

**TOWN OF KITTERY
JOINT PLANNING BOARD & COUNCIL WORKSHOP
Council Chambers**

APPROVED
Thursday, February 26, 2009

Workshop began at 6:07 p.m.

PB Members Present: Joseph Carleton, Ernest Evancic, Michael Luekens, D. Scott Mangiafico, Douglas Muir, Russell White

PB Members Absent: Megan Kline

Council Members Present: Gary Beers, Glen Shwaery (Council members left workshop at 6:55 pm)

ZBA Members Present: Craig Wilson

Conservation Commission: Earldean Wells

So. Maine Regional Planning Commission (SMRPC): JT Lockman

Staff: Sandra Mowery, Town Planner; Mike Asciola, Planning Office

ITEM 1 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Workshop – Shoreland Zoning – The mandatory Shoreland Zoning Act (Act), 38 M.R.S.A. Section 435-449 and the guidelines for the Board of Environmental Protection require municipalities to adopt shoreland zoning ordinances consistent with, or no less stringent than, the minimum guidelines set forth in the Act and by the Board of Environmental Protection. The Town administration, endeavoring to incorporate State recommendations for the Shoreland Zoning ordinance proposes to amend *Section 16.08.20 – Definitions, General Development Requirements - Article III. Nonconformance, delete Section 16.32.490 – Shoreland Zoning*, and create a new *Chapter 16.34 – Shoreland Zoning*.

JT Lockman, SMRPC, summarized the Shoreland Zoning and map requirements of the DEP, per Chapter 1000. He illustrated the issues, definitions and requirements regarding wetland, resource protection, floodplain, shoreland areas, etc. in Kittery that will need to be mapped and included in the ordinance to meet State requirements. Allowed development, lot coverage, and required buffers in these environmental zones were presented and discussed. Board and Council members reviewed the draft shoreland zoning ordinance that included the existing ordinance, state recommended language and proposed amendment language.

Mr. Beers inquired about CFMA (Commercial Fishing and Maritime Activities) uses, specifically piers and restaurants. Mr. Lockman responded that the DEP would place restaurant use in a general development area, and that CFMA's would refer to sailing, fishing and related activities. If the Town wishes to combine uses in the CFMA, a proposal to Mike Morris at the DEP should be made. The DEP recognized land use districts in the Shoreland Zone were reviewed and discussed as they relate to Kittery's uses. Mr. Beers asked about vernal pools. While they are not included in shoreland requirements and are not mapped by the State or by Towns, the DEP requires permitting prior to development.

It was unsure if a comprehensive Timber Harvesting section is needed in Kittery's ordinance. Mr. Lockman stated that most communities have adopted the simplest set of standards with the automatic repealer that is keyed to a date in the future when timber harvesting in the shoreland zone is turned over to the State. Towns find this the most effective way to handle the issue as the State has experts in this area and the town's code office will not be required to monitor timber harvesting, which can be complicated. Discussion followed regarding timber harvesting, repeal language, enforcement, etc.

Board members decided, with a show of hands, the following action regarding Timber Harvesting in the Shoreland Zone ordinance:

Option 1: Repeal all timber harvest provisions, with the Maine Forest Service eventually administering and enforcing timber harvesting in the shoreland zone in Kittery (6 in favor);

Option 2: Adopt the new statewide standards verbatim, with Kittery administering and enforcing timber harvesting with Maine Forest Service assistance if desired (0 in favor);

Option 3: Retain the existing standards, administer and enforce harvesting with no assistance from the Maine Forest Service (1 in favor).

It was discussed that any new definitions be included in the shoreland ordinance section vs. including in one ordinance definition section to avoid confusion where existing ordinance definitions differ from shoreland definitions. Board Members decided to split up the review of the ordinance for discussion at the next ordinance review meeting (March 26, 2009). Edits need to be provided to the Town Planner for inclusion by March 12, 2009. Mr. Lockman recommended that edits be as close to the DEP language as is possible so that the DEP does not return the ordinance for unacceptable changes.

Ms. Wells – pages 1-11
Mr. Mangiafico - pages 12-20
Mr. Carleton - pages 21-25
Mr. Evancic - pages 26-31
Mr. Luekens - pages 32-36
Mr. Muir - pages 37-40
Mr. White - page 41-44

Break

ITEM 2 - Amendment to Title 16 Land Use and Development Code Zoning Ordinance – Workshop – Post-Construction Stormwater Ordinance – The mandatory Post-Construction Stormwater Management Ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Kittery, Maine through review of post-construction stormwater management plans and monitoring and enforcement of compliance with such plans as required by federal and State law. This Ordinance establishes methods for post-construction stormwater management in order to comply with minimum control measures requirements of the federal Clean Water Act and State law. The Town administration, endeavoring to incorporate State recommendations for the Post-Stormwater Ordinance proposes to amend Title 16.28.380 through 16.28.500.

Mark Bergeron, Sevee & Maher Engineers, reviewed the prepared ordinance draft and summarized the major changes. Mr. Carleton asked about definitions and conflicts with existing definitions. Board members reviewed and discussed the proposed changes. Mr. White highlighted a few issues that remain to be addressed:

- review of new definitions to confirm they are not contradicting existing ordinance definitions
- update the reference to “logging roads”
- assure there is a provision in place for inspection of BMPs during construction.

Because this ordinance is so far along, it was decided that this would not be further reviewed at the March 26, 2009 meeting, reviewing only the shoreland ordinance. The codified version of this ordinance will be made available at a joint Council/Planning Board workshop on April 23, 2009.

The Workshop ended at 8:40 pm

Minutes: January 22, 2009

Mr. Mangiafico motioned to accept the minutes of 1/22/09 as presented
Mr. Evancic seconded
Motion carries with Mr. Luekens abstaining

Minutes: February 12, 2009

Mr. Mangiafico motioned to accept the minutes of 2/12/09 as amended
Mr. Carleton seconded
Motion carries with Mr. White & Mr. Muir abstaining

PLANNERS TIME

The Town Planner discussed the shoreland zoning map and the GIS map.

Mr. Mangiafico motioned to adjourn

Mr. White seconded

Joint Workshop of February 26, 2009 adjourned at 9:02 pm

Submitted by Jan Fisk, Recorder, March 4, 2009