

APPROVED
TOWN OF PELHAM PLANNING BOARD
MEETING MINUTES
January 5, 2023

Chairman Tim Doherty called the meeting to order at approximately 7:01 PM.

Ms. Masse-Quinn called the roll:

PRESENT ROLL CALL:

Tim Doherty – present
Jim Bergeron - present
Danielle Masse-Quinn – present
Kevin Cote – present
Hal Lynde – present
Samuel Thomas - present
John Spottiswood – present
Bruce Bilapka – present
Jaie Bergeron – present
Roger Montbleau - present
Joe Passamonte – present
Scott Sawtelle - present
Jenn Beauregard - present
Jen Castles – present

ABSENT/

NOT PARTICIPATING:

Paddy Culbert

PLEDGE OF ALLEGIANCE

Mr. Doherty said we were asked to read a letter into the record from the Master Plan. Mr. Doherty asked Mr. Thomas, who is the chair of the Master Plan, to read the letter. Mr. Thomas said this is the public forum announcement for the Master Plan for the community. He said Pelham residents are busy creating a new Master plan. This is a road map for the future of towns. This represents the goals and visions of the community of the town. This sets forth a recommended strategy to achieve them over the next 10 years. We need participation to help create this new plan. Over the next few months, we will be asking the community for input and direction. Some of the ways this can be done would be, to attend the community forum event on February 22, 2023 at Sherburne Hall from 6-8 PM. This will be an event for feedback from the community. There will be an online version of the community forum event, which will be open to the public for one month following the in-person forum. Visit the website and share the flyer that went out. Website: www.bit.ly/pelham-master-plan.

PUBLIC HEARING

Mr. Doherty said this is the second public hearing to discuss zoning amendments proposed for the 2023 Town Meeting. He read the proposed amendments:

1. To amend Pelham Zoning **Article VII Section 307-41 Special Provisions** to increase residential and commercial septic leach field setbacks from wetland areas from 25 feet to 50 feet from poorly drained soils and from 50 feet to 75 feet from very poorly drained soils. These changes are consistent with the State of New Hampshire Code of Administrative Rules (Env-Wq 1008.04).
2. To add a new article to Pelham's Zoning Ordinance **Article TBD Solar Ordinance** to permit the regulation of solar energy systems and to support solar energy system usage. This ordinance will allow residential rooftop solar installations less than 15KW to be permitted by right in all zoning districts and ground-mounted solar systems that are 15KW or less, and 500 square feet or less will not require Planning Board approval. Any commercial solar energy systems would require application to the Planning Board for Site Plan Review as well as a Conditional Use Permit. All solar energy systems shall obtain building and electrical permits prior to installation.
3. To add a new article to Pelham's Zoning Ordinance **Article TBD Natural Resources Management Ordinance** to promote and ensure the orderly development of land within the Town of Pelham to promote public health, safety, and welfare of its residents and to ensure for the future population of the town that essential municipal services, transportation/roads, and clean water are available and will have sufficient capacity and quality to accommodate new and future development.

Mr. Doherty said we made some changes at the first public hearing and in 307-41 there were none. In the solar ordinance, it was suggested by legal to change part of a sentence to 'thereby recognized NH statute'. The other change was a correction to 1000 square feet for the ground solar arrays. We also added in the decommissioning section 'dispose of property, in accordance with state and federal regulations'. In the natural resource ordinance, we changed the word 'on earth' to 'in Pelham'. Those were the substantive changes that triggered this second hearing.

Mr. Doherty asked if the Planning Board was okay with everything?

Mr. Cote asked for the natural resource ordinance, should this be tabled or moved forward with it in zoning? He asked if we should have a work session with Mr. Keach and take next year to work on this and incorporate some into zoning and some of it into land use?

Ms. Beauregard said she spoke with Mr. Keach that afternoon about his thoughts on these changes. She said he didn't really have any suggestions. As far as the natural resource management, he thought that would be better suited in our land use regulations and he also thought there were some potential things we should work through with him.

She said he said regarding the natural resources, he said it appears to contemplate controls intended to be applicable to proposed land uses, which are presently subject to planning board review and approval. In his view, the same goals could be more effectively implemented on a site-specific basis through amendment of the site plan review regulations, under the land use regulations. In his view, amendment of the land use regulations to include similar text would afford the planning board and applicant maximum flexibility in identifying needs and finding solutions. She said his thoughts were that this would give the planning board more opportunities to work with the applicants. The way it's proposed now, it would highly increase the variance

requests that go to the zoning board and maybe require two meetings per month. She said regarding the bond requirement, you can do that through your land use regulations, and he has never seen that allowed under zoning. She said if you take it off of zoning and off the warrant article, the planning board can have a public hearing anytime to add regulations or update them. Mr. Montbleau said he agrees with Mr. Cote and sees Mr. Keach's point and agrees with him also. He would like to go with what Mr. Keach said and to work on it.

Mr. Cote said he thinks Mr. Keach feels this is the right direction, but he just wants to be sure it's put in the right places.

Ms. Beauregard said Mr. Keach said he sees the intentions and thought they were good, but they may be better lived in the land use regulations.

Mr. Doherty said over the years some members of the board have had problems with the fact there's nothing in zoning, it's in land use regulations and that hasn't been stopping people from clear-cutting their property. He said that was why it was originally drafted for zoning.

Mr. Passamonte asked if there would be a zoning subcommittee and how soon could we do this?

Ms. Beauregard said not this year, it would have to be next year's ballot. There wouldn't be time.

Mr. Passamonte said she is saying to take it off the warrant article and amend the zoning.

Mr. Cote said he meant land use regulations, which is different and that can be done anytime at a public hearing. He asked about the variance part of it.

Ms. Beauregard said right now if something is in zoning, the relief is the zoning board. She gave an example of the 50-foot buffer of the parcel remaining undisturbed. She said that also applies to commercial and business developments. She said Mr. Keach thinks this will need a lot of variance relief needed.

Mr. Cote asked how many commercial properties exist that this would be an issue with?

Ms. Beauregard said she couldn't say how many, but this is saying they can't do anything with their property for 5 years if you have to leave a 50-foot buffer around it. Mr. Cote said he's not sure that's true. Ms. Beauregard said on #3, parcels of land that have been cut, will have to wait 5 years before submitting a plan for development. Mr. Cote said that doesn't mean for #4 you'll need a variance. Ms. Beauregard said yes, but to develop commercial land you have to have 2 acres of land. Mr. Cote said that could give the town more control over what goes there and what happens there. Ms. Beauregard said that can also be done under the land use regulations.

Mr. Cote said the land use regulations aren't really followed as written.

Mr. Doherty said on the third paragraph down, it says 'and or commercial, business development', and it didn't just stop at major subdivision. He said that makes it so it sounds like any commercial development can't do any cutting on their property. He said this makes it look like we would go after only the ones that are already there.

Mr. Cote said if the land is already cut, it won't matter. He said he's okay with this either way.

Mr. Jim Bergeron said Mr. Cote has worked hard on this. Mr. Jim Bergeron said he thought this ordinance was deriving its authority from 674:35, which unless the first sentence means something other than an ordinance, he's not sure it would require a variance either. He said if you read the first section of 674:35, this is what this ordinance addresses directly. He said that's the power the legislators give us, and he doesn't take Mr. Keach's word that this would require a variance. He said he would prefer an opinion from Nashua Regional Planning or our Attorney, someone who is versed in 674:35 and not from a peer engineer.

