that. Mr. Lynde said there was a time where there were 20 water companies in town. He said off of Mammoth Road they had a water company, but they didn't maintain it and they walked away. He said the town took that over and ran that company. He said we ended up with what we have now. He said that happened with a lot of developments in town such as Wellesley Drive and Simpson Road. He said they put in community wells in those developments. He said if there's water underneath they can use it. He thought there was one up in Skyview.

Mr. Thomas said there is a Pennichuck community well at the over 55 subdivision on the Hudson/Pelham line. Mr. Montbleau said there was a survey to bring water in from Hudson, but to get the lines up Lowell Road and over to Sherburne was about 3 million dollars. He said there was no interest in neighbors to spend that. He said it wasn't the town that would pay for that, it was to be paid by the people it served.

Mr. Montbleau said Skyview has 65 homes on the community well with no problem.

Ms. Beauregard asked if the water commission was aware of the two wells off of Waterford estates that were given to the town by the developer that yield high quantities of water? Mr. Thomas did not know that. Ms. Beauregard said the two wells are owned by the town, on town property deeded from Bob McCarthy and that abuts Veteran's Park. Mr. Doherty said we got those as part of the open space.

Mr. Thomas said he would bring this to the commission. Mr. Thomas asked if those wells supplied that entire development? Ms. Beauregard said those two wells aren't being used by anyone, they were given to the town of Pelham. She said those houses there have their own wells. Mr. Doherty said that was a conservation subdivision and the open space was given to the town so we would have those wells. They kept some open space as well. Mr. Doherty said we kept those wells in case we would be able to put a pipeline up and down Sherburne Road and hit it from the top of Skyview to the bottom of Sherburne. Mr. Thomas asked if there were two aquifers or are they wells? Ms. Beauregard said they are wells. Mr. Thomas asked if they were filling from the aquifers at Veteran's Park? Ms. Beauregard said yes. Mr. Doherty said the casings are in the ground, they are not being used and we own them.

Mr. Montbleau asked if Mr. Thomas's house is to the left of the senior development? Mr. Thomas said they are behind him. Mr. Montbleau asked if he had any problems with his water? Mr. Thomas said no, but he lost about a gallon and a half per minute, from 3.5 to 2.0. Mr. Montbleau asked if that was enough to service his house? Mr. Thomas said there is only two people living there, but it's a four-bedroom home. He said everyone in that neighborhood is down around 2-3 gallons a minute. Mr. Thomas said some people across the street only have ¼ gallon or a tenth of a gallon per minute.

Mr. Montbleau said the wells for Skyview are at the very top of the hill. Mr. Thomas asked which aquifer they are getting their water from? Mr. Montbleau said it's not an aquifer, it's a fissure in the rock. Mr. Thomas said they are supporting 65 homes there and the same as the 55 community, there are 65 homes in there.

Mr. Jim Bergeron asked what Pennichuck's obligation to the town to assume ownership of something built by someone else and capitalize on it? Mr. Jim Bergeron said he brought up the possibility of buying that franchise, but that would be a huge capital outlay. He said that may mean asking the voters to support a warrant article for a line to be built that don't have water. He said everyone pays taxes to the schools and we are in a good financial state and he doesn't see it as impossible to ask for something to extend that line if it's at our cost. He said those people will have to pay a month for their water. Mr. Thomas said there is the liability of maintaining the existing infrastructure. Mr. Jim Bergeron asked what is written in the contract from Pennichuck? Mr. Jim Bergeron said Pennichuck came into this town on an emergency situation about 35 years ago. Mr. Lynde said there was a local water company already there and they took that over. Mr. Jim Bergeron asked if the source was totally in Pelham?

Mr. Bilapka asked if the water commission has looked into any grant money from the state or government? Mr. Thomas said there is a \$50,000.00 grant they can apply for, for the engineering study. Then there is another grant where they will give funds to help build the infrastructure. He said they don't have all the details yet, but they are researching. Mr. Bilapka said there must be money for the clean water act and there should be money from the government to the state level.

Mr. Culbert asked if Pennichuck owned the water rights to anything? Mr. Thomas said we don't know, we need a copy of the contract. Ms. Beauregard said she hasn't seen it. Mr. Thomas said they will ask them when they meet with them. Mr. Thomas said they are also addressing customer's issues they have with them currently.

