**Town of Shirley** Telephone 978-425-2600 Ext # 240

**PLANNING BOARD** Facsimile 978-425-2627

7 Keady Way, Shirley, MA 01464 [planning@shirley-ma.gov](mailto:planning@shirley-ma.gov)

**MEETING MINUTES**

**Wednesday – February 14, 2018- 7:00 P.M.**

(Town Offices –2nd Floor Conference Room)

**MEMBERS PRESENT:** Sarah Widing (Chairman), William Oelfke (Vice Chair), John Gailey, and Barbara Yocum, Bonnie Lawrence (Associate Member)

**CALL TO ORDER** – Chair Sarah Widing called to order at 7:00 p.m.

Vice Chair Mr. Oelfke motioned to open first order of business, a Public Hearing: Center Road Alterations to a Stone Wall. Mr. Gailey seconded the motion, motion passed 4-0.

Vice Chair Oelfke read the public notice posted within the Nashoba Valley Voice on February 2, 2018 & February 9, 2018.

Chair Widing commented that the Board has a plan from GPR (engineering firm) that includes notation for a proposed opening in a historic stone wall on Center Road, showing the opening in the lot. She noted the width and distance from the corner of the lot was guided by Dave of GPR, who was also the stamping engineer, remarking that the markups are something that he would be comfortable stamping.

Vice Chair Oelfke noted that there are two things which the Board needs to consider during this Public Hearing, frontage and access. He also presented the Board with copies of Chapter 40 (Powers and Duties of Cities and Towns) Section 15C (Scenic Road Designations; Improvements; Fines). Vice Chair Oelfke noted that the Board should also consider the definition of a scenic road, in reference to this particular case.

At this time a member of the public, and abutter to the proposed project, came forward, Ms. Lauren McCarthy of 82 Center Road. Ms. McCarthy asked to see the proposed plans as it related to her property. Chair Widing explained to Ms. McCarthy the location of the proposed driveway, which the Board discussed further. Ms. McCarthy was satisfied with the proposed plans, and voiced no opposition to a favorable finding for the applicant.

Vice Chair Oelfke mentioned that regulation 8.5 of the Protective Zoning Bylaws is what will guide the Board into issuance/denial of a Special Permit

Chair Widing asks for clarification from Vice Chair, Vice Chair clarifies, per 8.5 the requirements for issuance of a special permit. Vice Chair asks, “Is it appropriate, for the zone, to take down the rock wall?”

Chair Widing seeks public input, questions, and comments. The owner of property remarked that the wall has already fallen down in several places. Mr. Gailey remarked that if the abutter did not notice the wall, that it must not be very prominent.

Mr. Gailey remarked that he has no issue with project, but wants the ANR to meet guidelines.

Chair Widing motioned to accept the application for Center Road Special Permit driveway access according to Chapter 40 Section 15C, removal of 22’ of stone wall dated 11/21/2017 as amended by markups and received by the Town Clerk on January 12, 2018. **Vice Chair Oelfke motioned to approve, seconded by Mr. Gailey**. **Motion passed 4-0**.

Chair Widing opened discussion item #1 on the Agenda, which is “Refer the Master Plan to the Selectmen for Placement on the May 2018 Annual Town Meeting Warrant.” Chair Widing noted that the MRPC are looking for a recommendation for the Annual Town Meeting, not a binding vote, but a letter of support for the Master Plan.

**Vice Chair Oelfke motioned to put the Master Plan on the May 2018 Annual Town Meeting. Mr. Gailey seconds the motion.** Ms. Yocum asks to see a copy of the Master Plan, which Administrative Assistant Michael Gibbons provides. Ms. Yocum voices the opinion that all Boards and the public should have access to the Master Plan and Chair Widing notes that it should also be posted on the Town Website. **Motion passed 4-0**

Chair Widing noted that Chair Holly Haase of the Board of Selectmen should be emailed detailing the Planning Board’s recommendation that the Master Plan be approved at the Annual Town Meeting in May.

Chair Widing moved onto Discussion Item #2: Refer the Nashua River Wild & Scenic River Stewardship Plan to the Selectmen for Placement on the May 2018 Annual Town Meeting Warrant. Chair Widing acknowledges that the plan is not done yet, part of the plan is having towns “buy in.” Ultimately federal and state money could become available.

Vice Chair Oelfke asked whether the Planning Board is taking the position that this plan is theirs or that they are being asked to send a letter of support. Mr. Gailey remarked that the Board is being asked for a letter of support.

**Vice Chair Oelfke motioned to send letter of support for the Nashua River Wild & Scenic River Stewardship Plan, Ms. Yocum seconded, Motion passed 4-0**

Vice Chair noted that this will be on the May Annual Town Meeting; Chair added that this will add Planning Board support.

Chair Widing opened Discussion Item #3 Final review of warrant articles for March 5, 2018 Special Town Meeting

Vice Chair Oelfke noted that on the copies of both a finalized and annotated copies of the Warrant Articles, provided by Town Counsel, will reflect changes made. Vice Chair Oelfke also noted the change of verbiage from “recreational marijuana” to “non-medical marijuana.”

