

MINUTES OF THE 449th MEETING  
OTSEGO COUNTY PLANNING BOARD

Meadows Office Building  
Middlefield, NY

October 13, 2009  
6:00 P.M.

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1. Call to Order

The meeting was called to order by Chairman Ron Streek at 6:00 pm.

2. Introduction and roll call were taken.

The following members were recorded as present: Ron Streek, Betty Anne Schwerd, Jeff House, Dave Parker Tom Clarke, Flo Loomis, Phil Durkin, Scott Fickbohm, and Mark Babilonia.

Also present were Terry Bliss, Psalm Wyckoff, and Liz Fury– staff.

Guests included: Mike Powers and Jim Deuvall, Springfield Planning Board , joining the meeting at approximately 6:45.

3. Privilege of the Floor:

None were requested.

4. Minutes of August 10, 2009.

4a. Upon a motion by T. Clarke seconded by P. Durkin, and unanimously approved (9-0 vote), the Board adopted the minutes of August 10, 2009.

5. Report of Communications – none were received.

6. Referrals

6a. P. Wyckoff presented referral #01-09-01 from the Burlington Town Board for the adoption of the Town of Burlington Draft Comprehensive Plan. A summary with comments was prepared by P. Wyckoff and distributed to the board members prior to the meeting. Inquiry was made as to whether or not the town had solicited professional assistance. Discussion included concerns regarding the apparent lack of opportunity for the public to participate, lack of discussion of workshops and public meetings in the plan. Concerns were raised that there was an apparent lack of follow up between the survey reviewers and the public. Discussion included a concern that there was an apparent lack of consideration for concerns known throughout the county such as affordable housing and services for seniors. It was noted that a community has a right to develop a plan that is right for them but it appears that the plan was developed by a small group deciding what was best to address concerns that they have themselves. It was noted that the survey was lengthy but the questions appeared to be leading. Each of the ten actions was discussed point by point. Discussion regarding the public hearing included an account by a board member who attending the public hearing. That account included an estimate of the number of people who attended and the general sentiments expressed. According the account, the majority of the residents attending the public hearing were dissatisfied with the plan. There were no minutes taken during the public hearing to record the public comments. Discussion included concern regarding the legality of a public hearing where minutes were not recorded. Board members were concerned that the town did not appear interested in utilizing services available from the county planning department. Of particular concern was the quote from the plan that the planning committee maintained an “arms length relationship to other public agencies, within the Town, County and State, throughout the development of the plan. There was discussion that the plan should include, at the least, the two items required by the Town Law, i.e. consideration of the county agriculture and farmland protection plan and the maximum interval for review of the document. There was some disagreement regarding interpretation of Town Law regarding these two items. There was also a disagreement regarding the authority that towns can exert over natural gas drilling. Concerns were raised that it appeared that the plan does not consider neighboring town plans. The Board expressed the opinion that the plan included good components and was a good start. The Board felt that the plan needed to more reflect the community and should cover more of the topics recommended in Town Law. Upon a motion by J. House, seconded by \_\_\_\_\_, recognizing the efforts of the comprehensive planning committee and encouraging the town to

continue planning efforts, the Board recommended disapproved the Town of Burlington Draft Comprehensive Plan for the following reasons: 1) several recommended elements of the plan are weak or missing per the Otsego County Planning Department review (see below) and 2) evidence of the opportunity for public participation and consideration of public opinion is weak.

Comments of the Otsego County Planning Department:

1) Include any maps. Maps that the Department recommends, and can provide as a service to towns, include: current property use, agricultural soils and districts, steep slopes, surface water body and wetland classification, aquifers and watersheds.

(See Town of Hartwick for examples <http://townofhartwick.org/content/Generic/View/2> Caution: Files are LARGE and require high-speed internet connection)

2) Include discussion of public planning meetings, focus groups, or workshops, including procedure for public notice and how the meetings were memorialized.

3) Consider conducting a SWOT analysis performed during a public workshop (Strengths, Weaknesses, Opportunities, Threats) (See Town of New Lisbon and City of Oneonta for examples).

4) Include topics that are *required* to be included in a Comprehensive Plan (Town Law §272-a)

- a. consideration of county agricultural and farmland protection plans (272-a.9)
- b. maximum intervals at which the plan shall be reviewed (272-a.10).

Consider topics that *may* be included in a Comprehensive Plan

- a. Consideration of regional needs and official plans of other government units and agencies in the region – expand on discussion of how neighboring town plans and county plans were considered
- b. Existing and proposed locations and intensity of uses (typically through mapping and text)
- c. Existing housing resources and future housing needs, including affordable housing
- d. Affordable housing and safe & adequate housing is an issue in many towns
- e. Present and future general location of commercial and industrial uses.
- f. Land use and development trends (some discussion is included)
- g. Adequacy of public facilities
- h. Adequacy of public services
- i. Services for seniors
- j. Services for youth
- k. Present socio-economic trends
- l. Existing natural resource conditions (typically through mapping): soils types, slopes, wetlands, aquifers, and ecology (brief discussion of water, forest, and natural gas resources are included)
- m. Identification of the community's unique strengths and opportunities
- n. Growth projections
- o. Financial conditions, fiscal health, trends in local revenue raising, real property tax
- p. Utilities – water, sewer, electric, gas, telecommunications
- q. Transportation – road conditions, projections, etc.

