

SCITUATE PLANNING BOARD MINUTES February 25, 2016

Members Present: Stephen Pritchard, Chairman; William Limbacher, Vice Chairman; Richard Taylor, Clerk, Robert Vogel, Robert Greene and Ann Burbine, Alternate member.

Members Absent: None.

Others Present: Ms. Laura Harbottle, Town Planner.

See Sign-in List for names of others present at this meeting.

Location of meeting: Selectmen's Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate.

Chairman Pritchard called the meeting to order at 7:30 P.M. The meeting was being recorded for airing on local cable television.

Documents

- 2/25/16 Planning Board Agenda – Amended II

ACCEPTANCE OF AGENDA: Mr. Limbacher moved to accept the amended II agenda. Mr. Taylor seconded the motion and the vote was unanimous in favor.

Kimberly Estates

Documents

- Emails from Laura Harbottle to the Board dated 2/9/16 and 2/22/16 with estimate from Amory Engineers for remaining work
- Letter from Kevin Kenny received at meeting dated February 25, 2016 on Kimberly Estates Development Completion

Ms. Harbottle indicated that the investigation into the surety started when Mr. Kenny asked if surety could be used to repair the sidewalk from Kimberly Road to Pyramid Lane as it has frost heaves and cracks which Mr. Kenny suggested were caused from the walk not being built properly. She indicated that the Planning Board paid for Pat Brennan of Amory Engineers to conduct a site visit where he looked at the road and sidewalk to see if they were complete and went through old minutes and file memos from DPW. He found that the as-builts were missing. She indicated that the last surety reduction in 1993 was to \$39,000 and no money was being held for any of the sidewalk. She said surety was being held for puddling in the cul-de-sac, as-builts and some clean up although Mr. Brennan did not observe any puddling in the cul-de-sac. She said it may be possible to go after the surety if it is worth it for the as-builts and Town Counsel will need to be involved. Chairman Pritchard indicated there appears to be a difference of opinion between Mr. Kenny and Amory Engineers.

Mr. Kenny said the Town Engineer thought that the walk and road may not have been completed correctly, but Amory says it was. He indicated there has been puddling in the cul-de-sac since the road was built as the pictures show, there is an electric pole that needs to be removed from the construction and the engineer never talked to him about the walk or the puddling. He said there were three catch basins that were not installed as shown on the plan. He asked if the plan was ever changed and disagrees with Amory's findings. He wants money held for the catch basins and puddling. Mr. Kenny said the residents would like to move toward road acceptance, but need to identify what remains to be done first. He said that the 1991 plan has sidewalks in place of the berm

and this is not the connecting walk which was not built correctly and should be included in the surety. He indicated that Sean McCarthy said today that his sample was only a bottom coat. He said there was supposed to be a top layer and 8" of gravel which wasn't done and he wants the builder held accountable for this as it is a major walkway to the school. He opined that the Town has responsibility to ensure safety and make sure the walk is maintained and built correctly. He said the cost is around \$3,000 to repair and thinks the developer should be told the surety will be taken and used for this. He said the developer must realize something is wrong if he hasn't asked for his money back since 1993.

Mr. Taylor asked if there has been any dialogue from the builder. Ms. Harbottle said he has not responded to her in several attempts to contact him. Mr. Taylor asked if the sidewalk was in the surety estimate. Ms. Harbottle said the DPW said the sidewalk was complete. Mr. Kenny offered that the 1993 list of items for completion seemed complete, but things have deteriorated since then. Mr. Vogel asked what the surety could be used for. Ms. Harbottle said that it can be used for road and infrastructure that were part of the subdivision plan when indicated on the list of items remaining to be completed. Mr. Vogel asked if the developer thought that money was being held unjustly, wouldn't he have come back by now? Ms. Harbottle said the surety should have been given back or the Town should have pursued the surety which is approximately \$59,000. Mr. Limbacher asked for a field review of the three catch basin area as three would not normally be eliminated and asked if Town Counsel had a clear answer if surety could be used for the path. Chairman Pritchard said it sounds like the request is to fix a walk that was not installed correctly. Ms. Harbottle said the walk might be less of a problem, but we will need something more from Amory Engineers indicating the walk was not built correctly. She said the walk is very sketchy on the plan, but there is a note to say build to subdivision guidelines. Mr. Kenny said that would be a 6' walk build to the Town specifications.