Ms. Yocum noted that in Section 1 “recreational” is still used. Board noted need to correct.

Vice Chair Oelfke noted that a summary has been added to each article, and noted his approval of the summaries. He also noted the change from medical marijuana establishments to medical marijuana treatment centers. Mr. Oelfke also noted several changes made by Town Counsel, noted the use of comment boxes, the changing of phrase use in Article 6, and that Town Counsel made changes to some of the definitions. In reference to the change in definitions Vice Chair Oelfke remarked that if the state law and a towns bylaw differed, it can make a town’s bylaw harder to defend.

Vice Chair Oelfke made the suggestion that the Board review the Warrant Articles on an article-by-article basis. He also noted that the Town Counsel is confused by the flow chart in Article 5, and provides clarification.

Ms. Yocum asked the Board whether it’s possible to bring the Summary’s to the beginning of each Article, for ease of reading, and access to the public at the meeting.

Vice Chair Oelfke noted that Board has the ability to structure the Town Warrant in any fashion but that the way it is currently presented is customary, although he did not know if it is a requirement.

Vice Chair Oelfke noted that the Board is responsible for the summary, and presentation, of each article at the Special Town Meeting, and that Chair Widing will be providing a summary of each article, why the Board supports each Article, and then ask for public input.

Associate Member, Ms. Bonnie Lawrence, voiced her support of Ms. Yocum’s proposal, having each article summary presented at the beginning of each article.

Chair Widing noted that the presentation of handouts will be discussed in the next discussion item. Also noted of a meeting on February 26, 2018 with Town Counsel and the Moderator, where these items can be addressed.

Vice Chair Oelfke noted only minor changes to Article 1, Chair Widing sought comments on Article 1, Ms. Yocum noted use of “recreational marijuana” instead of “non-medical marijuana”.

Ms. Lawrence noted that in place of “non-medical marijuana” an acronym or shortened verbiage could be used.

Several members noted the use of commas outside of quotations, when they should be instead on the inside.

Several members noted the use of “recreational” and “non-medical” in title of Article 2, Ms. Lawrence suggested that in Article 1 the Board add “Recreational/Non-Medical” on page 3. Ms. Yocum noted of more instances of commas outside of quotations when they are needed inside the quotations. Chair Widing sought additional comments for Article 2, the members of the Board had none.

The Board requested Administrative Assistant Michael Gibbons to perform a search to find all instances of commas outside of quotations when they are needed inside quotations. Mr. Gibbons agreed.

Ms. Yocum noted that the underline of Article 3 is not going under the entire title, needs remediation.

Vice Chair Oelfke noted the comment from Town Counsel on page 6, the definition of medical marijuana treatment center instead of establishment. Chair Widing provided clarification; Chair, Vice Chair, and Mr. Gailey all noted agreement with the change, “Medical Marijuana Establishments” are now referred to as “Medical Marijuana Treatment Centers.”

Vice Chair Oelfke also noted on page 10 the comment from Town Counsel explaining why Town Counsel used verbiage they did. Chair Widing and Mr. Gailey both agreed that verbiage is better, provides better clarification.

Vice Chair Oelfke noted that in regard to Town Counsel logic, they aren’t stating opinions they are stating facts.

Mr. Gailey noted the language used on signage is similar to the last comment by Town Counsel, following existing laws, and noted the removal of the Planning Board comment on Page 12. Vice Chair Oelfke noted that the phrasing is better from a legal standpoint.

The Board made several comments regarding grammatical and formatting corrections, which Mike Gibbons will address.

The Board noted the addition of verbiage on page 13.

Vice Chair Oelfke noted Town Counsel’s definitions on page 16 of corrected version, Chair Widing noted page 24 of annotated version, have been shortened dramatically. Vice Chair agreed with Town Counsel, we don’t use these definitions in our bylaws, and the verbiage used by Town Counsel is already used in state law. Mr. Gailey noted that the Board discussed this matter earlier when referencing wording on Page 10.

The Board made several comments regarding grammatical and formatting corrections, which Mike Gibbons will address.

Chair Widing wanted to know if Town Counsel wants to strike all of the definitions. Vice Chair Oelfke suggested looking up the definitions in the revised copy, which he noted only has two of the original definitions left. Chair Widing asked for feedback from the Board about this. Vice Chair wondered why “Offsite Medical Marijuana Treatment Center” is included when it was not used in the Warrant. Mr. Gailey noted that it may have been used in an earlier draft of the Warrant Articles and that at some point the Board motioned to strike the use of such verbiage.

Chair Widing posited whether or not a motion should be passed for each change to the Warrant Articles or if one motion covering all changes would suffice. Vice Chair Oelfke suggested one motion covering all changes.

Mr. Gailey asked the Board if changes to definitions section are satisfactory. Chair Widing noted that striking definitions, as suggested by Town Counsel, allows the Town to use State Bylaws instead.

The Board made several comments regarding grammatical and formatting corrections, which Mike Gibbons will address.

