

TOWN OF UNITY
LAND USE REVIEW COMMITTEE MEETING MINUTES
JUNE 4, 2014
LOCATION: UNITY MASONIC HALL, UNITY, MAINE

MEMBERS IN ATTENDANCE: Jim Kenney, Randy Reynolds, Ken Murch, John McIntire, Mark Nickerson, Charlie Porter, Tony Avila

MODERATOR: Jim Kenney

OBSERVERS: Garrett Morrison

RECORDER: Sherry Powell-Wilson

18:30:59 Jim Kenney: Shall we all get started? You have the Minutes, any suggestions?

18:31:13 Randy Reynolds: I make a motion to accept as read. [Seconded.]

18:31:16 Jim Kenney: Any discussion? They are approved. Do we want to take a glance down through them?

18:32:12 Randy Reynolds: I've been reading them and everything looks good so far.

18:32:17 Jim Kenney: We've been scrubbing this. What we found was a lot of the definitions just appeared in the definitions. They didn't appear in the body of the text, so we've taken them right out where it was appropriate. If you just take a glance, I believe I captured the thoughts of everyone, and I took the liberty suggested last week that manufactured housing, I just inserted the words I found on the net.

18:32:59 Garrett Morrison: I think that's good, it's a very useful definition.

18:33:03 Randy Reynolds: I can tell you why there are words in here that are not in the Land Use Ordinance. Because they just captured another town's list and threw it in.

18:33:16 Jim Kenney: The beauty of Microsoft Word makes document generation easier. Have you had a chance to glance over what I sent earlier? Shall we put this back in the document and call this section done? [Yes.] We need others to join us to talk about that demolition wording. Is that agreeable, the demolition permit wording before we go forward.

18:35:03 Randy Reynolds: That's going to be in a separate book all by itself right? [Yes.] We ought to finish up what is to do with the Land Use Ordinance.

18:35:13 Jim Kenney: What I want to do is park it there and set it aside until we get there. I'm going to take references to demolition permit out of the Land Use document if that is acceptable. [Yes.]

18:35:27 Garrett Morrison: If anyone else has suggestions for the actual form I'll put them in and send it to you.

18:35:38 John McIntire arrives.

18:35:43 Jim Kenney: We have gotten started. Approved the Minutes. We have gone through this and we're going forward with it. It's stripped done. This is the one that I sent out but I realized after I sent it I don't think I put it in pdf.

18:36:28 Tony Avila arrives.

18:36:28 Jim Kenney: I need you guys to look over the transmittal and I'll give you a copy of the straw man that Garrett has put forth on demolition.

18:36:55 John McIntire: That was the one that you sent out? [Yes.] I liked it. I thought was straightforward and in plain English.

18:37:10 Jim Kenney: Randy has brought forth a couple of refinements and we're looking to get as much input now such that Garrett can move forward. That is going to go into the Property Maintenance Ordinance (the demolition). We're at the point where we thought we'd start I believe Randy is glancing through the Land Use to see what is outstanding?

18:37:41 Randy Reynolds: I think this is it.

18:37:47 Jim Kenney: There is one thing we still have never settled and that is what is the Village District.

18:37:53 Randy Reynolds: We've got to do that on the map. We've got to pick a meeting when we want to look at the map and I'll bring it in. I think we're going to be ready next week for that.

18:38:05 Ken Murch: Next week I'm at a VFW meeting.

18:38:12 Jim Kenney: Because you had input that you wanted heard on the definition on what is the Village. You had proposed that on School Street it would go to the bridge.

18:38:27 Ken Murch: That's correct.

18:38:38 Ken Murch: So we did away with the growth...the Downtown District?

18:38:41 Jim Kenney: Yes, and Growth was just a subset of that.

18:38:49 Ken Murch? For clarity what was there seemed to describe itself as being part of the Village.

18:38:57 Jim Kenney: So, what I'm trying to say is if we take that up next week, I'm opening up the door a little bit for you to make a statement now that would constitute what you would be saying next week if you were here.

18:39:14 Ken Murch: Basically, my observation is if someone drove into Town and not being familiar with Town lines, were asked where village started it seems like the bridge down there is part of the

village and the railroad tracks and the bridge the other way, and the Depot or 220 all encompass the village in different directions.