Ms. Masse-Quinn asked when the next meeting with Pennichuck was? Mr. Thomas said tomorrow night. She asked if he can send an email to ask them for the contract? Mr. Thomas said yes and the next water commission meeting is in October. Ms. Masse-Quinn asked what time that meeting was at tomorrow? Mr. Thomas said it's at 6:45-7:45 at the fire station.

DISCUSSION

Mr. Doherty wanted to discuss the potential zoning changes. He asked Mr. Cote to present the draft of the solar ordinance he put together?

Mr. Cote said over this past year, there had been a couple of plans that came in for ground-mounted solar. He looked into what other town's had for their solar ordinances. He said our town was the only town that didn't have this. He looked at towns such as Dover, Milford, Hollis and Nashua.

He wanted to make this simple and as easy as possible for either people that want solar on their house or ground mounted.

Mr. Cote passed out his proposal. He has been to the conservation commission and they went through it and gave him some guidance. He said there is a purpose and intent and there are definitions. He said he listed basic definitions. He also said the differences between residential and commercial solar are the main parts of the ordinance. He said he tried to make this as simple as possible as we are a small town. Mr. Doherty said it would be fine to just say use and not definitions. Mr. Cote agreed to get rid of the word definitions. Mr. Doherty said it's broken down into two types, smaller and larger.

Ms. Masse-Quinn said in the beginning it says Pelham will permit rooftop installations, however in the definitions, it discusses ground, pole and roof so should they carry it forward to that language as well?

Mr. Cote said under the purpose and intent, the last sentence says Pelham will promote rooftop installation less than 15 kW by right in all zoning districts. Ms. Masse-Quinn said we should include any ground or pole into that. Mr. Doherty said the roof ones don't come in front of the Planning Board.

Ms. Beauregard said yes, now they come into the planning department and get a permit for that.

Mr. Doherty said we don't have much now and if it just going on their roof and it's small then it's business as usual? Mr. Cote said yes. Mr. Doherty said it's by right, but they still need permits and inspections, but they don't need to come in front of the board. Mr. Doherty said commercial would have to apply to the Planning Board. If it was larger than 15kW, they would have to come before the board.

Mr. Cote said the conservation commission had a question of, would you want a ground-mounted system up to a certain size be automatic if they had plans that fell into certain setbacks. He said for the roof it would be 15kW. He said if the ground-mounted was under 15kW and as long as they met the setbacks, they wouldn't need to go before the board. The way her wrote it, any ground-mounted system would have to come before the board. Mr. Doherty asked if it said that, does it mention planning board under residential solar? Mr. Cote said it carried on to the third page, where it says less than 1,000 s/f of solar land coverage. He said he thought that covered that. Ms. Masse-Quinn said anything with the 15kW is permit only, but of the Planning Board's purpose and intent they are permitting those items as well. Mr. Cote said maybe just eliminate that sentence in the purpose and intent because it covers in the use.

Ms. Masse-Quinn agreed because the statutory guidelines are there. Mr. Doherty said that made sense.

Mr. Cote said he would have to add in 'ground mounted under 1000 s/f by right as well'. Mr. Doherty said if that's the case, this is now implying if it is less than 15kW and on the ground less than 1000 s/f they don't come in front of the Planning Board. Mr. Cote said they still would have to meet the building setbacks like anything you put in. Ms. Beauregard said they shall be located in inconspicuous locations if they are ground mounted, like in the side or rear. Mr. Cote said that we would encourage it, but not that they have to. Mr. Cote said the Planning department could give them some direction. Mr. Doherty read the part of the placement of the ground-mounted systems in Mr. Cote's proposal. Mr. Cote said the basic rooftop system is usually around 10-11kW. He said as technology gets better and the panels get smaller

and produce more output this will give us more room. Mr. Cote said his only other question would be was for commercial solar energy, under general 1, that would be a process they'd have to discuss after this got approved? Mr. Doherty said yes and to change the site plan review, he asked Ms. Beauregard if that was done in one or two meetings?

Ms. Beauregard said you have to do a public hearing to change the land use regulations and it would be one. Mr. Doherty said you would have to notify the public ahead of time.

Ms. Beauregard said she understood the residential nature, under the 15kW, less than 1000 s/f, she asked where does it say that just gets a permit?