Ms. Burbine said Town Counsel should get involved as the walk wasn't built right and there are three catch basins missing. She said the developer should be sent a letter with 30 days to take action. Chairman Pritchard said he was concerned about the walk, pooling in the cul-de-sac and the three catch basins. Ms. Harbottle asked if there were any other concerns for completeness as this is the first time puddling is being mentioned. Mr. Kenny said the electric pole, puddling, the walk and the as-builts. He said he thought the engineer was to come up with a list of items not completed based on plan and field review. Mr. Kenny said the catch basins were supposed to be at the high point going into the cul-de-sac. The question of maintenance surfaced. Ms. Harbottle said the Town maintains the water and sewer up to the house connections and drainage is not maintained by the Town as the road is not accepted. Mr. Kenny said there is no Homeowner's Association. Ms. Harbottle said the developer may still own the road, but she will find out. Ms. Harbottle said she would talk to Town Counsel. She also indicated that on the information that Mr. Kenny provided at the beginning of the meeting, the three catch basins he refers to are missing are not catch basins but concrete bounds. Mr. Taylor said that puddling still needs to be addressed. Chairman Pritchard said Ms. Harbottle will pursue the issue and report back to the Board.

Reconsider Community Preservation Committee (CPC) letter of support on Maxwell Trust Land

Documents

- Map of Maxwell Trust land for acquisition
- 2-15-16 letter to Town Clerk on CPC purchase of two Maxwell Trust parcels

- Email from Laura Harbottle to the Board dated 2/19/16 with link to CPC website, 2002 CPC application and minutes on the discussion of the Maxwell Trust land

Chairman Pritchard indicated that Ms. Burbine asked for the item to be discussed with the full Board as the CPC will be voting soon and there is additional information to consider. Frank Snow of the Conservation Commission and Cynde Robbins of the Maxwell Trust were present. Mr. Snow indicated there are two remaining parcels off Bates Lane owned by the Maxwell Trust that the Trust would like to sell to the Town. He said the two parcels of 26.8 acres were originally part of 90 acres that are within the care and custody of the Conservation Commission having been purchased with CPC funds. Mr. Snow said in the 80's Toll Brothers had options to purchase the land, but decided not to pursue development. He indicated the two pieces of land were originally part of the Moncy property which the Town acquired three of the five parcels. Mr. Snow said the large unfragmented area is good for wildlife habitat and some of the watershed goes to Bound Brook so protection from development would be beneficial for water quality. Ms. Robbins said that 2004 was the first year for the CPC and they did not have funds for all five parcels which the Moncy family indicated was an all or nothing deal. She said the Town bought three and asked the Maxwell Trust to purchase the other two with an idea that the Town would buy them from Maxwell at a later date. She said in the past 12 years there have been nine open space projects and the Trust did not want to interfere with other owners so they did not come forward until now. She said there are no other open space requests before the CPC this year. Mr. Snow said developability was discussed at the last meeting and it is possible that the first lot could be developed into an estate lot. Chairman Pritchard asked why Maxwell would let that happen and said it shouldn't be part of the conversation. Ms. Robbins said the Trust has a loan for the land that needs to be paid back. She said they are asking for the same amount of money that they put out to pay for the land. She indicated this would complete the Bates Lane area that the Town has spent \$5 million on and spending \$389,000 is like "putting the roof on the house".

Mr. Taylor asked if the Board is being asked for a recommendation. Chairman Pritchard said this has already been discussed and voted, but Ms. Burbine said there was new information and wanted the Board to hear it. Ms. Burbine said there were concerns from the CPC about the promises made 12 years ago and is the current CPC held to it when there is nothing in writing. Ms. Harbottle said she listened to the tapes from the 2003 Town Meeting and there was some discussion on the five parcels and then the three parcels purchased. She said there was nothing explicit and the vote was quickly done. Ms. Burbine offered that Karen Connolly, Chair of the CPC, wanted an appraisal before Town Meeting, but decided to wait until after a Town Meeting vote. There was concern about the appraisal coming in for less than the value of the land. Ms. Robbins said there is no reason to think the appraisal would be lower, but if it did the Maxwell board would need to decide whether to sell. Mr. Snow indicated that he has previously served on the CPC and all previous appraisals and surveys have been done after a Town meeting vote and believes that should be the process here. He said the survey and appraisal process is lengthy and the Town can't buy the land unless it can be quantified in a survey and appraisal so the vote will have to be a not to exceed price vote. He said basically the price is about \$14,500 an acre which is not a lot of money. Ms. Burbine said that there were only three members of the Board present when the vote was taken and she wanted full board participation as the CPC liaison.