18:39:51 Jim Kenney: Okay, Sherry has captured that. Everyone here has heard that. We will plan to take it up next week.

18:40:01 Ken Murch: Again, there must have been some reasoning for this Downtown District, Growth District, and not being completely familiar with what that reasoning was, I think as we went through the different requirements between the Village and this Downtown District, it seems that the restrictions were more severe in the Downtown District than they were in the Village District.

18:40:31 Charlie Porter arrives.

18:40:37 Randy Reynolds: And that's all we're going to do right now.

18:40:43 Jim Kenney: It's just for us to open the door to say something.

18:40:49 John McIntire: I don't know why they had the Village in the Downtown. The Downtown was the smaller one, wasn't it. Other than trying to encourage growth in certain areas, that's what it looked like to me. I don't pretend to know that, wasn't there when they wrote it.

18:41:59 Jim Kenney: And I don't think that's necessarily the question on the floor. There has been a definition offered and you were sitting with us when that was done with the map that we had as an outline to follow, and it was observed where the line is now on School Street.

18:42:21 Randy Reynolds: We had the latest map showing how we planned.

18:42:26 Jim Kenney: And Ken raised the point, and you just heard what he had to say. He thought we should consider that the village starts at the bridge on School Street. That's not a debate point here. That's just to give Ken an opportunity, and John is not going to be with us. Do you want to put anything in the discussion?

18:42:57 John McIntire: I would like better reasoning why it was set up the way it was. I would agree with Ken that it makes sense to have the village start at the bridge.

18:43:09 Randy Reynolds: Both bridges.

18:43:11 Garrett Morrison: Which side of the bridge?

18:43:15 Randy Reynolds: Town side of the bridge.

18:43:28 Jim Kenney: Shall we close the point of this discussion that I opened? [Yes.] What I believe we said, Randy, and you'll help me, is we were going to take a glance through the document and see if it's closed.

18:43:49 Randy Reynolds: To see if any red is still in there. Once we don't have any red marks it's ready to get all put together and reviewed. Then we can get on to some of this other stuff.

18:44:23 Jim Kenney: Permits required, I think we just pulled one out, demolition permit. What I have left in red, a person must obtain a permit before engaging in any of the following activities. If we've taken something out, speak up so I can line it out. Constructing a new driveway or road, constructing, expanding or paving to certain parking lots located in the Village District, residential paved driveways are exempt. I'm on page 13, paragraph 2.5. Expanding any existing structure by more than 100 square feet. Exterior renovations to those village properties that must follow design guidelines (see section eight for what type or properties are exempt). Dividing of land or structures in a way that constitute a subdivision as defined.

18:46:11 Randy Reynolds: We talked about that land structures. That stays.

18:46:16 Jim Kenney: Engaging in any high-impact land use activities as outlined in this Ordinance. Did we ever define high impact? I don't think so. I'll have to go and look at that.

18:46:45 Mark Nickerson: It is in the definitions.

18:46:56 Randy Reynolds: High-impact activity, land use activity that has any of the characteristics outlined in Section 13.

18:47:05 Jim Kenney: So that is covered and I don't need to look at. Creating a new lot, occupying any of the following: A new structure, a new building addition larger 100 square feet, a new rental unit created within an existing structure, any structure or rental unit that has been vacant for more than one year, any structure that will be used for commercial activities new to that structure. That doesn't come out, that stays. The next red is development review, see section 13, right?

18:47:51 Mark Nickerson: Wait, we added one to that permits required, number 10, demolition.

18:47:53 Jim Kenney: Demolition is coming out of this document and is going to be in the Property Maintenance. Village District, the definition of that, which we'll take up with map in hand. I'm over on page 26, wherever I've put as defined in red, until we've addressed it. I've taken care of that one. Moving paragraph 5.2 out of the document, that's Miscellaneous Nuisance Law, that's going into the Property Maintenance.

18:49:32 Randy Reynolds: Page 32. Farmland Adjacency Act, 6.3.

18:49:46 Jim Kenney: Which we've revised. It's the Maine Registration of Farmland and Agriculture Protection Act. Do you recall that.

