

**TOWN OF HADDAM
PLANNING AND ZONING COMMISSION
PUBLIC MEETING
TOWN HALL
21 FIELD PARK DRIVE, HADDAM, CT
THURSDAY, 15 AUGUST 2019
UNAPPROVED MINUTES
*Subject to Approval by the Commission***

ATTENDANCE

X	Gina Block
X	Steven Bull, Vice Chairman
X	Michael Farina
X	Frank (Chip) Frey
X	Jamin Laurenza, Chairman
X	Wayne LePard
A	Edward Wallor, Secretary
X	Liz Bazazi, Alternate – Seated
A	Robert Braren, Alternate
A	Sam Todzia, Alternate
X	Bill Warner, AICP, Town Planner
X	Bunny Hall Batzner, Recording Clerk

1. Call to Order

Mr. Laurenza, chairman, called the meeting to order at 7:00 p.m.

2. Pledge of Allegiance

The pledge was recited.

3. Attendance/Seating of the Alternates

Attendance was taken and all regular members as well as alternate member, Ms. Bazazi, were seated.

4. Additions/Corrections to the Agenda

Ms. Bazazi requested the following additions: Solar Planning & Zoning, Industrial Planning & Zoning, and Charrette. Items to be added under New Business as Item 7 - b, c, and d, respectively.

MOTION: Gina Block motioned to add the aforementioned items to the 15 August 2019 agenda. Liz Bazazi second. Motion carried unanimously.

Mr. Bull stated as chairman of the POCD Implementation Committee (PIC), he would like to make a brief report on PIC's progress. Mr. Laurenza stated it would be discussed under Chairman's Report.

5. Public Comments

Melissa Schlag stated she was glad the Commission was looking into establishing by-laws and she would like to see the following added: 1) Any full member who is going to be absent may choose from the alternates who replaces them. Ms. Schlag stated this is something that's already in existence on the Zoning Board of Appeals (ZBA) and Board of Finance (BOF). 2) Having Public Comment at the beginning and end of a meeting. Ms. Schlag stated she or anyone else is unable to comment or question matters that have been discussed during the meeting and a second public comment section would allow for that.

Ms. Schlag distributed and read a letter, dated 08.15.2019, to the Commission in regard to unseated alternates (Exhibit A; copy on file with the minutes in the Town Clerk's Office). Ms. Schlag noted the letter is in response to what happened at the 08.01.2019 meeting in respect to the alternates who were not seated. In her letter, Ms. Schlag urged the Commission to make a decision on how to go forward with unseated alternates noting that an unseated alternate speaking during a public meeting could be classified as improper, it is not on its own illegal and that statutory language does not preclude an unseated alternate from speaking or participating during a public hearing or meeting. Ms. Schlag cited *Komondy v. Zoning Board of Appeals of the Town of Chester (CT)*.

Mr. Frey stated as a member of the public, he would like to respond to Ms. Schlag's comments. Mr. Frey stated Ms. Schlag was right; however, what she missed was that his comments of 08.01.2019 were not intended at Ms. Bazazi, but to Ms. Schlag. Mr. Frey stated although Ms. Schlag is entitled to her opinion, he had quoted case law after he was informed that the Commission was subjugating themselves towards a lawsuit by two other attorneys; and hopefully, in the future the Commission will not do that. Mr. Frey also stated he consulted with two separate attorneys and they agreed. Mr. Frey stated he wished Mr. Wallor were present as he was familiar with the case because Attorney Mark Branse had instructed him during planning and zoning classes on this matter. Mr. Frey stated what was missed was when the motion is made and seconded, the discussion is held to the seated members only. Ms. Bazazi stated that's correct. Mr. Frey stated an alternate can speak, but there's a limit. Mr. Frey passed a heated comment at Ms. Schlag and Mr. Laurenza stopped the conversation and closed the Public Comment portion of the meeting. Mr. Laurenza warned all parties that if further conversation continued and anyone got out of order, he would call the police and the offending party(ies) would be escorted out of the meeting.

6. Public Hearings/Public Meeting

There were no public hearings scheduled.

7. New Business

a. Discuss Need for and Review Draft Administrative By-Laws.

