

HOPKINTON PLANNING BOARD

Monday, December 17, 2007 7:30 P.M.
Hopkinton Town Hall

MINUTES

PRESENT: Mark Abate, Chairman; R.J. Dourney, 1st Vice-Chairman; Joe Markey, 2nd Vice-Chairman; Sandy K. Altamura, John H. Coolidge, Claire Wright, Carol DeVeuve, Ken Weismantel

..... Elaine Lazarus, Planning Director
.....Cobi Wallace, Administrative Assistant

1. Maillet Woods (Hopkinton Highlands III) – Request for Extension

The Board discussed a request of the developer of the Maillet Woods (Hopkinton Highlands III) Garden Apartment development on Overlook Road for a 2-year extension of time to complete the infrastructure. No representatives of Maillet & Son, LLC, developer, were in attendance. Ms. Lazarus stated that there are no problems on the site. Mr. Weismantel referred to the developer's request made earlier this year for a modification to the lighting plan and asked if changes were ever made. Ms. Lazarus replied no. Ms. Altamura stated she prefers to limit the extension to one year and Ms. DeVeuve agreed. The Board voted unanimously to grant an extension of time to complete the Maillet Woods (Hopkinton Highlands III) Garden Apartment development to December 31, 2008.

2. Other Business

- ***Minutes*** – The Board voted unanimously to approve the Minutes of the December 3, 2007 meeting.
- ***Bills*** - The Board voted unanimously to authorize payment of outstanding consultant invoices.
- ***Liaison Reports*** – **Housing Committee Update** – Mr. Markey stated the Housing Committee met last week. He noted the Committee is looking at an additional 240 affordable housing units as part of the proposed Legacy Farm development and is trying to get started on a Request for Proposals for the affordable housing on the Fruit Street property. He stated the Committee reviewed the development of 12 affordable units proposed the Hopkinton Housing Authority on property owned by the State adjacent to the Hopkinton Senior Center. He stated the Committee initially thought the Town did not have to contribute financially to the project but has now found out that the Housing Authority is going to the Community Preservation Committee (CPC) with a \$500,000 funding request. Mr. Coolidge, Chairman, CPC, stated that the request will be discussed on January 17, 2008. Mr. Weismantel questioned why CPC money should be used to fund a State project. Ms. Lazarus stated the construction costs have escalated and even though this is a State project it will benefit the community. Mr. Markey noted that it comes down to a contribution of \$30,000 per unit and the Housing Committee felt this would be a good use of CPC housing funds. He stated that

the Housing Committee voted to support the request for CPC funds. Ms. Altamura asked why there is now a need for additional funding, and Mr. Markey stated that the Housing Committee asked the same question and has asked to see the original agreement and other documentation. Mr. Coolidge noted that the request submitted to the CPC did not include any backup information.

- **Planning Board Staff** - The Board thanked Elaine Lazarus, Planning Director, Cobi Wallace, Administrative Assistant, and Anna Rogers, Secretary, for their hard work and dedication throughout the year.

3. Drowne Family (Leon Lane) Definitive Subdivision (Saddle Hill Rd.)

It was noted that the public hearing for this application was closed on October 15, 2007 and a decision is due by January 9.

Mr. Coolidge stated that Nancy Mercer, Drowne Family Trust, applicant, had asked him for help in writing the letter they sent to the Board of Selectmen with respect to the proposal to donate the adjacent parcel to the Town for open space purposes. Ms. DeVeuve stated she read the letter from the applicant and has no problem with the wording. Mr. Weismantel asked about the back land around an existing barn, and Ms. Lazarus stated the issue seems resolved. Ms. Wright noted that the Homeowners Trust documents have been submitted and the Stormwater Operations and Maintenance Plan should be part of it.

The Board discussed other subdivisions with dead end streets in Town, and Ms. Lazarus stated there were exceptional circumstances in those cases. She stated that the Drowne Family Trust states they have created an exceptional circumstance here in the form of a permanent open space donation to justify approval of a conventional subdivision with a long dead-end street. Ms. Wright asked about the “Drowne Preserve” name and whether this means there will be a development sign. Ms. Mercer stated it was suggested that they give the land a name. Mr. Coolidge stated there will probably be a small sign similar to the one used to identify Berry Acres on West Main Street. It was determined that the name and the sign would be to identify the conservation land, not the development itself. Mr. Coolidge stated that it would be to recognize the Drowne family for donating the land. Mr. Weismantel moved that the Board approve the plan with conditions. The Board discussed the timing of the land donation, and Mr. Coolidge stated that it could take up to 6 months to get a Conservation Restriction done. Ms. Lazarus stated the Town can only accept land donations at Town Meeting. She noted that Town Meeting can vote to accept the land, and conveyance can take place later, when everything is in order. The Board voted 7 in favor, and 1 abstention (Dourney) to approve the Drowne Family (Leon Lane) definitive subdivision plan with the following conditions:

1. After finding that it was in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law, the Planning Board waived strict compliance with the following provisions of the Rules and Regulations Relating to the Subdivision of Land (the “Subdivision Regulations”), in accordance with Section 81-R of the Subdivision Control Law and Section 7.1 of the Subdivision Regulations.
 - a. Operation and maintenance fees to cover the cost of maintenance of the stormwater management system are not required to be held by the Town as the road will remain a private way (Subdivision Regulations Section 6.3).

