



Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

P.O. BOX 827
CARLISLE, MA 01741
(508) 369-9702

DRAFT

MINUTES

December 9, 1996

**Review of proposals for consultant services to prepare Open Space Residential Development Bylaw
Ice Pond Subdivision: Additional LandTech recommendations re: drainage
Special Town Counsel services**

Vice-Chair Hengeveld called the meeting to order at 7:25 p.m. Duscha, Hengeveld, LaLiberte, and Tice were present. Colman, Epstein and Yanofsky were absent. Also present was Planning Administrator Mansfield.

The **minutes** of the meetings of October 28, 1996, and November 7, 1996 were approved as amended on a motion by Duscha, seconded by Tice, by a vote of 4-0.

The amendments to the 10/28 minutes were:

- p. 3 - regarding the responses to LandTech's comments, Duscha asked that a statement be added: "The Planning Board has no jurisdiction over wetlands issues."
- p. 9 - delete the phrase at the end of paragraph #4, beginning "but Duscha said..."
- p. 11 - in paragraph #4, Ernstoff's comments were clarified to refer to growth management.

The amendment to the 11/7 minutes was:

- p. 4 - in the first paragraph, specify that Mansfield's reference is to the subdivision rules and regs.

Mansfield called the Board's attention to the October **bill** from Kopelman and Paige, which he believed contained several errors, and suggested that the members not sign it. LaLiberte suggested that Counsel be asked to itemize each activity within each block charge.

LaLiberte explained his FY98 **budget** request, set forth in his memo of December 2 to the Finance Committee. He noted that it stays within their guideline of a 3% increase, except for the projection of the need for increased time for the Planning Administrator.

This need will increase the Board's budget by \$2,285. over the guideline, but LaLiberte said he does not anticipate a problem with this.

Draft decision, Accessory Apartment Special Permit, 45 Pine Brook Rd. (Hardy)

The decision reflects the approval originally granted on 11/25/96. Duscha **moved approval of the draft decision, as prepared**, and Tice seconded the motion. It was **approved 4-0**, and the Board directed the P.A. to file the decision with the Town Clerk within 14 days.

Review of proposals for consultant services to prepare Open Space Residential Development Bylaw

By December 5, the deadline established in the RFP, the Board has received proposals from the following five consultants:

1. Mark Bobrowski, Esq., in conjunction with Frederick S. Taintor, AICP, of Whiteman & Taintor, Foxborough, MA
(Note that Mr. Bobrowski has also submitted a proposal to serve as Special Counsel to the Board.)
2. Kenneth M. Kreutziger, AICP, Lexington, MA
3. Joel S. Russell, Woodlea Associates, Northampton, MA
4. Terry S. Szold, Community Planning Solutions, in association with George Matarazzo, MLA, Lowell, MA
5. Ralph R. Willmer, AICP, McGregor & Shea, P.C., with assistance from H. Theodore Cohen, Esq., Boston, MA

Hengeveld made note that, to maintain the schedule laid out in the RFP, the Board should take action on a recommendation this evening, even though only four members are present. Epstein had given the P.A. his comments for discussion, but Duscha maintained that the decision should be left open for input from Colman and Yanofsky. But Hengeveld replied that she had talked with Colman and he was adamant that the decision should be made tonight. She then asked whether the Board wished to interview any or all of the five firms who had submitted proposals. Tice thought it would be a good idea to meet face-to-face, and Duscha stated that she would not hire anyone without first meeting them. LaLiberte suggested that the members proceed to try to narrow down the field, with the assumption that a special meeting is necessary to interview finalists.

LaLiberte then suggested that each member identify his or her top two candidates, followed by discussion. The results of this poll were as follows:

Epstein: Russell and Bobrowski (as reported by Mansfield)
Duscha: Kreutziger and McGregor (Bobrowski third)
Hengeveld: Bobrowski and McGregor (Szold third)
Tice: Bobrowski and Szold (preferences identified only after further discussion)
LaLiberte Russell and Szold

Since there was no consensus, the members engaged in a lengthy discussion of the pros and cons of each candidate and their reasons for their rankings. This discussion focused on their specific experience in developing open space bylaws, the value of someone with a legal background on the team, the advantage of Szold's previous work with the Board, and the perceived sensitivity of the consultants to Carlisle's needs.

Eventually, the members decided to interview both Bobrowski and Russell, narrowing the field to their firms plus Community Planning Solutions (Szold). They requested that the interviews take place no later than December 18. The P.A. was asked to work out this schedule and to check references on the three finalists.

