

**Leicester Planning Board Meeting Minutes**  
**February 5, 2013**

MEMBERS PRESENT: Jason Grimshaw, Debra Friedman, Sharon Nist, John McNaboe,  
David Wright

ASSOCIATE MEMBERS: Kathleen Wilson

MEMBERS ABSENT:

IN ATTENDANCE: Michelle Buck, Town Planner; Barbara Knox, Board Secretary

MEETING DATE: February 5, 2013

MEETING TIME: 7:00 pm

AGENDA:

- 7:00PM ANR Plan, Whittemore Street (Johnson)  
7:10PM Old Business:  
Briarcliff Estates; Performance Guarantee  
7:20PM Approval of Minutes  
12/4/2012  
7:30PM Town Planner Report
- Medical Marijuana Dispensaries
  - Parking Regulations
  - Budget
  - GIS Mapping Project
  - Worcester Airport (Jet Blue)
  - Miscellaneous Project Updates
  - Vacation Request

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Mr. Grimshaw called the meeting to order at 700PM

**ANR Plan, Whittemore Street (Johnson)**

This is plan is taking a 15 acre lot and dividing it into two lots.

MOTION: Mr. McNaboe moved to approve the ANR Plan for Whittemore Street

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

**Old Business:**

Briarcliff Estates, Performance Guarantee

The Briarcliff development sale has been finalized and the new owner is called Briarcliff Estates SV, LLC. A new Letter of Credit was received today, along with a new Performance Agreement extending the deadline to January 15, 2015 for the completion of the Briarcliff Estates. Also received was a request from the previous owner to release the old letter of credit and the \$80,000 cash surety the Town is holding.

Hearing no further discussion; Mr. Grimshaw called for a motion.

MOTION: Mr. Wright moved to: 1) accept the Letter of Credit #68089750 in the amount of \$243,934 from Bank of America, N.A. and dated February 5, 2013 and the related Performance Agreement dated February 5, 2013 between Briarcliff Estates SV, LLC and the Town of Leicester; and 2) Extend the deadline to complete work in Briarcliff Estates to January 15, 2015; and 3) Release the previous performance guarantee, specifically the following: a) the Standby Irrevocable Letter of Credit No. 400001799, issued by United Bank (hereinafter the “Lender”) dated April 13,

2011 and amended August 21, 2012 in the amount of \$134,775.30; b) the deposit with the Town of Leicester in the amount of \$80,715 (Village Bank check #144646 dated July 11, 2012); and c) the Performance Agreement dated May 31, 2011 and amended August 28, 2012.

SECONDED: Ms. Friedman – Discussion: None

VOTE: All in Favor

### **Approval of Minutes**

12/4/12

MOTION: Mr. McNaboe moved to approve the minutes of December 4, 2012

SECONDED: Mr. Wright- Discussion: None

VOTE: 3-In Favor / 2-Abstentions (Ms. Nist and Ms. Friedman)

### **Town Planner Report**

#### Medical Marijuana Dispensaries

She said that the Board suggested at the last meeting, using the existing Adult Entertainment Bylaw as a starting point, marking off 1,000 feet from a residential district, from schools, churches or other religious uses, childcare facilities, parks and playgrounds. Following that suggestion, the areas allowed would be limited to portions of HB-1, HB-2 and BR-1, with BR-1 having the largest area. Ms. Buck showed these areas on a copy of the Town's Zoning Map, for discussion purposes tonight.

Mr. McNaboe felt that if Leicester was to be considered for a dispensary, it would probably be placed along the main thoroughfare, possibly on a bus line, to be easily located. He asked if this should also include 1,000 feet from a liquor store.

Ms. Friedman said a dispensary would be for medical reasons; it's not for recreational reasons.

Mr. McNaboe said he had done some research on the criminal statistics that have to do with marijuana dispensaries and a lot of the information he found stated that there wasn't a lot of high crime.

Ms. Buck asked if the Board was in general agreement on going forward with this kind of approach [regulating in a similar manner as adult uses].

Ms. Friedman felt this approach wouldn't make it completely unattractive to put a dispensary in Town.

Mr. McNaboe asked if the Board wanted to make it unattractive, because that is how he would like to see it.

Ms. Buck said she has been following a lot of the articles in the newspaper and the correspondence back and forth between Planners; there are definitely a lot of discussions regarding restrictions. She felt that allowing where discussed tonight allows the use in reasonable areas.

Ms. Friedman agreed, because it has to be allowed somewhere.

Mr. McNaboe said Leicester is right on the bus line and the City of Worcester is thinking about a moratorium. In doing what this Board is looking at doing (restricting it to certain areas) will protect Leicester. If Worcester does a moratorium and Leicester is left unprotected, people will come to Leicester on the bus line and won't need a car.