Mr. Warner distributed draft copies of proposed by-laws (Exhibit B, 10 pages; copy on file with the minutes in the Town Clerk's Office). Mr. Warner stated he consulted with Richard Roberts, a land use attorney with Halloran and Sage, who indicated that by-laws are a good thing for commissions to have, but nothing in by-laws is ever an issue until it becomes an issue; however, it's better to know what the rules are in advance.

Mr. Warner showed the Commission a copy of a fourth edition planning and zoning book by Attorney Thomas Byrne (considered by many as the planning and zoning bible) and read from the book regarding by-laws. Mr. Warner stated in preparing the draft he reviewed the town's Charter, Ordinances, Connecticut General Statutes, and by-laws from Andover, Middletown, and Farmington. Mr. Warner explained that by-laws have to be presented at one meeting and voted on at the next meeting. Mr. Warner began his review.

Article I – Purpose - Set forth in Chapters 124 - Zoning and 126 - Planning in the Connecticut General Statutes (CGS).

Article IV – Definitions - Mr. Warner pointed out the powers and duties of an alternate when seated. In the event of a controversial application, the Commission needs to make it clear that it's a seven member board in order for the applicant to know who to make the presentation too. The Code of Ethics was briefly reviewed. Mr. Warner stated he did not agree with a full member being allowed to select the alternate to be seated on their behalf, but rather a rotation of alternates (to be noted on the bottom of the agenda so there is no confusion).

Article V – Membership – Mr. Warner reviewed Section 3 - alternates, when not seated, are free to participate in all aspects of a public hearing but shall not participate in the making of the motion or deliberations on any other matter. Ms. Bazazi asked for clarification regarding deliberations and when she would be allowed to speak. Mr. Warner stated once a hearing is closed, a motion should be made, and unseated alternates should not speak. Ms. Bazazi asked Mr. Warner if she should leave the table and sit in the audience in order to speak. Mr. Warner stated no, and what the Commission needs to be very careful about is the private development applications. Mr. Warner stated he will consult with the town's attorneys to clarify this matter. Ms. Bazazi stated she did appreciate Mr. Frey for bringing up the court ruling and that she had read it; however, she was confused about the word deliberate. Ms. Bazazi stated she is trying to figure out, as an alternate, when she's allowed to talk when she's not seated. Mr. Warner stated during the public hearing she would be allowed to speak. Mr. Frey stated his experience in Madison was the alternates sat in the front row. Mr. Warner didn't agree; and suggested the alternates all sit together at one end of the table and with the notation on the agenda (it should make the matter clearer).

Article VI – Officers and Their Duties – Discussed the officers' powers, the absence of the chairman (vice chairman, secretary), and the secretary reading the legal notice.

Article VII- Election of Officers - Officers to be elected at the first meeting in December (town planner would open the meeting) and the resignation process.

Article VIII – Meetings – Mr. Warner reviewed the meeting process. **Agenda** - Ms. Bazazi felt a time frame should be added in regard to receipt of an agenda. Mr. Warner didn't think so. Mrs. Batzner stated an agenda has to be posted on the Town Clerk's bulletin board 24 hours in advance of a meeting. After a brief discussion, no additional wording will be added. **Disqualification** - Mr. Warner talked about a member disqualifying themselves and to state the reason(s) why in the event of a potential conflict. Ms. Bazazi asked for the difference between abstaining and disqualifying. Mr. Warner stated a member who abstains is still sitting on the board and talking; whereas, one that disqualifies themselves moves away from the table. Mr. Frey stated during a presentation conducted by Bruce Hyde, UConn Land Use Academy, on 09.20.2018, he discussed two cases in Connecticut related to an abstaining member - one judge found it to be a no vote and the other a yes vote. **Participation in hearing or decision** - Mr. Warner talked about members being completely familiar with the subject matter prior to voting, therefore, if a member has been absent, they should have listened to the audio and reviewed all documents (to be stated on the record) in order to vote. Discussion followed.

Article IX – Order of Business – Discussion followed in regard to the setup of the agenda: 1) public hearings being held one after another and then the meeting portion to follow (Commission preferred to hold the hearing and meeting for each item one after another); an additional public comment section (the public is allowed to speak during a hearing, but not during the meeting; felt a second public comment section not needed, but will discuss again at the next meeting).