- b. Cape cod berm and granite curb is not required (Section 8.2.2). The road is designed to utilize drainage swales along the roadway, implementing low impact development techniques.
 - c. The right of way width for a portion of the roadway shall be 40 feet as shown on the Subdivision Plan, which will be adequate to construct the proposed roadway and utilities to serve the 5 lots (Section 8.2.3.A).
 - d. The roadway traveled way shall have a pavement width of 18 feet instead of 20 feet (Section 8.2.3). This width will be adequate for 5 lots.
 - e. A dead end street is permitted (Section 8.2.5.A). In order to approve a dead end street, the Planning Board must determine that there are exceptional circumstances. The Applicants intend to donate an adjacent 13 acre parcel to the Town of Hopkinton for open space purposes, and have communicated this intent to the Board of Selectmen in a letter dated November 29, 2007. The Planning Board appreciates the Applicant's gift, which is unusual and exceptional. Therefore, exceptional circumstances, as required by the Subdivision Regulations, are: 1) in consideration of the generous donation of open space; 2) the road will not be maintained by the Town; and 3) the new road will allow the creation of building lots so that long-time family members may remain in Hopkinton.
 - f. A dead end street with a length greater than 500 ft. is permitted (Section 8.2.5.B). The length shown is permitted due to the shape of the parcel, the shape of the existing developed lots at the roadway entrance, and in consideration of the donation of 13 acres of open space.
 - g. No sidewalks are required (Section 8.3.1). There are no sidewalks on Saddle Hill Rd. to connect to and none planned.
 - h. Catch basins are not required (Section 8.4.5). The drainage system shall be constructed as shown on the Subdivision Plan, utilizing low impact development techniques, including swales.
 - i. The stormwater basin may be located straddling the property lines of lots 3 and 4 as shown on the Subdivision Plan, due to the hydrology and topography of the area. Screening is not required (Section 8.4.10).
 - j. A landscape plan for the center of the cul-de-sac is not required (Section 8.2.5.A).
2. The roadway shall be paved in accordance with the provisions of the Subdivision Regulations. The typical roadway detail on the Subdivision Plan showing a gravel roadway shall be replaced by a typical roadway detail which conforms to the requirements of the Subdivision Regulations, prior to endorsement by the Planning Board.
 3. There is no municipal water system in Saddle Hill Road, and in such circumstances, sections 5.4.1.Q and 8.6 of the Subdivision Regulations address the fire prevention and protection measures required. The Applicant has worked with the Hopkinton Fire Department and has agreed to install NFPA 13D fire sprinkler systems in the dwellings. Therefore, the Planning Board waives the requirement in the Subdivision Regulations for a fire cistern in this subdivision. However, should the sprinklers not be installed in one or more dwelling as promised, a fire cistern installed in accordance with the requirements Section 8.6 of the Subdivision Regulations shall be required prior to the issuance of an occupancy permit for the dwelling(s).
 4. On behalf of the Town of Hopkinton, the Planning Board thanks the Applicant for the generous donation of the 13 acre parcel adjacent to the land subject of the Subdivision Plan to the Town for open space purposes. The land is adjacent to Hopkinton State Park and will

be accessed from Saddle Hill Rd. The land shall be conveyed to the Town within two years after the start of construction of the Subdivision Plan.