Mr. Doherty said the other option would be to have another public hearing for this and scratch out the words 'and or commercial/business development'.

Mr. Jim Bergeron said we should get legal opinion on the enabling authority we are using to adopt this ordinance. He said he is for the ‘more’ stricter version of those changes.

Mr. Cote said the problem is we have no more time and these warrant articles have to be submitted by Tuesday.

Ms. Beauregard said we have until January 30th on the SB2 calendar, but that is also the same date the ballot has to be posted by the town clerk. She said there is another planning board meeting on January 19th, so there’s still time. It would have to be posted tomorrow, but it’s possible to have one more public hearing. She thinks Mr. Keach should look at this more. She thinks it’s a good ordinance and that the bond issue may not even be a legal thing we can have in our zoning.

Mr. Doherty opened the public hearing up to the public.

Steven Rancourt from 7 McGrath Road introduced himself. His questions were on number 3 and asked if that was supposed to help with the water issue off of Sherburne Road and would that be addressed under this?

Mr. Doherty said he didn’t know if anyone could say it’s because of a particular section of town and he said there is wording in there about wells.

Steven Rancourt asked if that would give the board ability to deal with that in a sooner fashion than now.

Mr. Doherty said he believes that is the intent and asked Mr. Cote if that was put in there to give the boards more authority for putting a performance guarantee on a well? Mr. Cote said yes.

Steven Rancourt asked what the timeframe would be for that to come into play?

Mr. Doherty said any new subdivision after it got voted in, would be affected. He said if this went on the ballot and passed, it would either be up to zoning or this board to decide.

Mr. Jim Bergeron said this would come into play immediately. He said his opinion, it would lend to help the situation where there is a water issue.

Steven Rancourt asked if we could expand on the wording for this to help this area affected?

Mr. Doherty said not in this ordinance. He said if there is another public hearing there could be a potential for this to go on the ballot with that sentence gone.

Steven Rancourt asked if it could be added to?

Mr. Doherty said he didn’t think the board would be willing to do that. He said it would have to be re-reviewed by this board, legal and the public.

Steven Rancourt asked if language was suggested, wouldn’t that have to be considered? Mr.

Doherty said no, and he asked if he had language to suggest?

Steven Rancourt said yes, and he handed it out to the board. (Attached, as Attachment #A to the minutes).

Mr. Jim Bergeron asked Ms. Beauregard about paragraph #1, RSA 674:35, he asked what ‘ordinance or resolution’ meant? Mr. Jim Bergeron understands ordinance to mean to go before the body to vote, but this statute isn’t clear when it says the ‘legislative body acts on it’.

Ms. Beauregard didn’t know the answer to that. Mr. Jim Bergeron said to keep this moving because it may not be subject to a strict variance criteria and may be something the planning board can handle.

Ms. Beauregard said if it’s not an innovative land use ordinance she doesn’t know how the planning board would have control over it if it lives in zoning.

Mr. Doherty said Steven Rancourt's proposed changes wouldn't be something he would recommend go into zoning. He recommended he stays until the end of this evening because there will be discussions on what he presented to the board.

Steven Rancourt said under 674:23 it speaks of an ordinance and #3 is an ordinance. He mentioned that the local legislative body may adopt or amend an ordinance establishing a moratorium.

Mr. Doherty said that will be discussed later on in the meeting.

Mr. Jim Bergeron said the authorization from this ordinance is from 674:35 and it's different.

Steven Rancourt said he is asking the board to add this wording and he said that 675:34 refers to 674:23 also.

Linda Coppinger from 4 Marie Avenue spoke. She asked to speak on the natural resource ordinance. She said regarding postponing this ordinance for a year, she said the orderly development of land to promote public health and welfare is something we need now and not in one year. She said if this continues and there isn't something to protect the current residents in the area, we will be further down a road where we struggle. She said before tabling this for a year, that people are suffering.

Sam Oliver from 28 Chardonnay Road spoke. He said in July his water ran low and was told to stop water usage after living in the house for only 4 months.

Mr. Doherty said we are talking about the zoning ordinances.

Sam Oliver said his input was to get water to them, whether that is to tie into town water, so they have sufficient water. He said if we tap into an aquifer for more units then it will affect his water level.

Mr. Doherty closed this public hearing to the public.

Mr. Doherty said there has been a suggestion made to strike out a sentence on the natural resource ordinance and have a third public hearing on January 19th.

Mr. Cote suggested we keep it the way it is and deal with it. Mr. Doherty said everything would go on the ballot the way it is if the planning board votes to put these three ordinances on the ballot. Mr. Cote said we can then deal with it throughout the next year. Mr. Cote said if it passes then we can deal with it in zoning and then we can deal with any issues that can arise.

Mr. Bilapka said we can always amend during the year. Mr. Cote said yes. Mr. Cote said we are always amending zoning ordinances and himself and Mr. Jim Bergeron have been talking about this for the past four years.

Mr. Jim Bergeron said he would like to see this ordinance move forward, as it's better to have something and amend it and to let the voter's decide.

Mr. Cote said if this passes, we can still do a workshop with Mr. Keach.

Ms. Masse-Quinn said she agrees with that also.

MOTION: (Mr. Passamonte/Mr. Bilapka) To accept and approve all three zoning ordinances, as written, and have them be put on the ballot.

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

Mr. Cote asked if there would be a roll call vote for this? Mr. Cote said if it's 7-0-0 for all three, should that matter? Mr. Doherty asked if they are intending to put on the ballot how the vote is?

Mr. Jim Bergeron said you can put 'unanimous' on the ballot. Mr. Montbleau said they have

done that in the past. Mr. Jim Bergeron said we are bringing it back, so the voters know this board's decision. Mr. Cote said this board just voted unanimously, so there would be no question.

Mr. Doherty said that closes the public hearing and he thanked the members that came forward.

Mr. Lynde said there are at least two instances, where a developer built and said everything was fine and then there is no water. He said he's suggesting finding that person and not allow them to do work in town beyond that point, until they rectify it. He said it should not go unpunished. Mr. Doherty doesn't think this board can prohibit a company from working in town. Mr. Lynde asked about the developers? Mr. Doherty said we have to work under the RSAs, and he would have to check with the planning department on that. Mr. Jim Bergeron said with adding the bonding issue, that should be some help. Mr. Doherty agreed that should help.

MEETING MINUTES

Ms. Masse-Quinn requested the following line items to be changed: Line 706 to add Case #PL2022-00041 and the description. Line 113 to change 'posting' to 'plan'. Line 278 to add 'said' before the word 'that'.

Mr. Jim Bergeron requested the following line items to be changed: Lines 286-287, he questioned the word 'filtrate'. Lines 284, 290, 295, 297 and 321 to add 'Tourtillotte' after Jim. Line 315 to change 'the' to 'that'. Line 317 to add 'that' before the word 'would'. Line 323 to change the word 'by' to 'be'. Line 364, he's not sure about the word 'testing'. Line 376 he said Brenda Finney said she sees Skyview's above-ground sprinklers. He said it should read 'using' Skyview's above-ground sprinkler systems. Line 456, he said those are results and it should read 'test results'. Ms. Beauregard said she may have said tests and that would work. Mr. Jim Bergeron said on Line 459 'thick' standards and is that correct? Mr. Thomas said it might be a fixed standard (change 'thick' to 'fixed'). Mr. Jim Bergeron said he didn't go back over the tape.

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

VOTE: (6-0-1) The motion carried. Mr. Montbleau abstained.

