

Town Government Study Committee
February 7, 2015 – Kingsbury Room, Wellesley Police Station
Notes of the Land Use Meeting

Present: Lisa Abeles, Walter Adams, Gig Babson, Randy Becker, Stanley Brooks, Ingrid Carls, Bob Collins, Jeanne Conroy, Sheila Dinsmore, Rose Mary Donahue, Josh Dorin, Joan Gaughan, Ellen Gibbs, Arthur Goldbert, Mike Grant, Heidi Gross, Tad Heuer, Peter Hechenbleikner, Pam Helinek, Richard Howell, Catherine Johnson, Meghan Jop, Dona Kemp, Rob Levy, Lenore Mahoney, Raina McManus, Steve Murphy, Denny Nackoney, Lise Olney, Sara Preston, Derek Redgate, Helen Robertson, Brandon Schmitt, Carl Scipel, Dick Seegel, Dave Sheffield, Tucker Swan, , Tom Ulfelder, Stanley Waugh, David Wright, and Michael Zehner.

The meeting was opened at 9:00 am. Meghan Jop recorded the notes of the meeting.

Gig Babson gave a brief introduction on the role of the Town Government Study Committee (TGSC) to review the structure of Town Government and to bring forward to Town Meeting recommendations on a framework which best suits the future of the Town. Major questions to answer include whether the Executive Director function and position should be altered, and whether the land use departments should be consolidated. The draft recommendations are expected to be completed in May, which will include an extensive public review process, and vetted through the summer with proposed action at a Special Town Meeting in fall 2015..

Rose Mary Donahue discussed the work conducted by the TGSC land use subgroup. She noted the various interviews that have been conducted and noted the presentation will review the results and discuss proposed methods to improve efficiency, enhance good practices, and improve areas where the interviews indicated the Town was lacking. Rose Mary noted considerable research has also been conducted on other communities and the proposal includes best practices.

Peter Hechenbleikner, consultant for the TGSC, gave a portion of the presentation noting the various departments, board/committee members, and personnel interviewed. He reviewed the strengths found in the various land use departments including good volunteers, dedicated employees, the newly established staff land use committee, and TDRTs (Town Development Review Teams). The weaknesses identified include a silo structure for the land use departments, lack of one person being in charge, lack of strategic planning, lack of accountability and coordination among boards and staff, poor feedback on implementation of decisions, and decisions being made by default rather than by intention. Pete discussed opportunities to enhance the land use departments by consolidating their functions for improved customer service, staff efficiencies, collaboration and communication. Consolidation would help achieve consistency on the Town website and allow for permit coordination. Pete also recommended permit tracking software improvements to improve file sharing within the Town as well as for public use. Other recommendations included improved office layout and recodification of the Zoning Bylaw and Regulations through a more collaborative process which should include those who draft, administer, and enforce the provisions.

Open Discussion

Walter Adams noted there currently is friction between boards and departments which might result from a lack of understanding of roles and jurisdiction. He was of the opinion some boards have taken on roles out of their jurisdiction.

Sara Preston stated communication should be improved. She noted most businesses share documents electronically and thought effective use of resources would go far in improving communication.

Helen Robertson noted respect could be improved. She noted all the boards are hard working volunteers with a large portion having advanced degrees. She noted the boards need not disparage public bodies in public meetings.

David Wright noted the Moderator holds an incoming Town Meeting Member seminar which is a great introduction to the Town. He suggested volunteers have an orientation.

Neal Glick noted sharing of documents may raise Open Meeting Law issues , that sharing documents could be seen as “deliberation”.

Tad Heuer noted the Historical Commission does not have staff and noted it is difficult for volunteers to work without a staff presence. He also noted should town technology be improved it should be resident friendly.

Dick Seegel noted there is a lack of understanding on staff roles. The Zoning Bylaw appoints Mike Grant as zoning officer, yet 5 other people have opinions as to how the zoning should be applied. Roles need to be clearly identified.

Lisa Abeles noted streamlining of permits would be helpful. She noted the Town has taken positions on specific court cases like Bjorklund v. Norwell which creates a huge amount of work for the ZBA. Wellesley is one of only 2 towns administering this decision as part of daily operations.

