

**CITY OF LEWISTON
PLANNING BOARD MEETING
February 24, 1998**

Meeting called to order at 6:05 PM

I ROLL CALL

Members Present: H. Milliken, H. Skelton, T. Peters, D. Knowlton, M. Paradis, L. Zidle (arrived at 6:15) Student Members: Shaad Masood and Robinson Sawyer.

Staff Present: J. Lysen, G. Dycio, D. Ouellette, E. Friedman, R. Murleady, A. Turgeon.

II EXECUTIVE SESSION

A. Review of Planning Board Rules and Procedures

B. Discussion of Role of Student Members

MOTION: by T. Peters, seconded by D. Theriault to go into executive session to discuss rules and procedures and the role of student members.

VOTE: 6-0.

Executive Session at 6:06.

Returned back in regular session at 7:08 PM

II READING OF THE MINUTES - Minutes of January 27, 1998.

T. Peters noted that there needed to be a clarification on page 9 of the minutes. He said regarding the islands, it should read Russell Street, not Farwell Street.

MOTION: by H. Skelton, seconded by T. Peters to accept the minutes as written with the above correction and placed on record.

VOTE: 7-0.

Planning Board Rules and Procedures

D. Theriault said when student members are appointed by the mayor they will enjoy full honorary board privileges and should be extended the same courtesy as full board members. The only exception is that they have no voting privileges. Student members will have full access to information as regular board members and receive meeting information packets as regular board members. Student members will conduct themselves appropriately

D. Theriault said the wording under Rules of Procedures should include "or during the year should the need arise" under number 10. He also asked that the above wording regarding students members be added as number 11 to the Rules of Procedures.

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MOTION: by D. Theriault, seconded by T. Peters to accept the Planning Board's Rules and Procedures as amended and to add the language regarding the student members of the Planning Board to the Planning Board's Rules and Procedure Handbook and the additional language under Article 10.

VOTE: 7-0.

J. Lysen asked where the recommendation to appoint the students came from. D. Theriault said the mayor appointed the students. He noted that having student members was approved by the Planning Board and put into the Comprehensive Plan. J. Lysen asked if it was only public schools. D. Theriault said that it included other high schools as well, however, St. Dom's did not respond when approached by the former mayor.

MOTION: by T. Peters , seconded by D. Theriault to amend the original motion and place this language under item 11.

VOTE: 7-0.

G. Dycio reminded the Board that the minutes for December 16th were amended and needed a vote from the Board. The motion was incorrect and has been corrected.

MOTION: H. Skelton, D. Knowlton to accept December 16th correction and placed on record.

VOTE: 7-0.

III CORRESPONDENCE

A. Letter from Delta Engineering, Inc. regarding Rite Aid approval.

B. Memo from the City Clerk regarding City Council's Actions of February 17, 1998 requesting recommendations from the Planning Board.

C. Letter dated 2/17/98 regarding acquisition and disposition of city property.

MOTION: by T. Peters, seconded by D. Theriault to accept the correspondence, place on file and be read at the appropriate time.

VOTE: 7-0.

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IV OTHER BUSINESS

A. New Business

1. Review and discussion of request from City Council 2/17/98 meeting for a Planning Board recommendation on the acquisition of land on Lincoln Street to be used for parking for employees and customers of tenants of the Bates Mill Complex.

Present at this meeting were City Administrator Robert Mulready, Director of Development Elliot Friedman, and Development Associate for Bates Mill Complex Allan Turgeon.

B. Mulready said he did not think there was any question that communication and cooperation needed to be kept open between the City Council, LMRC and Planning Board. On January 14, 1997, the Planning Board recommended to City Council to acquire two properties that are being utilized for parking. He said the proposed land deal for the Lincoln Street property should have come before the Planning Board. He told the Board that this was discussed at the LMRC, but somewhere along the line it never reached the Planning Board, but it was not the intention. He further said that he would personally monitor to make sure that things do go before the Planning Board. He assured the Planning Board members that he will keep track of this and get it before them. He noted that this acquisition had already been approved before the subcommittees. He said there was a misunderstanding between him and the reporter and he was here to clear things up.