OLD BUSINESS

Case PL2022-00031 – Cedar Crest Development, LLC (Applicant), Eleanor Burton Revocable Trust (Owner) – Map 38 Lot 1-109-243 Sherburne Road – Seeking approval of a 4-lot subdivision consisting of 3 single-family/duplex lots accessible from Sherburne Road.

Mr. Kurt Meisner from Meisner Brem Corporation introduced himself representing the engineering for this 3-lot subdivision. He said this plan is relatively the same as last time, but there are four additions to the plan and that was from comments from the December 19th meeting. The additions are the 10-acre portion of lot 109-1 to the south, they've added a note and a dashed line showing that will be a deed restriction, so there will be no questions about it. The wells for the two lots that don't have wells (lots 109 and 109-2) there is a note on the plan that those wells are required to be drilled, tested and approved before any permits are issued on those lots. That is a town requirement, however the town's requirement would allow the

foundation to be put in and have excavation done on the property. He said he is suggesting they drill the well first before anything else. Additionally, he added infiltration trenches around the buildings and the lower side of each driveway in order to protect the groundwater. They have performed additional test pits on lot 109-1 in the 4K area. That was moved around when they located the existing well there and that didn't have test pits in the 4K, so they have done those pits now and are showed on the plan. The test pit logs are adjacent to that. They did test the existing well and he has the results, which was 5 gallons per minute. He didn't submit that in the package but did get those results. Those are the changes that were made, and they were in reaction to the last discussion with this board. He said those could be conditions of approval. Mr. Jim Bergeron asked him to bring the test results up.

Mr. Doherty said the report was dated 12/29/2022 and said the pump testing revealed a sustained yield of 5 gallons per minute over a minimum of a 4-hour period and that meets or exceeds the current requirements of the State of NH and the Town of Pelham's water supply regulations well ordinance. That was from Derry Well and Pump.

Mr. Thomas asked if that well report was for Lot 1-109? Mr. Meisner said that is Lot 109-1, which is the furthest lot to the east, and that well currently services the farmhouse but isn't on the farmhouse's lot. Mr. Thomas asked if he would be doing well testing on Lots 109 and 109-2? Mr. Meisner said yes.

Mr. Thomas asked if he also had the water quality analyzed? Mr. Meisner said no, just the volume was tested.

Mr. Doherty opened this to the public.

Steve White from 16 Chardonnay came up. He said he believes his community well is within 1000 feet from this proposed subdivision. He asked if this builder would put a transducer on his community well while they are drilling and testing the new wells to see if it's on the same line and will affect his well. Mr. Doherty asked how that would work?

Mr. Meisner said he can't explain how that works, as he's not a well-water expert.

Steve White said Hampstead Area water is the servicer for his well. He said they came out in June and put a transducer on his well to measure the water level. That was either 10 days or two weeks after they had their well problem and were told by them that their pump needed to be lowered. He said by them measuring that, they had that data. He said it would make sense to have his well monitored while these new wells are going in. He said if his well drained at that same time, then they could see they are in the same spot as his well.

Mr. Thomas said what he's talking about is an ultrasonic sensor that gives the height of the water relative to the surface. He said that's a commercial product that can be bought on Amazon.

Steve White said maybe Hampstead Water could do that for them and time it with these new wells. He said this way it would be documented.

Mr. Montbleau said this is a reasonable request and he asked if since they lowered his well, have the 8 homes on Chardonnay been sufficiently supplied? Steve White said yes.

Mr. Doherty asked if there was a standard for monitoring wells or is that just for community wells?

Ms. Beauregard said no.

Steve White said he used to live on St. Margaret's Drive, and he thought there were maybe 30 units there. He said he was offered well monitoring when another well was drilled there, so he knows it can be done and it should be done.

Mr. Cote asked how many units the well on St. Margaret's serviced? Steve White said 30 to 35.

Mr. Jim Bergeron said that is standard procedure for any community well and it is required by the NH water well board. Anyone within 1000 feet are required to be monitored and it's not expensive. Mr. Jim Bergeron said his request is reasonable especially where this is a crisis area. Steve White asked if Hampstead Water can do this testing, as they do their regular testing and have history with his well.

Mr. Cote said if that is done to his well, what about any other well within 1000 feet? He said this is for a 3-lot subdivision, with 2 houses going in. Mr. Meisner said yes, there would only be 2 new wells going in and drawing approximately 600 gallons per day.

Mr. Cote said the St. Margaret's development had 30 units, and this plan is only talking about 2 wells going in. He said if we put a transducer for this community well, then we will have to put a transducer on every well within 1000 feet of this.

Mr. Doherty said St. Margaret's area didn't have problems with water, where this area in town does.

Mr. Cote said we would be setting a bar to do this to every well within 1000 feet. Mr. Doherty said that might not be a bad idea.

Mr. Jim Bergeron said this is a crisis area and any load in this area may be affected. This drought has been going on for 12 years now. He doesn't think it's unreasonable to ask for conditions because there is an option to hold this development up until there is a change on Sherburne Road. He said he wants to work with the applicant and make sure people's wells are protected. He said he wants to hear what our water commission has been doing.

Mr. Cote said that is far down the line and doesn't think it's relevant for tonight. He said there are a lot of variables with that. He said we would set the bar, for even one house going in, in this area, that we need to test the wells on every abutting house. Mr. Cote asked if they would do this if he was only putting one house in?

Mr. Doherty said yes, in this area of town. He said one well in this area might affect the wells next to it. He said slowly over time, there seems to be less water.

Mr. Cote said in that area, one house may have no water and two houses over may have the best water.

Mr. Doherty said if a water test is done and it doesn't affect the nearby well, then it's not a problem. If it does affect the nearby well, then there is an issue.

Mr. Cote just said they are setting a precedent and it will now have to be every person's house that is within 1000 feet.

Mr. Meisner pointed out that he had a water specialist here at the last meeting and he said it didn't work that way. He said there is not one big pool of water underground that everybody takes from. There are veins that go through the earth and every well that is drilled can be on a different vein than another well. He said the well that would be most sensitive to the drilling would be the existing well on the Burton land now, as it's only 250 feet away. He said if they drill a well on either of these two lots, they can test the existing well at the same time to see if it's affected. He said this would be the most critical to this land.

Mr. Doherty said we have to err on the side of caution in this area of town. He said his house doesn't have a water problem, but when one of his neighbors bleaches their well he knows it and it bleaches his well too. He said that is why we test water under the ground. He said he doesn't see a problem with the request for this testing.

Mr. Jim Bergeron agreed with Mr. Doherty and said Mr. Meisner is contradicting himself. He said he is going to proceed with extreme caution.

Mr. Meisner said he said if he accepts their premise but he doesn't agree with it. He said our well would be the one closest to it and he's not saying that's the proper premise because he doesn't believe that. He said the water expert testified that it wasn't the case.

Mr. Lynde said there was a comment made about not testing the quality of the water. He asked if there should be a water quality test?

Mr. Meisner said yes and there will be, per the town's building code requirement.

Linda Coppinger, 4 Marie Avenue came up. She said her concern is when a builder arranges for an output test, she said that creates a conflict of interest between the well company doing a test and the builder and there's an incentive to produce the necessary output for the town. She said her option is that with the two new homes on Nicholas, that those new homes never achieved 4 gallons per minute. She doesn't think those homes ran out of water this past year. She said she's heard that well company has gone out of business and also the builder. She said her opinion was that those numbers presented to the town were false. She thinks it's a conflict where the builder pays for and arranges the water test. She thinks the town should charge the builder the fee for the test and arranged it. She thinks the well company would then be responsible to the town and not the builder.