5. The Subdivision Plan shows roof drains on the lots for each new dwelling. Such roof drains shall be installed as noted, although the locations may be moved as necessary, as long as the soils are adequate in the new location.
6. The Subdivision Plan shall contain a note which states that there shall be no modifications to the design of the roadway or extension of the roadway unless a new definitive subdivision plan has been reviewed and approved by the Planning Board, in accordance with the procedures established in the Subdivision Regulations.
7. The subdivision roadway shall remain a private way and shall not be maintained by the Town. This condition shall be written on the Subdivision Plan prior to Planning Board endorsement.
8. The conceptual location of street trees along the roadway is shown on the Subdivision Plan, which complies with the requirement of the Subdivision Regulations. However, many of the locations appear to conflict with the location of the swale along both sides of the roadway. Therefore, the Applicant shall plant the same number of trees, but shall group them together in areas where they do not conflict with the swale locations. In addition, the Subdivision Plan lists several species to be planted. The Planning Board has adopted a Street Tree Policy, which contains a list of recommended street trees. The Applicant shall review the list shown on the Subdivision Plan and the list in the policy, and replace trees which are not on the list with those that are. A variety of species shall be planted.
9. The Applicant shall finalize the Declaration of Trust/Drowne Family Subdivision Homeowners Trust documents prior to the commencement of construction. The documents must include the details of how and when the roadway, stormwater management system and roof drain infiltration systems will be maintained by the owners. Such maintenance requirements shall be adequate in the opinion of the Planning Board, which will seek recommendations from the Conservation Commission.
10. The Subdivision Plan shows that one tree within the right of way of Saddle Hill Rd. will need to be removed to construct the new roadway. Definitive subdivision approval does not constitute approval under Chapter 160 of the Bylaws of the Town of Hopkinton, Scenic Roads. Therefore, a separate application to the Planning Board for a scenic road permit must be filed and a permit issued by the Board prior to removal of the tree.
11. The Planning Board will visit the site when the roadway entrance onto Saddle Hill Rd. is constructed with the gravel base. At this time, the Board will review the sight distance to drivers along Saddle Hill Rd. and decide which trees must be removed to provide the necessary safety to drivers and pedestrians. No trees shall be removed along Saddle Hill Rd. for sight distance until the Planning Board has viewed the roadway opening. If trees are required to be removed for which permits are required pursuant to the Scenic Road regulations, the Applicant shall file the necessary application to begin that process. Subdivision approval does not constitute approval to remove trees under the scenic road regulations.
12. Prior to the Planning Board's endorsement of the Subdivision Plan, the Applicant shall execute an Agreement with the Planning Board, that no lot depending on the new roadway for their legal frontage shall be sold, or buildings or structures erected or placed on, or building permits issued with respect to any such lot, until:

- a. The work on the ground necessary to adequately serve such lot has been completed in accordance with the contents of the subdivision plan and with the Subdivision Regulations and that all other requirements of the Subdivision Regulations have been fully complied with; or
 - b. The Applicant has executed a contract with the Planning Board, accompanied by appropriate security to secure performance, to complete construction of the infrastructure, monumentation, and other improvements shown on the plan in accordance with the Subdivision Regulations, on or before a date specified in the contract;
 - c. The Applicant has recorded in the Registry of Deeds (or Land Court) a certificate executed by the Planning Board that the above conditions with respect to any such lot have been performed by him or have been amended, modified, revoked, waived or released by the Board.
13. There shall be a maximum of five (5) building lots in the subdivision. This condition shall be written on the Subdivision Plan prior to Planning Board endorsement.
 14. Tree stumps and building scrap materials shall be removed and shall not be buried on the site.
 15. The street numbers for the new lots shall be shown on the Subdivision Plan in accordance with the Subdivision Regulations prior to endorsement. The Applicant shall consult the Director of Municipal Inspections on the numbering system.
 16. Erosion control measures to prevent siltation onto wetlands, neighboring properties and roads during construction shall be implemented. In the event that erosion and sedimentation problems arise during construction, the Planning Board may require that all work cease until measures necessary to ensure prevention are implemented.
 17. No building permits shall be issued or any construction in the subdivision allowed until approval for such work has been obtained from the Conservation Commission for areas affected by the Wetlands Protection Act and the Hopkinton Wetlands Protection Bylaw.
 18. Disturbed areas shall be loamed and seeded during construction as soon as possible.
 19. No earth products shall be delivered to the site which are not for use on the property. No earth shall be stripped or excavated and removed from areas of the site unless for road, infrastructure, home or lawful accessory use construction. No earth processing operations shall occur on the site, unless earth products are to be combined and/or mixed for use on the property. All piles of stockpiled earth shall be stabilized with adequate dust and erosion controls. All piles of earth shall be removed from the subdivision upon completion of construction of the road and infrastructure. Any piles remaining after that time shall be solely in conjunction with an active permit for construction of sewage disposal system, building or lawful accessory use. Any violation of this provision may result in a stop work order or Subdivision Plan rescission.
 20. Roadway and infrastructure construction shown on the Subdivision Plan shall be completed within 3 years from the start of construction or this approval shall be automatically rescinded unless such time is extended by the Board. If construction has not commenced within 8 years from the date of this approval, such approval shall be automatically rescinded.
 21. The street name shall be approved by the Board of Selectmen prior to endorsement and recording of the Subdivision Plan. The street sign conforming to applicable Town requirements shall be erected by the Applicant prior to the issuance of building permits.

