

Joint Meeting of the Town Council and the Planning Board
August 11, 2021
3:00 pm in the Civic Center
Minutes & General Account

Council Members Present: Mayor Montgomery, Council Members Wolfe, Rayborn, Capes, & Straughn

Planning Board Members Present: Sarah Glanville, Chair; Ed Stafford, Vice Chair; Dennis Sholl, Eddie Oakley, Russ Walker, Donald Dale (ETJ), Robert Coon (ETJ), Sherrie Richmond (ETJ), Cara Arena (ETJ), Kerry Miller (Alt.), Jane Walker Payne (Alt.), Peggy Levi (ETJ Alt.)

Staff Members Present: Dave Treme, Matthew Johnson, Anna Hawryluk, & Katie Weiner

Visitors Present: Vagn Hansen, Jason Epley, Tom Terrell, Seth Harry, Elizabeth Ward, Calvin Atkins, Courtney Gonzalez, Ryan Moats, Eric Wall, & Carol Brooks

Call to Order for the Town Council- Mayor Montgomery called the meeting to order for the Town Council.

Weiner took roll call for Council as follows:

Council Member Wolfe- Present
Council Member Capes- Present
Mayor Montgomery- Present
Council Member Straughn- Present
Council Member Rayborn- Present

Weiner stated that a quorum was present.

Call to Order for the Planning Board- Glanville called the meeting to order for the Planning Board.

Weiner took roll call for the Planning Board as follows:

Sarah Glanville- Present
Ed Stafford- Present
Dennis Sholl- Present
Eddie Oakley- Present
Russ Walker- Present
Donald Dale- Present
Robert Coon- Present
Sherrie Richmond- Present
Cara Arena- Absent

Kerry Miller (Alt.)- Present
Jane Walker Payne (Alt.)- Present
Jason Spangler (Alt)- Absent
Peggy Levi (ETJ Alt.)- Present

Weiner stated that a quorum was present.

Introduction and Welcome to the Joint Meeting- Treme thanked all the Council and Planning Board Members for attending the meeting. Treme said that D. R. Horton had purchased the Johnson property. He added that staff would like to use the joint meeting as an opportunity to provide information on how the Town Council was going to approach the public engagement process for any future rezoning request that may be submitted for the property. Treme also stated that Vagn Hansen with Benchmark Planning was going to present an overview of some of the recent 160D statute updates and general tips for effective board meetings.

Treme asked everyone to introduce themselves. Council and Planning Board Members introduced themselves to the group. Treme thanked everyone for their service to the community.

Hansen came forward. He introduced himself and said that Benchmark Planning had been involved in several different projects with the Town of Jamestown. He noted that Benchmark was currently working on an update to the Town's Comprehensive Plan. He added that Treme had approached him about providing some information to the boards regarding the changes that had occurred at the state level while also reviewing some more general topics that may be beneficial.

Overview of Updates to Conflicts of Interest- Hansen stated that the 160D legislative updates had impacted the rules surrounding conflicts of interest. He noted that the conflict of interest provisions applied to both governing and appointed boards. He stated that governing or advisory board members were not allowed to participate in any legislative decision regarding development regulation if the outcome was likely to have a direct, substantial, and readily identifiable financial impact on the member. He added that having a close familial, business, or other associational relationship with the landowner of a property subject to a rezoning petition or the applicant for a text amendment would also be considered a conflict of interest. Hansen explained that members should recuse themselves if a conflict exists.

Hansen presented several scenarios in which there may be a financial or personal conflict of interest. He asked the members to identify which scenarios were problematic. The Council and Planning Board Members discussed the examples with Hansen.

Hansen also briefly spoke about the voting requirements for quasi-judicial decisions. He highlighted that board members must be impartial decision makers. He added that they could not have a fixed opinion about the matter being discussed prior to the hearing. He noted that all members must disclose any ex parte communications that they have had before the hearing begins. Hansen stated that anyone that had close familial, business, or other associational relationships with an affected person or a financial interest in the outcome of the matter could not participate.

He provided several scenarios to the board members about potential conflicts of interest. The members discussed the situations with Hansen.

Tips for Effective Board Meetings- Hansen provided the Council and Planning Board members with an overview of parliamentary procedure. He explained that the procedures established order in the meetings while also ensuring that the business of the board was conducted efficiently. He added that they provided a structure that encouraged organized discussion and equal opportunity to express differing opinions.