18:49:53 Randy Reynolds: Right but you took this out and put that in.

18:50:13 Jim Kenney: We still have to take under consideration John's homework. That's all the red I have. Congratulations.

18:50:51 Randy Reynolds: Development review, we have some changes there. Let's get this done first, 13.2.3, page 48. I think we had these crossed out.

18:50:59 Jim Kenney: Still outstanding, John put forth a suggestion which we've challenged to get some specifics, which he has shown us something that we haven't gotten in to.

18:51:19 Charlie Porter: Most of this is covered under the nuisance law.

18:51:39 Randy Reynolds: Another thing I wanted to check is on page 49, we had 10,000 square feet, type classification, we had 10,000 square feet, and we dropped that to 6,000 square feet. On page 50, Garrett brought up something about a special note made on 31.14, this takes us back to Special Design Review. I think we took it right out.

18:52:45 Jim Kenney: We took the Special Design Review Committee right out. Because of the Table of Contents that exists, the page count increased but the text of the document in fact decreased. I'm setting at 66 pages.

18:54:58 Charlie Porter: When are we going to turn this in to the Selectmen?

18:55:05 Jim Kenney: I'm going to give you three answers and it's going to be in the following: Once we get this where we, this team, says it's ready to go, Garrett's son has agreed to read it with a knowledgeable eye to see if we've accomplished our mission, and then if there are any modifications he would recommend and we agree to, we will then incorporate them, and then turn it over to the Selectmen because that would then constitute what I would say is the final document. Hearing no objection is that the sentiment? [Yes.] Then we'll give the Selectmen time, and then we'll publish it to the Planning Board and the Comprehensive Plan team. Is that the right way to do it? I am excited about getting a fresh set of eyes reading this to see if we've made it palatable.

18:56:13 Randy Reynolds: And he's got some pretty good qualifications behind him too. He works for the DEP. Garrett, can you....say something about your son?

18:56:21 Garrett Morrison: He's a technical person. He has worked a lot with me, things related to DEP and environmental work. He's a chemist by training and that's environmental chemistry. He works with the Air Bureau. It's one of the divisions, there's the waste bureau, hazardous waste bureau... They go where people may have large outdoor furnaces with large plumes of smoke. That's one of the things he checks into.

18:57:38 Randy Reynolds: We're calling the Land Use Ordinance complete with the following exceptions? Being what?

18:57:50 Jim Kenney: Being the understanding the item that John has given us for inclusion and not inclusion, and the Village District. John still has in front of us now, shall we take that up?

18:58:13 Randy Reynolds: It's complete to the point that we still have to do some work on the prints and there is an area in there that outlines the actual outside lines of the Village District. We need to do that, that's one of the outstanding things.

18:58:33 Jim Kenney: If you have the strength, could we have a map next week?

18:58:40 Randy Reynolds: I already have it. I would've brought it tonight but I didn't think we were going to get that far.

18:59:48 Jim Kenney: I would ask for you to insert into the Minutes for those to read that don't come here, next week would be an important time for them to have a say of what is the definition of the Village District.

18:59:48 Randy Reynolds: We only have two districts now, Village and Downtown.

18:59:52 Jim Kenney: That was well discussed for some part of the first three or four meetings when this had more people, who are still on the distribution. We have not altered the distribution list at all, so those that were a member of the committee chose to use their time at the Comp Plan. I think you're the only who attends both, right?

19:00:19 Tony Avila: Just a couple though.

19:00:21 Ken Murch: I have been going to the Comp Plan.

19:00:29 Jim Kenney: I misspoke slightly. There are several members who have not been in attendance since that committee was formed, they are still on distribution, and they have given us no input.

19:00:42 Randy Reynolds: This can let them know that we're going to have the map next week.

19:00:47 Jim Kenney: If they have an interest in what we're doing, they're reading the Minutes. What shall we work on next?

19:01:02 Randy Reynolds: If we can take up these two, and then I'd like to bring them back again next week. Permit application.

19:02:05 Jim Kenney: Let's start with the demolition permit, shall I read? This is coming out of the Land Use, there were just two words in there, demolition permit, and it's going to go into the Property Maintenance Ordinance, which is a standalone, which covers things and empowers and details what happens.