4. Other Business

- ***Liaison Reports***

- **DPW Board** - Mr. Weismantel noted the DPW Board met last week and discussed possible improvements to on-street parking spaces and crosswalk conditions in the downtown area. He noted that in order to improve crosswalk safety a few parking spaces will be lost to provide vacant spots to increase pedestrian visibility. He stated the Downtown Revitalization Committee wants the crosswalks marked a lot better, possibly including the installation of a flashing light. Mr. Markey asked about brick crosswalks, and Ms. DeVeuve referred to the ones recently installed near the Westborough rotary. Ms. Altamura stated she prefers that to installing a flashing light. Mr. Weismantel stated they are not considering moving the crosswalks but talked about asking for financial assistance from Bill's Pizza to help pay for improvements to the sidewalk as mitigation when they come in with their site plan application.
- **Zoning Advisory Committee (ZAC)** - Mr. Weismantel stated that ZAC discussions on the OSMUD might be wrapped up in a few more meetings. He noted ZAC is meeting on December 18 and probably again a couple of times in January. He stated the discussion is moving along.
- **Budget FY09** - Mr. Abate stated he attended the Board of Selectmen's Quarterly Meeting, and they are looking for departments to submit a level-funded budget for FY09 which does not contemplate cost-of-living increases for the employees. He stated he told the Board of Selectmen that the Planning Board cannot accept a level-funded budget and it needs to pay the Planning Director appropriately as her help is needed to navigate the Town through the Legacy Farm project. Mr. Abate stated that the Board of Selectmen did not give him negative feedback and appeared to be in agreement, but he does not know what will happen next. Ms. DeVeuve asked for clarification on the engineering review and inspection budget line item. Ms. Lazarus explained that the money is for consultant services not related to a specific project or applicant. Ms. Lazarus stated the proposed budget figures do not include any salary increases. She added she wants to make sure that should the Town decide on a cost-of-living increase, the money will come from the outside and not from the Planning Board expense budget. Ms. DeVeuve asked about expense items and Ms. Lazarus stated the Planning Department can get by. Mr. Dourney asked what any additional funds could be spent on, and Ms. Lazarus noted that she would like to spend it on outreach to the public such as raising awareness regarding scenic road regulations. Mr. Coolidge stated he is tempted to include the Planner position created a few years ago but never funded. Mr. Dourney stated this is a critical point in Hopkinton development. Ms. Lazarus stated that funding of the Planner position would be a dream-come-true. Mr. Dourney asked about the Planner's salary, and Ms. Lazarus stated it would be a part-time position and the tasks would include housing and monitoring of affordable units. She stated that there is currently an affordable unit available at Pinecrest Village but they are having trouble finding a buyer. Robert Falcione, 93 Downey St., asked if the Town web site announcement regarding this unit includes income guidelines, and Ms. Lazarus replied it does. Ms. Lazarus explained the budget options presented to the Board and noted that Level Funding Option B would eliminate overtime for minute taking at Planning Board meetings. The Board voted unanimously to submit an FY09 budget using Level Funding Option A and Level Services.

5. Board of Selectmen / Legacy Farms

Muriel Kramer, Chairman, Board of Selectmen, Brian Herr and Mary Pratt, members of the Board of Selectmen, and Ray Miyares, Town Counsel, and his associate Brian Falk of Miyares and Harrington LLP appeared before the Board.

Mr. Abate stated that the Planning Board feels that someone from the Board of Selectmen should take responsibility regarding Legacy Farm development agreements and wants to engage in a discussion regarding the process to be followed. Ms. Kramer stated the Board of Selectmen members talked about this with Town Counsel just prior to this meeting, are motivated in the same way and want to make sure there is a process that works. Mr. Abate stated that the discussion will be focused on the process and there will be plenty of time later for the broader issues.

Mr. Miyares stated it is a pleasure to open his tenure with the Town with such an exciting project. He stated that his associate Brian Falk will be assisting him as the project moves forward. Mr. Miyares stated that he and the Board of Selectmen discussed five items that need to be addressed with respect to the Legacy Farm project: (1) town participation in the MEPA process recently started at the State level; (2) negotiation regarding a host community agreement between the Board of Selectmen and the developer; (3) separate agreement regarding the Alprilla Farm well; (4) review process of suitable zoning changes; and (5) Master Plan oversight.

Mr. Miyares stated some of these five tasks are a little daunting. He stated that comments on the Environmental Notification Form (ENF) are due on December 31. He noted that perhaps the developer might be interested in asking for an extension in view of the year-end holidays. He stated it might make sense to put this off to the middle of January as the Town needs to be able to give the Secretary of Environmental Affairs the necessary answers to legal and technical questions regarding the proposed development. He noted that sometimes the Planning Board submits comments on an ENF and recommended that all Town boards submit comments through the Board of Selectmen so that the Town speaks with one voice. He stated the host community agreement needs to address three subjects, (1) those aspects of the project that are unlikely addressed during a master plan review process. He noted the Legacy Farm proposal already has a phasing component but there are other issues like deadlines that should be included in the host community agreement, (2) mitigation with respect to measures that have to be taken to make sure the project does not adversely impact the Town. He stated this can be addressed in the context of a host community agreement or be deferred to the Planning Board in a separate process, and (3) additional benefits to be negotiated separately.

