

TOWN OF GROTON PLANNING BOARD

January 11, 2018

Meeting Minutes

A meeting of the Planning Board was held on Thursday, January 11, 2018, at 7:00 p.m. in the second floor meeting room at Town Hall, 173 Main Street, Groton, MA 01450

Members Present:

Mr. Scott Wilson, Chair
Ms. Carolyn Perkins
Mr. John Giger, Member
Mr. Russell Burke, Member
Mr. George Barringer, Clerk

Members Not Present:

Mr. Timothy M. Svarczkopf, Vice Chair
Mr. Michael Vega, Member

Also Present:

Mr. Takashi Tada, Land Use Director/Town Planner

Discussion - Nashua River Wild & Scenic River Stewardship Plan (Draft)

Mr. Al Futterman, Land Programs Director at the Nashua River Watershed Association (NRWA) addressed the Board and stated that he was present to inform them and invite them to review the draft plan. He said they were engaged with a National Wild and Scenic River Study that covered sections of the Nashua, Squannacook and Nissitissit Rivers.

Chairman Wilson asked Mr. Futterman if he was seeking to get designation for those segments of the rivers. Mr. Futterman replied that was correct.

Mr. Futterman said that there were eleven communities that shared the resources and while Congresswoman Tsongas had initiated it quite some years ago, it only took effect in January of 2015, and the study committee was in place by the end of that year.

Mr. Futterman stated that a Wild and Scenic River was congressionally authorized and you had about three years to complete the study. He said the study committee had to determine that the river is eligible and suitable and he said they had met both of those criteria.

Mr. Futterman said that the study committee was put together by each of the town's Boards of Selectmen appointing a representative as well as an alternate. He said other voting committee members included representatives from the National Park Service, the Nashua River Watershed Association and non-voting members included representatives from the MA Division of Ecological Restoration, the MA Department of Fish & Game, the US Fish & Wildlife Service and the US Geological Survey with participating guests which included local and regional resource experts as well as stakeholders from Massachusetts and New Hampshire.

Mr. Futterman stated that the following rivers were being considered

River Segment 1: Nashua River Mainstem: From the confluence of the North and South Nashua Rivers in Lancaster to the state line at Pepperell/ Dunstable with a four-mile stretch of Pepperell Pond informally participating.

River Segment 2: Squannacook River: From the headwaters in Townsend to its confluence with the Nashua River Mainstem in Shirley/Ayer.

River Segment 3: Nissitissit River: From the state line to its confluence with the Nashua River Mainstem in Pepperell with upper reach from Lake Potanipo in Brookline, NH, to the MA state-line informally participating.

Mr. Futterman referred to the “ORRV,” the “Outstandingly Remarkable Resource Values” of the rivers. He said they felt they had three: 1) recreational and scenic, 2) biodiversity, and 3) the industrial history/cultural. He said at one point the Nashua River was on the list of the ten most polluted rivers in the country and now it was being considered for wild and scenic status. He said he felt that reversal was of national, if not an international significance.

Mr. Futterman said that this was an opportunity for the eleven communities that had a shared regional resource to work together. He also said that there was some funding available from the National Park Service during the time of the study. Mr. Futterman said it was voluntary and it was a locally determined process.

Mr. Futterman stated that the regulatory piece of the wild scenic designation was that you could no longer build federally licensed dams and harmful diversions. He said the committee would be able to offer comments to improve a project if it was thought by the committee to be harmful.

Mr. Futterman said a coordinating council or a stewardship council would oversee and implement what was in the plan.

Mr. Futterman noted that historically they had picked up \$170,000 per year, which went to each of the designated rivers.

Mr. Futterman said that he wanted to “strenuously” point out that it would not lead to federal acquisition, establish a federal park, put land under federal control, force any changes in the local process of land-use decision making, or change any existing land uses. He also said there would be no impact on existing dams, no affect on hunting and fishing laws, no restricted river access and it did not require public access to private land.

Mr. Futterman stated that there would be two sub-committees, the Outreach Committee and the Outstandingly Remarkable Resource Values Committee. He said the draft of the Stewardship Plan would be shared publically for further input and feedback but as of January 31st, what was in there would stay in there. He further said that each town’s Board of Selectmen had to vote to put the draft Stewardship Plan on their town meeting agenda along with the topic of Designation. Mr. Futterman said that the Annual 2018 Meeting votes in participating towns would determine whether towns agreed with the Designation and accept the draft Stewardship Plan.

Mr. Giger asked if it required all towns to accept it or just the majority of towns. Mr. Futterman replied that it did not.

