

Leverett Planning Board Minutes

Date: 11/8/23

In attendance at Town Hall: Richard Nathhorst

In attendance by Zoom: Tom Ewing, Steve Freedman, Tim Shores

Absent: Molly Daniell, Van Stoddard, Swan Keyes

Meeting began at 7:30pm

Minutes taken by Tim Shores

Minutes

- Clarification on minutes process: Both Tim and Molly took minutes at the October 10 meeting. Tim communicated in email that he had forgotten that minutes responsibility had passed to Molly earlier this year, and suggested that we use Molly's minutes instead of his, and Molly's minutes going forward when she is able to attend.
- Steve moved minutes be approved as submitted by Molly, Richard seconded, unanimously approved.

Comprehensive Plan project status

- Tim and Tom updated the group about the community vision meetings and events, and data collection activities taking place at this time.
 - According to feedback from members of Planning, Steering, and the public at large, the October 17 event at Town Hall that was coordinated by the Steering Group and Innes Associates, went very well, and was very well attended (estimates of around 50 people between the two sessions held that day). People in attendance seemed to enjoy the chance to read the data walk and map presentation materials about existing conditions, and jump right into the issues, providing feedback, and discussing with others. Tim reported that Lisa Stratford told him, "It was amazing."
 - The October 17 event format did not work on Zoom – one really had to be present to gain value from the information and opportunity to give feedback.
 - The Steering Group is now organizing small-scale community vision meetings. These small meetings are opportunities for further qualitative data collection on community vision, as well as opportunities to make

people aware of the planning process. Small subsets of Steering Group members (2 or 3 per set) are reaching out to neighbors, or affinity groups, or locations such as LC&A, neighborhood associations, businesses, houses of worship etc) to organize these meetings.

- The Steering Group will meet two or three times in November to collaborate on organizing small groups, and to decide how to organize the next few steps of the project timeline. Per the project timeline revised in early September, December 6th was targeted as a milestone for a second Town Hall event where Emily Innes could present data collection results in progress and to describe the future scenarios that Innes's team developed from the collected data. Now that the Steering Group has had the experience of coordinating the first group, December 6th seems much too soon to present scenarios. At Steering's November 6 meeting, Tim agreed, and reported that Emily also agreed—it's not practical for her team to do full scenario development that quickly, especially given the diversity of data collection methods used by this project. Steering seemed to agree that it would be best to focus on the current data collection process, figure out another "hook" that will motivate people to attend a December 6th meeting, and plan to schedule a meeting in February or March where Emily can present a fully developed report on community vision data, existing conditions data, and future scenarios and tradeoffs. That February meeting would also kick-off questionnaire #2, which will give people a chance to give feedback on future scenarios and tradeoffs.
- Tim described some role and scope issues that have come up on the Steering Group:
 - For example, at October and November meetings, a small minority of Steering Group members have suggested that the Steering Group itself, instead of Innes Associates, take on the role of analyzing the community vision data and developing future scenarios for the community to consider. This suggestion and similar suggestions to modify the role and scope of the consultant haven't been proposed for a Steering Group vote, and other members of Steering spoke up in disagreement about this suggestion.
 - A second example from the November 6 meeting, when discussing the timing of the second round of data collection on future scenarios, a couple of Steering Group members suggested that there isn't enough time to complete this project by June, and they suggested requesting a grant extension. Tim said he would look into the grant contract with the state, which specifies a June 2024

end date, but he's not aware if deliverables include Planning Board approval of the completed plan. If not, we could request an extension to do more community vision work or hearings on the written plan ... however, Tim would not expect Innes Associates to continue working on the project. After thinking about this for a couple of days, Tim settled on the following guidance to the Planning Board:

- He does not see value in requesting a grant extension, or in keeping the Comprehensive Plan unfinalized past June 2024.
 - He thinks the Planning Board is responsible to the town for delivering as promised, and to break that promise would weaken the Plan.
 - He thinks that there will be more opportunities for community meetings and feedback on the content of the Comprehensive Plan, and the strength of that community work will be in proportion to the strength of the finalized Plan. Concerns about the need for more, ongoing community feedback could be built into the implementation plan element of the Comprehensive Plan.
- Tim has explained to the Steering Group that these decisions aren't within the role and scope of the Steering Group. The role and scope of Steering is to support the consultant on community vision and data collection events and processes, and to provide feedback on project content developed by the consultant. Tim suggested to the Planning Board that Steering could vote to propose changes to project parameters (such as role, scope, and timeline) as a proposal to the Planning Board to decide. The Planning Board agreed that this would be an appropriate process for any change to project parameters.
 - Tim and Tom reported that Emily Innes proposed to visit the January Planning Board meeting to discuss her team's analysis of the Leverett zoning bylaw. This will help Planning to discuss and prepare for a program of zoning revision that follows the Comprehensive Plan's guidance.