Dick Seegel noted new cases decided by the courts do impact the ZBA process. He noted decisions such as Bjorklund v. Norwell are discussed with Town Counsel who determines whether Town should follow new precedents.

Mr. Redgate noted the Boards have very disproportionate staffing levels within the various departments which could be reviewed. He noted the building department needs additional staff, and the planning department has 3 full time planners. He suggested reducing the planning staff by 1 to facilitate another inspector in the building department.

Pete Hechenbleikner returned to his presentation and discussed a possible reconfiguration of the land use departments with the creation of a new land use division to consolidate those boards and departments which have permitting responsibilities. A new director would be appointed and the functional areas included in the Land Use Division would include the Planning Board/Dept., ZBA, Wetlands, and Building Department. Pete discussed a proposed structure where a Chief Administrative Officer (CAO) would hire the division director. He defined the CAO as either the person who is the Executive Director, the position currently held by Hans Larsen, or who is a Town Manager or Town Administrator. The land use director position could be a ½ time position initially then would likely occupy about ¼ of the staff time. The remaining ½ - ¾ of the position would be administering a board in the land use division. The major role of the director would be strategic planning, coordination and administration of the staff (including training), maximizing efficiencies, leading the budget process, and coordinating technology. The land use division proposal also includes a new position for a code enforcement officer to handle zoning enforcement and site review for such matters as the tree bylaw, site plan and PSI conditions. Under the proposal, the code enforcement officer would report directly to the division director.

Rose Mary Donahue noted the intention of this proposal is not to alter the process for the appointment of members of boards such as Design Review Board, and ZBA, but rather to centralize the personnel and administrative functions.

Pete Hechenbleikner also said if people are going to volunteer, the Town needs to provide staff. Pete also noted the centralization of the land use functions creates a base for records and record retention and creates commonality for administration.

Tucker Swan asked who would be appointing the NCD. Rose Mary noted the proposal would not alter how the boards and committees are currently appointed.

Pete noted it would be recommended that periodic meetings be conducted of the Chairs of the land use boards with the director.

Gig Babson noted the preliminary land use division recommendation includes the Wetlands Committee, but does not include the NRC. Pete elaborated, noting the NRC does not have a function in permitting so would not be part of the division. The NRC would play a role in land use just as DPW and the Fire Department play a role in land use and projects.

Sara Preston thought the current proposal was a missed opportunity for collaboration. She liked the concept of a land use division, but felt the director position should be more in line with the superintendent of schools. She did not like all Boards and positions leading to the Selectmen and being appointed by the CAO. She noted the functions needed independence and did not think having the land use director appointed by the CAO was appropriate.

Rose Mary Donahue noted the TGSC is looking at Town Meeting, Executive functions, and looking at the broader functions of the Town. She further noted that the recommendations with regard to the land use function would need to be consistent with those other recommendations.

Richard Howell noted that Wetlands needs to be viewed as a holistic impact and are part of the network of Town lands and NRC lands. He thought to separate the NRC from Wetlands was a mistake as the NRC would have to work as an outside entity.

Heidi Gross asked who would appoint the Wetlands Director. Pete noted the CAO would appoint the position. He noted the hiring process would include the land use director and members of the Wetlands Protection Committee, but the appointment would be made by the CAO.

Michael Zehner explained his experience with this process. He noted he was a Community Development Director in other locales and in hiring his staff he interviewed candidates and made a recommendation to the Town Manager who then formally appointed the staff.

Neal Glick asked if the TGSC has studied costs for the proposed land use division. Gig Babson noted the TGSC is in the process of determining existing cost and revenues from the various departments. Costs will be part of the final recommendation. Gig noted that the director would also have functional responsibilities within the division so it may not be an entirely new position.

Neal Glick thought it was a mistake to consider costs on the back end given the costs of salaries and benefits. He noted that Engineering is not proposed within the land use division, and noted engineering might want to be separated from DPW and within the Land Use department.