T. Peters told Mr. Mulready that there had been a lot of confusion about what the Planning Board should be overseeing and what it shouldn't; specifically regarding property being renovated by the City. He said he would like clarification. R. Mulready said the Planning Board should have a very important role in a complex like Bates Mills. If a convention center is going to be built, it is an enormous project and the City Council wants to work with the Planning Board. T. Peters said there needed to be a checks and balance. He noted that the Planning Board was the keeper of the Comprehensive Plan. He wants to see the role of Planning Board clarified; however, it should be done in such a way that it is not slowing down progress.

H. Milliken said he interprets the code to say Planning Board should review land use. R. Mulready said he understood Mr. Hark's letter to say it means private, not public land/buildings. He said City Council would appreciate any input from the Planning Board even if it was in an advisory capacity. T. Peters said no one on the Board is interested in leases, etc. and that they do not wish to step outside their functions. R. Mulready said he would be happy to work with the Planning Board/City Council - said the recent LACTS study should go before the Planning Board and City Council at the same time.

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D. Theriault said he feels the Planning Board has a right to review public facilities. D. Theriault asked R. Mulready if the City was a developer. R. Mulready answered yes. D. Theriault read from the Zoning and Land Use Code, the definition of "developer." It reads as follows: "*developer* means any person, corporation, municipality or other governmental agency or authority or any combination of these entities engaged in any planning or land development activity or activities aimed at using, reusing or rehabilitating air space, land, water or other natural resources." H. Milliken said he would like to go to the Maine Municipal Association to get a second opinion. D. Theriault said he went to Augusta and ran some ideas past them. He was told that Planning Board has review authority over municipal buildings. R. Mulready said regardless of anyone's interpretation, he said City Council would welcome Planning Board's input on the Bates Mill project. D. Theriault said the issue was whether or not Planning Board has review authority on municipal buildings. R. Mulready said they want the Planning Board's input whether or not the Board has authority or not. He said that City Council should have final opinion on projects, but it wants the Planning Board's input. T. Peters said that if the Planning Board is required to review these under the charter, then they don't have a choice. If they are not required then they do not need to be involved. The Planning Board needs to know if they are legally obliged to give opinions on this. R. Mulready said it needs to be put on the City Council agenda to get their opinion. D. Theriault said he felt there was too much language saying the Planning Board has authority, and does not agree with Mr. Hark's opinion.

Regarding the Lincoln Street property, D. Theriault asked for clarification of the map. R. Mulready said F X Marcotte stays. 118 is the Libby property, one empty lot, then 106 ½ and 104 and 100, E. Friedman, explained where the buildings are. R. Mulready said these lots will create parking for employees and also for things such as the balloon festival parking and eventually provide a better view of the river. D. Theriault asked if this was funding through the LCIP. R. Mulready said there is \$1.2 million for FY99. The \$1.2 includes the parking plus improvements in other buildings. T. Peters asked what specifically the Board was reviewing, not how much it cost. H. Milliken said by code the Board was required to make a recommendation for acquisition/ disposition of land; to see if the Board feels it is good judgment to do this; and compare it with the Comprehensive Plan. T. Peters said there was no way to develop the mill without parking. Tom recommended that if the Bates Mill project is to go forward, then they need parking and the Board should support this allocation. T. Peters said it was a complicated formula as to how much it is really costing the City with tax abatements, relocation of people and so forth. No one can answer what the real impact is to the City because there is not enough information yet. He does, however, strongly suggest that the buildings be torn down for parking. R. Mulready said there was sufficient money to cover that at this time. T. Peters suggested that this Board make a recommendation and that the City Council look at the financing of it.

MOTION: by D. Theriault, seconded by T. Peters to send a favorable recommendation to the City Council to acquire parcels at 100, 104, 106 ½, and 118, Lincoln Street as presented to the Board with the caveat that the Planning Board does not pass judgment or make a recommendation concerning the expenditures of the money for the acquisition since the information is still pending, not before the Board, and we will leave it for the City Council to review that. If the City Council wishes to refer it back to the Planning Board after that information is made available

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for further recommendation, we will be pleased to do so.

