



TOWN OF LYNDON
SELECTBOARD HEARING
TOWN PLAN
September 30, 2020
6:00 PM

Selectboard

Dan Daley
Christian Thompson, Chair

Press

Aleke Wolfe

Public

Steve Gray, Annie McLean, Marty Feltus, Nancy Blankenship, Pauline Harris, Sean McFeeley, Ken Mason, Sylvia Dodge, Sarah Whittemore, Brooke Dingleline, Mark Bean, Ken Burchesky,

Christian Thompson, Chair of the Lyndon Selectboard, called the hearing to order promptly at 6:00 PM. Mr. Thompson began the introduction to the hearing by introducing himself and Dan Daley as the two members of the Selectboard.

He quickly asked if there were four or more members of the Planning Commission present. At 6:02 PM Nancy Blankenship became the 4th member of the Planning Commission to be present. It was confirmed that there were 4 Planning Commission Members present so Sean McFeeley called the Planning Commission meeting to order at this point.

Christian Thompson laid out some basic guidelines for how the hearing would work. He explained that the Board would move through the Town Plan in the same format as the previous Town Plan hearing held on 9-2-2020. The Selectboard will move chapter by chapter, and anyone with a specific question or comments relating to a particular chapter could address the Board at that point. Mr. Thompson stressed the importance of addressing the Board with concerns and not attempting to talk over one another.

Christian Thompson at this point opened the hearing up to public comment. (Please refer to the attached document for detailed comments and written submissions on each section).

Implementation Section: There was no comment from the public on the implementation section of the plan.

Current & Future Land Use Section: There was no comment from the public on the current and future land use section of the plan.

Economic Development Section: There was no comment from the public on the economic development section of the plan.

Transportation Section: Nancy Blankenship asked a question pertaining to sidewalks on Broad Street specifically why there was no change to section 3.3. Justin Smith stated the sidewalks on Broad Street would be a VTrans project as opposed to a Town project. Annie McLean noted that the Broad Street project is discussed in Action item 3.1. Annie McLean and Justin Smith thought both the Village "and Town" should be included in Action item 3.3 as the Town does have sidewalks which it is responsible for, such as Center Street and York Street.

Community Services & Facilities: There was no comment from the public on the community services & facilities section of the plan.

Energy: Nancy Blankenship asked why there was not a bigger section on solar energy. Annie McLean said all renewable energies were included under one heading. There was a brief discussion about residential solar and solar farms. Currently, LED has a few large-scale solar farms on their system. They are nearing their threshold for large scale solar, so it does not make sense to promote more now.

Housing: There was no comment from the public on the housing section of the plan.

Health & Recreation: There was no comment from the public on the health & recreation section of the plan.

Historic Resources: There was no comment from the public on the historic resources section of the plan.

Flood Resilience: Pauline Harris & Mark Bean provided written comments regarding the flood resiliency section of the plan.

Specific comments can be reviewed in the attached public comments document. The major talking points of the discussion on the flood resilience section related to the phrase “no adverse impact”, whether or not Town’s Attorney should review the Town Plan document, and ensuring both the protection of developers’ rights and property owners’ rights.

Having no other business, the hearing adjourned at 7:05 PM.

Hearing adjourned at 7:05 PM

Minutes taken by Justin Smith

Approved by the Selectboard: _____

Justin Smith

From: Mark Bean <mbean@beanshomes.com>
Sent: Wednesday, September 30, 2020 8:51 AM
To: Justin Smith
Cc: Christian Thompson; Ken Mason; Curtis L. Carpenter; dan.daley@charter.net
Subject: 2020 Town Plan Draft

Subject: 2020 Town Plan Draft

To all SelectBoard and PC Members Town of Lyndon,

Please note and consider an adjustment in your 2020 Draft Town Plan.

Policy 9.3 in the proposed town plan (and the accompanying paragraph within the body of the chapter) is still problematic. As an example, this "nonadverse impact" policy contradicts the compromise language that the "Special Flood Hazard Work Group" came up with using the Town's flood studies for acceptable amount of flood water rise. There is no rise allowed under a "no adverse impact" methodology. Also, as an FYI, no adverse impact can be very wide ranging. It can be used to extend beyond borders of the mapped flood zone and beyond the mapped river corridor as well. See the below quote which you can find at multiple sources on google:

"No Adverse Impact floodplain management extends beyond the floodplain to include managing development in the watersheds where floodwaters originate"

I don't think this kind of regulation is intended or understood as being included within your draft town plan and needs to be removed.

Whether you start at the front or the back it doesn't matter, you need to stay consistent with the Town Plan and the new "Special Flood Hazard" By-Law that the "Work Group" thoroughly reviewed, vetted and drafted.

Thank you,

Mark Bean

Pauline Harris
267 Harris Hill
Lyndonville VT 05851

September 9th, 2020

Town of Lyndon Selectboard Members
Lyndonville VT 05851

I have specific questions that I would like answers to as a previous owner of an at risk property and citizen of the town. Not as a DRB member. These questions involve the flood sections of the Town Plan as well as the work on the flood bylaw regulations revisions currently in process.

The effect of the 1' over the 100 year flood elevation that is now stated in the bylaw proposed revisions is, according to the state, supposed to be cumulative not per development. That means cumulative over all time. How is the town going to guarantee that the limit will "never" exceed the 1' level. Zoning administrators change. How will continuity be guaranteed? The zoning administrator must keep records of area elevation changes? How would the zoning bylaw allowances be restrictive if your development proposes to increase the level and it has already reached to the 1' over? Most important how much have developments over the past 30+ years already increased the cumulative rise, storage capacity and related elevations? Engineers are relying on FEMA studies done over 30 years ago to make current predictions of rise. Those studies do not include all the development that has taken place. Bylaw revisions are **not an automatic reset** to the 1' limit. Clearly bylaws are supposed to be based on a specific study. Otherwise the rise limit would be impossible to measure. How does fill outside the flood hazard areas affect rise? The cumulative limit needs to be stated in the bylaws for clarification. It is not currently.