Mr. Meisner said anyone that tests water is licensed by the state and has to follow rules and regulations. Should they 'fudge' the numbers, they would lose their license and be put out of business. He said he's worked in southern NH for 40 years and has known of one instance where a builder handed in a lot by mistake and was severely fined for that. He said DES does not take this lightly and this is very serious. He said he does not think water companies fudge numbers.

Mr. Jim Bergeron said he can give a different testimony from a person that owns seven wells and knows about fudging. He said that was a point well taken and he can show reports.

Kimberly Abare of 39 Parkside Drive introduced herself wanting to give an update to the board.

Mr. Meisner said he would like to hear her update.

Kimberly Abare said the water commission has been working hard to find a solution for this area on Sherburne Road. She asked the assessor to provide the number of bedrooms that are located on Sherburne Road in this area in the survey that was released. She took those numbers and brought them to Dracut, MA this morning. She met with the superintendent of the Dracut water district, our engineering firm, Weston and Sampson, senator Darryl Abbas and Mr. Joe Roark. She said they had a beneficial meeting, and this would be a short-term solution to the water issue. She said Dracut can sell us 300,000 gallons of water a day for this area without additional Massachusetts oversight. She submitted a draft for Mr. Roark's review for him to sign and send to Dracut. At that time, we would go in front of Dracut's water district board and make a case to them. They would then bring that to warrant article. The town of Dracut needs to weigh in on selling us water. She said they can't sell any more than the 300,000 gallons per day. She said there is a map of the entire Sherburne area. She said Weston and Sampson estimated 131,400 gallons a day were needed for the Sherburne area now. The longer-term plan is a grant weighing through Senator Abbas and Senator Sharon Carson to procure water from Hudson and Nashua areas. She said there are two pinch points to bring water; one is at the top of Sherburne and one is located on Mammoth at the bottom of Sherburne.

She said she's been working with the builder and engineer for McGrath to see what they can bring and do. She said we need to lean on developers and not taxpayers for this area. She said people that live there don't want to do a water district and even if they did, it would have to go to warrant article. If they don't do a district and want the town to pay, that also has to go to warrant

article. She said warrant articles mean tax monies. She said if the developers can find a way to help us, she fully supports that. She said she met with the residents of Sherburne Road and she explained to them that this isn't an ideal solution, but is a solution to look at. She said there were letters submitted that are included in the board's package in support of this plan.

Mr. Passamonte asked what the cost was for Dracut selling that water? Kimberly Abare said because we have a Pennichuck franchise, she spoke with a third-party appraiser this evening and he said it's best for us to stay with Pennichuck. She said that will be a decision the town will have to make. She said there is money to be saved there and per unit it's \$.13 versus \$.06 based on Dracut water. If we use Pennichuck, they will buy the water and sell it. She said Dracut doesn't want to have anything to do with anything past the town line, they will put a meter on them and for every gallon of water we get, we get billed for it. She said this is very short term and we can probably have water by October of this year for the Sherburne area. She said that doesn't mean we will have pipes in the ground, but she thinks that will take the pressure off the entire hill by running that line up and down Sherburne and attaching to every property that already has infrastructure in the ground and infrastructure running to every house. She said Chardonay and Skyview are examples of that. She said we would make an ordinance that no one can use old wells for anything and once you are on the Dracut water line, that is it. She said she believes they can have the wells on Marie, Nicholas start to almost immediately recover. She said this builder has offered to drop that line on Marie. She thinks we should listen to what they have to offer to Pelham.

Mr. Cote asked about the October date having to do with Dracut's town meeting? Ms. Abare said Dracut's town meeting and vote would be in March. She said there were March, May and October dates. We would need to get the warrant article by February; we'd go to their February meeting and the warrant article would be written on Dracut's March ballot. In May it would be authorized and by October we could have water. She said if this builder will help us, that's a good move and with Senator Abbas to help with this, it's critical.

Mr. Doherty said if Pennichuck runs the water, they would be the ones making the rules. He doesn't think the town can set those standards through zoning and we'd have to ask legal. Ms. Abare agreed with him and if it were up to her, she would like to take back the whole Sherburne Road area from Pennichuck and use their service instead. She said they've been responsive, but she doesn't like what they charge. She said many other towns are wanting water and if we don't get in line for water now, then we're going to be in a world of hurt. She said we will continue the long-term negotiations with Hudson and Nashua. She said Hudson and Windham are also looking for water.

Mr. Doherty asked her if short term means a short timeframe as opposed to short term, not going away? Ms. Abare said thank you and yes.

Mr. Cote asked what they mean by short time frame? He said he doesn't want people to get their hopes up that they will get water by October. He said he thinks it's a longer process and what is the timeframe to get water to Marie?

Ms. Abare said that depends on how efficiently this board can work with a builder that is leaning forward to Pelham to help.

Mr. Cote said there are also the questions for the State of NH about digging up Mammoth and Sherburne Road and the rotary going in there at that intersection. He asked if we have to go to the state for that new engineering design? He said there are so many obstacles that we have to go through and he wants people to understand that this may not happen this year and maybe not even next year.

Ms. Abare said she is our state representative and has included one of our state senators and she is moving this forward every day. She doesn't see how we cannot get these guys to move faster with that support.

Mr. Cote said he's gotten calls from people asking about 52 units going in that neighborhood and have said they don't know if they want the water line if there's going to be 52 houses going in their backyard. Mr. Cote said she has his full support and there are a lot of obstacles to get through and doesn't want people thinking they're getting water. He wants people to know we are all working hard on this.

Ms. Abare agreed with him and thinks the solution will be, if the developer is allowed to put in 18 homes, all of this is done. She said they will need to use the money to offset. She said if we give, they will give. She said they are willing to bring in their own excavators to bid on the project. She said Pennichuck has quoted us 1.8 million dollars a mile to bring water. This builder said to her, he will bring in his own excavator to bid on the project and he will bring Merrill, American Excavating and she said she is a pro-business person that gets things done. She's had communications verifying everything she's discussed with this builder, and she believes if given the opportunity to look at this, the people on Sherburne don't want extra traffic or see homes built that look like other developments in town. She said this is a tradeoff, it's a water line or we go to warrant article. She said if we go to warrant article, things will slow down, and we won't have water. She said it's this or it's that.

Mr. Thomas said we're talking about taking water from the Dracut line to the top of Sherburne Road. He said it's an 8- or 10-inch pipeline, plastic and it won't go under the road. This would go parallel to the road. He said they're talking about roughly 1.8 miles; this can be put in easily in 30 days. He said that would be the trenching and putting the pipe in. He said there is a degree of optimism we have to look at and this gives the residents that have no water, some vision and insight. He said he thinks it's realistic that October is a doable date. He said with the help of good representatives, good senators and contractors that know what they're doing. He said in some areas, the pipelines are already there.

Mr. Cote said he wants to be optimistic.

Mr. Meisner said that Ms. Abare is working on this like crazy and it's incredible. He said he believes in what she is saying. He said when she says 'the builder' she means his crew is his development group and we are working hard to get this done and it will be a great benefit to this town.

Mr. Montbleau asked what Dracut's cost estimate was for the 300,000 gallons of water, per gallon? Kimberly Abare said about \$.06 per gallon, but if we use Pennichuck it will go up from there. She said Dracut is having a financial issue and they were very happy to take our call and set up the meeting. She said it was an accountable meeting and she felt confident about it.