Ms. Perkins said there was about \$170,000 in funds and asked who managed the funds, how they were distributed and for what purpose. Mr. Futterman replied that the funds went to the Stewardship Council and they would disburse the funds and would go through a cooperative agreement process that the National Park Service used. He said it could only be spent on things that were referenced in the plan.

Chairman Wilson asked how the Board could help in supporting the effort. Mr. Futterman replied it would be great if the Board reviewed any portion of the plan and offered comments. He said if the Board, as a whole, felt the plan was approvable, he would ask for a letter of support that would be included in the appendix of the plan. Comments are due by January 31st.

Mr. Burke noted that Mr. Tada had sent out a copy of the draft that he reviewed. He said it seemed to be quite thorough and it anticipated a lot of different facets of promoting the three rivers. He said that from a planning prospective, one of the things they were looking at was from an economic development view. He further said that they were trying to foster eco-tourism and it would feed certain businesses in town such as lodging and hospitality. He said having those rivers designated would certainly enhance the ability to attract people. Mr. Futterman said that the Town of Townsend had indicated the same thing.

Mr. Barringer said that the plan did not alter the public access but asked if there was any opportunity to negotiate access with private landowners, specifically on the Squannacook River because there were several dams that you had to portage around to get down the river. Mr. Futterman replied that it did not preclude any such negotiations. Mr. Barringer replied he would not think so but asked if it fostered those negotiations. Mr. Futterman replied that it did, and that the help of local land trusts was crucial.

Mr. Burke said that one of his concerns was the portion that dealt with trees in the river because there were certain parts of the Squannacook River that were challenging. Mr. Futterman replied that he agreed and in the Town of Townsend, they were taking that on with volunteers.

Mr. Giger stated that he did a quick scan of the document and thought it would be helpful if sections could be identified that needed the Planning Board's feedback. Mr. Futterman replied when he went to Conversation Committee meetings he asked them to look at the bio-diversity section. He further replied that when he went to Planning Boards he asked them to look at bylaws, ordinances, regulatory review, town profiles, the narrative on the ORRV, and the action plan.

ANR Plan - Groton Electric Light Department (GELD), Station Avenue

Mr. Andrew McElroy, addressed the Board and stated that they were working with the Groton Electric Light Department regarding the GELD garages at the end of Station Avenue. He said that GELD put out a RFP and they responded to it, it was voted on and they went to the Board of Selectmen and they voted to allow them to put it on the Town Warrant. He said they presented at the Town Meeting and they authorized GELD to enter into a purchase and sales agreement.

Mr. McElroy said that the issue was when the Groton Electric Light Department built their new facility there was an earlier plan that noted the existing buildings were to be taken down, when in fact there were two garage buildings that remained. He said the Board had asked them to come back with a plan

that indicated which buildings were to remain. He further said the plan in front of the Board showed the two GELD garages and there was an attached note that said “existing buildings to remain.”

Mr. Giger asked where Lot #2 ended. Mr. McElroy initially replied that it went down to Broadmeadow Road, but corrected himself and said the lot stopped short of the road. He said he thought it was one big piece when the Boston & Maine Railroad owned it but when GELD purchased it in the early 1960’s it got split. He further said that they wanted to work with the town to put in a road that would connect from Station Avenue over the piece that they were trying to purchase and then over the piece that the Town would continue to own connecting to Broadmeadow.

Chairman Wilson asked what the Board was being asked to approve. Mr. McElroy replied the Board was being asked to approve the notes on the plan which indicated that the two existing GELD buildings should remain.

Mr. Barringer made a motion to endorse the approval not required plan for land in Groton, MA, for the Groton Electric Light Department, dated November 20, 2017, prepared by Ducharme & Dillis. Mr. Burke seconded the motion.

VOTE: 5 – 0 - MOTION CARRIED

Discussion - Regulation of Marijuana

Mr. Burke stated that the major changes he made were in two areas and one was under the Marijuana Establishment; he said he added the words “at a single location” at the end of the definition because you may have an establishment that encompasses more than one of the marijuana businesses, for example, it would be hard to imagine a cultivator that would be without a transportation element to it.

Mr. Giger asked if a cooperative license where somebody grows and sells marijuana if they would have to do it all in one location. Mr. Burke replied it would have to be on the same property, otherwise, it would be considered to be multiple locations.