If fill is to be tied to a specific development, that needs to be clearly and concisely stated in the town bylaws. Where is that?

Why would the bylaws allow a 30 day sunset on ANR approval? ANR review and approval must be mandatory, not conditional on timing.

Compensatory storage is necessary. How will the engineer/developer prove that placement of fill and compensatory storage will guarantee that flow is not redirected to other town wide properties?

Why aren't engineering reports bearing the engineers' signatures, stamps or seals stated as required in the flood section of the bylaws as they are in Article 15.6.5 in the Lyndon cell tower bylaws? Reports in the flood bylaws from engineers, similar to those required in cell tower bylaws should provide design and elevation impacts, flood storage capacity, and town wide impact of flood displacement and flow deviation. Flooding is as great or a greater threat to Lyndon's citizens.

When will the town act on increasing Lyndon's flood resiliency? Many years ago a primary goal was identified at Rte 5 north near the car wash to remove and replace the restrictive culvert design. This was also pointed out in Nate Sicard's letter to the town last January as a primary goal. He points out the culvert is restrictive, puts residents at risk and can alter the river flow direction creating a channel through Nick's Gas 'n Go and across the street to residential homes. Some of those mitigation recommendations, including this one, also suggest that flooding would be reduced to other areas thereby changing their status and potentially making development less onerous.

How can the Town of Lyndon claim they have no liability for the town plan or bylaws, when the town continues to ignore primary mitigation projects as stated in the Lyndon Flood mitigation Report? Why does the Town of Lyndon specifically deny liability for bylaws concerning flooding, but not other bylaws?

Does the cross section filling take into account the velocity and redirection of flood waters?

What will the town do to insure that those at risk can get flood insurance and that those same properties are not being penalized because of developments that increase the flood levels? The town should make it possible for those at risk to get the least expensive rates. The current and proposed town plan and bylaws do NOT bring insurance rates to the lowest levels. Why doesn't the town strive to protect it's citizens against unaffordable or unattainable flood insurance? This can make existing properties undesirable and unsalable, thus development on one site may be at the expense of another.

Engineers have a vested conflict of interest. How will engineers and developers show that development in the flood hazards areas, flood plain, and river corridor will not have a negative impact elsewhere in the town? How are property owners town wide protected without hiring their own engineers every time a development includes fill in flood hazard areas? I suggest there needs to be a bylaw regulation in the flood section mirroring that of Article 15.3 on page 52 of the cell tower bylaw regulations that would allow, at the developers expense, the Town of Lyndon to hire whomever necessary for an independent review to evaluate the impact of the proposed development. Are cell towers a greater risk than flooding, town wide?

How will the town compensate for the blockage of flood flow and related increased flood elevations due to changes in use in non flood hazard areas, in particular when agricultural land is changed or evolves into shrub or forest?

No disrespect to the work group, they've spent a lot of time on this. I believe this process to revise has been rushed. I have sought input from the state, town officials, and asked questions of the workgroup and did provide my thoughts on a couple of occasions.

There was a lot of input within the workgroup from an individual that was advising the parties to the petition as far back as January of this year that I am aware of. I had understood the workgroup would work without pressure or bias, but found out near the end of the process that their work had been distributed to parties of the petition from the beginning. When the distribution became public about a month ago when the workgroups task was nearly finished, the workgroup made sure anyone could receive updates.

Please be sure that the process from here on in is open, unbiased, and that all parties are represented. Please be sure that the final result is in the best interest of ALL town residents, not a select few.

Respectfully,

Pauline Harris

PUBLIC COMMENT

Land Use

Economic Development

Transportation

- Nancy Blankenship: Why does Action 3.3 not include Broad Street sidewalks and other Town sidewalks?

Community Services & Facilities

Energy

- Nancy Blankenship: Wondered why solar was not specifically called out.

Housing

Health & Recreation

Historic Resources

Flood Resilience

- Pauline Harris (*see attached written testimony*).
- Mark Bean (*see attached written testimony*). Strongly recommend that the Town reviews this with the Town's legal counsel.
- Brooke Dingedine (*on behalf of Mark Bean*): Expressed concern that the Zoning Bylaws must be consistent with the Municipal Plan noting that she felt the "no adverse impact" language was problematic for potential future changes to the Flood Hazard Regulations. She suggested striking the last paragraph on page 74 and strike the remainder of Policy 9.3 following the NFIP on page 75. She also suggested striking "Protecting River Corridors from new encroachment" language on page 71.
- Ken Mason: Spoke on behalf of the citizen Flood Hazard Regulation Work Group.
- Marty Feltus: "No adverse impact" language was not used in the proposed Bylaw changes by the term may affect future change to the Bylaw. Suggests that the Selectboard work with Annie McLean to describe what the Planning Commission meant to convey with the "no adverse impact" language using a less controversial term.
- Nancy Blankenship: Work Group should address this. Should seek clarity from the Town attorney.
- Pauline Harris: Be careful with removing property owner protections in the Municipal Plan. Be careful about gutting the Municipal Plan and there needs to be protection for the entire community and opportunity for public input to have input.
- Sean McFeeley: The important part of the "no adverse impact" language is "the actions of one property owner should not adversely impact the rights of other property owners" and a new definition should include this language.

General Comments