VOTE: 6-1 (M. Paradis).

2. Review and discussion of a City Council request for a Planning Board recommendation on proposed amendments to both the Zoning and Land Use Code and the Policy Manual where the requirements for Planning Board recommendations on the sale or acquisition of public land would be deleted in order to streamline the process and eliminate duplication of effort.

R. Mulready said that this was sent to the City Council two weeks before it was scheduled for their meeting so that they could read it and digest it before it was on their agenda. At this point, he said he was hesitant to put it on the City Council agenda. He again said that the press did not accurately represent what he had said regarding this issue. R. Mulready pointed out that the January memo was revised on February 11th. This memo was not written after Denis made the comment at the meeting of the 10th. R. Mulready said that if some of the tax acquired properties are insignificant, then they really do not need to take up the Planning Board's time. He cited several properties that were valued at \$1,000 or less, with one having a value of only \$20.00. He further stated that on rare occasions where the City Council may want to move very quickly on a property, then they should be able to waive the rule. He said he knows Mr. Milliken has suggestions as to what the amount should be, and was willing to leave it to the Board for its recommendation. T. Peters asked what he suggested for a cut-off amount. R. Mulready suggested \$25,000, thereby leaving all the small properties out of Planning Board. He also suggested using the size of the lot as a criteria, such as three (3) acres. D. Theriault asked what made the City Council think that the Planning Board could not react in a timely fashion for them and wanted to know why there was a need to make these changes. R. Mulready noted that the Planning Board agenda is already long and asked if they really wanted to go through small items. T. Peters asked if the Land Committee was going to cease looking at acquisitions. R. Mulready said the Land Committee would remain in their role. D. Theriault reminded Mr. Mulready that the Planning Board was the keeper of the Comp Plan. R. Mulready said the Plan could be amended to remove small parcel of land.

H. Milliken said what is proposed in front of the Board tonight is that the Land Committee make the recommendation to the City Council. He feels that it should be a Board that receives the recommendation from the Committee and the Board makes the recommendation to the City Council. R. Mulready said the Land Committee has three council members on it. He said if the project is \$25,000 or three (3) acres, it should go before the Planning Board. D. Theriault cited an instance where the Planning Board sent a recommendation to the Land Committee and the Committee sent their recommendation to the City Council. Without the Planning Board's presenting its recommendation, the Planning Board's position was completely left out. R. Mulready said it should come through the purchasing agent who reports to the Land Committee. D. Theriault said the Planning Director was left out of the loop, yet the Administrative Code states he should give a recommendation.

D. Theriault said he would like someone from the state level to explain what the parameters are for the Board. J. Lysen said duties and powers of the Planning Board are not consistent

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throughout the state. D. Theriault said the process as it is now should remain the same because the Board gets the job done in a timely manner. J. Lysen said that was not the problem, what are problems are the small properties like \$20.

J. Lysen said there couldn't be an amendment to the code yet. It has to be scheduled for a public hearing and be brought before the Planning Board in proper form. He also noted that the Board needed to respond to this within 30 days and it could be brought up for the March 24th meeting.

MOTION: by H. Skelton, seconded by T. Peters to direct staff to propose a draft to change the ordinance to eliminate Planning Board's review acquisition of parcels greater than two acres in size, not contiguous to properties of same ownership and properties that are assessed at less than \$20,000.

VOTE: Vote 6-1 (D. Theriault).

MOTION: by H. Skelton, seconded by T. Peters to direct staff to propose a draft to change the ordinance to eliminate Planning Board review of the disposition of parcels greater than two acres in size, not contiguous to properties of the same ownership, and which the assessed value is less than \$20,000.

VOTE: 5-2 (D. Theriault, D. Knowlton).

3. Review and discussion of proposed amendments to the Zoning and Land Use Code regarding the standards for granting appeals (modifications).

