

TOWN OF LYNDON
PLANNING COMMISSION
February 26, 2020 Meeting Minutes
Approved 3/11/20

Planning Commissioners: Sean McFeeley, Sylvia Dodge, Evan Carlson, Emily Finnegan (6:26 p.m.), Ken Mason, Tammy Martel

Public Official(s): Annie McLean

Press:

Public: Pauline Harris, Louis Joe Buzzi, Kurt Nygren, Kathleen Iselin, Curtis Carpenter, Jay Iselin, Peter H. Blair, Chad Bigelow.

Sean McFeeley chaired the meeting, which was called to order at 6:00 p.m. Mr. McFeeley stated that Evan Carlson was an invaluable member of the Lyndon Planning Commission and that he had nothing but respect for his work. Sylvia Dodge and Tammy Martel noted their agreement.

Sean McFeeley made a **motion to approve the minutes of January 29, 2020.** Sylvia Dodge **seconded the motion.** The Commission **voted 5-0.**

Annie McLean provided an update on the 433 East Burke Road Greenspace Project.

The Commission reviewed a draft work plan from 2019 and made edits and additions to update it for 2020, most notably adding the review of the Article XI Flood Hazard Regulations as item number one. Based on the work plan discussion Annie McLean will provide a draft 2020 Work Plan for review at the next Planning Commission meeting.

During the work plan discussion Tammy Martel suggested a joint meeting with the Selectboard. Ken Mason made a **motion to direct Ms. McLean to request a formal and timely response to her letter seeking specific guidance on the process to review the Article XI Flood Hazard Regulations on behalf of the Planning Commission and to invite the Selectboard to hold a joint meeting with the Planning Commission on March 11, 2020 or March 25, 2020 to discuss the process and general communication.** Sean McFeeley **seconded the motion.** The Commission **voted 5-0.**

There was additional discussion concerning the Planning Commission's role in the review of the proposed repeal/amendment of the Article XI Flood Hazard Regulations and the procedure required by 24 V.S.A. § 4441, 4442. Kurt Nygren asked why the process could not begin with a review of the Flood Hazard Regulations proposed by Curtis Carpenter. Mr. Carlson noted that this could easily be done. Mr. Carlson made a **motion to direct Ms. McLean to request an NFIP checklist for the pre-September 27, 2016 Article XI Flood Hazard Regulations, as amended by Curtis Carpenter, from the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources.** Tammy Martel **seconded the motion.** The Commission **voted 6-0.**

Annie McLean noted the correspondence received by the Commission, however there was no additional discussion:

- Ms. McLean's letter to the Selectboard re: public process and clarification of Planning Commission role;
- Ms. McLean's opinion piece in the *Caledonian Record*;
- Letter to the Selectboard from Pauline Harris re: the flood hazard regulations;

- Letter to the Planning Commission (Selectboard cc'd) from Donna Jackson re: the flood regulations; and,
- Letter to the Selectboard from Holly Taylor re: distrust of the Planning Commission and zoning administrator.

The next Planning Commission meeting is scheduled for March 11, 2020 at 6:00 p.m.

The meeting adjourned at 7:49 p.m.

Respectfully submitted by: AMclean



PLANNING & ZONING OFFICE

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February 12, 2020

Town of Lyndon Selectboard
P.O. Box 167
Lyndonville, VT 05851

RE: Public process and clarification of Planning Commission role

Dear Members of the Lyndon Selectboard,

I am extremely discouraged and disappointed by the actions of the Selectboard during the public hearing held on Monday February 3, 2020 as well as concerned for the future of the community. To allow a few individuals, including one individual's personal attorney, to completely dictate the Board's process as well as orchestrate the Board's legally binding actions is unacceptable. The acceptance of nearly an hour of additional public testimony after the official close of the public hearing allowed those remaining a prolonged opportunity to voice their opinions and denied those who chose to depart equal opportunity to be heard. Reverting to a prior version of the Flood Hazard Regulations, which includes language that was previously deemed inadequate, as a starting point sets a very dangerous precedent that undermines the work of both past Planning Commissions and the current Planning Commission and sends a message to the community once again that the Selectboard does not support the Planning Commission or respect the planning process. By amending the petition language rather than starting from square one to undertake a comprehensive planning process to develop changes to the Flood Hazard Regulations, the entire community has been effectively denied the opportunity to engage in a transparent, public, collaborative process and a few individuals have been rewarded for their continued attempts to circumvent the process.