Article XI – Public Hearings - Mr. Warner stated during the public hearing, there should not be a conversation between the public and the applicant. The question may be asked through the chairman, but no back and forth between the applicant and a commissioner or individual seated in the audience. **Receipt of Additional Information** – An applicant should submit all information prior to a hearing. The chairman can say no to the submission of information on the night of a hearing as the public and Commission would not have time to review it. If the applicant wants to submit additional information, it can be done, but the hearing should be continued. **Public Comment During a Hearing** – Discussion followed in regard to Roberts Rules outlining that the public be given an opportunity to speak; allowing a five minute limit for each person; and controversial hearing/meetings that can become quite lengthy. Ms. Bazazi stated during the Board of Education (BOE) meetings, the public felt they were cut off and were not heard; and that she would like language that would allow the chairman the discretion to permit additional time for public comment. Mr. Warner stated he wrote the comment down (document to be revised). Mr. Warner discussed the proper manner in which people should address the Commission; how to vote

(show of hands cannot be reflected on an audio recording); and the chairman assuring an orderly hearing is conducted and take the necessary steps to maintain order (reserves the right to have a person removed or terminate the hearing in the event the discussion becomes unruly or unmanageable or in the event of personal attacks directed towards any person present).

Article XII – Procedure - Voting - Mr. Warner reviewed with a brief discussion following in regard to executive session (can only enter for the specific reasons identified in the Statutes; covered on page 5, Article VIII - Meetings, Section 6). Mr. Frey clarified that the public could not record an executive session. Mr. Warner stated no, as the public is not allowed to attend an executive session, no minutes are taken, and no votes are taken.

Article XIII – Employees – Mr. Warner reviewed noting that these are the Commission's own rules and the Board of Selectmen (BOS) does not have to follow them. Ms. Bazazi asked how the Zoning Enforcement Officer's (ZEO) position works and when does the ZEO get called in. Mr. Warner and members of the Commission explained. Mr. Warner stated the ZEO reports directly to him and to have him come to a meeting would be redundant.

At the conclusion of his review, Mr. Warner stated he would place this item on the September agenda for discussion (no hearing required) and the Commission can vote on it.

Ms. Bazazi stated she wanted additional information added such as Roberts Rules, CGS, the Town's Charter, a mission statement, POCD, and to define some of the questions she had. Mr. Warner stated to do what she is requesting would be a large handbook and he's already referenced the statutes, etc. Mr. Laurenza asked about the training session. Mr. Warner stated the basic training has conclude for the year; however, an advanced training workshop is scheduled for Saturday, 10.26.2019, 8:30 a.m. to 3:00 p.m., UConn Extension Center, 1066 Saybrook Road, Haddam. Ms. Bazazi stated she doesn't want something that complex. Mrs. Block stated she agrees with Ms. Bazazi noting that it may be beneficial to have things that come up consistently put in print.

In regard to the POCD, Mr. Bull briefly talked about the PIC; and although it was not done this year, the committee is supposed to come before each commission to orient them on the POCD during January or February.

Ms. Bazazi stated she has read that the Commission is supposed to do active outreach to the community, find out what the community wants, and then enact it by incorporating it within the zoning regulations. Mr. Warner stated that is not the case, and that planning and zoning is established by statute and the statutes outline exactly what the Commission can do. The Commission cannot go beyond that and come up with new strategies of how they want to handle matters. Mr. Warner made it clear that Connecticut is a home ruled state, legislative rules – Chapters 124 - Zoning and 126 - Planning – and it says exactly what the Commission can do. Mr. Bull stated he consults the regulations related to an application prior to a hearing. Ms. Bazazi stated she will prepare something for the next meeting.

b. Solar Planning and Zoning

Ms. Bazazi stated she read an article regarding Connecticut working on legislation regarding solar energy systems (SES), commonly known as solar farms, and felt Haddam should be prepared (improve our regulations).

Mrs. Block asked Ms. Bazazi if she were aware of timing. Ms. Bazazi was not. Mr. Warner stated he would like to see the article.