19:02:44 John McIntire: Which we don't have at this time.

19:02:52 Jim Kenney: We elected and we'll take it up to use the Oakland as a straw man. I have it ready when we're ready to look at it. We will be doing it but I haven't given it to others. You made a specific request. I've asked for you to just take a look at it. I deliberately did not send it out to the whole team because, frankly, I wanted us to work on the Land Use and pin that down. You'll receive an e-mail with the demolition permit.

19:03:51 Randy Reynolds: We can probably take that up in a couple weeks.

19:03:59 Jim Kenney: Look at this, I don't think I need to read this. This is a straw man.

19:04:03 Randy Reynolds: On the last paragraph he had 100 feet in height. To get a building over 100 feet, it could fall over so you have to know what that height is.

19:06:26 Charlie Porter: It does not exclude towers.

19:06:28 Garrett Morrison: It would include radio towers.

19:06:46 Jim Kenney: Randy has suggested some refinements of just clarity on the permit application, lot number, place for signature. Garrett has received that information. Does anyone have some suggestions for the application?

19:07:59 Mark Nickerson: Big question, if you take a lot of people, they don't know what hazardous material is. So, is that going to be identified somehow for them to know and what is the proper location for that stuff to be disposed of?

19:08:19 Randy Reynolds: Don't they have to go to DEP to find out?

19:08:22 Charlie Porter: If you think you have hazardous material, you probably do.

19:08:29 Mark Nickerson: Roofing shingles, asbestos siding, but how to know if it's asbestos.

19:08:38 Charlie Porter: All you've got to do is crack it, break it and look at it and you can see the hairs right in it.

19:08:44 John McIntire: You can but I would be willing to bet that 75% of people can't and, secondly, they wouldn't know what to look for.

19:08:56 Randy Reynolds: And if they did know they would hide it.

19:09:00 Jim Kenney: What do you suggest would be placed in this document? Know your hazardous material, verify State requirements?

19:09:16 Randy Reynolds: It's up to you to know.

19:09:19 Jim Kenney: What Garrett has said is any required waste disposal permits be obtained.

19:09:27 Garrett Morrison: We could put in a just a note in the next line under the question to contact the Maine DEP for a definition of hazardous materials.

19:09:54 Randy Reynolds: If you're unsure to contact them.

19:09:57 Garrett Morrison: It's an enormously bad can of worms to open.

19:10:01 John McIntire: I would preface that question with a statement that says either the landowner or the person doing the demolition is responsible for finding out whether there are hazardous materials.

19:10:22 Charlie Porter: Everything comes back to the landowner.

19:10:36 Randy Reynolds: Maybe another line you could put in is something to the fact that it's up to you and if you don't make the right decision it could cost you a lot of money.

19:10:56 Jim Kenney: The property owner is responsible no matter what the town. You have an idea of the sense of what is being said here.

19:11:08 Ken Murch: Does hazardous material have a definition? [No.] Should there be in there a list of common hazardous materials?

19:11:26 Jim Kenney: It's up to the landowner. It changes.

19:11:29 John McIntire: They add to it regularly I suspect.

19:11:34 Randy Reynolds: One thing that I wanted to go over with Garrett. When in you put in the height and length and width, can you make those a little bit further apart so you have room to write in there. Each one.

19:11:48 Jim Kenney: This is a straw man. I'm sure there's going to be somebody down the road who is going to be an expert on form generation.

19:12:02 Ken Murch: On the other page under the [inaudible], I understand if you're on a large enough lot but not within a 100 feet, you can demolish a building without a permit?

19:12:14 Jim Kenney: Read me through it.

19:12:19 Ken Murch: It says any lot that is two acres or less in size, let's say you've got a 100 acres, and the building I'm taking down is 300 feet away from the property line, do I need a permit?

19:12:37 Garrett Morrison: This was written to say you don't need one.

19:12:42 Jim Kenney: This first sentence says you have to have a permit.

19:12:45 Randy Reynolds: The only stipulation is you have to take care of the DEP issues. Then you have to go to the fire department to get a permit to burn it. That's still there.