Pete Hechenbleikner noted that the Health Dept, Engineering, and Fire Department all have roles in permitting, but since they have multi-functions and since permitting is not their main purpose, they have not been included.

Dick Seegel noted he liked the model of keeping permitting departments together. He noted the Town has lots of consultants that Boards turn to and get lots of advice back and forth. Dick was more concerned over the Code Enforcement position to deal with zoning and tree issues. He said the Town should not have two people making zoning determinations, and that the building inspector should be the sole zoning interpreter. Walter Adams agreed and did not think you could have 2 positions.

Rob Levy noted a solution is to add staff to the building department. He thought the proposal of a new position of code enforcer reporting to the Division Director would cause more delays with inconsistent results.

Mike Grant noted his concern with having 2 chiefs. He noted the code enforcement officer and the inspector of buildings cannot both be making zoning interpretations. He noted it had to be a top down process.

Lisa Abeles noted the director should have more authority to appoint staff.

Steve Murphy noted under the existing structure the staff and directors are responsive to a board. The boards have the right to hire and fire directors. Under the proposed structure the right to hire or terminate is transferred to the Selectmen and the CAO. He noted he was concerned about transferring control over staff.

Rose Mary Donahue explained her experience as a Planning Board member having to handle personnel issues. She noted Board members generally are not present day to day to see how the staff operates and works within the town structure. The current reviews are insulated to the board's sole interaction with the directors.

Steve Murphy noted the HR department should assist in compiling information and conducting the reviews.

Heidi Gross noted the boards set out goals and reviews the performance on meeting those objectives. She noted the NRC in the past has experienced issues with staff and HR did not assist properly.

Pete Hechenbleikner continued with the presentation and discussed other recommendations, including improving office space and establishing a process for drafting or recodifying the zoning bylaw and regulations. He noted one suggestion is to update the Comprehensive Plan in conjunction with the creation of a community strategic plan. Other proposed recommendations include developing a coordinated staff, creating a single point of contact for applications, improving materials and creating uniform applications. Pete reviewed alternatives for coordinated software and advocated for continued land use committee meetings and TDRTs. Another recommendation was to allow online applications. Pete also noted the TGSC has been looking at a firm to audit the building department to find efficiencies. Pete ended his presentation.

Walter Adams noted his concern with ZBA participation in TDRTs and development reviews given the quasi-judicial powers of the ZBA.

Dick Seegel agreed with Walter Adams and noted the ZBA cannot be influenced and that attending TDRTs could influence members or it may have a perception of influence.

Neal Glick noted general policy issues may come up where the ZBA could participate. Walter Adams disagreed. Michael Zehner noted that ZBA staff could participate in the meetings.

Rose Mary Donahue discussed the Zoning Bylaw and Regulations and noted the need for changes, but given the Planning Board's administrative tasks, time constraints make recodification very difficult.

Sara Preston noted some of the zoning articles being presented this year are housekeeping items, and some are larger issues, but the Board could use assistance with recodification. She noted when 13 items were placed on the Warrant, she read that the Selectmen were beside themselves.

Pete Hechenbleikner described the various ways recodification can occur which include a top down revision, complete rewrite or a section by section process.

Sara Preston and Neal Glick noted the Planning Board has been reviewing the Zoning Bylaw and updating it on a section by section basis for several years now. They noted the large amount of work Michael Zehner has recently done to prepare updates to the Zoning Bylaw for consideration at this year's Annual Town Meeting.

Randy Becker noted a process should be established to review proposals for the recodification.

Dick Seegel recalled the Town established a separate committee years ago to rewrite the bylaws. Gig Babson noted the Town Bylaws were completely rewritten and recodified about 30 years ago.

Gig Babson noted the TGSC has heard one method of recodification is to work in phases. Phase I would be a cleanup. Phase II would tackle substantive issues/changes. Phase III would continue to handle larger changes as needed. Phase IV would review the entire document to make sure there was nothing left out.

Stanley Brooks noted recodification should be done with the Comprehensive Plan.