Mr. Cote says under commercial solar, it says any and all systems that don't fall into the definition of residential solar, these systems could be for but not limited to agricultural, industrial, large-scale residential, solar farming, etc. He said it would require a conditional use permit from the town of Pelham Planning Board.

Ms. Beauregard said she goes under applicability #1, if any property owners wish to install a pole or ground-mounted solar system, they must come into the Planning Board for a conditional use permit.

Mr. Cote said he needs to change that to say if any property owner wishes to install a ground or pole-mounted system over 1000 s/f or 15kW.

Ms. Masse-Quinn thanked Mr. Cote for putting this together.

Mr. Doherty said under general, applicability refers to the commercial solar and not residential. Ms. Beauregard said if Mr. Cote added that language, it would clear it up.

Mr. Doherty said we can think about how to talk about residential. Mr. Doherty said on the first page, the last sentence, to move that sentence under the residential solar. Mr. Cote asked to move the sentence?

Mr. Doherty said yes, under the residential solar part because now there is language that brings everyone to the Planning Board if it's ground mounted.

Ms. Beauregard said that one sentence takes care of residential if you add that language in there somewhere. Mr. Cote said that is why he wrote 'use definitions' and he was defining commercial versus residential.

Mr. Thomas asked if they could add a definition for residential and commercial? Mr. Cote said yes. Mr. Thomas said to have a paragraph talking about approvals. Mr. Thomas said in that, we could specify the Planning Department or the Planning Board.

Mr. Cote said under applicability #1 residential and #2, commercial. Ms. Masse-Quinn said that would be good. Mr. Cote said changing the applicability part will complete it better.

Ms. Beauregard said she thinks this is really good and a lot of these can be done right in the Planning Department.

Mr. Cote said he will make some adjustments and email the board a copy.

Ms. Beauregard said there was a scheduled meeting on October 3, but there were no new cases so the chair decided to cancel that meeting. The next meeting is October 24. Mr. Cote said he will email a revised copy and at the next meeting and we can discuss this again.

Mr. Doherty said this is a great start and he would like to see this on the ballot in the spring.

Ms. Masse-Quinn said she has a list of things to be discussed. She said the MUZD needs to be addressed as far as the language for the spirit and intent section. She said the concerns were keeping the 'charm' of our town back. She said the concern the board was having was the buildings were not staying to the character of the town. Mr. Doherty said on page 16 of zoning and he read off that section into the record. He asked Ms. Masse-Quinn what in particular that was about? Ms. Masse-Quinn said it came down to the design of the buildings. There were some examples of this, such as the ice-cream stand and the offices with apartments above. She said she can pull more notes for this. Mr. Doherty said they used to have columns with prohibited uses and allowed uses. He said we don't have that column anymore. She said there were discussions on an ordinance on how to react to seasonal structures, conversions and old camps. Mr. Doherty said he had been looking into the substandard lots. He said Windham tries to protect the aquifer and the watershed. Mr. Bilapka said Windham lists the four ponds and lakes in Windham (Canobie, Moeckel, Cobbetts). Mr. Bilapka said we might want to put things in and some

things we don't. Mr. Doherty referred to the surface water protection overlay district and he was trying to write language for these substandard lots. He said we don't have language to address protecting the watershed. He said he can see the ZBA, if he writes something down from the RSA's that might help us, and if we mention it in a zoning ordinance, then the ZBA grants a variance to that and now the RSA doesn't apply because now the ZBA wipes it out because we put it in an ordinance. He asked if anyone else was thinking about the substandard lots?

Mr. Bilapka commented that there should be more involved than just going to the ZBA, he said conservation should be involved with the small lots, Planning and the Selectmen. He said they all need site walks and it's all of the ponds in this town and it should be a group effort before final approval.

Ms. Beauregard said she contacted Windham to get their regulations printed out and she talked to Alex over there. She said he mentioned on their substandard lots, is anything with 20% of more impervious surface would be required to go before the Planning Board to meet criteria. Anything less than that gets dealt with in their code enforcement office. She said that was a good threshold to look at to trigger Planning Board review.

Mr. Bilapka said it is in here. Ms. Masse-Quinn said we have the 20%. Mr. Bilapka didn't know what we had in there for the non-conforming lots. Ms. Beauregard said our zoning doesn't get much into how much of the lot can be used.