Mr. Burke stated that the other change was that they did not have any language that limited the number of establishments that was clearly articulated in the previous drafts. He said there had been a discussion that you can limit the number but you can’t limit them to any less than what was prescribed under Chapter 94G §3. Mr. Burke said that the language in §3, paragraph A, went on to say that the 20% applied to the number of retail marijuana establishments, not the other types. He further said that you could not limit the number of retail marijuana establishments to any less than 20% of the number of “alcohol not consumed on the premises” establishments and in Groton that would be one (there are three licensed package liquor stores). Mr. Burke said that 94G also had language which stated “you shall not prohibit one or more types of marijuana establishments.” He said he felt that was covered by the fact that in the zoning, theoretically, all of the marijuana establishments were listed under the Schedule of Use Regulations and there were places for them to go. Mr. Burke said it could be on a first come first serve basis but then it raised the question of what if the first one happened to be a non-retail marijuana establishment; then you had the provision that said you can’t limit retail to any less than one so it created a situation where you could theoretically end up with more than one establishment.

Mr. Burke said that the provisions in Sections A, B and C on the third page of the draft, were essentially taking what was in 94G and expressing it in the by-law. He further said that because Groton had no licensed medical marijuana establishments they were not subject to one coming in and wanting to convert it and there was also a deadline of July 1, 2017, and you had to have a license by that date

and that date had already passed. He said the only issue that might occur would be if the first one to the gate were a non-retail marijuana establishment. He also said that all of them required a special permit, site plan approval and go through a fairly rigorous review but if they were to satisfy all of the requirements then it would still leave the door open for someone to say "I am looking for a retail marijuana establishment and you don't have any yet."

Mr. Burke said that they wanted to have every community to allow at least one establishment. Mr. Burke also said that they could put a cap on it by saying there could be no more than one non-retail establishment.

Mr. Burke read aloud a portion of the language in 94G as summarized below:

"You can't prohibit the operation of one or more types of marijuana establishments within the city or town."

Mr. Giger replied that he was in disagreement with that statement. He said they had said no to a mixed-use category and they had said no to on-site consumption. Mr. Burke replied that was correct.

Mr. Giger asked why. Mr. Burke replied that it was prohibited unless you had a specific referendum that allowed it. Mr. Giger said he would like to hear from Town Counsel about that. Mr. Burke replied that he had spoken with Town Counsel regarding it.

Mr. Giger said that he was concerned that they were doing this when they had not received a review from Town Counsel and they were getting ready to go the public at a forum in approximately one week. Mr. Burke replied that he had suggested that they should not have a specific discussion about the proposed zoning at the forum because the Planning Board had an obligation to have a public hearing according to Chapter 48 and an informal public forum was not the place to get into the nitty gritty.

Mr. Giger said that he did not understand what they were trying to do at the public forum. He said he felt it was the time to educate the public on what could and could not happen; for instance, they had the right to protect certain properties within a distance of 500' and they should identify every place in town that would qualify for that protection. Mr. Barringer replied that there was a map that showed where the facilities could go.

Mr. Giger said they needed to identify where they could not go. Chairman Wilson replied they could not go anywhere except where they said they could go and that the distance protection was taken into account when the map was drawn. Mr. Giger replied that he did not know that because nobody even knew what the distance could be.

Mr. Burke said that 94G stated that "a license can not be granted to a marijuana establishment that was within 500' of an educational facility; K-12." Mr. Giger replied that that there was also a specific reference in the draft regulations that were distributed at the end of December that talked about the distance and it used different language in that it gave more freedom to the town and it said that you could not do it in such a manner that you were inhibiting anything from happening.

Mr. Burke stated that you could have the buffers so that you ended up with no place that was eligible. Mr. Giger replied that they could buffer a lot of things that were not necessarily in the list of places that could be buffered. Chairman Wilson replied that they could make it more restrictive.

Mr. Giger asked what the objective of the public forum was. Mr. Burke replied the objective was to explain to the public what the Town can regulate, and what it cannot regulate. He said there might be a movement afoot to further restrict or prohibit marijuana establishments, which would need to be put before the voters on a ballot referendum. Mr. Giger said that he felt the presentation had to be visceral to the town; the town had not even seen where the establishments might end up. Mr. Burke replied that he would add a map to the presentation that indicated where the establishments could go.

Mr. Giger asked who was writing the presentation. Mr. Burke replied that he and Alison Manugian were preparing it. Mr. Giger said it felt like it was a one or two person show as opposed to the Planning Board and the Board of Selectmen being deeply involved.

Mr. Giger read aloud a portion of B2 stating that it also bothered him that “nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.” He said he looked up the definition of narcotic drugs and there was no firm definition. He then looked at the Drug Enforcement Agency and they considered marijuana to be a Schedule I narcotic. Mr. Burke replied that he believed it was currently in the zoning by-law under medical marijuana. Mr. Giger said he did not know where it came from and if they were going to have marijuana in Groton, then it should be made public and so should the definition.