The Planning Commission has worked diligently, thoughtfully, and transparently on the Municipal Plan since early last spring, initiating proactive, innovative public outreach that goes far beyond what has ever been done by the Town in the past. Like you, this group of seven volunteers cares deeply about their community and the future of the Town and deserves your respect and support. The Planning Commission stated on May 8, 2019 that they would begin an inclusive public process to review the Flood Hazard Regulations once their work on the Municipal Plan update was complete. This message has remained consistent and has been reiterated by Selectboard Members throughout 2019, however when a few individuals expressed their unsubstantiated distrust of the Planning Commission and the planning process on Monday evening, the Selectboard completely altered the agreed upon path forward without allowing the Planning Commission the opportunity to begin their work with the community. The Town Zoning Bylaws (Bylaws), including the Article XI Flood Hazard Regulations, are a living document, intended to be updated and revised in order to best serve the needs of the entire community. The Town should exercise extreme care to document changes to the Bylaws, as well as the rationale behind changes, in order to avoid the use of distrust of past planning processes to rationalize a reactionary reversion to outdated regulations. Your rush to expedite this process at the request of a few individuals does not acknowledge the complexity of the situation or confirm the need for careful comprehensive review of the existing regulations and what changes might benefit or harm the community.

By amending the petition language, rather than voting down the petition, you have taken away the ability of the Planning Commission to make changes as well as contradicted your statements urging an inclusive planning process to review the Flood Hazard Regulations. That said I am hopeful that this upsurge in public dissatisfaction can act as a catalyst for increased community involvement in the planning process and urge you to allow that to happen. In order to move forward with purpose, I respectfully request that the Selectboard direct the Planning Commission in writing specifically what you expect of them going forward. As they legally cannot make changes to the currently proposed bylaw amendment, initiating a comprehensive, community process to revise the Flood Hazard Regulations would be a catastrophic waste of



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time for all involved should you ultimately choose not to heed their recommendations in the bylaw amendment reporting form at your next public hearing. If a new version of the Flood Hazard Regulations is developed using the amended petition language as a starting point, adoption of this document would require a third public hearing. Both the Planning Commission and the community must be assured that you are willing to hold a third public hearing to review a second round of proposed changes that are developed through a collaborative community process in order to engage in such a process in good faith. There is an extreme atmosphere of distrust on both sides of this issue, and the longer this persists the worse it is for the community. That said, expediting this process and continuing to make hasty decisions about floodplain regulation under pressure is not the answer and the community deserves the utmost consistency and transparency concerning this issue going forward.

Thank you for your time and consideration. I am available if you have questions about the bylaw amendment process as outlined in 24 V.S.A. § 4441 and § 4442 or wish to discuss ideas for moving this issue forward in a positive manner.

Respectfully,

Annie McLean, AICP
Planning Director and Zoning Administrator
Town of Lyndon
(802) 626-1269
annie@lyndonvt.org



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February 20, 2020

Letter to the Editor
news@caledonian-record.com

RE: Businessman Wants Planning Commissioner Gone- Says Internal Town Emails Show Bias

Dear Editors,

I am writing in response to the article by Todd Wellington in Wednesday's *Caledonian Record* concerning accusations of bias on the Lyndon Planning Commission. Having an opinion is not bias. An opinion is a value judgement based on interpretation, which may change considering new information. Bias restricts acknowledgement of a different viewpoint and is unlikely to change even if new information is presented. It is my opinion that all seven members of the Lyndon Planning Commission, who certainly have their own opinions, take great care to understand the needs of the community as a whole and make thoughtful, transparent, unbiased decisions and recommendations utilizing all available information. Evan Carlson has not demonstrated an unfair bias as a member of the Planning Commission and has done nothing to warrant a request for his resignation. Evan has worked tirelessly on behalf of the Lyndon community for the past three years and brings a refreshing, positive energy to local economic development and planning.

For those of you who do not know Evan, he has been an integral part of Lyndon's planning and economic development efforts since returning to his hometown. Evan immediately threw himself into community revitalization efforts by actively participating in Lyndon's 2017 VRCD Community Visit, building upon this collaborative planning process to bring the community's vision generated from this initiative to fruition. Evan has continued to champion the community's Economic Development Committee and partnered with Northern Vermont University (NVU) to make the successful Do North Coworking space, a state-of-the-art facility and resource hub for 37 remote workers and startups, a reality. Evan was appointed to the Lyndon Planning Commission in 2017 and has made economic development his number one priority. Evan singlehandedly spearheaded USDA Rural Business Development Grants, which resulted in an \$88,000 award to the Town in 2018 and an additional \$45,000 in 2019. Evan donated the majority of the match for both of these grants through his professional services. The 2018 grant enabled: 1) a feasibility study for a community fiber cooperative; 2) the installation of a free downtown public Wi-Fi network; and, 3) the establishment of a small business program technical assistance grant program for support services such as website development, social media integration, and payment processing systems. Thanks largely to Evan's efforts 27 communities will vote on a ballot measure to form a Northeast Kingdom CUD on Town Meeting Day this year, which is the first step to bringing reliable and affordable high-speed internet to every address in the northeast Kingdom! The Lyndon Public Wi-Fi is up and running. Six Village businesses have either new or upgraded websites with at least seven additional Town businesses poised to take advantage of the Town's free technical assistance grant program this year.