Mr. Doherty said a nonconforming lot in use would have a house on it that's being used. He said a substandard lot is a lot that doesn't have anything on it and was created before zoning. He said some people come in and want to build on these lots, like build a garage. He said we send them to the ZBA and get granted a variance. He said they build on the lot and then sell the lot. He said there is no well or septic on this lot and this is something the town hasn't addressed, and it is a situation that will definitely happen. He said if we can make it so that if someone wants to build a garage on a piece of land that it needs to be tied to the piece that has the septic and the well. Ms. Beauregard said she thinks it can be tied into the original deed with two parcels. Mr. Doherty asked what if a road is between the two parcels?

Ms. Beauregard said she knows of one with a road in between them and there is one deed, one owner. She said they wouldn't be able to sell that lot separately, it would have to stay with the house. Mr.

Doherty said that happened in his neighborhood. Mr. Doherty asked if she can ask Attorney Rattigan how we can legally make those deeds be tied together and not separated as this is a health and safety issue to the environment and the abutters? Mr. Bilapka asked if that is hard to do when there is a road separating these lots? Mr. Doherty said he's not sure. Ms. Beauregard said on a lot of these private lots the people own to the center of the road, so they are owning the whole area even though that is a private road. Mr. Doherty said if it's a public road, can it be done? Mr. Doherty said if not, when a substandard lot comes in and wants that garage and the ZBA thinks it's just a garage, they need to be made to come in front of the Planning Board to find out where the well and septic would go. Mr. Bilapka said the location of the well and septic in reference to the lake should also be stipulated.

Mr. Doherty said the RSA deals with driveways and Planning Board has the continuing say with that. He said the substandard lots that have nothing on them should all come before the Planning Board if they are going to try and build any structure on them. Right now, they only come before us if they are building a dwelling. Mr. Bilapka asked if abandoned would come in on that? Mr. Doherty said that would be a nonconforming use and the ZBA gives out those variances left and right. Mr. Doherty said as soon as you have a dwelling on it already, it's not a substandard lot.

Mr. Jim Bergeron asked if Ms. Masse-Quinn asked about how we would deal with seasonal conversions? Ms. Masse-Quinn said yes. Mr. Jim Bergeron said as a person who sits on the board of adjustments, he thought that our nonconforming use section can't be extended. He said the definition of nonconforming use and it doesn't include the lot. He said we could make a change to the definition so that it is not only a building or structure or use of land, but also a lot. He said nonconforming uses are more than one thing. He said maybe we need to clarify the definition and come over to 307-8 and add in under D, talk about the lots. He said in that section, we have no language for seasonal conversions. He wants to know how many there are first, before we do this. He said the state says anything that preexists or is vested can continue on forever. He wants to talk about what is reasonable or not as far as extensions.

Mr. Doherty said on page 1 in our zoning, the purpose, to provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population and you take C, D, and E and look at a small lot and somebody wants to take a one-story house and make it a two or three-story house.

He said this is overcrowding of the land. He said the ZBA is not looking at their zoning anymore and saying are you violating C, D and E under the spirit and intent of the ordinance. He said we have our zoning and there is a reason and when was the last time the ZBA even looked at that?

Mr. Jim Bergeron said we don't go deep enough on the issues, such as impervious soils and he also does not think the board of adjustment does not apply fairness to some of these lots. He said any vested use that is already there should continue. Mr. Doherty said he's not suggesting someone can't rebuild their house or make it larger, but when the ZBA is applying these to substandard lots that haven't had a house on it, and doesn't have any vested use. When you apply C, D and E right now some of those neighborhoods can exist because there are some substandard lots that aren't built on and there is some air. He said the watershed is slowly getting destroyed along the three ponds because of wells and septic systems. He said you are always going to have people that are going to have to rebuild or make their homes larger.

Mr. Jim Bergeron said a substandard lot is a 'use' and that is a nonconforming use. Mr. Doherty asked what the use is? Mr. Jim Bergeron said if we don't call it out in the definitions you can't talk about it. Mr. Doherty said that is why we need have to a zoning section for substandard lots separate from the nonconforming uses because they get too easily morphed together. He said now the ZBA is never going to apply 307-8 to substandard lots. He wants to put together a simple ordinance. He said he said if we can get the ZBA to apply this to substandard lots it would be something the town could say we protected something. Mr. Jim Bergeron said he gave Mr. Doherty notes he wrote 20 years ago and asked him if he wanted to apply any of that?