19:12:58 Jim Kenney: We'll address some very refined specifics but the very first sentence says if you demolish anything, you have to have a permit.

19:13:08 Randy Reynolds: You have to take out a permit at the Town, and you also have to take out a permit at the fire department. To burn a building.

19:13:18 Charlie Porter: They are very reluctant to burn anything.

19:13:29 Jim Kenney: What's being discussed, are you saying the fire department no longer issue permits to burn?

19:13:39 Charlie Porter: No.

19:13:40 Jim Kenney: Okay, so put them on notice that they have to go to the fire department for a permit, and they have to come to the town for a permit. Well, the Town is implied when we write the document but if they intend to burn they'll need a fire permit.

19:13:58 Ken Murch: The last permit I received was demolition material and brush. I think they've taken demolition material right off there.

19:14:11 Jim Kenney: And the reason because people were burning the shingles, the asbestos siding, and the insulation.

19:14:39 John McIntire? Now, since Ken brought that up, the way I read it, and maybe I'm not reading this right but the way I read that second paragraph is if I've got a parcel larger than two acres and the structure that I'd like to demolish is greater than 100 feet, then I don't need a permit.

19:15:08 Garrett Morrison: Yes, that's the way it was written. I don't know if that's right but that's the way it was written.

19:15:29 John McIntire: So I can take my house down without a permit?

19:16:05 Mark Nickerson: What's the proper procedure to get rid of asphalt shingles?

19:16:11 Charlie Porter: Bury them. On your own property. As long as you notify the guy who is buying your property that that is buried there.

19:16:31 Tony Avila: So what was the issue up the road there with his shingles?

19:16:36 Charlie Porter: It didn't come from his property.

19:16:42 Tony Avila: So, if I own two homes, can I take them from one home to the other?

19:16:50 Charlie Porter: I just answered that.

19:17:06 Ken Murch: I don't know why people go to such extremes. I loaded my pickup with a whole load of shingles and I take them to South Portland, there's a place there, I give the guy maybe \$10.00 and he says to pile it right over there. It's all legal.

19:17:21 Charlie Porter: We don't have places around here.

19:17:27 Ken Murch: But every town is supposed to provide a place where people can dispose of this stuff. We don't have to have it in town.

19:17:50 Randy Reynolds: I think we need to table the demolition permit application and take up John's now.

19:18:09 Jim Kenney: John had made a suggestion a couple weeks ago to insert in Section 13 some words around nuisance. In that we challenged him to put some specifics and this is what he sent over this afternoon and I bounced it out probably late in the day. The first thing that jumps out at you is you can't let smoke cross the property line. Somehow you have to build a wall to keep smoke contained. John made a request and we took it under advisement and tabled it until we could get to this discussion.

The request was not bounded by specifics, just words. What was going to be inserted. John's challenge was to give us some specifics because the word noise was used, the word odor was used, and what defines noise to one person is not noise to another person.

19:20:06 John McIntire: That land use ordinance down in Biddeford, if you want a definition of noise, it gets very specific. Not only times of day but decibels, types of noise, decibels at certain distances, that sort of thing.

19:20:32 Garrett Morrison: Understanding that Biddeford was responding to MERC. It's an incinerator.

19:20:49 John McIntire: I just took this out of their section dealing with land development regulations, performance standards, emission of dust, dirt, fly ash, fumes, vapors or gases, which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the establishment creating such emission, shall be prohibited. All such activities shall also comply with applicable federal and state laws and regulations.

Seems a bit stringent. They don't say anything about light, vehicles, glare, noise, that sort of thing.

19:22:06 Jim Kenney: It was proposed that we insert this in the table defining type 1 and type 2 because it's identical it would become a paragraph outside of the table.

19:22:39 John McIntire: Noise is well-defined in there, not in ours but in this other one. It's amazing but, like you say, there was a reason and maybe we've got a similar reason with the racetrack.

19:22:57 Jim Kenney: The race track was grandfathered back before the start of the previous century. An attempt was put forth to the citizens a decade ago, more or less, and it was turned down at public hearing mightily.

19:3:16 John McIntire: I'm not interested in trying to shut the race track down at all.