Evan sees what is possible for the future of Lyndon and the entire Northeast Kingdom and his efforts are an inspiration to everyone who has had the pleasure of working with him. The Town of Lyndon and all of the surrounding communities would be lucky to have more volunteers like Evan Carlson.

Sincerely,

Annie McLean, AICP
Planning Director and Zoning Administrator
Town of Lyndon
(802) 626-1269
annie@lyndonvt.org

Pauline Harris
267 Harris Hill
Lyndonville VT 05851

February 15, 2020



Lyndon Selectboard
Box 167
Lyndonville VT 05851

Dear Selectboard Members:

Having served years on the Lyndon Town School Board, nearly 20 years with the DRB, some years as chair; and participating in planning commission meetings and numerous flood mitigation meetings over the years, I respect the difficulty in dealing with controversial issues. I respect the opinion of fellow boards and committees that have distinct duties that support, collaborate with and often advise. These committees are made up of a cross section of our community and are charged with taking all public input, looking at an unlimited amount of data and detail, and providing full and comprehensive recommendations.

A governing body should not try to micromanage, but should rely on and respect their fellow committee's and boards' work and should not be swayed by unevidecuted accusations of bias against that committee.

Once a public meeting is closed, all comments from the public should cease. All parties need equal opportunity for input. Some interested persons left the meeting trusting that all opportunity for input had ceased. If the governing body needs legal counsel that counsel should come from the town attorney or the League of Cities and Towns' counsel. Counsel should not be biased.

The repeal group argued that the 2016 bylaws were done in haste without proper studies or opportunity for public input. Years of work including engineering studies went into the last town plan and the 2016 bylaws. There was also the Multi-Jurisdictional Hazard Mitigation Plan (MHMP) done for the Town of Lyndon and Village of Lyndonville. Numerous persons and entities had input into that plan as well. See the acknowledgement page attached below. The Village Trustees as well as the Selectboard certified adoption of the MHMP plan.

The 2016 improved bylaws were in part due to the need recognized through practical applications of the previous bylaws by the DRB. The DRB found it difficult to apply conditions to try to alleviate obvious shortfalls in the previous bylaws. A hasty reset of the bylaws could leave the DRB in a compromised position.

A dangerous precedent has been set. The outcome of this meeting sets a precedent that any bylaw can be changed by a petition while bypassing the process set in place for proper planning, public input, and equal representation. One Selectboard member even made a statement that for every 1 call supporting the petition, he gets 2 asking for no change. Yet, this abrupt decision and process was still put in place.

Those 100 plus properties identified in the flood hazard area in Lyndon should be given notice. They have mutual liabilities and rights as if they were adjoining landowners because any flood bylaw change has high probably of impacting any or all of those properties, physically and/or financially. Noting that only approximately 25% of those in the flood hazard areas are insured should be a red flag that more help is needed to reduce the cost of flood insurance.

Economic development is a poor excuse for hasty planning. Many empty storefronts nationwide, including those in Lyndon are partially the result of the internet. There are long vacant, already filled or natural developable properties on Rte 5, Rte 122, Main Street, and other locations in Lyndon. Economic development means bringing in industry and increasing jobs and population or a unique or popular market that will draw consumers from outside the area. There is ample opportunity for development in Lyndon without hasty bylaw changes.

The sentiment to increase the tax base by developing properties if done irresponsibly can cause existing properties to lose value or have to be abandoned due to flood issues. That will not increase the tax base.

The current bylaws help protect and preserve the rights of existing property owners. Developing a vacant lot should not be to the detriment of already existing and developed properties. It was stated a few times during this meeting that the property in question has potential to be developed. Any development, in a flood hazard or not, must meet bylaws.

As Sasha Pealer pointed out, engineering for development is based on a study done nearly 4 decades ago. How could individual lot engineering based on a decades old assessment of water level, flow and elevations be accurate with the many bylaw iterations over the years having allowed substantial changes in flood hazard areas including fill and redirection of overflow? Roadwork and related bridges and culverts have significantly changed the landscape of the Passumpsic River valley as well. It is apparent that Lyndon needs a new FEMA engineering survey to rely on.