Mr. Cote said the dilemma is the comment was made in the ZBA that the zoning board doesn't do planning, Planning Board does planning, however when the ZBA allows things to be developed by bypassing planning, what's the point of doing what you want to do? Mr. Doherty said that is the problem when he starts writing language down, how is the zoning board going to pick that apart or ignore it?

Mr. Cote said they gave a variance to install a six-bedroom septic system on one acre on South Shore.

Ms. Beauregard said that went to the Planning Board. Mr. Cote said it went to the ZBA and got a variance. He said the Planning Board could only give a recommendation. Mr. Cote said his point is that the ZBA has said they don't do planning, however they are doing planning because they are granting variances and they are not following good building practices. Mr. Cote said the other thing is if you look at the lot size in the plan, where the well was going, there was zero access to the well after the house was built.

Mr. Doherty said he had a page of notes written down and thought about how the ZBA would pick that apart. Mr. Doherty said the RSA give us the authority that we control driveways are laid out and the infrastructure under them.

Mr. Jim Bergeron gave credit to Mr. Bilapka for finding the Windham watershed overlay district. He asked Mr. Cote if he agreed that this board should adopt language that every nonconforming use in this watershed protection has to come for full Planning Board review? He said that creates another layer for the applicant, but he's seen houses built directly on the shore that are affecting the hydrology of the neighborhood because this big house replaced a camp and blocking the natural groundwater. He said that is backing up and creating vernal pools on old lots and further up slope. He said after it leaves the board of adjustment there is no oversight. He said we need to change that now, so it has to come in for full site review by this board. He said anytime something has to go underneath something (like a septic under a driveway) it is a recipe for disaster. Mr. Jim Bergeron said he talked to the planning director today and said to her, how much can we do as volunteers, and we need to bring on somebody to get us something to get on the ballot this year. He said the board of adjustment sees them almost every meeting and the members and they are not necessarily making the most prudent decisions. He's asking if we can get something on a larger scale to be done? He said we need to have someone write this and this isn't a simple thing. He said we need to mix it with Windham and other things that have been said. He said he

feels the same way as the chairman, that we have a lousy nonconforming use section and it's not getting any better and the press for development is making it worse. He asked Ms. Beauregard what she has in her budget and there are people in this town with talent to put something together for us. He said he can't see us sitting down for 20-50 hours to write this.

Mr. Doherty said he is hoping to have something simple about the substandard lots. Mr. Jim Bergeron said to bring it to the Planning Board for review. Mr. Doherty said that's what he is trying to do. Mr. Doherty is trying to write language to protect the watershed around the pond for substandard lots only at this point. He said to start off in front of the conservation, then in front of the Planning Board for review, go back to conservation or go to the ZBA then come back to Planning Board for final approval. He said that way we don't miss anything. He doesn't want to get very particular with what we put in the ordinance because then the first thing they'll do is get a variance and go straight to the ZBA. He said if the purpose of the one paragraph in the ordinance that triggers them to go to conservation and Planning Board before the ZBA, if the purpose was to protect the watershed, he's not seeing the chair of the ZBA giving a variance of the purpose and intent of the ordinance. He said they'd have to ask for a variance against the purpose and intent and the ZBA couldn't rightfully do that. He said he wants to keep it simple, allow us to apply the RSA, don't put that out in the ordinance so they can't ask for a variance from it. Mr. Jim Bergeron asked if Mr. Doherty has ever seen a voting slip for a BOA member? Mr. Jim Bergeron said it's almost impossible to get five 'yes votes' on a BOA slip. He said spirit and intent is on every one of them and not much time is spent on that. Mr. Doherty said he is going to write it around spirit and intent.

Mr. Lynde asked if they don't meet the spirit and intent then they don't meet the requirements for a variance?

Ms. Masse-Quinn asked if that would go with the work on Section 307-89, lot of savings clause? She said they don't have one. Mr. Jim Bergeron said you have to be careful with lot of record savings clauses because they are almost handled by law now. He said vested rights are a category of law. Ms. Masse-Quinn said there have been discussions in the meetings about this. She did some research on it and it's under a grandfather article from NRPC. She said it said if there's no savings clause in the ordinance then the owner must obtain a variance from the ZBA. Mr. Jim Bergeron said you have to be careful with that one.