Hansen spoke about the proper ways to make and amend a motion. He also gave the board members several tips on how to streamline the public comment period process. He noted the importance of maintaining order during the meetings, being prepared to discuss items on the agenda, and ensuring that the agenda be followed after its adoption.

Procedures for Land Use Hearings- Hansen provided an overview of legislative and quasi-judicial hearings and their procedures. He stated that the primary types of legislative hearings were for zoning map and ordinance text amendments. He noted that both types of amendments required advisory hearings, recommendations by the Planning Board, and a public hearing held by the Town Council. Hansen added that there were no restrictions on communications with applicants prior to legislative hearings. He said that all interested parties were allowed to speak at the public hearings and that decisions by the boards should be made within a reasonable timeframe. He presented details on the requirements of the board to provide a consistency statement for proposed amendments and their alignment with the Town's adopted Comprehensive Plan.

Hansen noted that quasi-judicial hearings were based on evidence that placed the burden of proof on the applicant to demonstrate that their proposal met the standards of the Town's ordinance and any required findings. He added that the hearings were conducted like a court proceeding. He stated that speakers provided sworn testimony and were supposed to present "substantial, material, and competent" evidence on matters before the board. He said that all evidence had to be considered when the board made a decision. Hansen said that written findings of fact were required and that specific evidence entered into the record should be cited to demonstrate compliance. He noted that the hearings could be continued if the board required additional evidence in order to make a decision.

The board members discussed the details of the procedures for the two types of hearings with Hansen.

Arena arrived at 4:54 pm.

Introduction to the Town of Jamestown's Land Use Attorney- Mayor Montgomery introduced Tom Terrell with Fox Rothschild to the board members. She noted that he had extensive experience in representing clients from a wide-range of industries in land use matters. She added that he was currently serving as the Town's land use attorney.

Terrell came forward and addressed the Council and Planning Board. He thanked Treme and the Council for allowing him to represent the Town. He said that he was impressed that the leaders of the Town were being proactive as they prepared for the significant decisions that would need to be made regarding the Johnson property in the near future.

Terrell explained that the role of the Planning Board was not to design a development site when they were considering a substantial rezoning request. He added that their purpose was to make determinations about a request based on the Town's adopted Comprehensive Plan and vision for the future. He stated that they would then provide a recommendation to the Town Council about whether a request should be approved or denied based on their consideration. He noted that if the process worked as it was intended that the outcome would be defensible in every aspect.

Terrell said that a development agreement would be crafted and implemented if a rezoning request were approved. He added that he and the developer's attorney would work together to draft an agreement. He noted that it would then need to be approved by the Town Council.

He praised the Town Manager and Council for hiring a planning consultant to assist with the board's consideration of the Johnson property rezoning. He advised the Planning Board to heed the advice given to them by Seth Harry. He also encouraged them not to confuse density of the development with quality. Terrell added that D.R. Horton, owner of the Johnson Property, had been willing to step out of their comfort zone to work with the Town to create a development that everyone could be proud of at the end of the process.

Mayor Montgomery called for a five minute recess.
Mayor Montgomery called the meeting back to order.

Introduction to the Town of Jamestown's Community Planner- Mayor Montgomery introduced Seth Harry to the board members. She stated that he was the president and founder of Seth Harry & Associates Architects and Planners. She added that he had over thirty-five years of professional experience in community planning throughout the United States. She said that his team also had extensive experience in community outreach and public input.

Harry came forward and addressed the board members. He presented information on the usual process that his team used to engage the public about potential developments. Harry presented examples of other sites that he and his team had worked on for other municipalities.

Board members spoke about the best ways to inform the public about the upcoming public engagement sessions with Harry.

They also discussed the details of the schedule for the sessions and potential options for virtual participation with Harry.

Johnson came forward and stated that the Planning Board would not be able to meet on their regular meeting date in September. He requested that they set the date for a special meeting on September 20th at 6:00 pm.

Dale made a motion to set the date for a special Planning Board meeting on September 20th at 6:00 pm in the Civic Center at Town Hall. Arena made a second to the motion. The motion passed by unanimous vote.

Adjournment of the Town Council- Capes made a motion to adjourn. Straughn made a second to the motion. The motion passed by unanimous vote.

Adjournment of the Planning Board- Walker made a motion to adjourn. Coon made a second to the motion. The motion passed by unanimous vote.

The meeting ended at 6:07 pm.