Mr. Miyares stated that the Board of Selectmen should expect to negotiate these items prior to town meeting so that the Town will be properly informed about benefits and mitigation issues with respect to the development. He added that towns have different approaches, but he recommends that a negotiating group be identified consisting of three people to lead the negotiations and hammer out an agreement. He added that it is important that the group has the confidence of the Board of Selectmen. Mr. Miyares stated that the negotiation process can be very time consuming and needs to be supported by appropriate consultants. He stated the Town is blessed with consultants that have worked on this site already and are familiar with the Town.

He stated that this is the model he has recommended to the Board of Selectmen who recommended presenting it to the Planning Board.

Mr. Markey asked when the Town was notified regarding the ENF as it seems there are only 2 weeks left to act on the request for comments. Mr. Miyares stated that there is a 21-day public commenting period for ENF's. Ms. Kramer noted that the Selectmen received the ENF on December 12, 2007.

Roy MacDowell, Boulder Capital LLC, stated the ENF is on the Boulder Capital web site and there is also a link on the Legacy Farm banner ad on www.hopnews.com. He stated they will continue posting documents on the web as they become available.

Ms. Kramer asked about the MEPA scoping session scheduled for December 20, 2007 at 10 A.M. Mr. Miyares stated that MEPA staff members will come to the Town to discuss the project and ask for public input. He noted that questions will focus on the impact that can be reasonably expected from the development and MEPA jurisdiction will be limited to necessary State permits. He added that not every concern of the Town will be necessarily addressed. Mr. Miyares stated it is very beneficial to have these environmental discussions as they provide information about the nature of the project as long as it can be permitted under the statute. He stated this MEPA phase does not usually take more than a couple of months. Ms. Kramer asked if the Planning Board is interested in commenting, and Ms. Lazarus stated the Planning Board rarely comments on ENF's. Mr. Dourney stated he would like the Planning Board to take the time to discuss the ENF and form a position on the five points identified by Mr. Miyares. Ms. Kramer stated she feels it would be worth it in this case. Steven Zieff, Boulder Capital, noted that the ENF process is very particular and MEPA will be looking at certain thresholds including stormwater runoff, water and wastewater, and transportation.

Mr. Herr referred to the MEPA comment deadline and stated that the Town is behind the eight ball unless an extension is granted. He stated the Town should bring in some entity to help pull this together and three volunteers would not have the time and experience necessary.

Mr. Troiano stated that the Planning Board does not usually comment on ENF's because it is a review of environmental impacts.

Mr. MacDowell stated forming a committee of three would make a lot of sense and that the MEPA scoping session will be helpful to determine whether an extension is needed. He stated that they will ask for an extension if it is needed. He noted he agrees with Mr. Herr that the Town should get organized in order to avoid additional delays. Mr. Abate asked what type of entity or person is being considered and whether it will be a leadership or strategy role. Mr. Herr referred to a type of consulting company which pulls all project aspects together in a cohesive approach. Mr. Herr stated he feels this type of company is needed along with the volunteer team of three. Mr. Troiano stated that is why Mr. Miyares was brought in and the Town already has 3 to 5 consultants familiar with the site. He added the Town hired the Miyares and Harrington, LLP law firm as they have expertise in this type of project.

Mr. Miyares noted they have worked hard to get up to speed and do not know if there is time to hire new people. He stated there are 6 consultants that are or have been involved with the project in the past, Community Opportunities Group (Judi Barrett), Sasaki Associates, FST (traffic), EarthTech (wastewater), EMC/Ellen Chagnon (wetlands) and Woodard & Curran Inc. (hydrogeology) and they cover the range of skills needed. He noted that if it turns out anything else is needed, the Town will look for other consultants. Mr. Miyares stated it makes sense to form these consultants into a team with oversight rather than go out and replace them with new people. Mr. Dourney referred to the Westwood Station project. He noted they did a real good job with a third party to represent the Town at the table. Mr. Miyares stated that Westwood used RKG Associates for financial analysis and they did a spectacular job. He added that Judi Barrett/Community Opportunities Group and RKG have some overlap and Ms. Barrett has worked for the Town a lot of times. Mr. Abate asked if the consulting company mentioned by Mr. Herr represents all aspects of the project. Mr. Herr noted that the firm in question will pull it all together but does not get into the details. Mr. Abate noted it might be better to just get one firm. Mr. Herr noted the Town needs to do something to get its arms around the project. Mr. Dourney stated he wants to get the right group for the job. Mr. Markey stated there has to be a central point with somebody in charge. Mr. Abate stated it should not be somebody out of Town. Mr. Markey stated it should be the Town Manager. Ms. Kramer stated there is no firm commitment to any one company or person but they need grassroots investment people to represent the Town and they need somebody skilled in that kind of negotiation. She stated the Town does not necessarily have the special skill set that is needed in this situation and somebody is needed who understands how this type of project is done. Mr. Dourney noted that ultimately the Board of Selectmen will get into the host community agreement on behalf of the Town, and Mr. Miyares agreed that the Board of Selectmen will need to execute that type of agreement and will not abdicate that responsibility. Mr. Dourney asked who has to make the decision. Mr. Herr stated the development agreement is tied into the ZAC work and Town Meeting vote, and the Board of Selectmen has to find the right group of people to lead the Town. Mr. Markey stated it has to be somebody over the 6 consultants. Mr. Abate stated hiring another firm would mean starting over. Mr. Troiano stated that Mr. Miyares has worked hard on this project and he is the best person. He stated another layer is not needed and the Town has the professional staff in place.