Ice Pond Subdivision: Additional LandTech recommendations re: drainage

LaLiberte recused himself from this discussion. Hengeveld brought the Board's attention to LandTech's comments on the plastic culvert in their memo of December 3. Duscha noted that the pipe does not conform to the subdivision regs., is partially clogged, and potentially could collapse. She also recalled that Hebb had identified it as a field decision at the last meeting. Hengeveld noted that our engineer says that if this condition remains, it will require fairly constant maintenance and, possibly, future replacement at Town expense.

Duscha expressed her opinion that Hebb should replace this pipe with one that meets the regs. requirements before he paves the road. Although this is the first acknowledgment that LandTech has made of this deficiency, she said, she has been trying to bring the Board's attention to this issue for over a year. She added that she was disappointed that this information was not contained in LandTech's 11/20 memo, discussed at the last meeting with Hebb present. Hengeveld agreed with Duscha's opinion, and also stated that from her perspective the final paving of the road at this time of year is "crazy," and not in the Town's best interest.

Duscha then moved that a letter be sent to the Ice Pond developer specifying that the drainage structure at Station 10+00 be rebuilt to the standards of the subdivision Rules and Regs., subsequent to preparing drainage calculations and a design to be reviewed by LandTech, and that this work be completed prior to the final paving of the road, said paving to commence only after LandTech has inspected and approved the drainage structure as installed. She also specified that the letter should continue to

remind Hebb that the paving must be completed by the December 20 deadline and that LandTech's engineer should be present during the paving.

Tice seconded the motion and it was **approved 3-0-1**, LaLiberte excused.

Special Town Counsel services

Mansfield reported that eight proposals to serve the Planning Board as Special Counsel had been received from law firms. However, he noted, at the Selectmen's meeting on 12/3 where the Planning Board's memo of intent agreed to at their meeting of 11/25 had been received, it was determined that Sec. 5.20 of the General Bylaws appears to give the Selectmen sole authority to appoint said Special Counsel. He suggested, therefore, that the Board request an appointment on the Selectmen's agenda to discuss their needs. He also noted that he had not, at Chair Colman's direction, sent a copy of the Board's memo to Kopelman and Paige.

Tice asked whether this procedure was followed last time, but LaLiberte said this is the first time such a request has been made by the Planning Board. It was discussed five years ago but no action was taken, he said. It was on that basis that Ken Ernstoff had concluded that the Selectmen's approval was not necessary.

Mansfield reported on the Town Administrator's suggestion that a different attorney be sought first within the Kopelman firm, and he recounted his experience working with that firm when he served in the Town of Walpole. He also reported on a strong recommendation he had received from the Planning Director of Lexington for the firm of Anderson and Krieger.

LaLiberte said that the inadequacy of Counsel services has been an on-going problem for the Board and we have already made the decision that our purposes and those of the Town are best served by switching to another firm. Duscha reminded the members that one problem of sharing Town Counsel has been not being treated as a separate client from other Town bodies.

Hengeveld suggested that the discussion be tabled until January 13, and that a time be requested to meet with the Selectmen after that date to request approval for a new Special Counsel. LaLiberte said he would talk to Ernstoff about the issue, and also discuss with Colman who would represent the Board before the Selectmen. Hengeveld asked that each member be responsible for letting her know their preferences among the proposals by the week of January 6, to be discussed at the January 13 meeting. LaLiberte asked the P.A. to provide no further response to the firms who have replied, other than responding to phone calls with the message that the decision is in process.

Draft Rules and Regulations to administer the Scenic Roads bylaw (Article XII)

Tice asked why the Board was undertaking this effort. Duscha responded that there are no guidelines for administering the State statute, even though Article XII authorizes the Board to do so. The only additional authority the Board would have obtained at Town Meeting was the ability to impose penalties. LaLiberte asked if the statute authorized penalties. Duscha responded that up to \$300 is authorized, and LaLiberte surmised that this was a daily fine. Mansfield added that this requires a criminal complaint. Hengeveld asked whether utility companies are subject to this law. Duscha answered that they are indeed, and so is the Town. Tice asked if we really want to impose this authority, and whether the Town and utilities should not have an unlimited right to prune roadside vegetation to maintain visibility. He feared that we are creating unnecessary bureaucracy. But Duscha pointed out that if they continue to prune everything that is small on the old scenic roads, there will be no trees to replace the old trees when they die. LaLiberte asked whether the DPW has to appear before the Planning Boards in other Towns that have adopted the Scenic Roads statute.

Rather than continue this debate, the members present decided to postpone the discussion of the rules and regs. until the next regular meeting.

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

George E. Mansfield
Planning Administrator