H. Milliken asked if the Board wanted staff to develop something for City Council and whether or not they wanted to get on their agenda at their next meeting or wait until the Board can make its proposal.

D. Theriault asked who wrote the land use code. J. Lysen said it was Attorney Ron Lebel. D. Theriault said he would then be the best person to check on the interpretation.

Discussion regarding jurisdiction of public property.

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MOTION: T. Peters, seconded by H. Skelton to table until the next meeting whether Planning Board has the jurisdiction for review of public property.

VOTE: 7-0.

Streamling Development Review Process

George Dycio explained that his February 23rd memo regarding proposed amendments to Article XIII, Development Review for Streamlining the Development Review Process was in their packet for their information only at this time. He said he anticipated having it in proper form at the March 10th meeting. T. Peters said it would be better for Gil to come back with the right wording. J. Lysen said this amendment would allow 25% modification to be able to be handled through Code. Between 25% and 50% modification would go before the Board of Appeals. Above 50%, other tests could be made. T. Peters said some safeguards were built in for the neighbors.

D. Theriault said the wording in the Zoning and Land Use Code, Article VII Section I(f) reads “the planning board may adopt rules of procedure and may adopt statements of policy consistent with the Charter and this Code to assist it in the performance of its functions.” D. Theriault said the language should be “the planning board shall adopt...” D. Theriault pointed out that the Charter says “shall,” whereas the land use code says “may.” He would like to see the language changed in the Zoning and Land Use Code to be consistent with the Charter language (page CDA:41 Article VII Section 3(f) of the Code).

4. Review and discussion of a possible rezoning, from Suburban Residential (SR) District to Neighborhood Conservation "A" (NCA.) District, in the Myrtle Street area, and scheduling of a Public Hearing.

D. Theriault asked who actually requested this change. George said a gentleman on Myrtle Street asked his city councilor for a shed. D. Theriault asked who the councilor was and J. Lysen answered it was Frank Kelly. J. Lysen said it was brought up as a Comprehensive Plan issue. Neighborhood Conservation says a development focus should be consistent to what is existing. J. Lysen explained that multi-family could be built in the NCA if it meets the criteria. The area that is being suggested is primarily small lots and wanted it changed from SR to NCA. The use is primarily single-family. D. Theriault stated it should be placed in proper form and brought back to the Planning Board for review. J. Lysen said this area has been inappropriately zoned in the first place; it should be NCA because of the size lots. He asked for the Board’s input and then would bring this back in proper form so that the Board could send its recommendation to City Council. J. Lysen said there would have to be a huge notification to these property owners - approximately 100 people.

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5. Review and discussion of the applicability of the Bates Mill Complex for Development Review.

No further discussion.

6. Review and discussion of the Maritimes & Northeast Pipeline Proposal.

J. Lysen said he received a packet last week from that company. He also heard from someone who said the pipeline would go right through his front entrance. Maritimes & Northeast Pipeline wants to come before the Planning Board and make a presentation. T. Peters asked if the Board had any authority to change the pipeline. D. Theriault asked for a larger map. J. Lysen said he would invite Maritime to come speak before the Planning Board.

MOTION: by H. Skelton, seconded by D. Theriault to invite Maritime Pipeline to make a presentation with appropriate visual aids at the next available time.

VOTE: 7-0.

B. Old Business

1. Proposed (Paper) Streets:

G. Dycio said he mailed out twenty letters. He has received eight so far and believes he will have ten or more by the end of the week. He said he would look at mapping these areas and getting a list of abutters. He said he was proposing a public hearing for March 24th or at the latest April 14th. He noted that Mr. Spencer is requesting 120 feet, and that perhaps the Board should look at the whole street and not just part of it. Public Works and Recreation will be looking at easements. He said he would bring the Board up to date at the next meeting. Another question that has come up is the issue of public and private rights. He said he told people to seek legal advice on the private rights issue.

2. Discussion of razoring requests and/or code amendments concerning properties along Sabattus Street (15 Riley Street - Donald Christianson).