Mr. MacDowell stated they have met with the Town's consultants and a lot of time and money has already been invested. He stated he is concerned that starting over would take more time and money. Mr. Coolidge stated he agrees with Mr. Troiano's recommendation to stick with the 6 consultants and leave it up to Mr. Miyares to see if other consultants are needed. Mr. Markey stated that the work done by the existing consultants constitutes a lot of project history. He stated that although Judi Barrett and Sasaki Associates are not new to the Town, technically they are and the Town has to put these things out to bid. He asked how bringing them back would work. Mr. Miyares stated that this involves technical but no architectural or construction services and under MGL Chapter 30B they do not have to go through the procurement process if the Town does not want to. He added that the Town knows Judi Barrett's work and it will make sense to get her back. He stated that with someone new, an informal procurement process, some type of comparison bidding is required but not the whole Chapter 30B process which takes a long time. Mr. Abate stated that just because a consultant is familiar with the Town does not

mean he/she is the best and if there may be others that have stronger capabilities the Town should look at them.

Mr. Weismantel stated he has no problem with sub-consultants that have a background history with the Town and noted the Planning Board was not part of a selection process. He asked about Mr. Miyares' involvement with Westwood Station. He noted what is missing is a lead economic consultant.

Steve Schwartz, attorney, Goulston & Storrs, stated that Westwood Station is of a different magnitude. Mr. Miyares stated that his role in Westwood was negotiation of an extremely complicated TIF agreement. He stated the Westwood group brought him in because it was so complicated. He added that his resume includes a number of negotiated host community agreements and he hopes to get involved in the Legacy Farm project. He stated that Westwood Station is a huge project with a lot more retail and office, more housing and much higher density. He stated the Westwood project has special problems as it introduces a big development into a particular neighborhood. He stated this type of impact will not be repeated with Legacy Farms. He stated he hopes to serve a role if the Town wants him to. He noted that everything will come before him anyway, but he will only negotiate business terms if the Town wants him to. He agreed that somebody should have oversight of all input provided by Town boards, consultants and the public.

Ms. DeVeuve noted she is hearing that Mr. Miyares has been involved with TIF's. She stated she does not question his legal competence but is concerned that nobody knows what to ask for. Mr. Abate stated there are a couple of people in the room who know what to ask for. Mr. Miyares referred to Westwood Station and stated that Ms. DeVeuve is making an important point. He stated that in Westwood one of the things brought to light by consultants was the need for new \$200,000 assessing software prompted by the new commercial development. He stated there is a need for someone who knows what the current capacity of the Town is and what it should be. He stated that Judi Barrett has the right expertise. Ms. DeVeuve stated that certain types of questions are not fit to be answered by a lawyer. Mr. Abate asked about creating a special position in the Town with the responsibility to play the lead role on Legacy Farms. He stated the Board talked about the part-time planner position which was approved but never funded. Ms. Kramer stated she is sensitive to Boulder Capital's points and the work invested in the Town.

Mary Pratt, 102 Fruit St., member of Board of Selectmen, stated with all respect to Mr. MacDowell, she feels it should be the Appropriations Committee, Board of Selectmen, DPW and Conservation Commission working together as a group and suggested applying for a grant to get money from the State to get somebody to provide oversight. Ms. Lazarus stated the Town has a Town Manager who can take the lead and work with the team and Town Counsel. Mr. Miyares stated it does not have to be a member of a Town board and the Town Manager can take the lead. He added it should be a flexible but focused group.