Ms. Bazazi would like to see sites identified for solar farms. Mr. Frey stated the sites have certain requirements per the Utilities such as three phase electricity. Mr. Warner stated he and the Commission do not have the ability to understand siting requirements for a solar farm and that's the purpose of the Siting Council and solar companies. Ms. Bazazi asked for an expert to speak to the Commission.

c. Industrial Planning and Zoning

Ms. Bazazi stated she brought this up before and there are supposedly no sites; however, Mr. Warner has done some work locating sites for a new town garage and these sites would be conducive to other uses (light industrial) and she would like to revisit this matter. Mr. Frey suggested Ms. Bazazi review the minutes a year back from when she was appointed to the Commission as this subject has already been discussed. Mr. Warner stated Rutty Ferry Road is not conducive to industrial as Eversource will not allow access to private individuals to the property. Discussion followed in regard to the POCD, the planning process, and how Mr. Warner had looked at possible locations and there is no location due to rugged land. Ms. Bazazi didn't feel it was thoroughly investigated. Discussion followed.

d. Charrette

Ms. Bazazi asked about the timing of the charrette. Mr. Warner stated the grant application is complete and he's trying to get on the State Historic Preservation Office's (SHPO) September agenda. A resolution from the BOS and BOF are needed first and if not done, it will be pushed off to November or December. Ms. Bazazi asked if a subcommittee can be formed to look into the matter. Mr. Warner agreed one should be formed, but believes individuals from Haddam and Higganum should be included not just P&Z. Mr. Warner explained how the matter would go forward – grant funding, Request for Proposals (RFP) for consultants, consultant hired, work with members of the Commission, EDC, and residents of Higganum.

8. Approval/Correction of the Minutes

Prior to the vote, Mr. LePard spoke in regard to the Ordinance for the Issuance of Bonds, page 7, second paragraph, not fully stating what he and Mr. Warner had discussed - that the minutes would explain that the Commission was really talking about approximately \$3.5 million in infrastructure. Mr. LePard felt it would have been better if the Ordinance had said "endorsed the infrastructure that's included in the bond". Mr. Warner stated that a specialized attorney with the Bond Council writes the Bond Ordinance for P&Z to give it an 8-24 Report. Mr. Frey asked Mr. LePard if the minutes reflected what took place at the meeting; and stated he (LePard) could oppose the minutes. Mr. LePard stated he's not opposing them.

MOTION: Steve Bull motioned to approve the 1 August 2019 Public Meeting minutes as submitted. Chip Frey second. Motion carried unanimously.

9. Chairman's Report

PIC Report - Mr. Bull reported that PIC is in the process of reporting to the town for the annual report. The agencies that have not yet provided their reports are: Board of Selectmen, Conservation Commission, Park and Recreation, and Public Works.

10. Scheduling of Hearings

Mr. Warner reported there are no hearings scheduled at this time.

11. Town Planner's Report

Town Garage Site Visits, Saturday, 24 August 2019 – On agenda but not discussed.

(Recording Clerk's Note: Site walks will begin at 9:00 a.m. at the current Town Garage (103 Depot Road), 9:30 a.m. move to the Rossi property (across the road from the Town Garage), 10:15 a.m. drive time to Rutty Ferry Road property with review beginning at 10:30 a.m. These visits are open to the public; however, they are informational only. The Commission can walk the site, listen to the owner of the property and ask questions of the owner and staff. There is no public comment. The Commission should stay together so you are all hearing the same information. Copy of site walks agenda available in the Town Clerk's Office.)

HES – Latest Concern – Mr. Warner reported that he went to HES last week and that it was very hot and humid on the outside and much hotter and humid on the inside. The building was completely buttoned up and no ventilation whatsoever. Mrs. Block asked if the BOE just shut the building down. Mr. Warner stated he sent an email to the assistant superintendent and Joanne Nesti, Chairman, BOE, who have assured Mr. Warner that they are addressing the issue. Mr. Warner stated he suggested that a pre-closing walk-through be included in the purchase/sale agreement as the Town wouldn't want to find a room full of mold. Mr. LePard asked if there's an issue with insurance regarding an unoccupied building and asked what provisions the Town is making for this. Mr. Warner stated it's a good point. Mr. Warner stated the building cannot remain unoccupied as stuff happens.

12. Adjournment

MOTION: Jamin Laurenza motioned to adjourn. Wayne LePard second. Motion carried unanimously.

The meeting was adjourned at 8:50 p.m.

Respectfully Submitted,

Bunny Hall Batzner

Bunny Hall Batzner
Recording Clerk

The next meeting is scheduled for Thursday, 5 September 2019.