Ms. Lawrence asked why the Town wouldn’t want to know when a business is going to submit a Storm Water Management Plan, Chair Widing clarified, Vice Chair Oelfke noted that instead of a zoning regulation, something like that would be a use regulation, noting that it is a financial issue, not a zoning issue. Chair Widing noted that requiring notice which Ms. Lawrence sought is not the Planning Board’s job or prevue. Vice Chair Oelfke noted that the Board may only rule on zoning issues.

Vice Chair Oelfke noted the definitions used once more on page 24 of the annotated version of Town Warrant. Chair Widing suggested keeping some definitions that Town Counsel would have erased.

Vice Chair brought up Article 5, either page 27 of annotated copy or 19 of clean copy, highlights confusion on the part of Town Counsel. Town Counsel believed that useage of “ban” could be misconstrued, and Chair Widing wanted to ensure that the use of “ban” was not present in any article. Vice Chair Oelfke noted in revised copy the use of “ban” is not present.

Ms. Yocum asked the Board to revisit definitions spoken about earlier. Upon reflection, she believed it is perfectly valid to have definitions within the Warrant Articles, and not to erase them. Ms. Yocum asked the Board if they would consider keeping definitions in final copy of Warrant Articles. Vice Chair Oelfke noted that the State Regulations define all of the definitions listed. Ms. Yocum asked whether or not the Board believes the Town would be on better legal footing in the future, relying upon state regulations, which Vice Chair Oelfke believed the Town would be.

Ms. Lawrence voiced concern over allowing “loopholes” by removing definitions from Warrant Articles. Ms. Lawrence also noted the need for the public to be able to get access to these regulations. Vice Chair Oelfke noted that either he or Mr. Gibbons can pull them up when asked to by the public.

Mr. Gailey noted his desire to remove the last sentence from 4.18.5a, for interpretation reasons.

Ms. Yocum asked where in the actual Bylaws does it say that we are excluding Medical Marijuana retailers. Chair Widing noted that if Article #2 passes, that would take care of it.

Mr. Gailey went back to page 30 of the annotated copy takes issue with the phrasing of 4.18.4.b. Mr. Gailey noted that the phrasing should be revised making use of the word “not” in the first sentence, and “but” to show that a business shall not operate from 8:00 p.m. – 8 :00 a.m.

Chair Widing noted that the word “everything” needs to be removed after the word “Pursuant” on page 37 of the annotated version of the Warrant Articles.

The Board noted that Town Counsel completely revised wording of Article 6.

Mr. Gailey noted the need to change “per cent” to “percent” on page 38 of the annotated copy.

**Chair Widing read motion, Vice Chair Oelfke made motion to approve changes noted by the Board, seconded by Mr. Gailey. Motion Passed 4-0.**

Chair Widing noted that most of the Board’s changes are in language and not intent.

After the vote Ms. Yocum noted one more change, that the table of contents page was wrong. Vice Chair Oelfke noted that Town Administrator Travis Miller is responsible for the Table of Contents page, and will revise.

Vice Chair Oelfke laid out the process by which the Warrant Articles will be sent to Special Town Meeting, including special meeting of Board of Selectman and posting done by the Town Constable, by February 16.

Chair Widing opened Discussion #4: Review, Edit, Finalize language for handouts for the March 5, 2018 Special Town Meeting.

Vice Chair Oelfke commented that Ms. Tice has created a handout that will accompany a flow chart created by Chair Widing.

Ms. Yocum noted that the current flow chart designed by Chair Widing is hard to understand, and noted that the chart Ms. Tice has created may be more useful. Chair Widing clarified that the current flow chart is color coded and explains the handout to the Board. The Board then discussed changing the flow chart, and noted the changes to be made. Ms. Yocum also noted that she would like to Board to consider changes to the flow chart made by Ms. Tice.

Ms. Yocum suggested a handout that shows the two zoning areas that the Board is recommending for the Warrant Articles for Lancaster Road Commercial and Industrial Districts. Vice Chair Oelfke noted that the public may not the location of Shirley’s districts. Chair Widing suggested the Board add a zoning map.

Chair Widing also noted that the zoning map should also be found in the master plan.

Ms. Yocum discussed handouts that she and Ms. Tice have been working on. The Board discussed changes to these handouts, Ms. Yocum told the Board that she will notify Ms. Tice of any changes to be considered. Ms. Lawrence noted that she would like copies of the handouts posted outside of the Town Clerk’s office.

Chair Widing noted the need to review handouts one final time at the February 28, 2018 Planning Board Meeting.

Discussion item #4 was closed

Chair Widing tabled the Administrative Matter: March 17 CPT Training.

Vice Chair Oelfke noted that a Special Permit Application had come in for a hammerhead lot and noted that it should be added to the February 28, 2018 meeting as an administrative matter to schedule the permit hearing.

**Vice Chair Oelfke motioned to adjourn at 9:11 p.m. and Mr. Gailey seconded the motion. Motion passed 4-0.**

Minutes prepared by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Michael Gibbons, Administrative Assistant

Accepted:­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ February 28, 2018