The Town of Lyndon has a responsibility to act on the aforementioned MHMP. Flood mitigation through better planned road infrastructure, bridges, dams, and culverts needs to be a priority to protect our already established commercial and residential properties. The highest priority stated in that adopted plan is to protect lives and property.

A high priority project to remove the culvert under Rte. 5 at the north end of town just past Nick's Gas and to install a dry bridge was identified prior to the 2010 MHMP then moved from the 2010 plan to the 2015 plan. It is now 2020. How long will that priority be ignored? The plan states the culvert and existing bridge frequently become plugged with ice and/or debris and studies show more than 1 foot water elevation increase when not functioning. That can be in addition to already elevated water levels due to thaws, flood or rain events. The plan also states that the series of culverts under Route 5 south of the intersection with Route 114 are designed poorly and ineffectively transport floodwaters disconnecting those floodwaters from their floodplain which has a major impact.

If some of these major infrastructure flood issues that are already identified in previous engineering studies, the Town Plan, and the MHMP were fixed as recommended and planned, how would that impact the necessity to change the current bylaws?

Please allow the time, process necessary with input from all, and proper notification to those impacted before any changes are made. Keep in mind the responsibility you have to ALL the citizens of the Town of Lyndon, their safety and the protection of their property.

Respectfully,



Pauline Harris

Cc: Lyndon Planning Commission

Acknowledgements

Planning Team

Kaela Gray, Planning Director/Zoning Adm.
Patrick McLaughlin, Planning Commission, Fire Dept., Fire Marshall, Lyndon Rescue
Irene Nagle, AICP, Senior Planner, NVDA
Justin Smith, Municipal Administrator (Town and Village)

Hazard Mitigation Committee

Kerry O'Brien, District Manager, Caledonia County Natural Resources Conservation District
Ron Aiken, Village Trustee
Marty Feltus, Town of Lyndon Selectboard
Ray Durocher, Village Trustee (former)
Jack Harris, Police Chief
Greg Hopkins, Fire Chief
Robert Nutting, Town Road Foreman
Ken Mason, Lyndonville Electric Manager
Kermit Fisher, Lyndon Selectboard
Joe Dauphin, Public Works Supervisor
Dan Daley, Lyndon Selectboard
Amy Gale, Lyndon Town School Representative
George Gardner, Lyndon Town School Facilities Manager
Rob Heath, Lyndon Institute Representative
George Hacking, Lyndon State College Representative
Al Duey, Burke Representative
Brad Libbey, Kirby Representative
Ben Copans, St. Johnsbury Representative/VT DEC Watershed Coordinator
Jeffrey Paquet, Danville Representative
Paul Brouha, Sutton Representative
Byron Savoy, Sutton Representative alternate

Consulting Team Leaders

Jamie Caplan, Jamie Caplan Consulting LLC
Damian Gomez, Gomez and Sullivan Engineers
Isabel Kaubisch, Clarendon Hill Consulting LLC

February 20, 2020

Lyndon/Lyndonville Citizen Planning Commission

Thank you for your public service to we Citizens of Lyndon/Lyndonville and those communities in lower elevations in the flood chain, with regards to our Flood Plains. You all, and we Citizens, have been caught up in an onslaught, again, by developers attempting to destroy these Flood Plains for singular personal financial gain versus the common good.

Our Citizenry has well understood our Flood Plains were put here long before we Citizens and have served/are serving us well as our community has grown around them. We live around and with them when they flood and use them when they are dry, and we care for them, they protect us. Many area Citizens live below these natural safety factors and indeed would suffer more intensely if they were to be altered.

Several years ago this similar group of developers questioned the validity of maintaining our Flood Plains. As one, the community addressed the purposes of our Flood Plains, studied them with great depth (considering their positives and negatives). After these significant efforts the "smartest person in the room", "Our Citizens" by consensus, have supported their substantial contributions to our greater good. The creator wasn't/isn't wrong. Alterations to them have only been made for community greater good, not for personal financial gain, and then with considerations to maintaining these Flood Plains.

Continuing support of our Flood Plains, as they slow down the Spring water flow from our mountains, afford the community a more peaceful passing of this annual inundation just as the costly man made reservoir below Littleton has done for areas in their lower elevations. We are so fortunate to have had these naturally occurring over here and had the insight to maintain them.

Development, of course, is good for any community in areas where it is not detrimental to the common good of that community.

Again, thank you, for your many hours spent for we Citizens enduring and maintaining the decided common good of our communities.

Sincerely a Lyndon Citizen,



Dona Jackson

- -the river is a mere distance from this start of our Flood Plains so there is nowhere else for this substantial amount of water to go.