Ms. Friedman felt this way was the better way to go because even in the allowed areas, it may not be able to go because of small licensed daycares.

Ms. Buck said typically, the childcare facilities do not include family daycare. Does the Board want to include both or just a more formal daycare type facility? Ms. Friedman asked how it read in the Adult Entertainment Bylaw. Ms. Buck said it just reads “childcare facility”. Ms. Friedman asked if that was how it’s defined in Town and State Law. Ms. Buck said it is defined in State Law and is one of the things that should be fixed in the Town’s definitions. The Town’s local definitions do not match State Law; Leicester calls it family daycare and group daycare, and then there’s a term childcare facility. The State has Family Daycare Centers and Childcare Facilities and a childcare facility does not include family daycare. All agreed that the Town’s definition should match and reflect the State’s definition.

Ms. Buck continued. In terms of medical marijuana, does the Board want this facility away from both [childcare centers and family child care homes] or just the centers? All agreed it should be away from both. Ms. Buck noted that the Public Hearing will be scheduling for March 5, 2013.

Ms. Nist asked if an amendment to Adult Entertainment should also be included regarding the term Family Daycare Centers being changed at the same time. All Agreed it should.

Mr. Wright confirmed that this amendment would now change the bylaw to the Town, to match the definition with the State, to include, a large Family Childcare Home and then Childcare Facility. Ms. Buck agreed.

Mr. McNaboe asked how would the Hope House Center located on Main Street near the Wal-Mart, or the Nazareth Home on Mulberry Street be categorized. Ms. Friedman felt they would be categorized as a school. Mr. McNaboe said the Hope House is a treatment center. Mr. Wright asked if adding the term “rehabilitation centers” to the 1,000 foot requirement should be considered. Ms. Friedman agreed it should and noted another rehab facility located on Pleasant Street in Rochdale, right at the Oxford Town Line that should be considered. Ms. Buck asked if the Board was in agreement keeping dispensaries away from drug treatment centers, within 1,000 feet, even if not located within the town of Leicester; all agreed.

### Parking Regulations

This had a couple of concerns; one was the Town’s Use Table. Most Towns have very specific list of uses and Leicester has categories that are very broad. Leicester’s Parking Regulations don’t match the Use Table and they should. Ms. Buck noted the Public Hearing for the parking regulation could also be scheduled for March 5<sup>th</sup>.

The second concern is that Leicester allows, in a couple of the districts, off-site parking on a contiguous lot, but does not allow any shared parking anywhere. Ms. Buck asked for some input from the Board regarding shared parking, particularly in the Central Business District. Right now it is prohibited, does the Board want to leave it that way or is it something open for consideration?

Mr. McNaboe asked if there was a definition on shared parking, because there’s the Post Office right next to Subway and they share parking. Mr. Wright said Eller’s Restaurant & the Batting Cage facility is located on the same lot, wouldn’t that be considered shared parking?

Ms. Buck said those businesses are on the same lot. Her question to the Board is; do you want to allow shared parking on a different site. For example; if there is a business in the center of Town with very little space and there is another business two lots down that has extra parking, does the Board want to allow the ability for people to use the site with the extra parking spaces?

Mr. McNaboe said he agreed that parking should be made flexible for businesses, but does not want to create a safety issue. Ms. Friedman agreed.

Ms. Buck said one of the reasons Leicester has parking regulations instead of having it the Bylaw, was so business owners didn't have to apply for a variance if they wanted to provide 20 parking spaces instead of 25. All agreed to draft the regulations to allow flexible parking arrangements. Ms. Buck noted that while working on these amendments, she's identified some minor problems in the Zoning Bylaws that need fixing; specifically related to how daycare facilities are defined and regulated. Leicester's daycare regulations don't match State Law. Family childcare, by State Law, allows up to 6 children and Leicester allows up to 5. What Leicester calls group daycare, the State calls a childcare facility and Towns are not allowed to prohibit them, or allowed to require a special permit to operate; Leicester requires a special permit. Ms. Buck asked if the Board wanted it fixed to match State Law; all agreed it should be fixed.

Ms. Buck asked if the Board wanted to differentiate between normal family daycare and large family daycare. Some Towns put in their Use Table; Family Daycare Home allowed and they don't really specify up to 6 or up to 10. Alternatively, Leicester could allow up to 6 by-right and up to 10 by special permit.

Ms. Friedman felt the only difference between 6 and 10, with a family daycare, is that they will have to meet the state regulations. It would be a license daycare and regulated by the State. Ms. Buck said the State allows 10 only if there is a second person helping watch the children.

With no further discussion; all agreed to amend the regulations to allow up to 10 by-right.