5) Consider expanding on the statement that the Comprehensive Planning Committee kept other public agencies at “arms length”.

6) Consider moving “Burlington Today, Issues” to the “Goals, Issues and Strategies” section of the document.

7) In the section “Recommended Actions”, consider tying each action to a goal and/or strategy and visa versa.

Consider structuring Goals : Strategies : Actions, where actions would be more specific (several Actions and Strategies might fit under one Goal). Also consider indicating which body of government is responsible for implementation of each action and a general time frame.

Example: (See New Lisbon, Maryland)

*Goal 1:* Preservation of Community Character and Tax Base

*Strategy 1:* Employ land use regulations to balance the right to reasonable use of one’s property, the right of adjacent property owners to co-exist without undue negative impacts, and the right of the Town to expect that new development will enhance the community, and will not have hazardous impacts.

*Action:* Review *Subdivision Regulations* to implement the Comprehensive Plan – Planning Board – Short Term

*Action:* Continue to assess the Town’s land use development trends in order to assess whether some form of local zoning may become necessary – Planning Board/Town Board – Short Term

*Action:* Consider adoption of a *Site Development Plan Review Law* in accordance with recommendations contained within this Comprehensive Plan  
Town Board – Short Term

*Action:* Create and adopt a *Junk Vehicle and Junk Storage Local Law* that applies to all lands except working farms  
Town Board – Intermediate Term

Additionally, consider a table to guide implementation (as an appendix).

Example:

Goal/Strategy	Action	Responsible Party	Time Frame	Completion Date
Goal 1 Strategy 1	Review <i>Subdivision Regulations</i> to implement the Comprehensive Plan	Planning Board	Short Term	
	Continue to assess the Town’s land use development trends in order to assess whether some form of local zoning may become necessary	Planning Board/Town Board	Short Term	

8. Consider expanding discussion to tie the issue of the trash transfer station to concerns raised by residents in the survey or at meetings.
9. Consider expanding discussion of fiscal health and revenue raising, particularly as a reflection of resident concerns. Actions that require a change in budget methods are not typically found in a comprehensive plan.
10. Consider the following actions regarding development on seasonal roads: zoning, low volume minimum maintenance road designations, and review of individual building permits on seasonal roads. The Association of Towns and the NYS Dept of State has told the County Planning Department that it appears that towns cannot simply prohibit development on seasonal roads as that would amount to a taking.
11. Towns have very little jurisdiction over natural gas development. The county planning department has been advised that the area where towns can influence this type of development is road protection.

Consider changing Action 6 to strategies with specific actions, such as: Consider adoption of a road preservation local law.

12. Consider the topic of affordable housing (an issue identified in nearly every town in the county). Discuss residents’ concerns or lack thereof. The Otsego County housing study is available as a resource.

13. Consider the topic of services and affordable housing for seniors (also an issue identified in nearly every town in the county). Discuss residents' concerns or lack thereof.
14. Consider actions such as adopting Critical Environmental Areas, impact fees, others.

6b. P. Wyckoff presented an update to referral # 23-09-03, from the Springfield Planning Board for an application by Mervin Byler for approval of a minor subdivision of 103 acres in Agricultural District #3 into two lots on De Ronda Road. Upon a motion by P. Durkin seconded by T. Clarke, and unanimously approved (9-0 vote), the Board found no county-wide impacts and remanded the referral to the town for a decision.

7. Report of Committees – none were received.
8. Old Business
  - 8a. Business brought by members – none was received.
9. New Business
  - 9a. Business brought by members – none was received.

10. Report from County Planning Director

T. Bliss summarized the various stages of projects the department is currently involved in. The Town and Village of Morris joint Planning Board has requested training from the planning department. The Department will provide a primer on review of a major subdivision and SEQR for the local planning board members at the Meadows Office Complex. The primer is in preparation for an anticipated major subdivision application within the village. The Department will assist the Village of Richfield Springs in generating a digital version of the Village's zoning map. Department staff went on a tour of the Ross Well site in the town of Maryland. Discussion included impressions of the site and waste disposal methods. The Department is facilitating meetings of local professionals on the topic of water quality, including Scott Fickbohm, college faculty and staff from the Health Department. Discussion included concern that county health departments may be expected by the NYS DEC to do water testing and monitoring and that there is no funding available. The planning intern will review the SGEIS regarding water quality and bring that information to the next meeting of water quality professionals. As a follow up, the Department will invite Gastem to sit with us and see how the industry may provide some water quality data. Discussion included the intent of this effort, whether it is a baseline of the regional aquifers or baseline information for specific areas. Inquiry was made whether or not property owners will have access to information for the purpose of conducting their own testing. Discussion included the difficulty in accessing the level of threat to water quality. The hope is that the effort will provide landowners who wish to test their water on their own with information regarding how to test, at what interval, what parameters to test for, and estimates of cost. Discussion included the focus on ground water versus surface water contamination. Surface water issues are complicated by issues of ownership and responsibility.