Mr. Taylor opined that he was in favor of the proposal as it completes the contiguous open space and it makes sense to preserve it now. Chairman Pritchard said that with the Trust owning the land now it is preserved and if they sold to a developer it would break from their mission. Mr. Snow said in many cases when land needs to sell quickly a land trust steps in to expedite the sale. He said the

timing is good for the Trust to sell the land to the Town and put their money to other uses. Chairman Pritchard said if there is a commitment from the past he has no problem honoring it, but the appraisal and surveys will be needed before the closing. Ms. Robbins said the Trust used their endowment to buy the land and now needs the money to pay off the loan to go forward. Mr. Vogel said he was in favor of the purchase and the price seems like a bargain. Mr. Limbacher concurred with what Mr. Snow was saying on the appraisals and indicated it makes sense to buy the parcels. Mr. Greene concurred that it completes the puzzle. Ms. Burbine offered that if the application were kept simpler to the CPC it would have been better and thinks the proposal should move forward. Chairman Pritchard offered that there should be written documentation of any agreements for future buy backs. Ms. Robbins indicated the Trust has learned a lot since 2003. Mr. Snow commented that both Maxwell Trust and the CPC have worked hard to protect open space in the Town.

Mr. Taylor moved to unanimously endorse the CPC article regarding the purchase of the two Maxwell Trust parcels on Bates Lane at the 2016 Annual Town meeting and the Planning Board motion to be read at Town Meeting. Mr. Vogel seconded the motion. Motion was unanimously approved with all five members and the alternate member in support.

Minutes

Mr. Taylor moved to approve the meeting minutes of 2/11/16. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Liaison Reports

Mr. Limbacher said that the EDC provided some financial support for the Scituate Harbor Merchants Association's booth at the Boat Show and there was a good amount of interest in Scituate. He indicated he thought that the money spent to produce the video shown was money well spent.

Town Planner Report

Ms. Harbottle indicated that the Hazard Mitigation Plan will be more detailed than before as FEMA has set the standards higher and the Scituate is doing more for coastal protection. She said there is a meeting Tuesday March 1 at the GAR Hall on hazard mitigation. She said by having an active plan is a requirement for the Town to go to FEMA for grants i.e. for foreshore protection.

Stormwater Bylaw and Regulations – debrief from public hearing

Documents

- 2-11-16 comment from NSRWA
- Email from Laura Harbottle to the Board dated 2/19/16 with 2/18/16 changes to criminal/noncriminal general bylaw and 2/19/16 revisions to the Stormwater General Bylaw

Ms. Harbottle indicated that the couple of changes that were brought up at the public hearing have been incorporated into the revised bylaw dated 2/19/16. She asked that the Board formally vote on the Stormwater Bylaw and the Non-Criminal Disposition as the final copies are due to the Town Administrator tomorrow. She indicated that the Board of Health and Conservation Commission have a few changes that will also be include in the Non-Criminal Disposition bylaw.

Mr. Taylor moved to approve the Town of Scituate General Bylaw Section 32050 Stormwater dated 2/19/16 which reflects input from the public hearing as well as General Bylaw Section 10230 Criminal and Non-Criminal Disposition of By-Law Violations. Mr. Limbacher seconded the motion. Motion was unanimously approved by the full board.

Old Business and New Business

Documents

- Email to Board dated 2/18/16 from Karen Joseph with agenda for 2/25/16 and 2/11/16 meeting minutes
- Email to Board dated 2/19/16 from Laura Harbottle with contract for MBTA pole review
- Emails to Board dated 2/25/16 with amended agendas

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 8:52 p.m. Mr. Limbacher seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph
Planning Board Secretary

Richard Taylor, Clerk
3-10-16
Date Approved