Mr. Jim Bergeron asked what the unit of measure was? Mr. Thomas said cubic feet.

Mr. Montbleau said a cubic foot is about a gallon or more. He is trying to understand the expense and everything we're talking about has a cost. He said those costs have to be passed on either through taxes, exactions or from developers. He said the other way would be is to have the people that will be serviced by it, have most of the expense. Just to hook up from the road to the buildings will be expensive. He asked who will pay for the pipe that comes up the road to them? Then there are other people on that road that don't want the water because they have water. he said it's a cost spread, so whoever needs to get paid, they need to have numbers.

Ms. Abare said the plan is to run it up Sherburne and connect to the neighborhoods that already have the infrastructure running to their homes. She said she showed these folks the plan when

she met with them this week. She said there will be some people that won't get this line, that will be the Chardonnay's the Skyview's and the objective is to take the pressure off of Sherburne so those other wells will recover. She said Phase II, with the grant, that may be as they start to lay out the feasibility study and figure out what parts of town they need to lay out. She said Marie Avenue will have a line right on it. She saw in the woods where they can run another line through Skyview from Marie and the objective is to get the houses that are already hooked up. This is only to go by and hook up at each switch.

Mr. Montbleau asked to hook up what?

Ms. Abare said Chardonnay has a well that services their homes. She said at the end of the street there is one hookup, they hookup at that line and it feeds all of the homes and they shut that well off.

Mr. Montbleau asked if she has had any response from the people that we were putting aside \$67,000.00 for a hydrology report?

Ms. Abare said the hydrology report is \$35,000.00 and the \$67,000.00 is for the feasibility study from Weston and Sampson. She said they've applied for the grant to have NH pay for that study. That study looks at the whole town to determine where we need water and that will be delivered in the summer to fall of 2023. She said her focus is to work on Sherburne.

Mr. Doherty said to get water to where it needs it and if you use Chardonnay, he said to get water to that point from Dracut is 2.5 to 3.0 million dollars.

Ms. Abare said there are two pinch points, one at the top of Sherburne and one at the bottom. She said the one at the top is less mileage.

Mr. Doherty said regardless of the direction, to put that on a ballot and ask the town to pay, say 3.0 million dollars. He said most of the town doesn't know about this issue. He said if this developer was to bring that line up, put in a big development instead of a small one and offset it with his expenses of him selling more homes. Now that pipe is up Sherburne Road, now to get it to where it needs to go, it's right there and it could potentially be in the hundreds of thousands of dollars. If you say to the town, we want to supply everyone up there with water, you're talking 10 million dollars if the town did it. None of that is on the table right now, what is, is a potential water line being put in and paid for by a contractor, being offset by them by putting in more houses, it's a scale. He said this town has to ask if that is worth doing, so the town's people don't have to pay for that with their tax money. He said we have to look at that and see if this board can figure out how that can be done.

Ms. Abare introduced the builder as Aaron Orso. Mr. Orso said he is with DHB Homes, and he's been working with Ms. Abare on this. He said he is asking for a density increase over the current soil lot loads. He is asking if this board would allow him to follow NH state DES soil load calculations. He said when he met with Ms. Abare, that they talked about setting up a utility impact fee on all of the homes. He said the calculations of the soils would allow for 52 units and he sent that over to Ms. Beauregard today. He said Ms. Abare has been the leader on this since day one and he has proposed this option that makes sense.

He said they are proposing 52 units and the whole idea of this is to offset the cost for this water line. He said he anticipates this to cost around \$300.00 per linear foot. He said his family has developed most of Pelham and they've been developing homes for the last 35-40 years.

He said if they are allowed this many units, he would propose \$10,000.00 per unit for a utility impact fee. This would raise close to 1 million dollars for this project which he anticipates costing around 1.6 to 1.7 million dollars to run this infrastructure. He said at the same time he would set up a betterment fee on each unit and a rough number on betterment fees for water

would be around \$4500.00 and \$5500.00 per home. That money would be able to be generated through us, through you giving us leniency on your soil lot load calculations.

He said Mr. Meisner has examples of what these units would look like. They will be beautiful, craftsman-style homes that he has had much success selling in southern NH. He said the family sizes now are smaller and he wants to build homes with open concepts and have enough bedrooms for their kids. They also would live in a community. He said the days of people wanting 1 or 2 acres are gone. He said his generation wants nothing to do with coming home and mowing lawns for hours.

Ms. Masse-Quinn said that's not true and to speak for himself.

Mr. Jim Bergeron said we are drifting from the case in front of us, which is the 3-lot subdivision.

Mr. Orso said he is looking to work with the town and there is an opportunity on this parcel to do that. He said he knows what people are buying right now and that is what he is proposing.

He thinks he can be a big benefit in the solution to people having no water.

Mr. Montbleau said on Skyview, they had to blast all of the hill to install the water lines. He asked if in his estimated figure, is he considering that? He said every house line that went in had to be blasted and it was 10 years of blasting. He said if he has taken blasting into consideration, because that brings the price way up.

Mr. Orson said they have done significant amount of test pits on his property and Mr. Meisner can vouch for that. He is aware on that parcel what he is looking at, especially on the shoulder of the road.

Mr. Montbleau said it could be on Marie Avenue also and going to those people's houses and the expenses to those individuals just for their own hookup may be costly.

Mr. Meisner said if he has a house on Marie that is worth \$600,000.00 but with no water, you can't sell it. If you can get water, it goes back to its worth.

Mr. Montbleau said if they use the infrastructure that's up there to reduce the draw on that hill, then are they saying those people's water will come back up?

Mr. Meisner said potentially.

Mr. Montbleau said he differs with him. He said he was involved in hydrology with LSP's in MA on gasoline and underground volatile releases. He said over 20 years he learned a lot and underground, there can be plumes here and nothing there and a giant reservoir there. He learned that underground hydrology is not how we envision it above ground. He said tests have to be taken everywhere to see where the water is.

Ms. Abare said there's no guarantee, but once water is supplemented onto Sherburne and Skyview and Chardonnay are shut off, those are wells we can bring a line down and tap into if we have to. If we don't have the money or the warrant articles to support running more, they just eliminated more wells that we can tap into.

Mr. Doherty asked the builder the amount of houses he thinks he can support on a septic load, on half-acre lots and does he feel there's enough money to be made to bring that water line from Dracut to your development without any cost to Pelham's taxpayers?

Mr. Orson said he doesn't know and it's just a suggestion and that was a hypothetical number he gave to Ms. Abare. He said he would stand by it, and he did a project in Londonderry that got great reviews. He just brought this to Ms. Abare and said this may be a solution and could use impact fees designed for this and he thinks he can raise close to 1 million dollars off of this subdivision to go towards this water line.

Mr. Doherty said 1 million dollars isn't going to bring the water line up.

Mr. Meisner said once the infrastructure is brought up and more people hook on, the more money you will generate. When Pelham creates a water commission, every town charges and sends a water bill.

Mr. Doherty said Pelham doesn't have a water commission or a water department. Mr. Doherty was hoping with that many houses, he thought that there would be enough money with all those extra lots to pay to have that water line brought up from Dracut.

Mr. Orso said he hasn't gone that far at this point because he wanted to see what this board thought first and wanted to get some support. He said he has to see if he can make it work.

Mr. Doherty said he's sure there are test pit results down at the bottom of Sherburne Road from developments, so he suggested that may help him figure out how the digging would go.

Mr. Doherty said he was running the numbers and they seem to be lean. He thinks the board may work with him and the town as well and he said he would be too.