### Budget

The FY14 budget proposal submitted was a level funded budget showing no raises. The Town Administrator sent around a memo to each department head regarding FY14 budget preparations and asking each department to include any ancillary costs that may be considered necessary for the proper funding of their office.

Ms. Buck said she did not originally submit anything because in the memo the word "necessary" was stressed. The Town Administrator met with each department head, one on one, about their particular budgets. When she met with Mr. Reed, he had suggested that the Planning Department consider including some items they felt would be needed for a full functioning Planning Office, in order to meet the Planning Board's mission. He suggested considering including restoration of the funding to the Town Planner's position. Ms. Buck didn't feel this was likely to happen.

Ms. Friedman asked why it was an unrealistic suggestion. Ms. Buck felt the funding would likely have to come from a 2 ½ override and that she didn't feel Leicester residents would be in favor of an override. Ms. Friedman and Mr. Grimshaw disagreed and felt that the Town would be open to supporting an override, mainly because they do not want to see the new Police Station being closed to the public.

Mr. McNaboe said generally, he would not be in favor of a tax increase, but at least in a small Town, when you increase the taxes, you see where they go (as opposed to income taxes or other taxes that go to the State or Federal Government, you don't know where they go). He would support an override, as opposed to closing the Police Station and to be able to have a full-time Planner.

Mr. Grimshaw and Ms. Friedman agreed saying some Town's people may not be thrilled about it [and override], but felt they will support it. Ms. Buck asked if the Board wanted to include the funding for a full-time Planner, instead of submitting a more conservative budget. Mr. McNaboe said yes, definitely include that request. All agreed.

Ms. Buck noted a couple of other items that were mentioned at the budget meeting. One was increasing the consulting budget, which has been severely cut in the last few years, to the point of being nearly useless. The other was the consolidation of the ZBA/Planning clerk positions. Combining these positions is not just about the person; it's about the proper functioning of two departments. From a management perspective, it makes sense to combine the ZBA and Planning secretary positions into one position. All Agreed. Bob Reed noted that he supported the consolidation of these two positions.

Ms. Friedman asked how much of an increase was being proposed for the Consulting Budget.

Ms. Buck said her initial thought was \$10,000. Ms. Friedman agreed with that amount, because anything under \$10,000 won't allow for much.

### GIS Mapping Project

John Prescott, Principal Assessor and Ms. Buck have been working for the last few months on a way to digitize the Town's Assessor's Maps. This will not be a full-blown GIS system right now, but a way of getting the Town's Assessor's Maps not hand-drawn when updating.

Ms. Buck had agreed to contribute \$3,000 of the Planning Consultant's Budget this fiscal year and CMRPC will start the process in FY13 with that money. In FY14 the remainder needed will come from the Assessor's Office budget. The project needed to have the Town's CMRPC representatives (Sandy Wilson and John McNaboe) sign off on the money for the CMRPC staff to use. Ms. Friedman noted that she was the current CMRPC Planning Board representative, not John McNaboe. Ms. Buck said she couldn't remember the representative and had checked the CMRPC website, which had not been updated. CMRPC staff will also be using the remainder of the Town's technical assistance hours from CMRPC for this fiscal year. She noted this being a good project for the Town and a good cooperative effort with having the Planning funds, Assessor's funds and CMRPC chipping in the technical assistance hours.

One concern was raised by Michael Knox of the Cherry Valley/Rochdale Water District. The Town got a Regional Community Innovation Challenge Grant about a year ago for Stormwater and part of that grant was for GIS mapping of sewer and water facilities. Mr. Knox has a meeting set up for tomorrow to make sure that the work being done for the Stormwater grant isn't somehow incompatible with the GIS mapping project. Ms. Buck felt it shouldn't be an issue, because the current project is basically a data collection issue at this point. Only later will the Town need to figure out which GIS system they want to invest in the future.

Ms. Friedman asked if there was any need not to take the Consultant budget for FY14 and put it towards the GIS project, to buff up the project and make it more beneficial. Ms. Buck felt it was possible, but the way she left it was that Planning would commit to this fiscal year and then would further discuss for next fiscal year. Ms. Friedman felt the Board should be open to putting FY14 money towards this project because she would rather put that money towards something like this in order to make it a better project.