- -we voted for the protection of these Flood Plains to protect those who already suffer flooding from more severe consequences and have spent considerable money for the studies to determine the value of our Flood Plains for us...

- -all of our Citizens deserve the protection from our many floods to the best of our abilities.

-we have learned to live with our location in elevation, by protecting our Flood Plains while they protect us. We use them for appropriate activities when they are dry it is a win-win situation for all of us to have them...all of them.

- -while our community has made necessary changes in our Flood Plains for crossing our Flood Plains all considerations have been attended to to keeping them as intact as possible...they are a valuable asset to our well being and community.

-development is good for any community in areas where it is not detrimental to the common good of that community.

- your thoughts, and I am sure you concerned Citizens have many more

Our Citizen Planning Commission and Select Board need to hear from us the majority of Citizens, not just a small **vocal minority** wanting to take from our Flood Plains for singular financial gain.

One paragraph with your name and address will show how much we value our Flood Plains and protections. Will you please give us the numbers we need to show that we consider these our community resource...besides they bring in some rather spectacular birds to fish in them.

Thank you, Dona Jackson a fellow Citizen of Lyndon/Lyndonville

2-21-20 One paragraph about Flood Plains Ideas to: Annie
McLean-Planning Director

P.O. Box 167
Lyndonville, VT 05851 OR

Sean McFeeley-Chair-Plan
Commission

P.O. Box 167
Lyndonville, VT 05851

Several developers and paid lawyers have been coming to our Planning Commission Meetings.

They are proposing taking land in our Flood Plains for singular financial gain. No reason for this whatsoever. Their arguments are without merit. The decimated old motel had serious electrical and plumbing problems and was on a slab. While I am not opposed to a gas station this regularly flooding intersection (in our Flood Plains) would be in a part these same protected Flood Plains...spill...a spill could be seriously hazardous for us and people down stream....could be?

I have listed a few thoughts, I am sure you have your own. We spent a great deal of money studying our Flood Plains, negatives and positives, and came to a consensus of their extreme value for our Citizens and community.

- -these Flood Plains were put here by the creator and time and our community has built around them. They protect us and our Citizens during the Spring mountain melts and regular flooding.

- -they slow the effusion of water from our many floods and help protect locations and Citizens below our elevation and further down river.

- -they have saved us millions in developing manmade edifices to control these same excessive water flows throughout the year as we flood regularly and this location is perhaps first and foremost in that protection need..

MORE ON BACK

February 25, 2020

Dear Lyndon Selectboard,

I would like to expand upon a comment I made a few weeks ago via email when I asked that the distrust with the planning commission be addressed. No one has reached out to me to ask why there is no trust and this problem seems to keep growing. I recognize the value of volunteer work and the importance of people signing up for this work, dedicating their time and energy, trying to make a positive impact. It is essential to a strong community. That being said our community is divided, people are making things personal and our town is suffering. Community is important, community amongst neighbors, friends, residents and business owners. We all have to move forward to make this community a place our kids don't run from, where there is not only economic growth but support amongst people living and working here.

There is a lack of accountability. Mr. Carlson was asked to resign by Mark after making a troll like comment online. His biased behavior can be traced back to over a year ago, to the emails where he called the public coming before him asking for change to flood regulations the "vocal minority" and "old men." I have enclosed a letter from Dona Jackson that is displayed across town using that same description for your information. The degrading from Mr. Carlson started before he had ever met Mark, so I would assume information was fed to him to create such a personal opinion. Although Mr. Carlson has done great things for the community, one must be upheld to a higher standard when they are appointed to serve the public. If there is no trust that anyone is holding our town officials to this standard the public takes it into their own hands to do so.

There was a question about the involvement from an outside planner who is helping Mark and Joe. This is a friend who they turned to for guidance and education because unfortunately there is too much distrust with the planning commission and zoning administrator to get it from them. I am concerned, and this speaks to the problem of no trust, because this is the second time I have seen a member of the planning commission disparage a professional coming before them. Nathan Sicard was also treated this way via emails amongst the planning commissioners when he came before them a year and a half ago. I sit on a board and don't understand why people are not open to having experts join the conversation.

I would like to end this by stating there needs to be collaboration to move forward. People should not have to feel unwanted when they walk into a local business or be degraded when they come to a public meeting to speak up for their concerns. I think the selectboard needs to address the concern that some planning commission members and the zoning administrator are making this personal and determine if they can still remain objective and able to serve all the public. I am happy to have a further conversation. I have observed a lot over the last year and I am happy to help in any way.

Respectfully,

Holly Taylor



cc. Justin Smith, Annie McLean