Mr. Jim Bergeron said everyone has to understand we need the authority to make any decision to change the density load in our language. If we don't have that, we can't do that and that is a legal question. He said 36 bonus lots over the current soil calculations is a market value at approximately \$150,000.00 per lot. That's \$5,400,000.00 and so his point of start is a non-start.

Mr. Orso said his attorney is taking a look at what variances and waivers he will need. He said on the lots, he is trying to make a condominium project where there's no fee simple lot being transferred in common land. He said this is just an idea and he hasn't gone into this in detail.

Mr. Jim Bergeron said if we could use an innovative land method to deal, we do show each other cards and that's how we negotiate these things. He said if he runs the waterline down to his project, we will bend over backward for you.

Mr. Doherty said we do have an innovative land use on the books for subdivisions that may be used. Mr. Jim Bergeron said we'd have to ask legal.

Mr. Doherty said he thinks legally we could do that and not have him go in front of the ZBA, but it would have to be worth the town's while to do that.

Mr. Lynde said several years back, the selectmen were confronted with this problem and there was a survey done. He said some people on Sherburne weren't going to help, but the key is, the people have to help. He said you're not going to get it from the rest of the town, and you have to look at how to do this. The other thing is finding a way to do that, and it has to happen. The other thing to point out, is the round-a-bouts and these were designed and ready to go about four years ago. That was a state project that the town had paid 40% of the cost because we couldn't wait another 10 years for the state. He said those have gotten stalled and we are now waiting on the state for those. He said the big problem is getting support.

Mr. Doherty said regarding the land along Sherburne Road, how many large parcels of land are left there to build on? He asked when the next time a developer will come in front of this board and offer to potentially pay for a water line?

Mr. Lynde said that is impossible and Mr. Meisner said this is a grand opportunity.

Mr. Doherty said this is the last available opportunity for the town to get a water line at the expense of people that don't live here yet. Mr. Doherty said Mr. Orso will have to crunch his numbers. He said we will need to get the support of the people around the area and probably have to have a special meeting for just this maybe in the spring.

Mr. Meisner said they would be willing to do that the sooner the better. Mr. Orso said he sent documents from Jim Gove at Gove Environmental to Ms. Beauregard today regarding the soil load calculations and a write-up on why there are no pollutants to groundwater or soil contaminants with this amount of homes on these soils.

Mr. Orso said he would sit down and talk this through with anyone that wants to. He would provide any information on the other subdivisions that he has done that are similar to what he is proposing. He said right now, this is an idea that may help with a solution to the water issue. Mr. Lynde said at the base of Jeremy Hill Road there is town land with two aquifers there. He wanted to let the board know that.

Mr. Doherty said this is strictly conceptual at this point.

Rick Galupo from 16 Aspen Drive came up. He said he is the president of the homeowner's association of Skyview. He said the discussion of the construction of the 18 homes on Sherburne and now possibly 52 homes was not on tonight's agenda. His impression that this discussion was being allowed as old business and he suggested this discussion be tabled.

He said he was encouraging his constituency not to come tonight because this discussion wasn't on the agenda. He asked that any further discussion on this to be tabled.

Mr. Doherty said anything said tonight will not be binding in any way and this is not even a conceptual plan. He said the board members and applicant allowed this discussion to occur. He said this may never happen or it may go back to the way it was originally proposed. He said this is all on a concept.

Mr. Meisner said the topic at hand is the 3-lot subdivision and he would like to go back to that. He said again, there were four revisions to that plan.

Jim Tourtillotte from 26 Majestic Avenue came up. He said the chairman shut a person down at the beginning of the meeting when he came up to try and talk about his lack of water. He said this recent conversation has gone on for over an hour.

Mr. Doherty said that was a public meeting and he had to keep that for that purpose. He said the board agreed to talk about this topic.

Jim Tourtillotte said this item was not on the agenda. He said the water commission was also not on the agenda. He said there would've been more residents here tonight if they knew of the topic being discussed. He said you are doing the community an injustice. Mr. Doherty said this is only a conceptual design and nothing is binding tonight.

Jim Tourtillotte said this committee has done a disservice to the residents that were not permitted to hear this conversation tonight.

Linda Coppinger, Marie Avenue came up again. She said her opinion is that the line may be dropped at Marie but it's a high likelihood it will never extend down Marie. In order to do that you would need a warrant for the taxpayers to pay or you need a water commission for the homes in that district to bring the water down. She's been there 16 years and they tried to do a water district and that failed. She said it was because some people have water, and some don't. She said the water will get there but it won't make it to our homes. She said when they cut through her dead-end road and put in 52 homes, then the value of her home probably will go down because now there will be probably 100 cars on her road. She asked for people to please consider that in the future for bringing water up. She said regarding the natural resource ordinance, if that was defined by orderly development of land to promote public health and welfare, then why wouldn't we require the builder to stick to that and the orderly development means he needs to bring a public water source to feed his development and he should pay for the entire cost of it. She said there is a reason why there are community wells on Skyview and Chardonnay and that is because the likelihood of hitting 4-5 gallons a minute sustained in that area is slim. If the developer wants to take that risk on his 18 lots and try to get that, he can do that otherwise if he can't, then he would have to find another way to get the water there. She

said if the line doesn't make it down it doesn't benefit us. It will only benefit that community and the communities that have decent water.

Sam Oliver got up again to say thank you to the board.

Mr. Doherty said we will be having a discussion on a moratorium on building in this area later on. He said we are trying to do a lot of things here tonight and are trying to do the best we can.

Mr. Meisner again spoke of his case he presented earlier in the night. He is hoping to get approval for those three lots with those four revisions on there. He would add one more, to say when he drills the two wells for the two lots, that they would test the water and the well that is existing on the property directly adjacent to our wells.

Mr. Jim Bergeron appreciates everything they have added but thinks there's an additional step that is needed. He said this needs to see peer review. He said he needs to hear from Mr. Keach on this.

Mr. Meisner said it's not common practice to have peer review on a 3-lot frontage subdivision.

Mr. Jim Bergeron said he would look that up.

Mr. Meisner said additionally they submitted two sheet, multiple sets to the board.

MOTION: (Mr. Jim Bergeron/Mr. Bilapka) To send this to Mr. Keach for peer review.

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

Mr. Jim Bergeron asked if Mr. Meisner would pick up a copy of our land use regulations and said that peer review is up to this board.

Mr. Meisner said he would've thought that would have been addressed at the last meeting. He said that is fine.

Mr. Doherty asked if this plan needed any waivers? Mr. Meisner said no.

Mr. Jim Bergeron mentioned a well radius. Mr. Meisner said they changed that and withdrew that at the last meeting.

Ms. Beauregard said she would have to send it to Mr. Keach and get an estimated review time. She said it's a small plan and thought he could review it by the next meeting. The next meeting is January 19th, a Thursday. Mr. Meisner said he isn't available that night. Ms. Beauregard said Mr. Keach would review it and provide a letter of comment and he wouldn't have to come and attend the meeting.

Mr. Jim Bergeron said he has some interesting drainage issues.

Mr. Doherty said let's make it for the 19th and see if that's doable. Mr. Meisner said that would be fine. Ms. Beauregard said if he can't make that meeting, he can request a continuance.