Ms. Judy Anderson addressed the Board and stated that she felt the questions that the public would ask were where would the establishments be, what was in it for the town, and what kinds of things; farming vs. retail vs. was it the same.

Chairman Wilson stated that he agreed and felt it was good that Mr. Burke had already agreed to put the map into the presentation.

Ms. Anderson said that she felt the other question would be if Groton did not allow marijuana establishments and the surrounding towns did then what would that do to Groton’s police and emergency response personnel. She said that people could possibly come back to Groton with the same problems as if they had it in Groton. Chairman Wilson replied that was why he felt it would be silly for the town to vote for that kind of a question on the referendum and said he thought it was highly unlikely that it would happen.

Mr. Burke said that no matter what was put in place it would not be perfect but absent of having a regulation in place there was a possibility that they could end up with nothing in place and that would scare him. He said he did not feel this was the final end all because they were still dealing with convoluted language from the legislation and the regulations did not provide them with any more clarity or guidance because the Cannabis Control Commission could not overturn legislation; it had to be done by the state legislature. Chairman Wilson stated that it was going to take years of experimenting before the merchants understood the market and before they understood how to regulate it.

Mr. Giger said that he was not opposed to getting something in place but he wanted it to be tight.

Chairman Wilson pointed out that he thought Mr. Burke had done a great job on the draft regulation, he had complete confidence that the forums were going to be useful and people would be satisfied with the information that they received.

Chairman Wilson asked how the forums were going to be advertised. Mr. Tada replied that they would be on the website and it would also be advertised in Friday’s *Groton Herald* newspaper. Mr. Giger replied that it would be in Friday’s paper but the forum would be on the following Saturday and Tuesday.

Mr. Burke asked if it would be televised on cable T.V. Mr. Tada replied he had not yet confirmed that would happen but the auditorium would be set up for it.

Ms. Perkins asked if they could put it on Groton's Facebook Page. Mr. Tada replied he was not sure how that worked. Mr. Burke replied that he felt Alison Manugian had been actively promoting the forums on social media. Ms. Perkins said that she had not seen it on Groton's Facebook Page. Chairman Wilson also mentioned that perhaps it should be on "Talk About Groton".

Ms. Perkins asked if you could have a banner with two lines with the two dates, or signs in front of Town Hall or Prescott School. Mr. Tada replied that he did not think so because he had seen the banner calendar and they were booked months in advance. Chairman Wilson said it was 1 ½ weeks away and he just did not feel there was enough time to get the signs made and out there that fast. He also said he felt as long as they got it into the Groton Herald, onto the website and Facebook it would be okay.

The Board collectively made several additional revisions to the draft zoning proposal.

Discussion - Master Plan Implementation Committee

Chairman Wilson stated that he, Mr. Tada and Ms. Perkins had met with most of the members of the Master Plan Implementation Committee and he really liked the mix of skills and personalities that the group had. He said they were able to get things pretty well organized.

Ms. Perkins said that they established a working order of how they were going to approach it, they were in the process of identifying groups and people that they needed to speak with. Ms. Perkins said the other thing they discussed was sending out a letter from the Planning Board to the groups to let people know that they would be coming around to speak with them. Mr. Tada replied that he would draft a letter for the Board's review.

(Russ Burke left at 8:45 p.m.)

Approval of Meeting Minutes – 12/14/2017

Mr. Barringer made a motion to approve the minutes from the December 14, 2017, meeting. Ms. Perkins seconded the motion.

VOTE: 5 – 0 - MOTION CARRIED

Annual Report

Mr. Tada stated that the Town Manager had issued a call for annual reports and they were due on February 2, 2018. He said that he would draft the annual report for the Planning Board before the next meeting that would be held on January 25, 2018, so he could get some feedback from the Board.

Mr. Tada said that the Town Meeting would be held on April 30, 2018, and the Board of Selectmen would vote to open the Warrant next week and the Warrant Articles would be due by the end of February. He said the Planning Board would have at least a couple of Warrant Articles on it.

Planning Board Meeting Schedule

2nd & 4th Thursday of the Month:

- January 11
- January 25
- January 20 & 23 – Public forums on regulation of marijuana
- February 8
- February 22

Adjournment

Mr. Giger made a motion to adjourn. Ms. Perkins seconded the motion. The meeting was declared adjourned at 8:51 p.m.

Respectfully submitted,

Trish Gedziun
Recording Secretary