Mr. Weismantel stated a lot of this has to be negotiated back and forth. He noted the Planning Board is the primary permitting authority. He stated he agrees with Ms. Pratt that the Planning Board cannot forget about the Conservation Commission and DPW but he does not like

abdicating the Planning Board's authority to the group. He stated the group should come back to the Planning Board. He stated that the DPW has to deal with the infrastructure issues from a permitting standpoint. He noted infrastructure aspects need to work together but the Conservation Commission historically acts as an independent entity and cannot be convinced to pave over the wetlands if they don't want to allow that as part of negotiation. Ms. Pratt agreed that the Planning Board is the permitting board, taking also the ZAC work into consideration. Mr. Troiano stated there has to be consensus and majority rules. He stated he wants Mr. Miyares to present the proposal so that people can see it is a professional opinion.

Mr. Miyares stated that in the end nothing is going to happen unless the zoning changes are approved, which as a practical matter can happen if the Board of Selectmen has negotiated the best deal for the Town and recommends the zoning changes. He stated that the Planning Board also has to be able to state it is the best. He noted it is possible the zoning changes can pass otherwise but very unlikely. Mr. Miyares stated that no agreement is going to be final unless the Planning Board is happy with the zoning implications and the Board of Selectmen is prepared to recommend. Mr. Herr suggested starting with the appointment of three people to work with the Town Manager and Town Counsel deciding later on consultants if the group determines they are needed. He stated he does not intend to take the consultant piece off the table but would like to get started. He noted that the residents of Hopkinton need to be represented in some fashion. Ms. Kramer stated she would like to find people who are skilled in negotiation, preferably objective, non-connected and a-political. Mr. Dourney asked if there was agreement on this, and Ms. Kramer stated not all Selectmen are here tonight but are scheduled to meet tomorrow. She stated she also wants to give the public more notice to process the information. She stated that ultimately the Selectmen have to support the process as it goes forward. Ms. Wright stated it does not have to be somebody from one board and two boards could name the same person.

Daniel McIntyre, 5 Whisper Way, Chairman of the DPW Board, stated he feels they should have a seat at the table. He stated that although they are service providers and not a regulatory board, DPW is in charge of operation and maintenance. He stated a group consisting of the Planning Director, Town Manager and Town Counsel is being considered but is lacking a project manager. He suggested maybe someone from Town Counsel's firm can pull everyone together and meet the necessary deadlines. He noted the group should then report back to the Planning Board, Board of Selectmen and DPW but it is very important to keep the professional staff involved. Ms. Pratt stated that there is not much time.

Chris Barry, 17 Clinton St., stated the Town has qualified people but the residents of East Hopkinton who have to live with the results of the proposed development should have the ability to speak to what will be going on here. Mr. Abate stated it is an open meeting, public process and any zoning changes will have to go through town meeting with ample opportunity for the public to voice its opinion. Ms. Pratt stated that not only East Hopkinton will be affected but the entire Town and the surrounding towns as well. She noted that Westwood is being sued by Canton over the Westwood Station project. Kevin Kohrt, 35 Winter St., member, DPW Board, stated it makes some sense to include a volunteer from the community as a representative-at-large. Mr. Weismantel stated they want to form a group to negotiate a host community agreement and he likes the proposed approach within that scope and they are getting there. He

stated there will be a lot of public involvement when the Planning Board is reviewing the master plan.

Mr. Markey stated they are talking about somebody to manage this and asked whether it applies to one particular item or all five items listed by Town Counsel. Mr. Dourney stated that the only thing that needs a point person is the host community agreement. Ms. Kramer stated it will be somebody who will focus on meeting deadlines. Mr. Markey stated that public input is very important.

Mr. Herr asked who will have the authority, and Mr. Coolidge stated the Town Manager will.

Ms. Kramer stated that this has to be taken back to the public. She noted she would like the Planning Board to provide input possibly before tomorrow's Selectmen's meeting or otherwise for the first meeting in January.

Mr. Dourney stated he has a lot of experience in negotiations and would like to volunteer. Ms. Kramer stated that the Board of Selectmen has to construct the negotiating team. She stated they have not defined the team yet but will discuss this on 12/18 with the voting members. Mr. Herr stated he would like to receive the Planning Board input now. Mr. Abate stated that from his perspective it seems that the Planning Board is comfortable with a team consisting of the Town Manager, Town Counsel, and the Planning Director. Mr. Dourney stated that the fewer people on the committee the better as the team needs to make sure its voice is heard, and as a liaison he does not have to be part of the committee. Ms. Kramer stated the people who volunteer have to understand the level of commitment needed and the responsibility of being a liaison. Ms. Lazarus stated that maybe a Planning Board member and perhaps somebody from the Board of Selectmen can be included. Mr. Abate stated he is not in favor of adding a member of the public. Ms. Altamura stated her biggest problem with the host community agreement is that the site is huge and that the Town can anticipate some things but cannot foresee others. She asked what would happen if the Town needs a new 30 million dollar school and she wants to have someone who knows what to ask for. She asked how other towns handle these situations and what is written in stone.