ADMINISTRATIVE

Ms. Masse-Quinn said she's been working on a temporary growth management ordinance for the Sherburne Road area. She said there have been lots of discussions on water in that area. She wants to present to the board, a final, legal draft of the proposed Sherburne Road area temporary growth management ordinance. She read it into the minutes (Attached, as Attachment B to the minutes). She said her sources for this were the 2022 Pelham NH water survey and the Planning board meeting minutes dated:

11/7/2022 (with abutter's feedback)

3/4/2019 (with reference to the abutter's feedback for a 4-lot subdivision of 14 Spaulding Hill Road)

6/4/2018 (for abutter's feedback referring to the Skyview Estates LLC development)

11/21/2016 (discussion on the Sherburne Road area water well issued that was requested by Selectmen McDevitt)

The board of selectmen meeting minutes dated:

9/26/2017 (for discussion on Sherburne Road water issues)

10/10/2017 (for discussion on Sherburne Road water issues)

2/23/2016 (with a round table discussion with neighbors in the Sherburne Road area with representatives from Pennichuck to discuss options and feasibility for public water in that area)

10/15/2015 (with the water district discussion on extending Pennichuck water off to certain areas on Sherburne Road)

A letter from town counsel dated 1/12/2016 to town administrator Brian McCarthy for discussion on a water system infrastructure in Pelham.

She researched with NRPC for other towns alike, such as Hollis, Litchfield, Lyndeborough and Brookline. Also, for the legal questions, she referred to NH municipal association.

She said there are two ways this matter can be handled, one being moved over to a warrant article and let the town vote on this. Or, we can use it as a standalone ordinance and the board of selectmen can adopt this item under the 41:14B. She asked the board their thoughts?

Mr. Passamonte asked under section 7, can you prevent someone from building a house on a lot unless they have public water?

Ms. Masse-Quinn said yes, in specific areas. Mr. Passamonte asked if we can legally stop someone from building on a lot if they don't have public water?

Ms. Masse-Quinn said yes. Ms. Beauregard said under this ordinance, yes you can. She said our legal has looked at this.

Mr. Montbleau asked if legal wrote a report on it? Ms. Beauregard said he wrote an email (Attached, as Attachment C to these minutes).

Ms. Masse-Quinn said this could be a final, legal draft if the board wants.

Mr. Passamonte asked if this was for one year? Ms. Masse-Quinn said the statute requires 365 days, however, the way it's worded was that if a developer wanted to bring water up into that area, we could lift this restriction.

Mr. Cote said he would recommend not having the selectmen do this, but have the planning board only. He said after one properly posted public hearing. He said section 6, he would like that to read, 'The Town of Pelham planning board may repeal this temporary growth management ordinance sooner than the expiration date if in its judgment and after one properly posted public hearing the usual circumstances requiring its enactment no longer apply and its repeal is justified by the availability of suitable water supplies'. He said it would be the planning board's jurisdiction and after one hearing.

Mr. Doherty asked about implementing this ordinance.

Ms. Masse-Quinn said we can go in front of the selectmen, where they are authorized under the RSA 41:14B to update or amend town ordinances. She said Mr. Cote said we can keep it here with the board and she agrees with that. She said if the board agrees, we can get this onto a warrant article.

Mr. Cote said he didn't say that. He said if the board wants the selectmen to do it, then they will.

Ms. Beauregard added that even if the selectmen adopt it, they can leave it in there as the planning board can repeal it.

Mr. Cote just wanted to change it to the planning board is the one that can do the repeal. He said if this board wants the selectmen to do the ordinance, then he will make sure that happens.

Mr. Montbleau asked under section 7, does that mean a subdivision that was originally proposed, if they had a water source (like Skyview), would they be able to develop it?

Mr. Doherty said no, that's not a public water source.

Mr. Montbleau asked if Pennichuck water took control of it? Mr. Doherty said no.

Mr. Montbleau asked why, and Mr. Jim Bergeron agreed with Mr. Montbleau.

Ms. Masse-Quinn said it does state if there is municipal water or Pennichuck then that would work.

Mr. Montbleau said if Pennichuck took jurisdiction of the water system, would that be agreed on the exemption?

Ms. Masse-Quinn said yes, but she said she didn't want to just put Pennichuck, because there may be other town water options as well.

Mr. Jim Bergeron said he talked to Ms. Masse-Quinn about this and wanted to make sure, if there was water present, they can proceed.

Mr. Montbleau said Pennichuck didn't take over the water system on Chardonay.

Mr. Jim Bergeron wanted to keep both options open for a developer, meaning a water company or a private well system, whatever they could prove would work. He said that gives us a bargaining tool and they will have to put in a well before they can put a shovel in the ground. He said he is going to talk to the permitting department and that we see the proof of that. If we get it by way of the water commission that will be our saving grace. He said we need this tool.

Ms. Masse-Quinn said this will give the water commission more time to work on the feasibility testing and their negotiations.

Mr. Jim Bergeron said this is just part of a statute and we have to prove there is a problem. He said Ms. Masse-Quinn has the proof of that. He said we are going in that direction and this town has made great progress in a short amount of time by the water commission.

Mr. Montbleau said at what cost is this to residents of the town? He said there are people in Skyview that have water and we would be restricting someone like that to develop their property. He said if someone approaches us that has water, they can develop?

Mr. Jim Bergeron said that is his interpretation. He said this language was acquired from other towns that use this language.

Mr. Doherty said if someone had land in that area and instead of putting in 30 or 40 wells, they could put one well in and then have Pennichuck take that over to circumvent this moratorium?

Mr. Montbleau said yes.

Mr. Doherty asked why the moratorium then, to stop the one or two houses being built?

Mr. Montbleau said if there's no problem on the property, then we're overbearing.

Mr. Doherty said what happens when Skyview's water runs out? Mr. Montbleau said what if it doesn't and who says it will? Mr. Doherty said who says it won't and we don't know what's under the earth.

Mr. Montbleau said our town is on wells because we have no water system. He said we don't have the hydrology reports that can enlighten this board. He said underground hydrology is not absorbed by this board. He said this will create an onerous situation with no relief and we don't have our arms around the problem because we have no experts weighing in on it.

Mr. Doherty said the contingency on relief is 365 days. He said he is against all moratoriums. He said if in the meantime nothing gets done, then nothing got done.

Mr. Doherty said we can't have a moratorium and exempt everyone.

Mr. Montbleau said it has exemptions.

Mr. Cote thinks the only exemption it should have is a public, municipal water line, such as coming from Dracut or something. The residents below Skyview were affected by that development.

Mr. Montbleau said no they were not because he lives next to it and didn't lose any water.

Mr. Cote said he knows residents that live on Nicholas and Marie that said they lost water when there was fracking up there.

Mr. Montbleau said Skyview has not lost water in this recent drought. Mr. Cote said the idea of the moratorium is because it may affect neighbors losing their water.

Mr. Montbleau asked how do they know if it will affect the neighbor? He said he understands underground hydrology because he worked in this for years and had to learn all about it. He said no one in this room understands this.

Mr. Cote said the point of this is because we don't know where the problem is. He said it's either this or it's nothing.

Mr. Montbleau said we should get some professional advice on it for the report to tell us what underground hydrology really means.

Mr. Cote said he said it's hard to guess what affects what's underground. That's the idea of this moratorium because there's so much going on over there with different wells being affected.

Mr. Montbleau said you need specifics on each situation, and they need to drill test wells to see where that water's coming from. And where it's coming from the neighbors you can find out, but if it's not, how can you? He said he's not saying not to do this.

Ms. Masse-Quinn said that is how 672:32 statute operates. Mr. Montbleau asked what the exemption was for?