19:23:30 Garrett Morrison: I have one that, to me, is the epitome of foolishness exhibited by state law, I won't mention the legislators involved, they're probably still around but there was a law passed that would have made any ready-mixed concrete truck that delivers concrete, and any ambulance that is equipped with carrying passengers illegal on state roads. It was what the lady who sponsored the bill thought was a good thing to do but it was because she didn't think any further than the end of her nose. If you publish something like this and then you have to say, well, that's what it says and when you're talking about language here that says any dust or dirt or flying ash but particularly the fumes, the vapors, the gases, you can't have barbecue because the neighbor doesn't like the smell of hamburger. You've got to think that far ahead.

19:24:46 Tony Avila: I don't think we need this. I did some research. Why are we looking at a city that has 21,000 people for a population.

19:24:57 Garrett Morrison: And a trash incinerator.

19:24:59 Tony Avila: For ideas. You might as well just go over to Massachusetts or Boston and get their ordinance book and start from there.

19:25:12 Jim Kenney: The question that I feel is in front of us is shall we put into this document anything of this nature? I need to hear your voices.

19:25:23 Randy Reynolds: We originally said, no, we didn't want this but somebody came up and said they wanted to see if we could come up with good ordinance to put in here. The main part of the people here said, no, we don't need it. It's too hard to get something that would be well established that you could really enforce.

19:25:41 Charlie Porter: The nuisance law has most of this in it. It's enough for a judge.

19:26:00 Randy Reynolds: I say take it right out completely. [All agreed.] But we still keep the demolition permit application, right?

19:26:17 Jim Kenney: Yes, Garrett has heard discussions around the table. He said he will capture these things and we will table it and keep it in reserve until we get to the property maintenance. Is that acceptable? [Yes.] How about a suggestion next? Are we going to work Property Maintenance or are we going to get to subdivision. We can put property maintenance away quickly I would believe.

19:28:19 19:28:46 Tony Avila: I have a couple questions. A while back ago I asked about methadone clinics and you said we could not do anything about it.

19:28:56 Jim Kenney: It was answered. I sent you the letter that came from the lawyer.

19:29:02 Tony Avila: How about the pot factory in town?

19:29:04 Jim Kenney: It's a state-approved facility. The state controls the marijuana.

19:29:09 Tony Avila: Can we have an ordinance in town regulating anything with it?

19:29:16 Jim Kenney: Not that I'm aware of.

19:29:18 Randy Reynolds: With what, the building, the operation?

19:29:18 Charlie Porter: It's state approved. Let's start from that premise.

19:29:22 Tony Avila: But it's in our town.

19:29:29 Charlie Porter: The guy has bought the building, he's got the state license, it's state approved.

19:29:31 Randy Reynolds: And right now it would be grandfathered because we don't have anything in our ordinance.

19:29:36 Jim Kenney: Even if we did, the state is the parent and they can tell the child what to do. The state has licensed that facility.

19:29:53 Charlie Porter: Yes I gave him an occupancy permit. I have nothing to stop him.

19:30:03 Tony Avila: So here it is, Barry wanted to put a donut shop in town and we had like 100 meetings, and this guy comes in and he puts a pot factory in the middle of our town and nobody says boo?

19:30;14 Charlie Porter: He's not expanding or doing anything to that building.

19:30;21 Jim Kenney: The answer was it was a done deed before it was done known.

19:30:24 Tony Avila: And we can't put any ordinance on the books?

19:30:29 Sherry Powell-Wilson: Who bought the building, who is doing this?

19:30:29 Jim Kenney: A Mr. Julia, it's their son.

19:31:09 Charlie Porter: He lives in China.

19:31:11 Tony Avila: I heard you guys talking about it, and yesterday at the Selectmen's meeting I hear this guy talking about it. There wasn't even a Town Meeting, there was nothing.

19:31:09 John McIntire: He's not generating a lot of traffic. He's not expanding his parking facility.

19:31:25 Mark Nickerson: They're going to deliver.

19:31:26 Jim Kenney: Go to your legislator. It's in the hands of the state. Meeting closed.

**Respectfully submitted,
Sherry E. Powell-Wilson, Notary Public
Approved:**