## Miscellaneous

- **Carey Hill Estates**  
Ms. Buck said she wasn't sure where this project currently stood and had a couple of calls into Town Counsel. The developer did not finish the work by the deadline set, and she is now just waiting to hear back from Counsel for the next step that should be taken. She still wants the Town to move forward on putting an article on the Annual Town Meeting Warrant for the road acceptance regardless. The worst-case scenario is that the money Mr. Blair gave the Town to put in escrow can be used to fix whatever problems still exist up there.
- **New application**  
An Engineer for a potential development across from the Wal-Mart met with Ms. Buck to show some conceptual level plans for her review. A Site Plan may be filed within the next month or so. There were no specific tenants named, but a gas station, with a convenience store was possible with some kind of drive through food service window. There would also be a separate stand-alone 10,000 square foot retail building.
- **Oakridge Estates**  
There's been a recent problem there. One of the conditions of approval to this project was to always leave Phase 3 open and accessible. The Board did agree to allow the developer to close access to Phase 3 in winter and stop plowing it, if he created a temporary turnaround at the end. There was no temporary turnaround created and the right-of-way is now blocked and filled with construction debris. A letter was sent to the developer advising him to remove all the debris from the right-of-away, as soon as weather permits and to leave Phase 3 open and accessible, as stated in the Order of Conditions.  
  
Mr. Wright asked, regarding Carey Hill Estates, on the work that had not been completed. Mr. McNaboe said there was a judgment against them, correct? Mr. Wright said that is where he is going with this. Ms. Buck said that is why she has a call into Town Counsel. Her understanding was that Mr. Blair would be in contempt of court if he failed to complete the work. Mr. Wright said that was his question, because the work was supposed to be done by December 1, 2012. Mr. McNaboe said when there is a judgment against the developer and they don't comply with that judgment, then they are in contempt of court. Ms. Buck said she is waiting to hear from Town Counsel to see how to proceed.
- **CPTC Conference**  
Copies of the Citizen Planner Training Collaborative Annual Conference information were distributed. This year the Annual Conference will be held on Saturday, March 16, 2013 at the Hogan Conference Center, at Holy Cross in Worcester.
- **Vacation Request**  
Ms. Buck asked for some time in March, and possibly a portion of the week of February 18 – 22, 2013 (she is working out details of an out-of-state vacation in March).  
MOTION: Mr. McNaboe moved to approve Ms. Buck's vacation request.  
SECONDED: Ms. Friedman – Discussion: None  
VOTE: All in Favor

- Worcester Airport/EDC Meeting

Mr. Grimshaw updated the Board on the recent Economic Development Committee Meeting. At the recent EDC Meeting, the Chairman of the Committee, Doug Belanger, spoke on the potential of Jet Blue coming into Worcester Airport. The City officials have been doing some PR work on marketing the airport and Mr. Belanger had thought a letter from the EDC Committee, representing the Town of Leicester in which 2/3rds of the Airport exists, wouldn't hurt. Mr. Grimshaw agreed to send a letter from the EDC, but suggested asking the Planning Board to see if they were interested in joining in on supporting the idea of having Jet Blue coming into Worcester.

Mr. McNaboe asked if anyone knew what was going on along Marshall & Mulberry Streets, because the Airport was removing acres and acres of trees in that area. Mr. Wright thought it might be for the runway expansion project that the City recently talked about doing.

After a brief discussion, all agreed to join with the EDC supporting the idea of Jet Blue possibly coming to Worcester.

Mr. Grimshaw continued. CVS has moved on and away from proposing a store on the site at the corner of Pleasant and Main Streets. He felt that CVS was disingenuous when they implied they hadn't looked at any other spot for their store. He noted Mr. Belanger stating that it was local realtors pointing out other locations, but apparently corporate CVS did not look at any other locations. Ms. Friedman felt the reason CVS didn't look at any other location was because they were given every indication, initially, there would not be a problem. If there had been more open discussions between everyone, at that point, CVS would likely have explored other locations.

There were a couple of other items Mr. Grimshaw noted. He asked, on behalf of the EDC, if there would be CMRPC money available for the developing of a Business Brochure for the Town. The last item was with Mattei Realty's sale on the lots next to Leicester Country Club had fallen through and the sale on the property next to St. Joseph's church had also fallen through.

With no further discussion; Mr. Grimshaw asked for a motion to adjourn.

MOTION: Mr. Wright moved to adjourn the meeting

SECONDED: Ms. Nist – Discussion: None

VOTE: All in Favor

Meeting adjourned at 8:25PM

Respectfully submitted:

*Barbara Knox*

Barbara Knox

**Documents including in mailing packet:**

- Agenda
- Suggested Motion, Briarcliff from 12/4/2012
- Memo to the Board from Ms. Buck dated 1/30/2013
- Department Heard Memorandum from Robert Reed regarding FY14 budget preparation – ancillary costs dated 1/17/2013
- Copies of proposed FY14 budget
- Copy of memorandum to Robert Reed from Ms. Buck dated 2/23/2013
- December 4, 2012 Planning Board Minutes

**Documents submitted at meeting:**

- Suggested Motion, Briarcliff of 2/5/2013
- CPTC conference brochure
- Draft map of potential locations to allow medical marijuana treatment centers

**Minutes approved at the March 5, 2013 Planning Board Meeting**