Michael Zehner noted the warrant articles, motions, and mark up of the proposed zoning articles are available online. He noted he distributed the proposals to all the various land use departments for their consideration and received very little feedback. He noted there was a complaint about the original proposal of 13 articles without merit which was frustrating, and now the proposal is down to 8 articles.

Catherine Johnson discussed the difficulty with zoning provisions because of the case by case moments in Town. [what does this mean?] She noted the nonconforming and historic nature of the Town.

Catherine noted a goal is to set up checklists to be signed off prior to a certificate of occupancy.

Catherine noted we need accountability, then goals and objectives, then strategy.

Neal Glick noted his priority is customer service. He was in favor of checklists but wanted to caution applicants that checking the boxes is not the end of the application. Neal used unaccepted ways as an example. He noted the process for review has changed over the years and board interpretations are not picked up in applications.

Gig Babson noted meetings of the Board Chairs may help to improve communications between the boards. She noted the Selectmen instituted monthly meetings of the Chairs and Vice Chairs for both the Advisory Committee and the School Committee.

Pete noted joint hearings may also be another means to coordinate the boards.

Mike Grant noted a low hanging fruit would be to coordinate plans submitted by applicants. He noted how often plan discrepancies exist and the difficulties that arise in trying to verify all the various conditions with several sets of plans.

Michael Zehner noted the process now is focused on permits versus focusing on projects. He noted a coordinated department would allow a single staff person to bring a project through the various board reviews. Michael also noted that enhanced permit tracking software would allow for uniform plan sets.

Pete noted that Hans Larsen had told him that there would be an independent review of the building department and staffing .

Rose Mary Donahue noted the proposed code enforcement officer position would require further review.

Lisa Abeles noted an online check off that is sent to every board involved with a permit would be beneficial.

Gig Babson asked how people felt about coordinating the Comprehensive Plan with a strategic plan. She noted there is no strategic plan for the town or a standard guideline for every department. Gig noted that the process for both plans requires overlapping data. She noted the process would be a good opportunity for a joint effort between the Planning Board and the Selectmen. She suggested the two boards begin work now.

Neal Glick noted the Planning Board has been seeking ways to look at longer term items. As an example he noted Sara Preston has been seeking capacity information for water, sewer, and electric infrastructure to see what the breaking point is and how individual projects impact the infrastructure. This information could then be used to look at long term replacement and capital improvement costs.

Gig Babson asked if there are other items that should be discussed or included as the TGSC moves forward.

Steve Murphy noted the PowerPoint and any supplemental materials should be posted online or distributed.

Randy Becker noted it would be helpful to define what is permitting in the context of the land use division.

Lise Olney noted she would not want to see the NRC left out of the larger processes including the Comprehensive Plan and/or the strategic plan.

Meghan Jop described the last Comprehensive Plan process which was a collaborative process with most of the Town Boards and departments. She noted although the Comprehensive Plan is a Planning Board function, the last plan created a Steering Committee to facilitate the public hearings and to work with the consultant. Given the various components of the Plan the NRC, Recreation Commission, DPW, Selectmen, Historical Commission, Wetlands, Building, Housing, and many others all played roles in the Plan. Meghan noted that the boards continue to see themselves in silos but the staff are consistently working with each other across departments daily on permitting and that the land use division makes sense. She also thought the unified Comprehensive Plan and strategic plan would be a good idea. She noted the Town Wide Financial Plan is a Selectmen document, but it integrates all of the Boards' and Committees' capital planning and budgeting for a 5 year period. The Comprehensive Plan is a Planning document but it is a set of goals and policies for the whole town as to how it wishes to grow or not grow in the next 10 years. The two documents although led by particular departments do not stop them from being collaborative documents that impact every department.

Walter Adams noted there are really two things here which are very different: permitting and the Comprehensive Plan.

Gig Babson agreed with Walter. She noted meetings have been established with local attorneys on the permitting process and likely two additional meetings will be held with residential and commercial builders.

Neal Glick noted the TGSC should also consider interviewing brokers, homeowners, and lenders. He noted that homeowners purchasing nonconforming lots or lots on unaccepted ways may have issues later on if they do not understand the existing permitting requirements.

The meeting adjourned at 12:00 pm.