Mr. Jim Bergeron said we don't have a lot of record saving's clause. Ms. Beauregard said Section 307-89 and its amendments. Ms. Masse-Quinn said that was repeated in the meetings, so she wrote it down.

Mr. Doherty said we don't have a lot of record saving's clause in this town, and we don't want one. Mr. Jim Bergeron said it's already there, but nobody wants to see it. He said any nonconforming use may continue in its present use except any nonconforming use of land or buildings may not be and then it's (A, B, C, D). He said that's saving the lot of record.

Mr. Doherty said if you had public water in sewer in your town and you could put a small structure on a small lot, you could put a lot of savings clause in your zoning that says that even though you need 1 acre, if your lot was created prior to zoning and it's smaller than 1 acre you could build on it providing you could bring water and sewer to it. That would be a lot of record savings clause and there are towns that have that in their zoning.

Mr. Jim Bergeron said the lot of record savings clause could mean any lot of record would have a right for an extension and if he wants that, he will open a big box.

Ms. Masse-Quinn said they have ground water protection for nitrates and that had lots of discussion. She said there was also the driveway site distance regulation, Section 203-4C 1B. Ms. Beauregard said that is our land use regulations.

Mr. Culbert said this is the first time ever that he remembered the site distance being waived. Mr. Doherty said he is talking about site plan review for subdivision regulations.

Ms. Masse-Quinn said the Agricultural Commission and their policies with them if they want to create their rights to farm. She said some towns incorporated this within their zoning and she asked if the AG commission could put something together and bring it before this board? Mr. Doherty said they could do

that. Mr. Doherty didn't think they could put that on a ballot themselves, but the ZBA, Selectmen and Planning Board can. Ms. Beauregard said that was correct or bring it to a petition warrant article. Mr. Doherty can't recall the ZBA putting zoning on? Ms. Beauregard said no, she didn't think they can, and the Planning Board takes the zoning recommendations. Ms. Masse-Quinn said she wasn't sure about the AG Commission, because they are under the Board of Selectmen.

Mr. Jim Bergeron asked Ms. Masse-Quinn if she was going to write something for the AG for the ballot? Ms. Masse-Quinn said she was going to bring this back to the AG Commission for discussion. She said Mr. Spottiswood sits on the Farmer's Market subcommittee and he's familiar with AG Commission and they wanted to start getting some of the language into zoning, such as the right to farm and 3 statutes. She said she came across something in Amherst and they have their own right to farm within their zoning under Section 6.2. She wanted to run that by the board.

Mr. Cote said we are a right-to-farm state, unless there's zoning. He said we are doubling up on what the state is saying. He said if we put it in the zoning that backs it up.

Mr. Jim Bergeron wanted to make changes to 307-12 deals with lot sizing. He said on page 7 under 307-12, it's lot size A, lot size requirements. He'd like to ask the board to change the lot size requirements to align them with the minimal lot size requirements that's in the chart? He said what is happening now, we see a lot of lots cutting down to just at 1 acre. He said the computation for the contiguous area is 35,000 feet, but they're knocking off 8,560 s/f from an acre. He would like this board to consider taking the area that is contiguous, non-wetland and increasing that or taking the WCD district out of the computation. He said to change the non-wetland areas to be what really is an acre. He gave examples of duplex lots and workforce housing lot sizes. He said to take the WCD setback areas and put after the word may 'not be counted'. He would hope the conservation commission would like this idea. He said it would be logical to say the WCD should not be computed in the non-wetland areas? It should not be and why are we computing it into the minimum lot sizes? He gave some examples of lot sizes. He said he is looking at lots with septic systems on them and he is trying to protect the groundwater there by increasing the lot size by this component by taking out the WCD or increasing the lot size. He said we are seeing lots coming out at 1.0001 acre and the site plans show WCD through the property.

Mr. Doherty said on page 7, lot size requirements under A, where it says WCD areas may be counted, are you saying to strike that out? If you took out the sentence above it and put a number 8, WCD setback areas it would accomplish what he is saying? Ms. Beauregard agreed. Mr. Jim Bergeron said we could see how that works.