Mr. Herr stated the committee should be formed, start work and then find out whether additional consultants are needed. Mr. Abate stated that forming the group is the starting line.

Mr. MacDowell stated he agrees with most of what has been discussed but has concerns from a developer's viewpoint. He referred to the 500 acres of open space, trails and a new well as part of mitigation. Mr. MacDowell stated there will be some traffic issues related to the project but there will be land for playing fields. He stated he wants to be careful that this does not get out of control and out of reality. He noted the demands can become unreasonable and he wants to make sure the negotiating team is reasonable. Ms. Kramer stated that the best case scenario is where people can see the give and take.

Mr. Kohrt stated that in terms of adding professional staff it makes sense that the Directors of Public Works and Parks & Recreation will be involved. Mr. Abate stated the Board of Selectmen should decide that.

Mr. Zieff distributed a copy of a Legacy Farms Zoning & Entitlement outline. He noted this will also be on their web site. Mr. Abate stated that this is not part of tonight's meeting agenda.

Ms. Kramer asked if the DPW should be included, and Mr. Coolidge stated no. It was noted that DPW will have a voice and their concerns will be heard. Ms. Wright noted that fewer is better at the negotiating table. Mr. Coolidge stated that the Town Manager will have the authority to talk to the DPW.

Lyn Branscomb, 8 Kerry Ln., stated the group should reach out to David Stoldt as he is very familiar with the Westwood Station project.

Mr. Markey stated they have to get input first and manage the long term process. He stated that they have to make sure there is a central communication point to gather input from other boards, and the Board of Selectmen will have to recommend the type of format. He stated that with respect to mitigation issues, the Town and the developer will both have wish lists which will have to be negotiated and the best solution will be the one that nobody is completely happy with

Ms. Pratt asked about the potential need for a new school and fire mains. Mr. Coolidge stated that a discussion with the School Committee will be part of the process. Mr. Markey stated that somebody will have to be able to find the balance, and Mr. Coolidge noted that the Boulder Capital team is going to do the same thing. Ms. Wright stated it is important to focus on the positive revenue factor so that the Town will be able to afford things.

Ms. Kramer stated that the Planning Director is a huge resource for zoning issues and Planning Board process but asked how the additional duties can be worked in during an 8-hour day. Ms. DeVeuve asked what is needed to make it possible. Ms. Lazarus stated that anybody who is appointed will need full support and should not be penalized if things don't work out. Ms. Kramer stated she is aware of Hopkinton politics.

Mr. Herr asked if Mr. Miyares has any additional comments. Mr. Miyares stated (1) that the five tasks are intertwined and the negotiating process cannot address a host community agreement without addressing zoning and site plan permitting issues; (2) the idea of a negotiating team that has the confidence of the Board of Selectmen plus a liaison person can probably work very well. He stated they need to go over the consultants, their skills and how they will be paid. He stated there is a lot of work to be done in a very short period of time and the sooner it is started the better.

6. Other Business

- ***Hopkinton Village Center Appeal*** - Ms. Lazarus distributed the Planning Board's written response to be submitted to the Board of Appeals. She noted the Board of Appeals has scheduled the hearing on December 19, 2007 at 7:30 PM and members of the Planning Board need to attend to represent the Board. Mr. Weismantel stated he will definitely attend. Other members stated they may attend.

7. Board of Selectmen – Legacy Farms (Continued)

The Board continued the discussion regarding Legacy Farms.

Mr. Dourney stated he has spent a lot of time negotiating and promised he will not make independent decisions. Mr. Markey agreed Mr. Dourney's experience makes him the best choice for this.

The Board voted unanimously that if the Board of Selectmen decides to include a member of the Planning Board on the negotiating team for Legacy Farms, the representative will be RJ Dourney.

Mr. Abate stated that Mr. Markey's role as Legacy Farms liaison will not change.

Mr. Coolidge recommended that the negotiating team will consist of the Town Manager, Planning Director and Town Counsel plus a member of the Planning Board (RJ Dourney) as well a member of the Board of Selectmen and it will be primarily professional Town employees. Mr. Dourney stated that they should make sure the Town is protected and that it does the right thing. Ms. DeVeuve stated she is not sure that the Planning Director has ever been in this position. Mr. Dourney stated the difference is not knowing what you don't know and knowing what you don't know, and Ms. Lazarus stated that the gaps will be filled in by consultants or other experts as needed. Mr. Weismantel stated this is very critical, and Ms. Lazarus stated that zoning and the master plan are more critical than what is in the development agreement, because without those, nothing can happen. Mr. Markey stated that the process by which the master plan is to be accepted may end up being part of the negotiation.

Adjourned 10:15 P.M.

Cobi Wallace
Administrative Assistant

Approved: January 7, 2008