G. Dycio said all interior lots are residential use and he would recommend it go back to NCA District. He said it should be scheduled for a public hearing. This is a HB zone and Mr. Christianson wants it to be resend to NCA.

MOTION: by D. Theriault, seconded by H. Skelton to have staff bring this back in proper form and take a look at it at that point.

VOTE: 7-0.

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3. Comprehensive Plan Update:

a) Development of a Work Plan for the implementation of the Comprehensive Plan.

b) Review and discussion of amendments to the Comprehensive Plan to respond to the review comments from the State.

J. Lysen said he had hoped to have this for the Board this evening. He said he was going through the Comp Plan component by component and bringing those recommendations that have been prioritized by the Planning Board. He said he wants to bring the implementation program and respond to the State at the same time. D. Theriault asked if it was possible to get a copy of the comments from the State. J. Lysen said he had provided this before and D. Theriault says he needed another one. J. Lysen said the language had to be strengthened, it was too watered down.

4. Proposed process to keep Planning Board informed on State & Local road improvements affecting development.

J. Lysen said he discussed this with Jeremy Evans from LACTS and Chris Branch from PW. He said he would like to have PW, MDOT or LACTS tell Planning and Staff what other improvements are on Lincoln Street.

5. Update on the proposed MDOT improvements on Sabattus Street between Campus Avenue and the Maine Family Credit Union.

J. Lysen said they had not received a response from City Council yet. Does not think a comprehensive study has ever been done from Russell Street to the Credit Union (Campus Street). D. Theriault asked if the Council received the letter from the Board. He said traffic was not shown for Holy Cross School, and it only showed traffic for the church on a Saturday evening. J. Lysen asked if he had seen any improvement in that area. D. Theriault said it still doesn't take much to cause a traffic jam. D. Knowlton said there was a problem with the right lane on Farwell Street, the sign was not far back enough.

6. Report and discussion on the Urban Enterprise District and allowed uses within the downtown area.

J. Lysen said as the redevelopment occurs in that area, there really has to be a new zone created in the downtown and really take a look at what should be permitted in that area. The area is mixed and there was talk about a sub-committee he said he would like to move this up on the agenda, it's a critical issue. D. Theriault asked what his timeframe on it was. J. Lysen asked the

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Board for a recommendation, and will bring it back to the Board. He said he would bring back before the Board for the first meeting in April.

MOTION: by D. Theriault, seconded by H. Skelton to bring the Urban Enterprise District and allowed uses within the downtown area for the first meeting in April.

VOTE: 7-0.

D. Theriault asked why **Fireslate Place** was not on this meeting's agenda with regards to the tires. J. Lysen said the tires were gone. D. Theriault asked if DEP signed off on this yet. J. Lysen said that was what he wanted Norm to give to Planning. D. Theriault asked for a copy of that and said that up until then, he wants this item to remain on the agenda.

H. Milliken asked to have something in the Board Members packets that would let them know of any other meetings for other Boards such as Board of Appeal, Historic Preservation, LMRC, etc. so that Planning Board is kept up to date with issues that may pertain to Planning Board later. He asked to have this on the Planning Board's agenda. He also said if there was anything coming up under development review that staff feels the board should know about to bring it to the Board's attention. T. Peters said the Board was just looking for a summary or a quick one sentence to let the Board know that when something was going on and that Staff felt the Board should know about.

H. Milliken also asked to get a copy of the City Council agendas. He also requested a calendar for a full year that would show when Planning Board meetings are scheduled, when the LCIP and CDBG dates were and anything else that the Planning Board needed to do by Charter could be time-logged on that calendar. It would give the Board an overall view for the year.

MOTION: D. Theriault seconded T. Peters to do have staff develop a yearly calendar for Board Members.

VOTE: 7-1 (H. Skelton).

V ADJOURNMENT

MOTION: by H. Skelton, seconded D. Theriault to adjourn the meeting.

VOTE: 7-0.

Meeting adjourned at 9:46 PM

Respectfully submitted,

Denis Theriault
Secretary

dlo