Thoughts on zoning revision

- Tom and Tim talked about the idea of “form-based code” which is a municipal planning school of thought that prioritizes regulation of building characteristics, with less attention to regulation of land use. According to planning proponents of form-based code, use-based code grew in popularity from the 1970s to the early 21st century, and use-based code practices have become known for producing zoning that is difficult to interpret and tends to promote sprawl development patterns. Form-based code has become more popular in recent years.
- As Planning discusses and prepares for a program of zoning revision, comparing and contrasting these different zoning schools of thought may help us to better understand the merits and drawbacks of Leverett’s zoning bylaw.

Kennel zoning regulations

- Richard reported on his research:
 - Nearby towns don’t have kennel regulations that resemble Leverett’s kennel zoning bylaw. like ours.
 - He looked at zoning for Whately, Hadley, Amherst, Sunderland, and Shutesbury. ○ Whately’s regulation may be the closest to Leverett: they define a kennel as a place that boards, breeds, or sells dogs, and they regulate it as a business. There’s nothing about the number of dogs a party owns.
 - Based on his research about the source of Leverett zoning regulation that says any party with 3 or more dogs must be licensed as a kennel operation: it’s a way to provide people a regulation that they can use to deal with dogs that are a nuisance but not a danger. If a dog is dangerous, the Select Board can take action according to state law. If a dog is merely a nuisance (noisy, digging, etc.), the Select Board is not likely to take action short of mediation.
 - Richard will prepare a more detailed presentation on commercial kennel zoning from other towns for a future meeting.
- Tim suggested that the 3-dog zoning bylaw has a problem of regulatory indirectness:
 - If our community wanted a stronger law for people to deal with nuisance dogs, then the appropriate way to do it would be to put it on the warrant, and Town Meeting can decide whether they want to legislate it directly.
 - We can safely assume that most rural communities, including ours, would not approve of more restrictive dog laws. Given this, perhaps the decision to regulate the number of dogs in the zoning bylaw was partly motivated

by the expectation that Town Meeting would not legislate a stronger law about nuisance dogs. Perhaps it was easier to ask Town Meeting to pass a commercial zoning regulation that affects people who are not in the kennel business, and therefore provide a convenient but indirect way for the Town to deal with neighborly conflicts over dogs.

- Tim believes regulatory indirectness is a problem because:
 - Indirect rules are difficult to understand.
 - Indirectness obscures itself in the bylaw text.
 - Residents are unlikely to ever be aware of indirect law (let alone comply).
 - Indirectness can undermine the integrity of the bylaw. Tim himself now wonders how many other examples of regulatory indirectness are lurking in the bylaw.
- There is general agreement on the Planning Board that we should prepare a warrant article for Annual Town Meeting to remove the limit on the number of dogs from the zoning bylaw. We will continue this work in future meetings.
- For now, Lisa Stratford needs a practical solution to the problem she has with people requesting kennel licenses who live in zones that do not permit kennel operations. Planning will invite her to December meeting to discuss a practical solution:
 - Planning will prepare a document that Lisa can give to kennel licensees.
 - The document will inform them of the zoning requirement and instruct them to determine whether they are in a commercial zone where they can operate a kennel, and if not, that they must contact the Zoning Board of Appeals.

Meeting format

- Richard suggested we meet online as a rule, and to meet at Town Hall only when necessary, such as when there is a public hearing. Tom agrees that it's worth discussing, although he prefers meeting in person. Tom suggested that we deliberate this at a future meeting when more Planning Board members are present.

Tim moved to adjourn at 8:59PM, Steve seconded, unanimously approved.

Minutes taken by Tim Shores