Mr. Cote left the meeting.

Mr. Doherty said if you put a number 8, WCD setback areas. Mr. Doherty said would not be included in the computations, right? Mr. Doherty said to scratch out the sentence: WCD setback areas may be counted in the computation. Mr. Passamonte asked if when they say WCD, does that include the buffer? Mr. Jim Bergeron said that is the buffer. He said if this passes, it's from that day forward. Anything previous is a saved lot.

Mr. Passamonte asked whatever the setback is, that can't be counted in the calculation? Mr. Jim Bergeron said in the non-wetland calculation for the minimum lot size, which is only 35,000, 55,000, and 217,800. If you take that out, you will help the lot size. Mr. Doherty said you need the 35,000 s/f of contiguous area on the 1-acre lot and right now you can use the WCD setback areas and Mr. Jim Bergeron is saying to take that out and put that in the areas you can't use. Mr. Doherty said this would have to go on the ballot to get voted on. Mr. Jim Bergeron said it's not going to increase lot sizes by a lot, but it's going to be a healthier piece of land.

Mr. Lynde said he understood not counting the WCD, but are you also tossing in the buffer? Mr. Doherty said that is the buffer, which is the setback from the wetland. He said the wetlands can't be used in the computation and what Mr. Jim Bergeron is saying is that you can't use the 50 feet against the wetland or 100 feet for a prime wetland. Ms. Beauregard said with the state it is 100 feet and we haven't addressed that in our regulations yet. Mr. Jim Bergeron said he's been looking at that for a while and when he looks at subdivision plans, he sees what they are doing by cutting them right to the maximum. he said it is fair and mathematical. He also said he looked at other towns, and #7, in the areas that can't be used for

computations of area, he said you can't count rock for a septic system. He said now a septic (pipe and stone) has to be 4 feet above seasonal high water. He said a lot of towns use the 4 feet formula, but now the state has changed it with the clean solution systems to only 2 feet over seasonal high. He said this is getting our septic systems closer to our water tables and the thing to worry about is you can never change the nitrates in a system or have them leave a septic system. He said there are no systems yet in this state that have been adapted for this treatment. He said other towns use ledge and bedrock are not covered with a minimum of 4 feet, we're saying 2 feet now. Would you consider a change to 4 feet? And that would help if there was a rock showing and the engineer would have to test pit to find the 4 feet. He is trying to get the engineers to hold to these realistic soil covers. He talked about his neighbor's lot. Mr. Bilapka thought Pelham did have the 4-foot requirement. Mr. Jim Bergeron said he is starting to worry about the water quality in this town.

Mr. Doherty said his proposed change is to change the 2 to a 4. Mr. Jim Bergeron said also to add the Section 8 that would preclude WCD and take it out of the lot size requirements up above.

Mr. Doherty asked the members to do some homework so they can talk about this at another meeting.

Mr. Thomas asked if we could write into an ordinance if someone takes trees down, can we preserve the trees? Or give some guidance that they don't just go in and clear a lot flat? If it's not in an ordinance, can we put this into one?

Mr. Bilapka said it might be hard to police what is cut.

Mr. Jim Bergeron said he can work with Mr. Thomas on the statute that is the procedure on plats. We can adopt this into zoning. He said Ms. Beauregard has been part of that in the past with Mr. Cote and he was big on preventing cutting. He said Planning Board got it on anything over a 3-lot subdivision, so it wasn't anything small. He said that language is contained in a statute, we just have to adopt it into zoning. Mr. Jim Bergeron mentioned a development near where he lives, and they stripped out a buffer along Route 38. He said this board was under the impression that they would leave a tree buffer zone there. Mr. Jim Bergeron said there is also standing water there, so he thought there is a WCD there. He said the conservation commission should go out and tag those areas before the builder starts his work. Mr. Thomas said it's the same as the development at the bottom of Sherburne where they took out trees. Mr. Jim Bergeron said he thinks they cut into a WCD. Mr. Bilapka said they also put some protection in that area, so he's probably right.

ADJOURN

MOTION: (Mr. Montbleau/Mr. Passamonte) To adjourn the meeting.

VOTE: (6-0-0) The motion carried.

The meeting was adjourned at approximately 10:02 PM.

Respectfully submitted,
Jennifer Castles
Recording Secretary