11. Upon a motion by J. House, seconded by P. Durkin, and unanimously approved (9-0 vote) the meeting was adjourned at 7:30 pm. The next meeting is scheduled for November 9, 2009 at 6 pm.

Upon a motion by P. Durkin, seconded by M. Babilonia, and approved (7-2 vote, J. House and B. Schwerd against) the meeting was reopened to consider a presentation by Jim Deuvall and Mike Powers from the Town of Burlington Planning Board.

Mr. Deuvall stated that he would have requested that B. Schwerd recuse herself from the issue of the Town of Burlington Comprehensive Plan at the direction of the Town Board. It was noted that there would be no statutory requirement for B. Schwerd to recuse herself as she would have no monetary gain from the matter. There was later discussion as to whether the Town Board or the Planning Committee wished B. Schwerd to recuse herself.

Mr. Deuvall stated that there were three public meetings and public workshops every two weeks that were noticed in the paper. Mr. Deuvall noted that the final public meeting had the best attendance and that there was a fraction of the group that was quiet and a group that railed against the plan. Mr. Deuvall expressed his opinion that the comments were regarding issues that had nothing to do with the comprehensive plan and that there were not a lot of constructive comments, therefore, the planning committee gave more consideration to the survey results. It was the committee's opinion that a 46% return rate for the survey was phenomenal and that the opportunity for public involvement was overwhelming. The committee felt that the public comments were not the engine that drove the planning efforts, the survey results were.

Mr. Deuvall feels that the document is the Town's plan, a first plan, and not the County's plan. The purpose of the plan is to protect the community and property values. The planning committee believes that project inquiries at the county level are being directed toward Burlington because of the lack of land use protections.

The County Planning Board's discussion included a need to clearly connect review and interpretation of the survey results with the follow-up workshops to ensure that the community's opinions are reflected in the plan. Many subjects known to be issues in other communities in the county are not included in the plan. The opinion was voiced that this document looks like a plan in the early stages. The County Planning Board stated that it is supportive of the comprehensive planning process, which is complex, and that the planning department can recommend tools, such as maps, to assist in the process.

Mr. Deuvall stated his position that these issues appear to be town issues rather than county issues and are not in conflict with any county plans. The transfer station is not a county issue.

It was noted that the plan as written does not include a record of the public meetings. There is an apparent disconnect between survey responses and the contents of the plan. The planning committee took a unique approach to developing the document.

Mr. Deuvall was asked why the committee kept an arms length approach. The committee wanted an arms length from the Town Board. The committee did not want a plan that was a parody of the Town Board, but wanted a plan that reflected what the community wanted. Mr. Deuvall was asked if the plans from neighboring towns were considered and if yes, was it noted in the plan. It was stated that comprehensive plans do impact neighboring towns. Mr. Deuvall stated that they did look at neighboring town plans. Mr. Deuvall was asked why the issue of the transfer station was included since it was not an issue raised on the survey. Mr. Deuvall stated that the issue of taxes was raised on the survey and the transfer station was raised during workshops. Regarding the question of inclusion of the maximum interval for review, Mr. Deuvall stated that the Town Law states that the Town Board is responsible for that.

Upon a motion by M. Babilonia, seconded by S. Fickbohm, and approved (6-3 vote, D. Parker, R. Streek and B. Schwerd against) the Board decided to reconsider the previous decision regarding the Town of Burlington Draft Comprehensive Plan.

Subsequent discussion included the opportunity for public involvement in workshops and meetings. There were no minutes to record the meetings, only some notes. The Board recommended more documentation of the workshops and meetings to be as open, transparent, and public as possible. These issues need to be tightened up if they are intended to support future zoning.

Discussion included a review of potential options for actions by the Board. It was noted that the Town Board may act contrary to the County Planning Board's recommendation by a vote of a majority plus one of all the members.

Upon a motion by P. Durkin, seconded by T. Clarke, and approved (6-2-1 vote, R. Streek and B. Schwerd against, and F. Loomis abstaining), the Board amended the previous motion (to recommend disapproval) to a recommendation of modification, those modifications being items based on the County Planning Department's review and enumerated in the previous motion.

Upon a motion by J. House, seconded by P. Durkin, and approved (9-0 vote), and unanimously approved (9-0 vote) the meeting was adjourned at 8:45 pm.

Respectfully submitted,  
Psalm Wyckoff, Planner

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