Ms. Masse-Quinn said it also gives the master plan subcommittee to finish preparing the master plan as well as the CIP process as well. She said that would give the water commission more time to figure out things as well.

Ms. Masse-Quinn asked Mr. Montbleau to explain why Chardonnay's well went out last year in a 2019 development?

Mr. Montbleau said he would need to have a hydrologist back this up, but it's a combination of lack of rain, lack of water going down into the subsurface and the hydrostatic level dropped, and the pump was above the hydrostatic level. They didn't run out of water. They had to drop the pump down lower because the drought is affecting many people throughout Pelham and not just this area. He said he thinks it is disingenuous what he said because they just had a situation where the pump wasn't down far enough and once it was lowered they don't have a problem anymore. He said they don't have a problem because whoever drilled the well and tested it, the recovery rate is still the same, only the hydrostatic level is lower. He said no one lied to them, they just needed to go deeper and now they have water. He said he, himself, has water, and he is just below the pumping station of Skyview and if anyone would be affected by it, he should be. He said Skyview is drawing for 65 homes after he built his home, and he hasn't been affected by it. He said it's not really fair to stop people from building up there to people that have property that they want to develop. Unless there is some kind of contingency, they can build a system and if it meets Pennichuck's specifications. If they take it on, chances are there's nothing that would happen and if it did, they would rectify it. He said Skyview has never had a problem with their water.

Mr. Jim Bergeron said there is an exemption, and the water commission now is trying to get us 300,000 gallons per day into this town. He said with this ordinance, they have to prove they can get water for their development before we make that exception.

Mr. Passamonte asked if section 3A and B cover the purpose to ensure there's water? Ms. Masse-Quinn said yes.

Mr. Montbleau said okay, if the moratorium has exceptions, then he is good.

Mr. Cote said if the board desires for the selectmen to make it a health ordinance, they would have a public hearing on that.

Ms. Beauregard said Ms. Masse-Quinn wanted it to go zoning and it can also happen at the selectmen. She said her concern about zoning would be it would have to be pulled together to meet the statutory requirements; they would have to notify tomorrow. She said they would have to find which lots are impacted and if a zoning ordinance affects 100 properties or less they have to also notify those individuals. There would have to be a lot of stuff happening tomorrow to pull it all together. For a public hearing on the 19th to get this on the ballot.

Mr. Cote said if it goes to ballot and passes then after a year, we pull it off of zoning? Ms. Beauregard said yes, it expires after one year.

Mr. Passamonte said if they prove the water on it, it could come off sooner? Ms. Beauregard said yes or they would get an exemption whether it's a zoning ordinance or through the selectmen.

Mr. Cote said the applicant then should come to the planning board for that exemption and that should be written in there.

Ms. Beauregard said it should because there's another question as to whose authority is it under if it's a zoning ordinance. Usually, zoning ordinances are through the zoning board.

Mr. Cote said if we make the planning board the repeal agent then they should also be the exemption agent. Ms. Beauregard said if you go the zoning route. She said it would have to all be done by tomorrow.

Mr. Jim Bergeron said earlier a member of the public quoted 674:35 and the adoption being by ordinance or resolution. This statute 674:23, he asked if it's in Ratigan's opinion that it's limited to zoning, or could it be adopted as a resolution?

Ms. Beauregard said Attorney Ratigan's opinion is it's a standalone ordinance through the selectmen, but if this board chose to do it as a zoning ordinance he thinks you can do that, but he thinks it's less clear how to repeal it.

Mr. Jim Bergeron asked if the board of selectmen could give the authority to the planning board to grant exceptions?

Mr. Cote said yes, and the selectmen are watching the issues on Sherburne Road carefully and that's why he is suggesting the planning board be the sole agent for repealing and exempting applicants, so put that language in there.

Mr. Doherty asked if they want to go to war with someone that is potentially able to bring a water line up Sherburne Road? He said if they do this, it should be through the selectmen and not the planning board or zoning. Because of what it would do to this planning board in conjunction with a potential water line that may come up. He said we want to be not adversarial with someone that could solve a problem.

Mr. Cote said they would have to bring in their plan anyway, so the planning board would do planning and not the selectmen. He said he is talking about doing this as an ordinance through the selectmen, but having the planning board act as the agents.

Mr. Doherty said they can implement it and we can get rid of it, and he said he's fine with that.

Mr. Jim Bergeron said this board is doing a lot of good and have been very proactive and have been lucky to have the reemergence of the water commission and Representative Abare on this.

Mr. Cote asked that his changes be added in there? Ms. Masse-Quinn said yes.

Mr. Cote said he will bring this back to the board of selectmen.

Mr. Doherty said the plan that came in front of us tonight is exempt from this and not affected by this.

Ms. Masse-Quinn said if it goes in front of a warrant article, it would be, wouldn't it?

Ms. Beauregard said as soon as a public notice is posted, it is in effect.

Mr. Cote said we've already accepted this plan for consideration.

Ms. Beauregard said the plan tonight would not be affected, no, but the conceptual would be.

MOTION: (Mr. Jim Bergeron/Mr. Passamonte) For the Planning board to ask the Selectmen to put in effect the draft resolution ordinance.

VOTE: (6-1-0) The motion carried. Mr. Doherty voted in opposition.

Ms. Masse-Quinn asked if the selectmen need a representative to sit in front of the board of selectmen to present this to them all under the 41:14 B and are there two public meetings to that?

Ms. Beauregard said yes.

MOTION: (Mr. Passamonte/Mr. Bilapka) To have Ms. Masse-Quinn represent the Planning Board in front of the Selectmen.

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

Mr. Jim Bergeron asked if the affected abutters need to be notified? Mr. Cote said it will be posted as a town-wide public hearing.

Ms. Beauregard said we should check with legal, but for zoning, if 100 or less properties are affected by a zoning change, it might not matter.

Mr. Cote said we're not changing zoning.

Ms. Masse-Quinn said this would be a standalone town ordinance. Ms. Beauregard didn't know.

UPDATE

Ms. Thomas gave an update to the master plan. He said the last meeting was December 8th. There was a push with Resilience to complete the Pelham existing conditions report. They gave us their draft in October, and we used November to go through those elements and comment. By December 8th they took our comments and made changes and presented it to the master plan committee. We accepted the changes that were made and that is posted on the website. It's considered a living document and we can still update it with new changes.

The next focus is the master plan forum meeting that is on February 22nd at Sherburne Hall from 6-8 PM. The intent with Resilience is to educate the residents on what the master plan is and to get their input on any changes they would like to see in Pelham. We are eight months into this master plan and expect to have it done by the end of June, per the contract.

The forum will be live or virtual and after that there will be a survey that will go out and then they'll keep moving on. Right now, we are on one meeting per month because most of the work is being done by Resilience.

He said we're on track and maybe a little ahead. The report is online under the planning department under a link for the master plan. It is about 134 pages and is very detailed with all the elements. It contains all the research from talking to the various departments and what the conditions are today. This will build the master plan along with input from our residents as to

what they would like. This will be finalized by the end of June. They would then make a presentation to the planning board and to the board of selectmen.

The next meeting is January 26th at the police station.

There was a meeting with the high school in October and there were three honor students there.

Tibor, the president of the Sophomore class was there, he participated and he is taking the information back to the school government group. Mr. Thomas is glad there is student involvement and that was on the target list of things to accomplish.

ADJOURN

MOTION: (Mr. Montbleau/Mr. Passamonte) To adjourn the meeting at 10:47 PM

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

Respectfully submitted,

Jennifer Castles, Recording Secretary